**BC RENAL HEALTH RESEARCH**

**INFORMATION SHARING AGREEMENT**

THIS AGREEMENT is made as of the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20\_\_.

BETWEEN:

**BC RENAL,** in the networkof the **PROVINCIAL HEALTH SERVICES AUTHORITY**, with an office at 1380 Burrard Street, Suite 700, Vancouver, British Columbia V6Z 2H3 (“BCR”)

AND:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, with an office at \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(“Principal Researcher”)

AND:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, with an office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(“Principal Institution”)

STUDY NAME:

WHEREAS:

1. The Principal Researcher wishes to undertake the research project described in Schedule A;
2. The project requires certain research information which is in the custody or control of BCR to be disclosed to the Principal Researcher, in individually identifiable form;
3. The research application for information described in Schedule A has been considered and approved by BCR in accordance with applicable law; and
4. The purpose of this agreement is to set out the limitations, terms and conditions under which the Principal Researcher may collect, maintain, use and disclose personal information controlled by BPR in connection with such research.

NOW THEREFORE in consideration of the mutual covenants set out below and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

# interpretation

## definitions

### “**Authorized Personnel**” means any individual including a student, collaborator, employee, funder, or consultant, working for or with the Principal Researcher in connection with the Research Project;

### “**Act**” means British Columbia’s *Freedom of Information and Protection of Privacy Act*, and regulations thereto, as the same may be amended from time to time;

### “**Applicable Laws**” means all statutes, ordinances, regulations, judgments and orders applicable to any person, property or event relating to this agreement, and, whether or not having the force of law, all official directives, rules, consents, approvals, standards, procedures or guidelines of any governmental authority having or purporting to have authority over a party to this agreement;

### “**Loss**” means costs, losses, damages, liabilities and expenses (including all reasonable legal costs, fees and disbursements).

### “**Personal Information**” has the meaning set out in the Act;

### “**Policies**” means the specific information policies and procedures (if any) of BCR listed in Schedule C hereto;

### “**Research Project**” means the project described in Schedule A hereto; and

### “**Requested Data**” means the data fields specified in Schedule B hereto.

## schedules

The following schedules are attached to and form part of this agreement:

A – Research Project

B – Requested Data

C – Policies

D - Research Ethics Board approval

E – BC Renal Confidentiality Undertaking

# exchange of information

## Research project data

Subject to the terms of this agreement, BCR will disclose to the Principal Researcher the Requested Data, for use by the Principal Researcher in the Research Project.

## compliance with law and foippa

In collecting, storing, using, disclosing and disposing of Requested Data, the Principal Researcher shall comply with all Applicable Laws (including without limitation, the Act) and any Policies designated by BCR under this agreement.

## restrictions on use and disclosure of data

The Principal Researcher shall only use the Requested Data for the purposes of the Research Project. The Principal Researcher may not disclose the Requested Data to anyone, except:

### to Authorized Personnel, in connection with the Research Project;

### to the Principal Institution, in connection with the Research Project; and

### as required by Applicable Law.

For greater certainty, the Requested Data which is Personal Information may not be used for market research under any circumstances.

## representations and warranties of researcher

The Principal Researcher represents to BCR as follows and acknowledges that BCR has entered into this agreement relying on the following representations:

### as it relates to the Requested Data, the research application in Schedule A is accurate and complete;

### if the Requested Data includes Personal Information the research purpose set out in the research application cannot reasonably be accomplished unless the Requested Data is disclosed in individually-identifiable form;

### if the Requested Data includes Personal Information any record linkage undertaken for the research is not harmful to the individuals the Requested Data is about and the benefit to be derived from the record linkage is clearly in the public interest;

### the Principal Researcher has the technical, financial and other resources necessary to comply with the terms of this agreement, including respecting the security and confidentiality of the Requested Data;

### the Principal Researcher has the authority to enter into this agreement and to comply with its terms, including respecting the security and confidentiality of the Requested Data; and

### if the Requested Data includes Personal Information the Principal Researcher will not use any Requested Data for the purpose of contacting a person to participate in health research, unless approval is obtained from the Commissioner under the Act.

## covenants of principal institution

The Principal Institution joins in this agreement for the purposes of:

### acknowledging the terms of this agreement; and

### confirming it will hold and deal with any Requested Data which it might have custody of in connection with the Research Project pursuant to the terms of this agreement which are expressed to be binding on the Principal Researcher, as if such terms were expressed to be binding on the Principal Institution.

