veradigm™

DATA EVALUATION AGREEMENT

This **DATA EVALUATION AGREEMENT** (this "**Agreement**") is made by and between Allscripts Healthcare, LLC, dba Veradigm, located at 222 Merchandise Mart Plaza, Suite 2024, Chicago, IL 60654 ("**Veradigm**"), and _____, located at _____ ("**Recipient**"), as of the date last signed below (the "**Effective Date**"). Veradigm and Recipient may also be referred to each as a "**Party**" or collectively as the "**Parties**."

WHEREAS, Recipient wishes to receive from Veradigm certain Data (as defined below) solely for the purpose of evaluating the Data format and content to determine whether to enter into a commercial relationship with Veradigm and for no other use (the "**Purpose**"), subject to terms and conditions set forth in this Agreement; and

WHEREAS, Veradigm is willing to provide such Data to Recipient for the Purpose under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. <u>Data</u>.

(a)   <u>License</u>. Subject to Recipient's compliance with the terms of this Agreement, Veradigm shall make the aggregated, de-identified, longitudinal, patient-level data set as further described in attached <u>Exhibit A</u> (the "**Data**") available to Recipient and hereby grants Recipient a limited, revocable, non-exclusive license, during the term of this Agreement, to use the Data internally solely and exclusively for the Purpose in accordance with this Agreement. Veradigm has used commercially reasonable efforts to de-identify the Data in accordance with 45 CFR §164.514(b) of the HIPAA Privacy Rule, and, in doing so, relies on the written opinion of an expert (also referred to as a "**Statistician Certification**"), which includes safeguard requirements for the use and disclosure of the Data. Veradigm must comply with the terms of the Statistician Certification, which includes passing along the safeguard requirements to users of the Data. Recipient shall comply with the terms of the Statistician Certification that applies to the Data as set forth in this Agreement or as otherwise provided to Recipient by Veradigm.

(b)   <u>Ownership</u>. Recipient acknowledges that, as between the Parties, Veradigm and its licensors, as applicable, shall own and retain all right, title and interest in and to the Data, including but not limited to any patent, copyright, trademark or trade secret rights. Recipient shall not obtain or accrue any right, title or interest in or to the Data except those limited, non-exclusive rights expressly granted under this Agreement.

(c)   <u>Restrictions</u>. Recipient shall not (nor shall it allow any third party to): (i) re-identify or attempt through any means or manner to re-identify any individual patient that is the subject of the Data or match or correlate any individual identity or provider identity to the Data in violation of HIPAA or other applicable laws, rules or regulations; (ii) sell, license, transfer or distribute the Data to any third party; (iii) permit a third party to access the Data other than as permitted under this Agreement; (iv) identify Veradigm as a provider of the Data; (v) combine or comingle the Data with any other data; or (vi) use the Data for the purpose of machine learning, augmented human intelligence development, algorithm improvement, or similar data aggregation activities or to develop or enhance products or services.

(d)   <u>Employees and Subcontractors</u>. Recipient shall limit the use or receipt of the Data to those employees and subcontractors who require access in order to perform activities permitted by this Agreement and are bound by obligations of confidentiality, and shall ensure and require that these employees and subcontractors treat the Data in accordance with and in the manner provided in this Agreement and in accordance with all other applicable laws, rules and regulations, including without limitation HIPAA if applicable to Recipient or the Data. The acts and omissions of Recipient's employees and subcontractors are deemed the acts and omissions of Recipient.

(e)   <u>Destruction of Data</u>. In the event Recipient inadvertently receives patient identifiable information, Recipient shall promptly notify Veradigm of such inadvertent disclosure and shall not use and shall destroy such Data and certify such destruction to Veradigm. In addition, Recipient shall destroy the Data (including copies of Data resident in any backups or network storage medium) within five (5) days following the earlier of (i) completion of the Purpose, or (ii) termination or expiration of this Agreement for any reason, and shall promptly provide Veradigm with a certificate of destruction evidencing that Recipient has destroyed all Data in its possession.

(f)   <u>Audit</u>. During the term of this Agreement and for six (6) months following the completion of the Purpose, Veradigm has the right to conduct an audit of Recipient regarding use of the Data and to confirm that the Data has

been destroyed. Any audit shall be conducted with reasonable prior notice to Recipient and during normal business hours.

(g)   Security Safeguards.   Recipient shall implement and maintain appropriate administrative, physical and technical safeguards: (i) to preserve the security of the Data; and (ii) to prevent the unauthorized access to or unauthorized modification of the Data. Such safeguards shall include, at a minimum, firewalls, password protection, access controls, network intrusion detection and anti-virus protection.

