**HIPAA PRIVACY
DATA USE AGREEMENT**

_____
[Name of Network] (herein the "Network")

This Data Use Agreement (this "Agreement") is entered into effective as of _____
[date], and until October 1, 2013, by and among The County of El Paso (herein "Covered
Entity") and _____ (herein "Limited Data Set Recipient" or "Recipient") in
order to comply with the requirements of the Health Insurance Portability and Accountability
Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated there
under, as may be amended from time to time (statute and regulations hereafter collectively
referred to as "HIPAA") [Covered Entity and Recipient may be referred to herein individually as
a "Party" or collectively as the "Parties"]. Terms used, but not otherwise defined, in this
Agreement shall have the same meaning as those terms in HIPAA.

STATEMENT OF AGREEMENT

1. <u>HIPAA Compliance and Agents</u>. Recipient hereby agrees to fully comply with the
   requirements under HIPAA as applicable with respect to Limited Data Set information,
   including, without limitation, 45 C.F.R. §164.514, throughout the term of this Agreement.
   Further, Recipient agrees that to the extent it has access to PHI, Recipient will fully comply
   with the requirements of HIPAA and this Agreement with respect to such PHI; and, further,
   that every agent, employee, subsidiary, and affiliate of Recipient to whom it provides PHI or
   Limited Data Set information received from, or created or received by Recipient on behalf of,
   Covered Entity will be required to fully comply with HIPAA, and will be bound by written
   agreement to the same restrictions, terms and conditions as set forth in this Agreement. If
   Covered Entity is required by HIPAA to maintain a Notice of Privacy Policies, Recipient
   acknowledges that it has received a copy of such notice, read and understands its terms,
   conditions, and hereby agrees to the extent applicable, to comply and act in accordance with
   such Notice as it may be amended from time to time by Covered Entity.

2. <u>Use and Disclosure; Rights</u>. Recipient agrees that it shall not to use or disclose PHI or
   Limited Data Set information except as permitted under this Agreement. Recipient may use
   or disclose the Limited Data Set information received or created by it, (a) to perform its
   obligations under this Agreement consistent only with research, public health or limited
   health care operations purposes, including without limitation the following: <u>for the repricing
   exercise described in the County of El Paso solicitation</u>, in order to properly manage and
   administer its business, (b) to carry out its legal responsibilities if the disclosure is required
   by law, or (c) for data aggregation functions, as defined by HIPAA. If pursuant to
   subsections (a), (b), or (c) above, Recipient discloses Limited Data Set information to others,
   the Recipient must obtain reasonable assurances from the person to whom the information is
   disclosed that it will be held confidentially and used or further disclosed only as required by
   law or for the purpose for which it is disclosed to the person and the person notifies Recipient
   of any instances of which it is aware that the confidentiality of the information has been
   breached. Recipient may not disclose Limited Data Set information in a manner that would
   violate HIPAA if Recipient were a covered entity thereunder. Recipient may only disclose
   Limited Data Set information to and permit the following persons or classes of persons to use
   such information: <u>Managed Care Network Administrators and Medical Plan Third Party</u>

Administrators, or other persons as may be agreed upon between Covered Entity and Recipient in writing. Recipient will not identify or attempt to identify the individual(s) to which the Limited Data Set information pertains or contact or attempt to contact the individual(s) that Recipient believes to be the subject of any Limited Data Set information.

3. Safeguards; Location. Recipient agrees to develop, document, use, and keep current appropriate procedural, physical, and electronic safeguards, sufficient to comply with the requirements of HIPAA, to prevent any use or disclosure of Limited Data Set information other than as permitted or required by this Agreement. Recipient agrees to notify Covered Entity of the location of any Limited Data Set information disclosed by Covered Entity or created by Recipient on behalf of Covered Entity and held by or under the control of Recipient or those to whom Recipient has disclosed such Limited Data Set information.

4. Report of Improper Use or Disclosure. Recipient shall immediately report to Covered Entity any information of which it becomes aware concerning any use or disclosure of PHI or Limited Data Set information that is not permitted by this Agreement or under HIPAA. This report shall identify the nature of the violating use or disclosure, the PHI or Limited Data Set information used or disclosed, who made the violating use or received the disclosure, what corrective action Recipient has or will take to prevent further violations, including any mitigation, and provide any other information as Covered Entity may request.

5. Termination Rights; Mitigation. Recipient acknowledges and agrees that Covered Entity shall have the right to terminate this Agreement in accordance with this #5 and #6 in the event Recipient breaches or fails to comply with the requirements set forth in this Agreement. In addition, Covered Entity may immediately terminate the Agreement, if Covered Entity determines, in its reasonable discretion, that Recipient has failed to comply with a material term of the Agreement required by HIPAA or is substantially not in compliance with the requirements of HIPAA. In addition to its obligations under this Agreement, Recipient shall take any other reasonable actions available to it to mitigate any detrimental effects of such violation or failure to comply.

6. Breach; Knowledge. If Covered Entity knows of a pattern of activity or practice of Recipient that constitutes a breach or violation of Recipient's obligations under this Agreement, Covered Entity and/or Recipient shall take any steps reasonably necessary to cure such breach and make Recipient comply, and, if such steps are unsuccessful, Covered Entity shall either (a) terminate this Agreement, if feasible, or (b) if cure and termination are not feasible, discontinue disclosure of Limited Data Set information to Recipient and report the breach or violation to DHHS. If Recipient as a covered entity, as defined by HIPAA, violates the terms and conditions of this Agreement or any other agreement in its capacity as a recipient of Limited Data Set information or business associate of another covered entity, Recipient will be, for purposes of #5 of this Agreement, substantially not in compliance with HIPAA.

7. Return of PHI and Limited Data Set Information. Recipient agrees that upon termination of this Agreement, and if feasible, Recipient shall, at its expense, (a) return or destroy all PHI and Limited Data Set information received from, or created or received by Recipient or any of Recipient's subcontractors or agents on behalf of, Covered Entity that Recipient or its subcontractors or agents maintain or control in any form or manner and retain no copies of such information or, (b) if such return or destruction is not feasible, immediately notify Covered Entity of the reasons return or destruction are not feasible, and extend indefinitely the protection of this Agreement to such PHI and Limited Data Set information and limit

further uses and disclosures to those purposes that make the return or destruction of the PHI and Limited Data Set information not feasible.

Acknowledged and agreed to by:

_____

Date

_____