## no warranties as to data

Requested Data is provided “as is” without warranty of any kind, including accuracy or warranty of fitness for a particular purpose. Any information obtained under this agreement is used at the Principal Researcher’s sole discretion and risk. Notwithstanding the foregoing, BCR shall make reasonable commercial efforts to ensure the accuracy of Requested Data.

## specific data fields to be disclosed

The parties agree that the Requested Data that is the subject of this agreement is as described in Schedule B hereto.

## de-identification of data

If the Requested Data includes Personal Information, the Principal Researcher agrees that:

### individual identifiers associated with the Requested Data will be removed at the earliest time they can be removed without rendering the research purpose impossible and in any case before any date specified in Schedule A, if applicable;

### individual identifiers will be removed in a way that ensures remaining Requested Data (including any found in research notes) cannot be used to identify the individuals to whom the Requested Data relates;

### if necessary to ensure removal of individual identifiers, copies of records or notes will be destroyed in their entirety;

### all individual identifiers will be removed so as to preclude reconstruction or retrieval of personal information by others using the Requested Data from which the identifiers have been removed; and

### in the case where identifiable data was provided and identifiers have been or will be removed, the Principal Researcher will not create any record index, record identifiers or case numbers which relate in any way to BCR identifiers and which could permit records to be re-identified directly or indirectly.

## method and security of transmission

BCR agrees to disclose the Requested Data to the Principal Researcher using the method set out in Schedule B within a reasonable time after the Principal Researcher requests it in writing.

## acknowledgement of ownership and control

The parties agree that despite disclosure of Requested Data to the Principal Researcher:

### the Requested Data remains solely in BCR’s control for the purposes of the Act; and

### as between the BCR and the Principal Researcher, the disclosure does not transfer to the Principal Researcher any intellectual or other property rights of interest in or respecting the Requested Data itself.

## processing of access requests

In the event of any access request under the Act regarding Requested Data, the Principal Researcher shall refer the request to BCR for handling pursuant to BCR’s freedom of information policies and procedures. The Principal Researcher shall reasonably cooperate with BCR in respect of any such request.

# term

## Basic term

The term of this agreement will commence on the date noted at the top of this agreement and shall continue until \_\_\_\_\_\_\_\_\_ or unless otherwise terminated in accordance with the terms of this Article 3.

## termination – mutual

The Parties may terminate this agreement at any time upon mutual written agreement.

## termination for convenience

Either of BCR or Principal Researcher may terminate this agreement by providing written notice to the other ninety (90) days prior to the date on which the notifying Party intends the agreement to terminate.

## termination on breach

Without limiting any other rights or remedies that BCR may have at law, in equity, or otherwise under this agreement, BCR may terminate this agreement at any time with immediate effect by giving written notice to the Principal Researcher, if the Principal Researcher breaches any material provision of this agreement that:

### is not capable of being remedied; or

### is capable of being remedied but the Principal Researcher has not taken remedial action that is satisfactory to BCR within thirty (30) days of receiving notice from the BCR requiring that remedial action be taken.

## effect of termination

Unless BCR directs otherwise in writing, upon termination or expiry of this agreement the Principal Researcher will:

### immediately stop collecting and take all steps necessary to prevent Authorized Personnel from further collecting any Requested Data;

### immediately stop using and disclosing Requested Data;

### subject to Applicable Law, the Policies and any applicable record retention policies of the Principal Institution, promptly destroy or arrange for destruction of all copies of the Requested Data in accordance with the Policies; and

### if requested by BCR, certify such destruction in writing to the reasonable satisfaction of BCR.

## survival after termination

Sections 2.2, 2.3, 2.5, 2.10, 3.5, 4.4, 5.1, 5.2, 5.3, 5.4, 6.1, 6.2, 7.1 and 7.2 hereof shall survive termination or expiry of this agreement.

# specific data covenants

## Authorized personnel

The Principal Researcher shall supervise and is responsible for ensuring that Authorized Personnel only receive, handle, use and disclose Requested Data pursuant to the terms of this agreement. The Principal Researcher shall supervise all such data access and use, and arrange for appropriate safeguards and procedures.

