

# Data Transfer and Use Agreement

This Data Transfer and Use Agreement (the "Agreement"), entered into on the last date of signature on this Agreement (the "Effective Date"), is between Fred Hutchinson Cancer Research Center, a Washington non-profit research institution with administrative offices at 1100 Fairview Avenue North, J5-110, Seattle, W A 98109 ("FHCR") and **[Institution name / address], [description of institution type, i.e. " a public institution of higher education"]**, ("Institution"), each of which is a "Party" and together are the "Parties." This Agreement governs an arrangement through which FHCR shall make available certain data described below to Institution and Institution Investigator.

In consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

## Article 1 - Definitions

- 1.1 Study means the research study entitled "[Study title]" which is attached hereto as Exhibit 1 and incorporated herein in its entirety.
- 1.2 Data means **[insert data type here], [Institution name] IR file #NNNN.**
- 1.3 FHCR Investigator is Gary Goodman, M.D.
- 1.4 [Institution name] Investigator is **[PI name]**
- 1.5 [2<sup>nd</sup> Institution name] Investigator is **[PI name]**—if applicable

## Article 2 - Use of Data

- 2.1 Use of Data. Institution and Institution Investigator will use the Data only in the performance of the Study described in Exhibit 1 and for no other use without the written approval of FHCR and execution of an amendment to this Agreement.
- 2.2 Permitted Users. The Data will be used solely by Institution Investigator and those under his direct supervision.
- 2.3 No Transfer. Except as specifically provided herein, neither Institution nor Institution Investigator will distribute or transfer the Data to any other investigator at the Institution or to any third party for any reason without the prior written consent of an authorized representative of FHCR.
- 2.4 No Commercial Use. Institution Investigator will not use the Data in any research that is subject to consulting or licensing obligations to any for-profit organizations.

## Article 3 - Confidentiality

Institution and Institution Investigator agree to maintain the confidentiality of the Data. Institution and Institution Investigator agree not to disclose any of the Data in any form for any purpose other than as specifically described in Exhibit 1 or any amendments thereto. If Institution and/or Institution Investigator is required by law to disclose the Data including without

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Vers 1.0

## **Data Transfer and Use Agreement**

limitation by discovery, subpoena or other legal or administrative process, Institution and Institution Investigator agree to provide FHCRC prompt advance notice of the required disclosure to permit FHCRC at its option and expense, to seek an appropriate protective order or waive the requirements under this Agreement. If no protective order or waiver is obtained and disclosure is legally required, such disclosure may be made but only to extent required.

### **Article 4 – Publication**

Publication. Institution and Institution investigator in collaboration with FHCRC investigator may publish results of this research with the Data in scientific journals. Study participant identifiers for the Data will not be used in any publications or presentations. All presentations and manuscripts that utilize FHCRC will include at least two (2) but probably three (3) authors from the Carotene and Retinol Efficacy Trial (CARET). Conduct with respect to research publications and co-authorship will be agreed and finalized by <DATE> and be circulated to FHCRC investigator for review thirty (30) days prior to submission of abstracts or manuscripts. All Publications will acknowledge the author's academic affiliation, and the support of the CARET grant award, number 1-UM1-CA-167462-01A1.

### **Article 5- Term and Termination**

5.1 Term. The Agreement shall begin on the Effective Date and shall expire upon completion of the Study (the "Term") unless earlier terminated pursuant to this Article 4.

5.2 Termination. Either Party may terminate this Agreement with or without cause at any time upon the receipt of thirty (30) days prior written notice to the non-terminating Party.

5.3 Effect of Termination. Institution and Institution Investigator agree to destroy the Data and all copies thereof upon termination of this Agreement, provided however that Institution Investigator may retain one copy of the Data for archival purposes only. Institution will provide prompt written notice of such destruction.

5.4 Survival of Obligations. The rights and obligations that would, by their nature, survive expiration or termination of this Agreement or that have accrued prior to termination shall survive expiration or termination of this Agreement.

### **Article 6 - Disclaimer of Representations and Warranties**

FHCRC MAKES NO REPRESENTATIONS OR EXTENDS ANY WARRANTIES EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS OF THE DATA FOR A PARTICULAR USE. WITHOUT LIMITATION OF THE FOREGOING GENERALITY, NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS EXTENDING ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE RESEARCH CONDUCTED USING THE DATA OR THE RESULTS TO BE OBTAINED HEREOF OR THAT USE OF THE DATA WILL NOT INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHT.

# Data Transfer and Use Agreement

## Article 7- Compliance with Laws, Regulations and Institutional Policies

7.1 Compliance. Institution and Institution Investigator will comply with all applicable laws, rules and regulations pertaining to its use of the Data.

7.2 Compliance with Institution Policies and Procedures. Institution and Institution Investigator represent that the conditions for use of the Data have been approved by the Institution's Institutional Review Board (IRB), or equivalent body, in accordance with applicable law including but not limited to 45 CFR Part 46 and 21 CFR Parts 50 and 56.

## Article 8 - Miscellaneous

8.1 Amendments. Amendments to this Agreement must be made in writing and signed by authorized representatives of both Parties.

8.2 Assignment. The Agreement shall be binding on the Parties hereto and upon their respective heirs, administrators, successors and permitted assigns. This Agreement may not be assigned by either Party or by operation of law without the prior written consent of and authorized individual of the other Party.

8.3 Independent Parties. The Parties to this Agreement are independent contractors and not agents of the other. This Agreement shall not constitute a partnership or joint venture, and neither Party may be bound by the other to any contract, arrangement or understanding except as specifically stated herein.

8.4 Use of Name. Neither Party will use other Party's name or logo of any other Party in any advertising or other form of publicity without the prior written consent by an authorized individual of the other Party.

# Data Transfer and Use Agreement

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement as of the Effective Date.

**[Institution name]**

**Fred Hutchinson Cancer Research Center**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

**[Institution name] (if 2<sup>nd</sup> institution involved)**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**FHCRC, [Institution name], and Institution Investigator**, by signing below, acknowledges that he/she has read and understood the terms of this Agreement.

**Institution Investigator**

**FHCRC Investigator**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

# Data Transfer and Use Agreement

Exhibit 1 -Study and Use of Data

<Study Title >

Abstract: <text here>