**DATA USE AGREEMENT**

**(Mayo/Johns Hopkins)**

**THIS AGREEMENT** is made effective \_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_ (“**EFFECTIVE DATE**”) by and between, The Johns Hopkins University, a Maryland Corporation, on behalf of its School of Medicine (“**RECIPIENT**”) and

* **Mayo Clinic, a Minnesota non-profit corporation with its principal place of business at 200 First Street S.W., Rochester, MN 55905**
* **Mayo Clinic Jacksonville, a Florida non-profit corporation with its principal place of business at 4500 San Pablo Road, Jacksonville, FL 32224**
* **Mayo Clinic Arizona, an Arizona non-profit corporation, with its principal place of business at 13400 East Shea Boulevard, Scottsdale, AZ 85259**

**Hereinafter referred to as** **“Mayo”,** and relates to a Limited Data Set which is more particularly described in Attachment A hereof, to be provided by Mayo to **Dr**. **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, of **RECIPIENT**. The Mayo PI is **Dr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**. The purpose of this Agreement is to satisfy certain obligations of Mayo under the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-64) (“**HIPAA**”) to ensure the integrity and confidentiality of Protected Health Information exchanged in the form of a Limited Data Set.

In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Recipient and Mayo agree as follows:

1. **Definitions**. Capitalized terms used, but not otherwise defined, in this Agreement shall have the meanings given them in HIPAA. For convenience of reference, the definitions of "Individually Identifiable Health Information," "Limited Data Set," and “Protected Health Information” as of the Effective Date are as follows:

1.1 “**Individually Identifiable Health Information**” means information that is a subset of health information, including demographic information collected from an individual, and (i) is created or received by a healthcare provider, health plan, employer, or health care clearinghouse; and (ii) relates to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of health care to an individual; and (a) that identifies the individual, or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

1.2 “**Limited Data Set**” means Protected Health Information that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual: (i) Names; (ii) Postal address information, other than town or city, State, and zip code; (iii) Telephone numbers; (iv) Fax numbers; (v) Electronic mail addresses; (vi) Social security numbers; (vii) Medical record numbers; (viii) Health plan beneficiary numbers; (ix) Account numbers; (x) Certificate/license numbers; (xi) Vehicle identifiers and serial numbers, including license plate numbers; (xii) Device identifiers and serial numbers; (xiii) Web Universal Resource Locators (URLs); (xiv) Internet Protocol (IP) address numbers; (xv) Biometric identifiers, including finger and voice prints; and (xvi) Full face photographic images and any comparable images.

1.3 “**Protected Health Information**” means Individually Identifiable Health Information that Recipient receives from Mayo or from a business associate of Mayo or which Recipient creates for Mayo which is transmitted or maintained in any form or medium. “Protected Health Information” shall not include education records covered by the Family Educational Right and Privacy Act, as amended, 20 U.S.C. §1232g, or records described in 20 U.S.C. §1232g (a)(4)(B)(iv), or employment records held by Mayo in its role as employer.

2. **Applicability of Terms; Conflicts.** This Agreement applies to the Limited Data Set as described in Attachment A hereto.

3. **Obligations and Activities of Recipient**

3.1 **Non-disclosure:** Recipient will not use or disclose the Limited Data Set other than as permitted or required by this Agreement or as Required By Law or as otherwise authorized by Mayo.

3.2 **Safeguards:** Recipient will use appropriate safeguards to prevent use or disclosure of the Limited Data Set other than as provided for by this Agreement. Recipient will develop, implement, maintain and use appropriate administrative, technical and physical safeguards to preserve the integrity and confidentiality of and to prevent non-permitted or violating use or disclosure of the Limited Data Set which is transmitted electronically. Recipient will document and keep these safeguards current.

3.3 **Mitigation:** Recipient will mitigate, to the extent practicable, any harmful effect that is known to Recipient of a use or disclosure of the Limited Data Set by Recipient in violation of the requirements of this Agreement.

3.4 **Reporting:** Recipient will report to the Privacy Officer of Mayo, in writing, any use and/or disclosure of the Limited Data Set that is not permitted or required by this Agreement of which Recipient becomes aware. Such report shall be made as soon as reasonably possible but in no event more than five (5) business days after discovery by Recipient of such unauthorized use or disclosure. This reporting obligation shall include breaches by Recipient, its employees, subcontractors and/or agents. Each such report of a breach will, to the extent possible: (i) identify the nature of the non-permitted or violating use or disclosure; (ii) identify the Limited Data Set used or disclosed; (iii) identify who received the non-permitted or violating use or disclosure; (iv) identify what corrective action Recipient took or will take to prevent further non-permitted or violating uses or disclosures; (v) identify what Recipient did or will do to mitigate any deleterious effect of the non-permitted or violating use or disclosure; and (vi) provide such other information as Mayo may reasonably request.