## Personnel access procedures

The parties acknowledge and agree that, where reasonably possible, access to Personal Information under this agreement should be exercised by Authorized Personnel on a need-to-know basis in connection with that person’s particular role or function. Accordingly, Principal Researcher agrees to (a) take all reasonable steps to ensure that Authorized Personnel will only be provided or exercise access to Requested Data for the purpose of the Research Project and as relevant and necessary to the performance of each person’s individual duties and responsibilities; and (b) comply with the reasonable requests or directions of BCR concerning limitations or security arrangements for access.

## limitations on linkage/other projects

No linkage or data matching of Requested Data may be done other than as may be specifically set out in Schedule A hereto.

## foreign demand for disclosure

If the Requested Data includes Personal Information and the Principal Researcher becomes legally compelled to disclose or otherwise provide access to Requested Data by a subpoena, warrant, order, demand or request that is from a foreign court, an agency of a foreign state or another authority outside Canada and such disclosure or access is not otherwise permitted under this agreement, the Principal Researcher will not disclose or otherwise provide access to any such information until:

### the BCR has been notified in writing;

### the Principal Researcher and the BCR (at the BCR’s option) have appeared before a Canadian court of competent jurisdiction; and

### the Canadian court of competent jurisdiction has ordered that the Principal Researcher disclose or allow access to the Requested Data.

Nothing in this Section 4.5 requires the Principal Researcher to contravene the law of any jurisdiction outside of Canada unless such contravention is required to comply with the Act or any other Applicable Law.

## prohibition on data outside canada

If the Requested Data includes Personal Information, the Principal Researcher shall not cause or permit any person to have access to the Requested Data under this agreement from any location outside Canada unless specifically approved in writing by BCR and shall not permit any Requested Data obtained under this agreement to be stored outside of Canada unless specifically approved in writing and subject to appropriate approved processes.

## audit rights

On 24 hours written notice, the Principal Researcher shall permit BCR to have access to its business premises, records and equipment to perform an audit for the purpose of ensuring compliance with the terms of this agreement.

# safeguards

## general duties of security and confidentiality

The Principal Researcher shall ensure that it and all Authorized Personnel safeguard the security and privacy of all Requested Data and Personal Information that are accessed or obtained under this agreement in accordance with the higher of the following standards: (1) the standard required under the Act and other Applicable Laws, or (2) the standard generally maintained by it in respect of other Personal Information collected, use or stored by it, having due regard for the sensitivity of that information. Without limiting the foregoing, the Principal Researcher shall comply, and shall cause Authorized Personnel to comply, with all applicable requirements set out in Policies concerning the Requested Data and the exchange of information under this agreement.

## privacy breaches - notice

Subject to Applicable Law, the Principal Researcher shall advise BCR immediately in writing, and provide full particulars, of any circumstances, incidents or events giving rise to a reasonable suspicion that:

### a breach or potential breach by it of this agreement, the Act or other Applicable Law has occurred or there is a reasonable risk of such a breach occurring;

### any use of Requested Data not authorized by this agreement has occurred or may occur which impacts, or may impact, upon an individual’s privacy rights under the Act or other Applicable Law; or

### the security of any computer or other information management system in its custody or control that is used to access or store Requested Data has been or may be breached or compromised.

## privacy breaches – investigation

The Principal Researcher shall promptly investigate, at its own expense, any report or other fact or circumstance giving rise to a reasonable suspicion that any of the following events or incidents may have occurred or could reasonably be expected to occur:

### any circumstance or incident listed in paragraph 5.2 above which may have been wholly or partially caused by acts or omissions of it or any of its Authorized Personnel;

### any use or disclosure of Personal Information contrary to this agreement, the Act or other Applicable Law, whether by it or its personnel or any third party.

## privacy breaches – report

Upon the completion of its investigation, the Principal Researcher shall provide BCR with a report, which includes the results of such investigation, and outlines the steps taken by it to redress the problem or potential problem and prevent future occurrences.

# destruction

## destruction duties

The Principal Researcher agrees within 45 days after the Research Project is completed or immediately after notice of termination of this agreement becomes effective, as the case may be, to destroy or return to BCR (at the option of BCR) all Requested Data.

## destruction procedures

The Principal Researcher agrees to the following destruction procedures:

### in the case of information recorded in any computer hard disc drive, the Principal Researcher must erase the disc drive according to the method specified in the Policies;

### in the case of information recorded in any computer network, the Principal Researcher must use the method specified in the Policies;

### in the case of information recorded on paper, the Principal Researcher must shred and dispose of the paper in a secure manner; and

### the Principal Researcher must keep a reasonably detailed record of each destruction of information and must deliver a copy of each such record to BCR on demand promptly after the destruction.

