

**DATA USE AGREEMENT**

The Parties to this Data Use Agreement (the “Agreement”) are TEACHERS COLLEGE, COLUMBIA UNIVERSITY, a not-for-profit corporation of the State of New York having offices located at 525 West 120th Street, New York, New York 10027 on behalf of the [Full Name of TC Office/Department] (“Teachers College”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ College/University, having offices located at [Full Address] hereinafter referred to as “Data Recipient.” Teachers College and Data Recipient may hereinafter be referred to individually as a “Party,” and collectively as the “Parties.” The effective date of this Agreement shall be the date of execution (the “Effective Date”).

**WHEREAS**, Teachers College shall make Data, as defined below, available to Data Recipient as described herein.

**WHEREAS**, the research contemplated by this Agreement will further the instructional and research objectives of Teachers College in a manner consistent with its status as a non-profit, tax-exempt, educational institution.

**NOW, THEREFORE**, the Parties hereto agree as follows:

1. **PURPOSE**. Teachers College shall provide the Data to Data Recipient at no cost, for the purpose set forth in Exhibit A (the “Purpose”). The Data shall not be used except as authorized under this Agreement. For purposes of this Agreement, a “Data Recipient Researcher” is an individual who (i) is a faculty member, fellow, student, or employee of Data Recipient, and (ii) needs to access the Data for the Purpose. The Data will be made available only to Data Recipient Researcher(s). The Data shall not be further distributed to others without the prior written consent of Teachers College.
2. **DATA**. “Data” means the confidential and proprietary information that is described in Exhibit B, to be disclosed by Teachers College in accordance with this Agreement.
3. **TERM**. The term of this Agreement commences on the Effective Date, and expires upon the earlier of: (i) completion of the project described in the Purpose or (ii) termination under Section 12.
4. **LICENSE TO USE DATA**. Nothing in this Agreement will be construed to confer on Data Recipient any ownership interest, license or other rights as to the Data or any other intellectual property of Teachers College except as expressly stated in this Agreement.

Subject to the terms and conditions of this Agreement, Teachers College hereby grants to Data Recipient and Data Recipient Researchers the non-exclusive, irrevocable, royalty-free rights: (i) to use the Data and research results derived from the Data for teaching and research, and related scholarly activities, including those listed in the Purpose; (ii) to use the Data in raw and aggregated form, as well as in combination with other data sets; and (iii) subject to Sections 6 and 7, to publish, reproduce or otherwise publicly disclose the research results and other products of the research.

1. **INTELLECTUAL PROPERTY**. Data Recipient or Data Recipient Researcher, as the case may be, shall own the entire right, title and interest, including all patents, copyrights, and other intellectual property rights, in and to (i) all research results based on, derived from or using the Data, and (ii) all tangible materials, inventions, discoveries, works of authorship, software, information, and data, in each case, conceived or developed by them in the performance of the Purpose.
2. **PUBLICATION**. Data Recipient and Data Recipient Researchers will be free to distribute and publish research results and other products of their research in works such as academic journals, books, online publications, unpublished working papers, reports, information included in presentations for academic seminars and conferences, and other materials derived from, based on or using the Data. Prior to any such public use, Data Recipient Researchers will provide Teachers College with a thirty (30) day period in which to review each proposed publication in confidence, provided that the scope and purpose of such review will be limited to the identification of Data or otherwise confidential information contained in the publication which Teachers College does not consent to disclose. At the end of the 30-day review period, Data Recipient and/or Data Recipient Researchers will have the right to publish. For the avoidance of doubt, once a work has been reviewed, the content may be further disclosed in substantially the same form on multiple occasions without additional review by Teachers College.

Data Recipient agrees to recognize the contribution of Teachers College as the source of the Data in all written or oral public disclosures concerning Data Recipient’s research using the Data, as appropriate in accordance with scholarly standards.

Data Recipient will provide Teachers College with at least one copy of the final versions of all published papers generated under this Agreement.

1. **CONFIDENTIALITY**. Data Recipient (i) will use reasonable care to protect the security of the Data, (ii) will limit access to the Data to authorized recipients as provided in Section 1; and (iii) will not at any time during or after the term of this Agreement disclose Data to persons other than Data Recipient Researchers without first obtaining the ’s prior written consent of Teachers College, except as otherwise required by law in which case Data Recipient shall, unless prohibited by law, notify Teachers College prior to such disclosure. Data Recipient will report promptly to Teachers College any disclosure of the Data not provided for by this Agreement of which it becomes aware.

