

UPMC THIRD PARTY COMPUTER SYSTEM ACCESS AGREEMENT

This Third Party Computer System Access Agreement (“TPA Agreement”) is made as of this ____ day of _____, 202__, by and between _____ (“Third Party”) with its principal place of business at _____ and UPMC, (“UPMC”) with its principal place of business at 600 Grant Street, 62nd floor, Pittsburgh, Pennsylvania 15219. The term “Third Party” applies to both Third Party and Third Party Users. UPMC and Third Party may be referred to individually as a “Party” or together as the “Parties.”

WHEREAS, Third Party requires access to UPMC computer systems (a) to provide services with, to, or on behalf of UPMC, (b) due to the terms set forth in a Business Agreement, and/or (c) for educational purposes (the “Purpose”);

WHEREAS, as the result of UPMC providing Third Party with access to UPMC computer systems and Third Party may access UPMC Confidential Information; and

WHEREAS, the Parties acknowledge that UPMC is a “Covered Entity” as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA); and

WHEREAS, Third Party agrees that its access to UPMC computer systems and UPMC Confidential Information is predicated on its compliance with the terms set forth in this TPA Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree to be legally bound as follows.

SECTION 1 – THIRD PARTY CATEGORIES

Third Party is an organization whose relationship is described by one of the following categories (check one that applies). Based on the category checked, any additional terms for the specific category will be set forth in the corresponding section (see below):

Provider: Third Party is a healthcare provider that requires access to UPMC computer systems in order to obtain patient information that is necessary for providing treatment to the patient. A Provider includes, but is not limited to, Physician Practices, Hospitals, Long Term Care Facilities, Nursing Homes, and the like.

Clinical Trial: Third Party requires access to UPMC computer systems to monitor a research study or clinical trial. This includes access for sponsors, monitors, auditors, clinical research organizations.

Vendor: Third Party requires access to UPMC computer systems to provide UPMC with a service.

Educational Institution: Third Party requires access to UPMC computer systems to support the training of its students while performing education activities at UPMC facilities.

Partner: Third Party has partnered with UPMC to perform a joint activity.

Health Insurer: Third Party is a health insurer that has members receiving care at UPMC.

SECTION 2 – DEFINITIONS

1. “Third Party User” is an individual who is being provided access to UPMC computer systems on behalf of Third Party. Third Party Users include, but are not limited to, Third Party’s employees and students in an academic program at an accredited Third Party educational institution.

2. “Business Agreement” is an agreement between the Parties that necessitates Third Party’s access to UPMC computer systems. A Business Agreement includes, but is not limited to clinical trials agreements, accreditation agreements, affiliation agreements, services agreements, Insurance Network Agreements, and the like.

3. "UPMC Confidential Information" is information contained in UPMC computer systems, including but not limited to, identifiable health information of UPMC patients.

SECTION 3 – GENERAL THIRD-PARTY REQUIREMENTS

1. Third Party Responsible for its Staff. Third Party shall inform Third Party Users of their responsibilities under this TPA Agreement. Third Party shall also ensure that all Third Party Users electronically sign and comply with the "UPMC Confidentiality Agreement for Third Party Users Accessing UPMC Information Systems" that is attached as Exhibit "A".

2. Limitations on Access. Access to UPMC computer systems and UPMC Confidential Information is limited to information that is necessary to accomplish the Purpose.

3. Remote Access. At UPMC's discretion, Third Party Users may be permitted to access UPMC computer systems remotely using UPMC-approved remote access solutions. UPMC reserves the right to revoke such remote access without notice or cause.

4. Issuance of Unique Accounts. UPMC will issue a unique user account to each Third Party User. Third Party User is not permitted to share or use another user's account(s).

5. Appropriate Use. Third Party is responsible for the appropriate use and safeguarding of user accounts and passwords for UPMC computer systems issued to Third Party Users.

6. Notification of Change in Account Requirements. Third Party shall promptly notify the UPMC staff member sponsoring the account(s) in writing in the event that Third Party or a Third Party User no longer has a need to use UPMC computer systems, or if the Third Party User access requirements change. Such notification shall be no later than 10 business days of determination that use is no longer needed or that access requirements have changed.

7. Assistance to Administer Accounts. Third Party shall provide all reasonable assistance and information necessary for UPMC to administer the Third Party User accounts.

8. Notification of Security Breach. Third Party shall notify the UPMC ISD Information Security Group immediately, and in any case, within two days, by e-mail at InformationSecurity@upmc.edu if Third Party suspects that (a) a non-authorized individual has learned of a Third Party User's password and/or has inappropriately accessed UPMC computer systems or UPMC Confidential Information, or (b) a Third Party User has inappropriately accessed or used UPMC computer systems or UPMC Confidential Information.

9. Mitigation of a Breach. In the event of a breach, Third Party agrees to mitigate, to the greatest extent reasonably possible, any harmful effect of such breach.

10. Security Controls. Third Party shall appropriately secure Third Party's information systems using industry standard tools to reduce the threat that an unauthorized individual could use Third Party's information systems to gain unauthorized access to UPMC computer systems. Third Party shall also take commercially reasonable measures to maintain its computer equipment, software, and network against intrusions, viruses, worms, or other disabling codes.