# indemnities

## indemnity by principal researcher

The Principal Researcher will indemnify and hold harmless BCR, its employees and its agents for any and all Loss resulting directly or indirectly from the negligence or wilful misconduct of the Principal Researcher, its employees, agents, or contractors in breach of this agreement.

## indemnity by principal institution

The Principal Institution will indemnify and hold harmless BCR, its employees and its agents for any and all Loss resulting directly or indirectly from the negligence or wilful misconduct of the Principal Institution, its employees, agents or contractors in breach of this agreement.

# publication

## review of proposed publication

The Principal Researcher must not publish or release any work related to the Requested Data without BCR’s prior written approval, not to be unreasonably withheld. The Principal Researcher must deliver to BCR one advance copy of any work at least 30 days before its publication or release. If BCR notifies the Principal Researcher in writing that BCR considers the work does not comply with this agreement, the Principal Researcher must take such steps as BCR reasonably requires to make the work comply to the reasonable satisfaction of BCR.

## restrictions on personal information in publication

Neither the Principal Researcher nor Authorized Personnel who have obtained Requested Data which contains Personal Information may disclose Personal Information or other information that in any way could be used to identify the individuals to whom it relates, in a form which may identify those individuals.

## accreditation rights

If with the consent of BCR any materials published or distributed by the Principal Researcher incorporate the Requested Data, those materials will appropriately reference the source of the Requested Data as BCR and state that access and use of the Requested Data conforms with Applicable Law and the Policies.

# DISPUTE RESOLUTION

## Dispute

In the event that any dispute, claim, question or difference (a **“Dispute”**) arises with respect to this agreement or its interpretation, performance, enforcement, breach or termination, such Dispute will be resolved in accordance with this Article 9.

## ARBITRATION

All Disputes will be submitted for resolution initially to each of the Parties to the Dispute for an amicable discussion and settlement negotiation. If the Dispute cannot be resolved within 30 days, either party may refer the matter to arbitration in accordance with the *Commercial Arbitration Act* (B.C.) at the British Columbia International Commercial Arbitration Centre.

## costs

Each Party will be responsible for all costs incurred by it in resolving any Dispute under this Article 9.

# miscellaneous

## MANNER OF NOTICE

Any notice, document, statement, report, or demand that any party may desire or be required to give or deliver to another party pursuant to this agreement shall be in writing, and shall be given or delivered:

### by personal delivery or mailing in British Columbia with postage prepaid, to the following addresses:

 to the Principal Researcher or the Principal Institution:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 to BCR:

c/o Provincial Health Services Authority

 1380 Burrard Street, Suite 700,

 Vancouver, British Columbia V6Z 2H3

 or

### by facsimile transmission. (BCR - 604-806-8030)

## DEEMED RECEIPT

Any notice, document, statement, report, or demand delivered by mail in British Columbia and correctly addressed to the party to whom it is sent shall be deemed given to and received by that party on the third business day after it is mailed, except in the event of disruption of postal services in British Columbia in which case it shall be deemed given to and received by that party when it is actually delivered. Any notice, document, statement, report, or demand delivered by facsimile transmission shall be deemed given to and received by a party when transmitted “OK” to the facsimile number provided by that party.

## NO ASSIGNMENT

Neither party may assign or sublicense its rights under this agreement without the prior written consent of the other.

## ENUREMENT

This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors, assigns or approved assigns, as the case may be.

## ENTIRE AGREEMENT

The provisions of this agreement constitute the entire agreement between the parties and supersedes any prior agreements, letters of intent or understanding, whether written or oral, between the parties with respect to the matters contemplated herein. No terms, conditions, warranties, promises or undertakings of any nature whatsoever, express or implied, exist between the parties with respect to this agreement except as herein set forth. This agreement may be amended, changed or modified in accordance with the terms hereof.

## TIME OF ESSENCE

Time shall be of the essence of this agreement.

## FURTHER ASSURANCES

The parties shall do and execute such further documents or things as may be necessary or desirable in connection with this agreement.

## GOVERNING LAW

This agreement shall be governed by the laws of the Province of British Columbia and the laws of Canada applicable therein. The parties attorn to the exclusive jurisdiction of the courts of British Columbia.

## COUNTERPARTS

This agreement may be executed in several counterparts, each of which shall be deemed to be an original. Such counterparts together shall constitute one and the same instrument, notwithstanding that all of the parties are not signatories to the original or the same counterpart.

