

DATA USE AGREEMENT

This Data Use Agreement ("Agreement"), effective as of _____, 20__ ("Effective Date"), is entered into by and between the International Thymic Malignancy Interest Group ("Recipient") and _____ ("Contributor").

RECITALS:

A. Contributor is or may be a "covered entity" under the Health Insurance Portability and Accountability Act of 1996 and the regulations governing privacy and security of certain information promulgated pursuant thereto, as amended from time to time (collectively, "HIPAA"), and the Health Information Technology for Economic and Clinical Health Act and any regulations promulgated pursuant thereto, as amended from time to time (collectively, "HITECH").

B. Recipient receives data, in the form of a Limited Data Set ("LDS"), for purposes of de-identifying and aggregating such data into the International Thymic Malignancy Interest Group research database ("Database") for use in research by Contributor, other data contributors, and other persons authorized by Recipient.

C. Contributor and Recipient desire to enter into this Agreement to comply with the requirements of HIPAA and HITECH (collectively, any provisions of either HIPAA or HITECH, the "HIPAA Provisions"), regarding Recipient's receipt and use of a LDS from Contributor.

AGREEMENT:

In consideration of the foregoing and the covenants contained herein, the parties agree as follows.

1. Definitions. Unless otherwise specified in this Agreement, all capitalized terms used in this Agreement and not otherwise defined herein have the meaning established in the HIPAA Provisions.

2. Responsibilities of Contributor.

(a) Contributor shall prepare and furnish to Recipient a LDS in accordance with the standards set forth in the HIPAA Provisions. Contributor represents and warrants that Contributor has the right and authority to furnish and disclose the LDS to Recipient, and that Recipient's uses and disclosures as specified in this Agreement of the LDS and the de-identified data derived therefrom are permitted, including under any laws applicable to the use and disclosure of such information, such as privacy, confidentiality and security laws.

(b) In preparing the LDS, Contributor shall include the data fields specified by the Recipient in its policies and procedures from time to time, which are the minimum necessary to accomplish the purposes set forth in Section 4 of this Agreement.

3. Responsibilities of Recipient.

(a) Recipient agrees to use or disclose the LDS only as permitted by this Agreement or as Required By Law.

(b) Recipient agrees to use appropriate safeguards to prevent use or disclosure of the LDS other than as permitted by this Agreement.

(c) Recipient agrees to report to Contributor any use or disclosure of the LDS of which it becomes aware that is not permitted by this Agreement.

(d) Recipient shall require any of its subcontractors or agents that receive or have access to the LDS to agree to the same restrictions and conditions on the use and disclosure of the LDS that apply to Recipient under this Agreement.

(e) Recipient shall not use the information in the LDS to identify or contact the individuals who are data subjects.

4. Permitted Uses and Disclosures of the LDS.

(a) Recipient may use the LDS and disclose the LDS to one or more subcontractors or agents for purposes of housing and maintaining the data, de-identifying the data in accordance with the HIPAA Provisions, and aggregating such de-identified data into the Database. The parties agree that the de-identified information in the Database will no longer be considered Contributor's LDS. Uses and disclosures of the de-identified data in the Database will be governed by Recipient's policies and procedures for use of the Database, not this Agreement, and will be subject to any approvals required by such policies and procedures.

(b) Contributor may use its own LDS at any time, but Contributor will not have access to any other contributor's LDS.

(c) Recipient (and its subcontractors and agents on behalf of Recipient) may retain and use the LDS after the data has been de-identified and aggregated for purposes of quality control and maintenance of the Database for research.

5. Term and Termination.

(a) Term. The term of this Agreement shall commence as of the Effective Date and shall continue for so long as Recipient retains the LDS, unless sooner terminated as set forth in this Agreement.

(b) Termination by Recipient. Recipient may terminate this Agreement at any time by notifying Contributor and returning or destroying the LDS.

(c) Termination by Contributor. Contributor may terminate this Agreement at any time by providing thirty (30) days prior written notice to Recipient.

(d) For Breach. Contributor shall provide written notice to Recipient within ten (10) days of any determination that Recipient has breached a material term of this Agreement. Contributor shall afford Recipient an opportunity to cure said alleged material breach upon mutually agreeable terms. Failure to agree on mutually agreeable terms for cure within thirty (30) days shall be grounds for the immediate termination of this Agreement by Contributor.

(e) Effect of Termination. Upon termination of this Agreement, Recipient shall return or destroy the LDS received from Contributor. The parties expressly agree that the de-identified data aggregated in the Database will remain in the Database after termination of this Agreement. Sections 1, 3, 4, 5(e) and 6 of this Agreement survive the termination of this Agreement for whatever reason.

6. Miscellaneous.

(a) Change in Law. The parties agree to negotiate in good faith to amend this Agreement to comport with changes in law that materially alter either or both parties' obligations under this Agreement. Provided however, that if the parties are unable to agree to mutually acceptable amendment(s) by the compliance date of the change in applicable law or regulations, either Party may terminate this Agreement as provided in Section 5.

(b) Construction of Terms. The terms of this Agreement shall be construed to give effect to applicable federal interpretative guidance regarding the HIPAA Provisions.

(c) No Third Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

(d) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(e) Headings. The headings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement.

* * * * *

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf.

RECIPIENT

International Thymic Malignancy Interest Group

By: 

Print Name: Frank Detterbeck

Print Title: President of ITMIG

CONTRIBUTOR

By: _____

Print Name: _____

Print Title: _____