11. Auditing Accounts Issued. UPMC reserves the right to audit the issuance and use of Third Party User accounts. To the extent that UPMC provides Third Party with access to tools or reports to audit what UPMC Confidential information a Third Party User has accessed, Third Party will perform audits on a regular basis (no less than weekly) to determine if a Third Party User has inappropriately accessed UPMC Confidential Information on UPMC computer systems.

12. Assistance with Investigations. Third Party shall provide all reasonable assistance and information reasonably necessary for UPMC to investigate any suspected inappropriate use of UPMC computer systems

or access to UPMC Confidential Information.

13. Inappropriate Access, Failure to Comply with this TPA Agreement. If Third Party suspects that a Third Party User has inappropriately accessed UPMC Confidential Information, Third Party shall immediately and within no longer than 1 business day, inform UPMC.

14. Policies and training. Third Party shall develop and implement appropriate policies and procedures to comply with this TPA Agreement. Third Party shall provide appropriate training to Third Party Users on such policies.

15. Staff Discipline. Third Party shall discipline a Third Party User who inappropriately accesses or uses a UPMC Computer System or UPMC Confidential Information.

16. HIPAA Compliance. Third Party agrees that to the extent that it has access to UPMC identifiable patient information and meets the criteria for being a Business Associate pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended from time to time (HIPAA), or has not otherwise signed a Business Associate Agreement with UPMC, Third Party agrees to comply with UPMC's HIPAA Business Associate terms and conditions, including any future modifications thereto, that are found at:

<http://www.upmc.com/about/Partners/supply-chain/Pages/guidelines-for-associates.aspx>

SECTION 4 - ADDITIONAL PROVIDER REQUIREMENTS

(These terms apply if "Provider" is checked in Section 1)

1. HIPAA Compliance. The Parties acknowledge that Third Party is a "covered entity" as defined in HIPAA and, pursuant to the HIPAA Privacy Rule, Third Party and UPMC are entitled to share information as necessary in order to perform treatment, payment and health care operations activities.
2. Permitted Access, Use and Disclosure. Third Party and Third Party Users shall only access UPMC Confidential Information of a patient for which a treatment relationship exists, and is limited to information that is necessary for the treatment, payment or health care operations purposes related to the patient.
3. Patient Authorization. Prior to accessing, using, or further disclosing UPMC Confidential Information, Third Party shall secure any necessary written authorizations from the patient or such individuals who have medical decision-making authority for the patient.

SECTION 5 - ADDITIONAL EDUCATIONAL INSTITUTION REQUIREMENTS

(These terms apply if "Educational Institution" is checked in Section 1)

1. Education Institution Responsible for its Users. Third Party shall inform Third Party Users (including students, staff, and faculty) of their responsibilities under this TPA Agreement. Third Party shall also ensure that all Third Party Users being granted access to UPMC computer systems shall first successfully complete UPMC's standard staff training for privacy and information security.
2. Tracking of Training and Agreements. Third Party shall maintain evidence of all Third Party Users (including students, staff, and faculty) having successfully completed UPMC's standard staff training for privacy and information security. Such evidence shall be maintained for a period of five (5) years from the date of graduation or termination of the Third Party User's access.

SECTION 6- ADDITIONAL HEALTH INSURER REQUIREMENTS

(These terms apply if "Health Insurer" is checked in Section 1)

1. HIPAA Compliance. The Parties acknowledge that Third Party is a “covered entity” as defined in HIPAA and, pursuant to the HIPAA Privacy Rule, Third Party and UPMC are entitled share information as necessary for purposes such as payment processing & audits, quality assurance activities, wellness activities, care planning activities, scheduling, and the like.
2. Permitted Access, Use and Disclosure. Third Party and Third Party Users shall only access UPMC Confidential Information of its members, and access is limited to information that is necessary for payment processing & audits, quality assurance activities, wellness activities, care planning activities, scheduling, and the like.
3. Member / Patient Authorization. Prior to accessing, using, or further disclosing UPMC Confidential Information, Third Party shall secure any necessary written authorizations from the patient / member or such individuals who have medical decision-making authority for the patient / member.

SECTION 7 - UPMC’S RIGHTS

1. UPMC Sponsor Required. A UPMC Staff member with appropriate authority must sponsor the Third Party and its Third-Party Users.
2. Periodic Reviews. UPMC reserves the right to perform regular reviews to determine if Third Party’s access to UPMC computer systems is consistent with the Purpose.
3. Revocation of Accounts for Lack of Use. UPMC shall revoke any account if it is not used for a period of ninety (90) days.
4. Annual Review of Access Requirements. UPMC shall review the UPMC computer system access requirements of all Third Party Users on an annual basis.
5. Inappropriate Access or Use. UPMC shall have the right to permanently revoke access to any Third Party User for inappropriate access or use of UPMC computer systems, or if they fail to comply with the terms of this TPA Agreement or the “UPMC Confidentiality Agreement For Third Party Users Accessing UPMC Information Systems”. UPMC further reserves the right to notify affected patient, government authorities and others as required by law of any inappropriate access or non-compliance.
6. Revocation of Access for Any Reason. UPMC reserves the right to suspend or terminate Third Party and Third Party User’s access to UPMC computer systems at any time without cause or notice.
7. Protection of UPMC Computer Systems. UPMC will take all appropriate and necessary steps to protect UPMC computer systems and UPMC Confidential Information from potential threats or misuse. Such steps may impact Third Party’s ability to use UPMC computer systems.
8. Third Party Responsible for Cost. Third Party is responsible for its own costs incurred by Third Party in connection with it complying with this TPA Agreement or accessing UPMC computer systems.
9. Compliance Audits. UPMC reserves the right to perform reasonable audits to ensure that Third Party has complied with this TPA Agreement.

