



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

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Data Usage Agreement

Electronic Data Reports

Comes now the Alabama State Health Planning and Development Agency (“SHPDA” or “the Agency”) and _____ (“the Purchaser”) and enter into the following Data Use Agreement.

Whereas, the Agency has compiled a broad range of statistical data concerning health care facilities in the State of Alabama and their treatment of patients (“the Data”);

Whereas, the Agency has expended time and money in the compilation of the Data and the entering of the Data into a data base designed for and purchased by the Agency; and

Whereas, the Purchaser is desirous of acquiring a copy of the Data and the Agency has agreed to sell to the Purchaser a copy of the same for good and valuable consideration, namely \$ _____, the sufficiency of which is hereby acknowledged,

Therefore, in exchange for the use of the Data, regardless of whether it is provided in a written report, an electronic transmission, a CD and/or any other form, the Purchaser hereby agrees to the following terms and conditions:

1. The Purchaser agrees to not delete, add to and/or otherwise alter or amend the Data in any manner;
2. The Purchaser agrees not to grant access to sell, rent, lease, give, loan, trade and/or otherwise provide the Data, in whole or in part, and/or a copy of the Data, in whole or in part, to any third-party without the express written consent of the Agency;
3. The Purchaser acknowledges that it is only purchasing the compilation of the Data and is not purchasing from the Agency a license regarding any software which the Purchaser might utilize in reading any electronic transmission and/or CD which contains the Data;
4. The Purchaser acknowledges that the Agency has taken reasonable precautions to remove any means of identifying the identity of any particular patient and/or his/her physician and the Purchaser agrees that it will not attempt to link or discern nor permit others to attempt to link or discern the identity of any particular patient and/or his/her physician through the use of the Data separately and/or in connection with any other information available to the Purchaser regardless of the source;
5. The Purchaser acknowledges that the Agency is making no representations and/or warranties regarding the accuracy of the Data (including, but not limited to, that the health care facilities accurately reported the Data and that the Agency staff correctly entered the Data into the data base) and that it is purchasing the Data “as is”;
6. The Purchaser agrees that it will make no statements, oral and/or written, nor permit others to make any statement, oral and/or written, which indicates and/or suggests, explicitly and/or implicitly, that interpretations, conclusions, etc. drawn from the Data are those of the Agency, have been endorsed by the Agency and/or represent the views, opinion and/or a decision of the Agency;

7. The Purchaser agrees that in any administrative proceeding before the Agency that citations to the Data shall not presumptively establish any fact, inference and/or opinion based upon the Data and shall not preclude the Certificate of Need Review Board from the exercise of its independent judgment regarding any matter; and
8. The Purchaser will indemnify, defend, and hold harmless the Agency, its Staff, the Certificate of Need Review Board, its individual members, the Agency's contract vendors, the State of Alabama, any official, agent and/or employee thereof and/or the Executive Director of the Agency from any and all any judgment, settlement, action, lawsuit, cause of action, damage, claim, losses, penalties, lien, compensation, judgment, demand and/or expense, of every kind and nature whatsoever, whether they be for consequential, derivative, compensatory, or punitive damages which has been or may hereafter be entered, made, brought, or assessed against them, collectively and/or individually, by any person, partnership, corporation, insurance company, or other entity, public or private, tortfeasors and parties of any description for or on account of any injuries, damages, economic losses and/or fees and/or expenses sustained which are alleged to arise out of or in any way be connected with, directly and/or indirectly, the Agency's sale of the Data, the Purchaser's use thereof and/or any breach by the Purchaser of the terms and/or conditions of this Data Use Agreement.

This Agreement shall be governed by the laws of the State of Alabama and the Purchaser agrees that the appropriate venue for any action, to the extent such actions are permitted by law, relating to and/or arising from this Agreement and/or any breach thereof shall be the Circuit Court of Montgomery County, Alabama. By executing this Agreement, the Agency shall not be construed as nor does it intend to waive any defense to which it may be entitled including, but not limited to, its sovereign immunity.

By executing this Agreement, the representative of the Purchaser hereby acknowledge the Purchasers' intent to be bound by the terms and conditions set forth herein and represents and warrants the individual executing this Data Purchase Agreement on behalf of the Purchaser is, in fact, duly authorized to execute this document on behalf of the same.

Signed: _____ Date: _____

Print/Type Name: _____

Title: _____

Company/Organization: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____ Fax Number: _____

Email Address: _____