(h)   Security Breach.   Recipient shall immediately notify Veradigm if Recipient detects any unauthorized access to or processing, use or disclosure of the Data (a "**Security Breach**") by sending an encrypted e-mail to privacy@allscripts.com and to Allscripts Healthcare, LLC, 222 Merchandise Mart, Suite 2024, Chicago, IL 60654, Attn: Chief Privacy and Security Counsel that includes (i) the nature of the Security Breach, (ii) the estimated impact on Veradigm, (iii) the name of a senior level person responsible for communicating with Veradigm regarding the Security Breach, and (iv) the investigative action taken or planned. Recipient shall fully cooperate with Veradigm in investigating and mitigating the adverse effects of such Security Breach.

2. Confidentiality.

(a)   Definition of Confidential Information.   As used herein, "**Confidential Information**" means any proprietary information (including without limitation the Data) disclosed by Veradigm to Recipient under this Agreement. Confidential Information (except for the Data) shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to Veradigm; (ii) can be shown by documentation to have been known to Recipient prior to its receipt from Veradigm; (iii) can be shown by written documentation to have been independently developed by Recipient without reference to any Confidential Information; or (iv) is received from a third party without breach of any obligation owed to Veradigm.

(b)   Obligations of Confidentiality.   Recipient shall not disclose or use the Confidential Information for any purpose outside the Purpose, except with Veradigm's prior written permission. During the term of this Agreement and after its expiration or termination, Recipient shall protect the confidentiality of the Confidential Information with the same degree of care that is uses to protect its own confidential and proprietary Information, but no less than commercially reasonable care. In addition, Recipient agrees that it shall not reproduce, disseminate, or in any way disclose any Confidential Information to any person, firm or business, except to those of its employees, officers, or authorized representatives, on a need to know basis, and only to those that have executed appropriate written agreements sufficient to enable Recipient to enforce the confidentiality obligations of this Agreement.

(c)   Compelled Disclosure.   If Recipient is compelled by law to disclose Confidential Information, Recipient shall: (i) provide Veradigm with reasonable prior notice of such compelled disclosure (to the extent legally permitted); (ii) provide reasonable assistance to Veradigm, at Veradigm's cost, if Veradigm wishes to contest the disclosure; and (iii) limit the scope of any disclosure only to such portion of the Confidential Information that it is legally required to disclose and shall use commercially reasonable efforts to obtain the highest level of protection afforded under applicable law or regulation for such disclosure.

(d)   Equitable Relief.   Recipient acknowledges that any breach of the confidentiality or license obligations under this Agreement shall result in irreparable damage to Veradigm for which there is no adequate remedy at law. Therefore, it is agreed that Veradigm shall be entitled to equitable relief without the necessity of posting a bond or other undertaking, including permanent injunctive relief enjoining such breach by a court of competent jurisdiction, in addition to whatever remedies Veradigm may have at law.

3. Cloud Computing.   In the event Recipient shall utilize a third-party, cloud-based environment ("**Cloud Environment**") to host the Data for the Purpose, Recipient represents and warrants that such Cloud Environment meets the requirements set forth in attached Exhibit B.

4. Disclaimer; Limitations. NOTHING IN THIS AGREEMENT SHALL REQUIRE EITHER PARTY TO ENTER INTO A FURTHER AGEEMENT WITH THE OTHER PARTY REGARDING THE DATA. ALL DATA IS PROVIDED "AS IS," AND WHILE VERADIGM WILL ATTEMPT TO DE-IDENTIFY THE DATA TO REMOVE PATIENT IDENTIFIABLE INFORMATION PRIOR TO DISCLOSING TO RECIPIENT, VERADIGM MAKES NO WARRANTIES OF ANY KIND WITH RESPECT TO THE DATA, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUALITY, NON-INFRINGEMENT OR ACCURACY. IN NO EVENT SHALL VERADIGM, ITS AFFILIATES, OR ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS OR ASSIGNS, BE LIABLE TO

RECIPIENT OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST DATA, INTERRUPTION OF BUSINESS, OR OTHER DIRECT, SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THE DATA OR THIS AGREEMENT, AND WHETHER OR NOT RECIPIENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN NO EVENT SHALL VERADIGM BE LIABLE IN THE AGGREGATE FOR ANY CLAIMS OR DAMAGES IN ANY AMOUNT EXCEEDING ONE HUNDRED DOLLARS.

5. <u>Indemnification</u>. Recipient shall indemnify and hold harmless Veradigm and its affiliates, and their directors, officers, employees, agents and successors from and against any and all losses, claims, actions, damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses), or portions thereof, arising out of or resulting directly or indirectly from (i) Recipient's use of the Data, and (ii) any breach of this Agreement.

6. <u>Term and Termination</u>.

(a)   <u>Term</u>. This Agreement shall be effective as of the Effective Date and continue through the review period set forth in attached <u>Exhibit A</u> (the "Review Period"). The Review Period shall only be extended in Veradigm's sole discretion, with such extension reflected in an amendment to this Agreement signed by both Parties

(b)   <u>Termination</u>. Either Party may terminate this Agreement prior to expiration upon written notice to the other Party.