SECTION 8 - GENERAL TERMS

1. Term. This TPA Agreement, if not terminated earlier by a Party, shall expire upon the termination of the Business Agreement. If there is no Business Agreement, the TPA Agreement shall continue until terminated by UPMC. Upon termination, any access provided pursuant to this TPA Agreement shall terminate.

2. Property Rights. All UPMC Confidential Information is the property of UPMC. Third Party agrees that it acquires no title or rights to UPMC Confidential Information, including any de-identified information derived from such UPMC Confidential Information, except as specified in the Business Agreement.

3. WARRANTY. ALL UPMC CONFIDENTIAL INFORMATION IS PROVIDED ON AN "AS IS" BASIS. UPMC DISCLAIMS ANY WARRANTIES WHETHER WRITTEN, ORAL, EXPRESSED OR IMPLIED INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY WARRANTY OF DATA ACCURACY OR COMPLETENESS, THAT ACCESS TO UPMC CONFIDENTIAL INFORMATION WILL BE AVAILABLE AT ANY TIME, INTELLECTUAL PROPERTY INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

4. Compliance with Laws. Third Party shall take such actions as are necessary for Third Party to comply with applicable federal, state or local statutes, or regulations promulgated by regulatory agencies or accrediting organizations either existing or future ("Regulations"). Third Party shall perform such actions at Third Party's own expense. Such actions will be completed within the times specified for compliance within the Regulations. UPMC shall have the right at all times to review and inspect the steps taken and procedures implemented by Third Party to assure compliance with such Regulations. In the event that UPMC in good faith determines that Third Party's compliance with such Regulations has not or cannot be accomplished by the timeframes required by the Regulations, UPMC may terminate this TPA Agreement without liability or penalty. Any ambiguity in these terms and conditions shall be resolved in a reasonable manner that allows UPMC to comply with Regulations.

5. Indemnification. Third Party agrees to indemnify, defend and hold harmless UPMC, its officers, directors, physicians, employees, agents, or other affiliates against any claims or damages incurred by UPMC which are caused by Third Party's negligent acts or omissions or willful misconduct, or those of Third Party Employees, agents or subcontractors. Further, Third Party acknowledges that its breach of this TPA Agreement will cause irreparable damage to UPMC and hereby agrees that UPMC shall be entitled to seek injunctive relief under this TPA Agreement, as well as such further relief as may be granted by a court of competent jurisdiction in connection with any breach or enforcement of Third Party's obligations under this TPA Agreement or the unauthorized use, access or disclosure of UPMC Confidential Information.

6. Amendment. This TPA Agreement may not be modified or amended, except in writing as agreed to by the Parties.

7. No Additional Beneficiaries. Nothing express or implied in this TPA Agreement is intended to confer, nor shall anything herein confer, upon any person other than UPMC or Third Party any rights, remedies, obligations, or liabilities whatsoever.

8. Notices. All notices under this TPA Agreement shall be in writing to the addresses set forth below. All notices shall only be given via registered mail, certified mail or express courier and shall be deemed effective and given as of the date actually received.

If to Third Party:

Attention: _____

If to UPMC:

UPMC
3600 Forbes Ave @ Meyran - Suite 3025
Pittsburgh, PA 15213
Attn: John Houston

9. Governing Laws; Captions; Successors. This TPA Agreement shall be governed by Pennsylvania law. Both UPMC and Third Party agree to submit to the exclusive jurisdiction of state and federal courts sitting in Allegheny County. Captions contained in this TPA Agreement are for convenient reference only. This TPA Agreement shall inure to the benefit of and be binding upon UPMC and Third Party and their respective successors and assigns.

10. Survival. Third Party's obligations regarding the use, access, disclosure, and protection of UPMC Confidential Information shall indefinitely survive the termination of this TPA Agreement.

11. Conflicting / Governing Language. To the extent that a term set forth in Section 8 (titled "General Terms") of this TPA Agreement conflicts with a corresponding term of the Business Agreement, the conflicting term of the Business Agreement shall control.

IN WITNESS WHEREOF, intending to be legally bound hereby, Third Party and UPMC have executed this TPA Agreement as of the date and year first above mentioned.

UPMC



John P. Houston, Esq.
Vice President, Privacy and Information Security & Associate Counsel

Third Party

By: _____

Name: _____

Title: _____

Date: _____