Notwithstanding the foregoing, in no event is information or Data confidential if it (a) was lawfully in the possession of Data Recipient or Data Recipient Researcher before receipt from Teachers College; (b) is or becomes publicly available other than as a result of a breach of this Agreement by Data Recipient or Data Recipient Researcher; (c) is received by Data Recipient or Data Recipient Researcher, without restriction as to further disclosure, from a third party having an apparent bona fide right to disclose the information to Data Recipient; or (d) is independently developed by Data Recipient or Data Recipient Researcher without use of the Data.

1. **DATA RECIPIENT POLICIES AND PROCEDURES**. Use of the Data will be consistent with Data Recipient’s policies and procedures regarding scientific integrity and human subjects research.

1. **DATA TRANSFER, STORAGE AND SAFEGUARD STANDARDS**. The Data shall be provided to Data Recipient by means of encrypted electronic file transfer by Teachers College (using Secure File Transfer Protocol (SFTP) or other secure file transfer system deemed sufficient by Teachers College).

Data shall be stored directly on a secure server that is maintained by the institution’s IT department. Data shall not be stored on personal (non-IT supported) devices. The server should have technical controls in place to prevent or log any attempts to move or copy data. Access to the server containing these data shall be restricted to only the principal investigator and designated research staff.

The computer screen will be set to auto-lock after 15 minutes (or less) of inactivity and all users agree to manually lock the screen or log off from the desktop when stepping away. Login credentials should not be shared with others.

1. **REPRESENTATIONS AND WARRANTIES**. ALL DATA ARE PROVIDED “AS IS.” TEACHERS COLLEGE MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING THE DATA’S ACCURACY, COMPLETENESS OR USE. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE DATA WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.
2. **USE OF NAME**. Except as expressly provided in this Agreement, neither Party shall use or register the other Party’s name (alone or as part of another name) or any logos, seals, insignia or other words, symbols or devices that identify the other Party, including any school, unit, division or affiliate (“Names”) for any marketing, publicity, or promotional purposes in connection with this Agreement or the Purpose, except with the prior written approval of, and in accordance with restrictions required by the Party whose Name is to be used. The foregoing notwithstanding, the Parties agree that each Party may make factual statements regarding the existence and purpose of the relationship that is the subject of this Agreement, without written permission from the other Party. In any such statements, the relationship of the Parties shall be accurately and appropriately described.
3. **TERMINATION**. This Agreement shall expire as of the date described in Section 3, unless extended by agreement of the Parties or terminated earlier under this Section. Either Party may terminate this Agreement for any reason by providing thirty (30) days prior written notice to the other Party. Teachers College may terminate this Agreement immediately if the Data Recipient is determined to be in breach of this Agreement.

Upon the earliest to occur – either termination or expiration of this Agreement – Teachers College may instruct Data Recipient in writing to either destroy or return the Data to Teachers College within a reasonable time limit, but not more than thirty (30) days from the date of notification. Notwithstanding the foregoing, Data Recipient may retain one copy of the Data to the extent necessary to comply with the records retention requirements under any law or regulation and for the purposes of research integrity and verification.

1. **LIMITATION OF LIABILITY**. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES, INCLUDING LOST REVENUES OR PROFITS, ARISING FROM BREACH OF THE TERMS IN THIS AGREEMENT, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, OR ANY OTHER CAUSE.

Data Recipient assumes all liability for claims by third parties which may arise from its use, storage or disposal of the Data.