(c)   <u>Effect of Termination; Survival</u>. Upon any expiration or termination of this Agreement, Recipient shall discontinue all use of the Data and any Confidential Information and, if the Data is not already destroyed, shall destroy the Data as described in Section 1(e) and any Confidential Information in Recipient's possession or control. However, if required by law, Recipient may retain a confidential archival copy of the Data and any Confidential Information for regulatory compliance purposes only. Such archival copy shall remain subject to Recipient's obligations of confidentiality. Sections 1(e), 1(f), 2 – 6, 8 and 9 shall survive any expiration or termination of this Agreement.

7. <u>Relationship of the Parties</u>. This Agreement is for evaluation purposes only and nothing herein shall be deemed to create a partnership, joint venture, employment, or similar relationship between the Parties or any Party and any employee or subcontractor of the other.

8. <u>Notices</u>. All notices and other communications required or permitted to be given or made hereunder shall be in writing and delivered personally addressed to the intended recipient thereof at the appropriate address appearing above, with return receipt. Any such notice or communication shall be deemed to have been duly given immediately upon delivery. Any Party may change the address to which notices, demands or other communications shall be sent by giving notice to the other Party in the manner provided herein.

9. <u>General</u>. This Agreement sets forth the entire agreement and understanding of the Parties with respect to the subject matter hereof, and supersedes all prior agreements and understandings, written or oral, between the Parties. This Agreement may be amended only by a written instrument executed by the Parties. The Parties acknowledge that no usage of trade, regular practice or method of dealing between the Parties hereto shall be used to modify, interpret, supplement or alter the terms of this Agreement. If any provision of this Agreement is found to be illegal or unenforceable, the other provisions shall remain effective and enforceable to the greatest extent permitted by law. Recipient may not assign this Agreement (by operation of law or otherwise) without the prior written consent of Veradigm, and any prohibited assignment or sublicense will be null and void. This Agreement shall be binding upon and will inure to the benefit of the Parties permitted successors and/or assignees. No waiver by either Party of the breach or non-performance of this Agreement shall be deemed to be, or construed as, a further or continuing waiver of any such breach or non-performance. This Agreement shall be governed by the laws of Illinois (excluding its conflicts-of-laws principles) and any attempt to enforce this Agreement shall be brought in a court of competent jurisdiction located in Chicago, Illinois. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, authorized representatives of the Parties have signed this Agreement.

Recipient - _____   **Allscripts Healthcare, LLC dba Veradigm**

By:_____   By: _____

Name: _____   Name: _____

Title: _____   Title: _____

Date: _____   Date: _____

Exhibit A

Data Specifications

Data Type

EVALUATION DATA TYPE	EVALUATION DATA SPECIFICATION
Veradigm Health Insights Ambulatory EHR	This file is a 3-month sample of HIAE for 1 million random di-identified patients.
Medical Claims (837-p)	This file is a 1 month sample of Veradigm's Medical Claims (837-p) Data. (Veradigm hash keys/tokens)
Remittances (835-p)	This file is a 1 month sample of Veradigm's Remittance Data (835-p) Data. (Veradigm hash keys/tokens)
PINNACLE Registry	This file is a 6 month sample including de-identified patients enrolled/active in the PINNACLE Registry in the six month time period of 1/1/2019 thru 6/30/2019.
Diabetes Collaborative Registry (DCR)	This file is a 6 month sample including the de-identified patients enrolled/active in the Diabetes Collaborative Registry in the 6 month time period of 1/1/2019 through 6/30/2019.

Review Period is 30 days

Exhibit B

Cloud Environment Requirements

1.   Recipient may only host Data in a Cloud Environment that is provided by a reputable cloud service provider ("**CSP**") that adheres to professionally recognized and effective information security, privacy and information technology architectural standards (e.g., ISO/IEC 27001) and has an effective compliance program in place that addresses applicable regulatory requirements.

2.   Data must be segregated from non-Veradigm data so that appropriate controls are in place to permit the identification of the Data (including backup and removable media) as Veradigm's in all instances, and to appropriately restrict access to only users authorized to view the Data. Logical separation must allow Data to be deleted when it is no longer required or if the CSP is not able to continue providing hosting services.

3.   Data must be encrypted in transit, storage, and at rest in accordance with NIST's "Guidelines for the Selection, Configuration, and Use of Transport Layer Security (TLS) Implementations," "Guide to Storage Encryption Technologies for End User Devices," "Security Requirements for Cryptographic Modules (FIPS 140-2)," and "Recommendation for Key Management". Recipient must also provide to Veradigm upon request evidence that relevant encryption key(s) shall be appropriately managed.

4.   All Data hosted in the Cloud Environment must remain on US-based systems and may not be accessed from, transmitted, transferred, processed, or stored outside of the United States.

5.   CSPs must undergo an annual independent audit by an accredited auditing firm covering the scope of the Data. Results of this audit must be provided to Veradigm upon request along with associated remediation decisions and activities.