TRAIN DATA USE AGREEMENT

This document represents a standard Third Party Recipient Data Use Agreement between a qualified recipient, the releasing agency, and the following sponsoring organization: Public Health Foundation-TrainingFinder Real-time Affiliate Integrated Network (TRAIN).   This document details the length of the terms of the agreement, the extent of the data set to be included, the protections the recipient must enact to safeguard the privacy and confidentiality of any respondents' information included within the data set, any relevant fee and pricing information, as well as legal waivers, disclaimers and releases of liability from the sponsoring organization.

Section 1: Data Use Agreement

This Data Use Agreement ("Agreement"), effective as of _____,20__ ("Effective Date"), is entered into by and between _____ ("Recipient"), the releasing agency, _____, (agency with a current agreement) and the Public Health Foundation.

Section 2: Purpose

This agreement pertains to the release of the following TRAIN data:

Data module	File	Year(s)	Data Elements

Only data from the module(s), file(s), year(s), and data element(s) listed on this DUA will be provided.

The PHF is not responsible for providing extractions.

The releasing agency,_____,(agency with a current agreement) will provide the limited data set. Please contact them at _____ for further instruction once your DUA is approved.

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Please note, _____,(agency with a current agreement) is not authorized to provide you with data without an approved DUA with the PHF.

The purpose of this Agreement is to authorize release of the aforementioned data to the Recipient with for use in its research and/or analyses. All data files available from the sponsoring organization must be used in accordance with the terms as described in this Agreement.

Purpose of Study:

Hypotheses:

Benefits to public health practice:

If data identifiers are requested, please explain why they are needed. Please note these identifiers may or may not be provided at the discretion of PHF.

Section 3: Plans for Disseminating Results

Describe briefly your plans for disseminating results, including the venue for dissemination (e.g., peer-reviewed publication(s), conference presentations, thesis, other publications) and the expected time frame.

_____

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Section 3: Terms, Assurances, Waivers and Disclaimers

1. **LICENSE GRANT.** Conditioned on your continued compliance with the terms and conditions of this Agreement, this Agreement provides the recipient with a revocable, royalty-free, limited, non-exclusive, nontransferable license to use for the term identified below the _____ (the "Data Set") for your internal personal use only and solely in connection with your own research and analysis. Notwithstanding the foregoing, any rights granted hereby are licensed and not sold or otherwise transferred or assigned to you or any third party. References to "Recipient" mean the entity-level or individual licensee and user of the Data Set (as identified above) and any permitted successor, assign, transferee, heir, or representative thereof.

2. **LICENSE GRANT RESTRICTIONS.** Except as provided above, you may not modify, alter, translate, create derivative work(s) of, distribute, broadcast, transmit, reproduce, publish, license, sub-license, transfer, sell, exploit, rent, timeshare, outsource, provide on a service bureau basis, lease, grant a security interest in, assign or transfer any right(s) in, or otherwise use in any manner not expressly permitted herein the Data Set or any part thereof. Specifically, you agree not to use the Data Set to learn the identity of any person or to contact any person for any purpose, including, without limitation, to question, verify, or discuss the Data Set. In addition, you may not remove or alter any proprietary notice on the Data Set or use any portion of the Data Set independently from the Data Set as a whole. All rights not expressly granted to you herein are hereby reserved to the sponsoring organization.

3. **USER OBLIGATIONS.** By installing, downloading, accessing, and/or using the Data Set, you represent that you (and all the employees of your organization) agree to abide by all applicable local, state, national, and international laws and regulations with respect to your use of the Data Set, including, without limitation, any confidentiality requirements and obligations that apply to the Data set. You agree to assume all responsibility concerning your, and all the employees, students, and volunteers of your organization use of the Data Set. The sponsoring organization assumes no responsibility or liability for any claims that may result directly or indirectly from the communications, agreements, or interactions; you establish using the Data Set. You also agree to acknowledge the sponsoring organization in the publication of any results from use of the Data Set by including the following notice: "TRAIN data for this study was obtained from the Public Health Foundation." In addition, you agree to provide the sponsoring organization with a complete and accurate copy of any publication that uses the Data Set covered by this Agreement.

4. **PROPRIETARY RIGHTS.** The sponsoring organization shall retain all ownership right, title, and interest in and to all programs, procedures, information, and documentation associated with the Data Set. The name, acronym, logo, and any other identifying name or icon of the sponsoring organization and its products and services are proprietary trademarks of the sponsoring organization, and any use of such marks without the express written permission of the

sponsoring organization is strictly prohibited. Except as expressly provided herein, the sponsoring organization does not grant any express or implied right to you or any other person under any intellectual or proprietary rights. Accordingly, unauthorized use of the Data Set may violate intellectual property or other proprietary rights laws as well as other domestic and international laws, regulations, and statutes, including, but not limited to, United States copyright, trade secret, patent, and trademark law.

