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Terms of Use for the REDCap Non-Profit End-User License Agreement

This non-profit end-user license agreement ("Agreement") is made by and between Vanderbilt University ("Vanderbilt"), a not-for-profit corporation duly organized and existing under the laws of Tennessee and having offices at 1207 17th Avenue South, Suite 105, Nashville, Tennessee 37212, and your organization through you (the "Licensee"). Both Vanderbilt and Licensee are referred to as the "Parties" or, individually, as a "Party."

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1. DEFINITIONS

For the purposes of this Agreement, the following terms, when appearing with an initial capital letter, shall have the meaning designated below:

1.1 "Consortium" means the group of REDCap institutional partners from CTSA, GCRC, RCMI and other institutions in several countries as further defined and described on the REDCap website (<http://projectredcap.org/>).

1.2 "Consortium Member" is an institutional partner of the Consortium.

1.3 "Derivative Works" means any derivative works (as defined by the U.S. Copyright Laws at 17 U.S.C. §101) of REDCap, regardless of author.

1.4 "Permitted Users" means **Licensee's employees** who are expressly authorized in writing by Licensee to use the Software in conformity with the terms of this Agreement.

1.5 "Software" means the Research Electronic Data Capture Software (also referred to herein as "REDCap"), the REDCap source code, and any Derivative Works created by Vanderbilt, Licensee or other Consortium Members.

1.6 "Non-Commercial Research Purposes" means **for internal research, internal operations and internal educational purposes only**, which research, operational or educational uses are to be conducted by Licensee in a manner consistent with its tax-exempt status and may include research funded by commercial (for profit) organizations, but shall not include use of the Software as the basis for providing a contract or other services to any entity.

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2.1 (a) Subject to the terms and conditions of this Agreement, Vanderbilt hereby grants to Licensee, and Licensee accepts from Vanderbilt, a non-exclusive license for Licensee's Permitted Users solely to use the Software and make Derivative Works of same for Licensee's own Non-Commercial Research Purposes only. **LICENSEE UNDERSTANDS AND AGREES THAT NEITHER THE SOFTWARE NOR ANY DERIVATIVE WORKS MAY BE DISTRIBUTED TO OR SHARED WITH ANY THIRD PARTY FOR ANY PURPOSE.**

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(d) Licensee acknowledges that when new version are made available, Vanderbilt has no obligation to support any past version, and past versions may no longer be accessible or otherwise available for use.

2.2 Upon execution of this Agreement, Vanderbilt shall deliver to Licensee the current version of the Software and may, from time-to-time, make new versions of the Software available as Vanderbilt determines is practicable. Vanderbilt shall determine

which, if any, Derivative Works shall be distributed to Consortium Members and the terms under which such Derivative Works shall be distributed.

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2.5 Vanderbilt shall have the right, with written notice to Licensee, to amend, modify or revise any term or terms of this Agreement at any time in its sole and absolute discretion. Such amendments, modifications or revisions shall be posted to the REDCap administrative mailing list (redcaplicense@list.vanderbilt.edu.) To subscribe to the administrative mailing list, Licensee must send an email to LISTSERV@list.vanderbilt.edu with the text "subscribe redcaplicense" in the message body. Within thirty (30) calendar days of the date such written notice is posted to redcaplicense@list.vanderbilt.edu, Licensee shall have the right to terminate this Agreement, thereby rejecting the terms of such amendment or revision. If Licensee so elects to terminate this Agreement, it shall promptly discontinue all use of the Software, remove all copies of the Software from Licensee's computers and servers (including from the computers of any third party hosting company), and return to Vanderbilt all copies of the Software in Licensee's possession or control and certify in writing to Vanderbilt that it has fully complied with these requirements. Should Licensee not provide notice of termination (including via non-response) within such thirty (30) day period, such amendments, revisions and modifications shall remain binding and enforceable on Licensee without the need for either Party to take any further action or make any further agreement or amendment.

2.6 Vanderbilt shall have the right to terminate this Agreement, at its discretion, for any reason upon providing Licensee with ninety (90) days advance notice. However, in the event that Vanderbilt determines that an incurable breach of this Agreement by Licensee has occurred, said advance notice period shall be reduced to thirty (30) days; and in the event exigent circumstances exist, Vanderbilt shall have the right to terminate this Agreement immediately with notice.