1. **CHOICE OF LAW/JURISDICTION**. This Agreement will be governed and interpreted in accordance with the laws of the State of New York without regard to conflict of law principles. The location and jurisdiction for resolving any disputes arising under this Agreement will be in the State or Federal court located in the County, City, and State of New York.
2. **RESOLUTION OF DISPUTES**. If there is a dispute between the parties arising out of or in connection with this agreement (“Dispute”), the Party seeking to initiate the dispute resolution process must give notice to the other Party setting out, in writing and in detail, the issues in Dispute and the total value of any and all claims being asserted. The Parties shall attempt to resolve the Dispute through direct negotiations. If the Parties fail for any reason to resolve the Dispute by direct negotiations within 30 days of initiation of the dispute resolution process, the Parties agree that any proceedings relating to the Dispute shall be brought in a court located in in the State or Federal court located in the County, City, and State of New York.
3. **COMPLIANCE WITH LAW**. Teachers College and Data Recipient will perform under this Agreement in compliance with all requirements of all laws, rules, regulations, and professional standards applicable to the transfer of the Data and the performance of research for the Purpose. The Parties shall cooperate with each other to facilitate compliance with these laws, regulations and standards.
4. **NOTICES**. Notices required under this Agreement must be in writing and delivered in person, by nationally recognized courier services (e.g., FedEx), by certified mail with return receipt request, or facsimile with confirmation, to:

**If to Data Recipient:**

Research Matters

Name: [Name of College or University]

Contact person: [Name of College/University Contact]

Address: [Address Line 1]

 [Address Line 2]

 [City, State, Zip Code]

Phone: [Telephone Number]

Email: [Email Address]

Fax: [Fax]

Agreement and Legal Matters (if different)

Name: [Name of College or University]

Contact person: [Name of College/University Contact]

Address: [Address Line 1]

 [Address Line 2]

 [City, State, Zip Code]

Phone: [Telephone Number]

Email: [Email Address]

Fax: [Fax]

**If to Teachers College:**

Research Matters

Teachers College, Columbia University

[Name of TC Office/Department]

Attn: [TC Contact handling invoicing and technical matters]

525 West 120th Street

Box #: [Mailbox # of TC Contact]

New York, NY 10027

Phone: [TC Telephone Number]

Email: [TC Email]

Agreement and Legal Matters

Office of the General Counsel

Teachers College, Columbia University

525 West 120th Street, Box #83

New York, NY 10027

Phone: (212) 678-4164

Fax: (212) 678-8306

Email: generalcounsel@tc.columbia.edu

1. **INDEPENDENT CONTRACTOR**. The Parties are independent contractors and neither Party shall be deemed to be an agent or employee of the other Party. Neither Party shall have authority to make any statements, representations or commitments of any kind on behalf of the other Party, or to take any action which shall be binding on the other Party.
2. **ASSIGNMENT**. This Agreement and all rights and obligations hereunder shall not be assigned, whether through merger or consolidation, by operation of law, or otherwise, without the written consent of the other Party, and any attempt to assign without such consent shall be void.
3. **MODIFICATION AND WAIVER**. No modification or waiver of any provision of this Agreement or any Exhibit shall be valid unless in writing, and executed by duly-authorized representatives of both Parties. A valid waiver of a breach of any provision of this Agreement shall not be deemed a waiver of any subsequent breach, nor shall it impair any underlying rights or remedies. A failure by one of the Parties to assert its rights hereunder shall not be deemed a waiver of such rights.
4. **SEVERABILITY**. If any provision of this Agreement is or becomes invalid, is ruled invalid by any court of competent jurisdiction, or is deemed unenforceable, it is the intention of the Parties that the remainder of this Agreement shall not be affected unless the invalid provision materially affects the rights of the Parties.
5. **COUNTERPARTS**. This Agreement may be executed in two or more counterparts, and by facsimile or electronic transmission, each of which will be deemed to be an original, but all of which together shall constitute one and the same instrument.
6. **ENTIRE AGREEMENT**. Unless otherwise specified, this Agreement and its Exhibits embody the entire understanding between Data Recipient and Teachers College for the Purpose, and any prior or contemporaneous representations, either oral or written, are hereby superseded.

**[SIGNATURES ON FOLLOWING PAGE]**

The Parties execute this Agreement by their duly authorized representatives as of [Effective Date].

TEACHERS COLLEGE, COLUMBIA UNIVERSITY DATA RECIPIENT – [FULL NAME OF DATA RECIPIENT]

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: [Name of TC Approved Signer] Name:

Title: [Title of TC Approved Signer] Title:

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**EXHIBIT A**

**PURPOSE**

The study will investigate

The study team will

**EXHIBIT B**

**DESCRIPTION OF DATA/ DATA PARAMETER**