3.5 **Agents and Subcontractors:** Recipient will ensure that any agent, including a subcontractor, to whom it provides the Limited Data Set received from, or created or received by Recipient on behalf of, Mayo agrees to the same restrictions and conditions that apply through this Agreement to Recipient with respect to such information.

3.6 **Identification and Contact of Individuals:** Recipient will not identify or attempt to identify theindividuals whose Protected Health Information appears in the Limited Data Set. Recipient will not contactor attempt to contact the individuals whose Protected Health Information appears in the Limited Data Set.

4. **Permitted Uses and Disclosures by Recipient.**

4.1 **Health Care Operations, Public Health and Research.** Except as otherwise limited in this Agreement, Recipient may use or disclose the Limited Data Set only for purposes of research, public health or Health Care Operations.

5. **Term and Termination**

5.1 **Term.** The term of this Agreement shall commence as of the Effective Date, and shall terminate when all of the Limited Data Set provided by Mayo to Recipient, or created or received by Recipient on behalf of Mayo, is destroyed or returned to Mayo, or, if it is infeasible to return or destroy the Limited Data Set, protections are extended to such Limited Data Set in accordance with the provisions of this Section 5.

5.2 **Termination for Cause.** Upon Mayo's reasonable determination that Recipient has breached a material term of this Agreement, Mayo shall be entitled to do any one or more of the following:

Give Recipient written notice of the existence of such breach and give Recipient an opportunity to cure upon mutually agreeable terms. If Recipient does not cure the breach or end the violation according to such terms, or if Mayo and Recipient are unable to agree upon such terms, Mayo may immediately terminate this Agreement. Simultaneously, Mayo may immediately stop all further disclosures of the Limited Data Set to Recipient.

5.3 **Effect of Termination**. Upon receipt of written demand from Mayo, Recipient agrees to immediately return or destroy, except to the extent infeasible, all of the Limited Data Set demanded by Mayo, including all such Limited Data Set which Recipient has disclosed to its employees, subcontractors and/or agents. Destruction shall include destruction of all copies including backup tapes and other electronic backup medium. In the event the return or destruction of some or all such Limited Data Set is infeasible, the Limited Data Set not returned or destroyed pursuant to this paragraph shall be used or disclosed only for those purposes that make return or destruction infeasible.

5.4 **Continuing Privacy Obligations.**Recipient’s obligation to protect the privacy of the Limited Data Set is continuous and survives any termination, cancellation, expiration, or other conclusion of this Agreement with respect to any portion of the Limited Data Set Recipient maintains after such termination, cancellation, expiration or other conclusion of this Agreement.

6. **Notices**. All notices pursuant to this Agreement must be given in writing and shall be effective when received if hand-delivered or upon dispatch if sent by reputable overnight delivery service, or U.S. Mail to the appropriate address as set forth on the last page of this Agreement.

7. **Miscellaneous.** Recipient and Mayo agree that individuals whose Protected Health Information appears in a Limited Data Set are not third-party beneficiaries of this Agreement. In the event that any provision of this Agreement violates any applicable statute, ordinance or rule of law in any jurisdiction that governs this Agreement, such provision shall be ineffective to the extent of such violation without invalidating any other provision of this Agreement. This Agreement may not be amended, altered or modified except by written agreement signed by Recipient and Mayo. No provision of this Agreement may be waived except by an agreement in writing signed by the waiving party. A waiver of any term or provision shall not be construed as a waiver of any other term or provision. Nothing in Section 3 of this Agreement shall be deemed a waiver of any legally-recognized claim of privilege available to Recipient. The persons signing below have the right and authority to execute this Agreement for their respective entities and no further approvals are necessary to create a binding agreement. Neither Mayo nor Recipient shall use the names or trademarks of the other party or of any of the respective party’s affiliated entities in any advertising, publicity, endorsement, or promotion unless prior written consent has been obtained for the particular use contemplated. All references herein to specific statutes, codes or regulations shall be deemed to be references to those statutes, codes or regulations as may be amended from time to time.

**RECIPIENT:** Address for notices:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** Johns Hopkins Privacy Officer

5801 Smith Avenue

By: McAuley Hall, Suite 310

Baltimore, MD 21209

Its:

**MAYO:**

**MAYO CLINIC/JACKSONVILLE/ARIZONA** Address for notices:

Mayo Privacy Officer

200 First Street SW

By: Rochester, MN 55905

Phone:

Its:  Fax:

Copy to:

Mayo Clinic Legal Department

200 First Street SW

Rochester, MN 55905

Phone: (507) 284-8707

Fax: (507) 284-0929

**Attachment A**

**Project Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**JHU PI: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Mayo PI: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Data Elements**

**(Limited Data Set)**