5. **CONFIDENTIALITY.** The recipient acknowledges and agrees that the Data Set contains proprietary trade secrets and confidential information of the sponsoring organization and/or its licensors and suppliers, including, without limitation, any and all personal identifying information of any individual (the "Confidential Information). You agree to secure and protect the confidentiality of this Confidential Information of the sponsoring organization in a manner consistent with the maintenance of the sponsoring organization's rights therein, using at least as great a degree of care as you use to maintain the confidentiality of your own confidential information of a similar nature, but in no event using less than reasonable efforts. You shall not, nor permit any third part, including, without limitation, any contractor or agent of your company to sell, transfer, publish, disclose, discuss, or otherwise make available any portion of the Confidential Information to third parties.

6. **SUBMISSIONS.** The sponsoring organization welcomes your feedback and suggestions about how to improve the Data Set. You agree that the sponsoring organization shall have the perpetual, royalty-free, and irrevocable right to use such feedback and suggestions in any manner it deems desirable without providing any consideration, attribution, or payment to you.

7. **WARRANTY DISCLAIMER.** The Sponsoring organization makes no representations or warranties about the suitability, completeness, timeliness, reliability, legality, or accuracy of the data set for any purpose. The data set is provided "as is" and "as available" without warranty of any kind, including, without limitation, all implied warranties and conditions of merchantability, fitness for a particular purpose, title, and non-infringement as well as any warranty related to the use, or the results of the use, of the data set or any documentation associated therewith in terms of correctness, accuracy, reliability, or otherwise. The entire risk as to the quality of and results from the use of the data set is with the recipient. Moreover, recipient acknowledges and agrees that the sponsoring organization reserves the right to withhold the data set until the sponsoring organization has completed its own analysis and made its report(s) of the findings to the public.

8. **LIMITATION OF LIABILITY.** You agree that in no event shall the sponsoring organization be liable for any indirect, punitive, incidental, special, or consequential damages arising out of or in any way connected with the use of the data set by the recipient or anyone else, whether based in contract, tort, strict liability, or otherwise. Even if you have been advised of the possibility of such damages. Without limitation of the foregoing, the total liability of the sponsoring

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organization for any reason whatsoever related to use of the data set or for any claims relating to this agreement or the data set shall not exceed $5,000 (USD).

9. **INDEMNITY.** The recipient agrees to defend, indemnify, and hold harmless the sponsoring organization and its affiliates, employees, licensors, agents, directors, officers, partners, representatives, shareholders, attorneys, predecessors, successors, and assigns from and against any and all claims, proceedings, damages, injuries, liabilities, losses, costs, and expenses (including reasonable attorneys' fees and litigation expenses) relating to or arising from your use of the Data Set and any breach by you of this Agreement.

10. **GOVERNING LAW.** This Agreement has been made in and will be construed and enforced solely in accordance with the laws of the United States and the District of Columbia, as applied to agreements entered into and completely performed in the U.S. You agree that any action to enforce this Agreement will be brought to District of Columbia courts and all parties to this Agreement expressly agree to be subject to the jurisdiction of such courts.

11. **TERM AND TERMINATION.** This Agreement and your right to use the Data Set will commence as of the Effective Date and shall expire **18 months** after the Effective Date unless terminated as set forth herein. Any renewal of this Agreement shall be subject to the sponsoring organization's separate written consent. This Agreement will terminate automatically if the recipient fails to comply with any of the terms and conditions described herein, including by exceeding the scope of the license. Termination or expiration of this Agreement will be effective without notice. The recipient may also terminate at any time by ceasing to use the Data Set (and any associated materials provided by the sponsoring organization) in your possession. The provisions concerning proprietary and intellectual property rights, submissions, confidentiality, indemnity, disclaimers of warranty and liability, termination, and governing law will survive the termination of expiration of this Agreement for any reason.

12. **MISCELLANEOUS.** There are no third party beneficiaries. Failure to insist on strict performance of any of the terms and conditions of this Agreement will not operate as a waiver of that or subsequent default or failure of performance. No joint venture, partnership, employment, alliance, or agency relationship exists between you and the sponsoring organization as result of this Agreement or your utilization of the Data Set. Moreover, you may not bind the sponsoring organization in any way or otherwise make any representations or statements for or on behalf of the sponsoring organization, its licensors, or suppliers, including, without limitation, making any statements indicating or suggesting that interpretations drawn are those of the data sources or the sponsoring organization, without the sponsoring organization's prior, separate, express, and written permission.   This Agreement represents the entire agreement between the recipient and the sponsoring organization with respect to your use of the Data Set, and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between you and the sponsoring organization with respect to the Data Set. This

Agreement may not be assigned or transferred by you without the prior express written consent of the sponsoring organization. This Agreement may be modified only upon the prior and separate written consent of the sponsoring organization.

Section 4: Authorization

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

SPONSORING ORGANIZATION

Printed Name:_____Signature:_____

Address: _____ State: _____Zip code: _____

Email: _____ Phone: _____

Date: _____

RELEASING AGENCY

Printed Name:_____Signature:_____

Address: _____ _____ State: _____Zip code: _____

Email: _____ Phone: _____

Date: _____

RECIPIENT

Printed Name:_____Signature:_____

Address: _____ _____ State: _____Zip code: _____

Email: _____ Phone: _____

Date: _____

Please sign and fax or email this completed TRAIN Data Use Agreement to:

Attn: TRAIN   **Subject: TRAIN DUA**
202.218.4409   **OR**   **training@phf.org**

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