## SCHEDULES

The Schedules to this agreement are part of this agreement. If there is a conflict between a provision in Schedules and any provision of this agreement, the provision in the Schedules is inoperative to the extent of the conflict, unless the Schedules states that it operates despite a conflicting provision of this agreement.

## HEADINGS

The headings in this agreement are inserted for convenience only and do not form part of this agreement.

## LEGAL RELATIONSHIP

No partnership, joint venture or agency will be created or will be deemed to be created by this agreement or by any action of any of the parties under this agreement.

## INDEPENDENT LEGAL ADVICE

Each party acknowledges having been advised to and having had the opportunity to obtain independent legal advice in respect of this agreement.

IN WITNESS WHEREOF the parties have executed this agreement.

|  |  |
| --- | --- |
| **BC RENAL Data Steward**, in the network of the **PROVINCIAL HEALTH SERVICES AUTHORITY** Per:  Authorized Signatory |  |

**PRINCIPAL RESEARCHER In the presence of:**

Per:

 Authorized Signatory (Witness)

**SCHEDULE A:**

**RESEARCH PROJECT PROTOCOL**

**SCHEDULE B:**

**REQUESTED DATA**

Requested data details:

Form or method data to be access by:

**SCHEDULE C**

**POLICIES**

Please refer to University of British Columbia Research Policies, Procedures and Guidelines. <https://ethics.research.ubc.ca/policies-sops>

**SCHEDULE D**

**RESEARCH ETHICS BOARD APPROVAL**

See attached REB Certificate

**SCHEDULE E**

**BC RENAL CONFIDENTIALITY UNDERTAKING**

*All authorized personnel who will have access to the data must sign a Confidentiality Undertaking form (“Undertaking”) prior to the release of data.*

**Study Name:**

**REB #:**

**Principal Investigator:**

You have been identified as a member of a research team and will have access to personal information in the custodianship of BC Renal (BCR) in order to complete this study. The collection, use and disclosure of personal information under the custodianship of BCR are governed by the BC Freedom of Information and Protection of Privacy Act (FIPPA).

No access will be granted to information that has not been approved for use in this study by the BCR Data Steward and Research Ethics Review Board (if applicable). Access to confidential or personal information is permitted only on a ‘need to know’ basis and limited to the minimum amount of confidential or personal information necessary to accomplish the “Research Study.”

As a condition of access to the data, I acknowledge and agree to the following:

I solemnly declare that I will not disclose any Personal Information released to the Principal Investigator (PI) as governed by FIPPA and by BCR except as expressly authorized in writing by a representative of BCR.

I will not disclose data in personally identifiable form to anyone who is not a member of the PI’s team, including in any publication or report containing the results or findings of the Research Study.

I will not use the Research Study data for the purpose of contacting the individuals to whom the information pertains, except as approved by the Research Ethics Board and as authorized within the approved Information Sharing Agreement (ISA).

Prior to accessing Research Study data, I will review the Provincial Health Services Authority (PHSA) Privacy and Confidentiality Policy and agree to adhere to the applicable sections of this policy related to the collection, use and disclosure of personal information in connection with the Research Study.

I will at all times comply with FIPPA and will take reasonable security precautions to protect the Research Study information against unauthorized access, collection, use, disclosure or disposal. I will not remove the data from the location identified in the approved ISA. I understand that any use of portable storage devices such as USB’s, CD’s, laptops and facilities such as Dropbox with BCR data are forbidden.

When accessing data for purposes of the Research Study, I will comply with any policy, terms of use, Undertaking or other agreement governing my access to the Research Study data.

Where Project Information has been provided to me in de-identified form, I will not link Research Study data with other information in a manner that allows for the re-identification of individuals, except as required for the Research Study and approved by the Research Ethics Board and BCR.

I will immediately report to applicable BCR, PHSA Information Access and Privacy Office any loss or potential or actual unauthorized disclosure of the Research Study data.

I understand that compliance with this Undertaking is a condition of my access to the Research Study data and that failure to comply may lead to immediate termination to access or possession of such information in addition to legal action by PHSA.

I have read and agree to comply with the terms stated above.

Name:

Position:

Department:

Facility/Organization:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Date

Name:

Position:

Department:

Facility/Organization:

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Signature Date

Name:

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Department:

Facility/Organization:

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Signature Date

Name:

Position:

Department:

Facility/Organization:

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Signature Date