2.7 Eligible Licensees. This REDCap license is intended to provide access and use of the REDCap Software to not-for-profit (including governmental and military) institutions and non-commercial entities and organizations who aid in the advancement of clinical and translational healthcare research only. In the event that Vanderbilt determines, at any time and in its sole discretion, that a Licensee does not meet its requirements, Vanderbilt shall have the right to terminate this Agreement upon ten (10) days written notice. If the Licensee is in breach of its representations set forth in Sections 6.2 or 6.8 hereinbelow, this Agreement shall be hereby and immediately rendered null, void and without effect.

2.8 Payment for License. Under this Agreement, REDCap is currently provided at no cost to Licensee.

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3.1 Subject to the terms and conditions of the Agreement, and to the extent not already covered herein, Licensee hereby grants to Vanderbilt, and Vanderbilt accepts from Licensee, a fully-paid, transferrable and sublicensable exclusive license to use reproduce, prepare derivative works from, and distribute copies of Derivative Works created by Licensee. Derivative Works include, but are not limited to, customizations of and extensions to the REDCap source code, but exclude Licensee's data or data collection forms. Vanderbilt and Consortium Members shall have the right to use and to create further Derivative Works based on Derivative Works created by Licensee, subject to the terms of this Agreement. However, no Consortium Members (including Licensee), with the exception of Vanderbilt, shall have any distribution or commercialization rights with respect to the Software.

3.2 Vanderbilt shall coordinate all publications related to the Software itself, including those describing its methodologies, functionality, and/or capabilities to support research related to electronic data capture. As such, Vanderbilt shall have the right to review, edit and approve publications created by Consortium Members which discuss the Software and its methodologies, functionality, and/or capabilities.

3.3 In addition to Licensee's right to terminate this Agreement as set forth in Section 2.5 above, Licensee shall have the right to terminate this Agreement at its discretion for any reason upon providing Vanderbilt with ninety (90) days advance written notice. Upon such termination, Licensee shall promptly discontinue all use of the Software, remove all copies of the Software from Licensee's computers and servers, and return to Vanderbilt all copies of Software in Licensee's possession or control and certify in writing to Vanderbilt that it has fully complied with these requirements.

4. INTELLECTUAL PROPERTY

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5. WARRANTY

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6. MISCELLANEOUS AND GENERAL PROVISIONS

6.1 This Agreement shall be construed, governed, interpreted and applied in accordance with the federal laws of the United States and the State laws of Tennessee. The Parties agree to the exclusive jurisdiction of the courts of competent jurisdiction in Davidson County, Tennessee or the United States District Court for the Middle District of Tennessee.

6.2 Licensee shall comply with all export control laws and regulations of the United States and shall not export or re-export the Software in violation of any such laws or regulations, or without all necessary approvals. Diversion of the Software contrary to U.S. law is prohibited. The parties acknowledge that neither the Software nor the underlying information or technology may be downloaded or otherwise exported or re-exported (A) into Cuba, Iran, North Korea, Sudan, Syria or any other country subject to U.S. trade sanctions applicable to the Software or (B) to anyone on (i) the U.S. Treasury Department's list of Specially Designated Nationals and Blocked Persons, (ii) the U.S. Commerce Department's Denied Persons List, Entity List or Unverified List or (iii) the Non-proliferation Sanctions List. Licensee agrees to the foregoing and represents and warrants that it complies with these conditions, is in good standing and eligible to receive the license granted hereunder, and shall continue to operate in compliance with these representations.

6.3 Vanderbilt and Licensee are not partners, joint ventures or agents of the other under this Agreement, and nothing shall be construed as causing them to be such. Neither Party shall have authority to act in the other's name, nor act for the other's benefit, except as is expressly provided for in this Agreement.

6.4 Neither Party shall use the other Party's name or any adaptation of it in any advertising, promotional or sales literature without the prior written consent of the other Party except as provided in this Agreement.

6.5 Without the prior written approval of Vanderbilt, Licensee may neither assign its rights nor delegate its duties under this Agreement to any other party. Vanderbilt shall have the right to assign its rights and delegate its duties under this Agreement, however. This Agreement shall be binding upon the successors and legal representatives of the Licensee.

6.6 In the event that any provision of this Agreement shall be held to be unconstitutional, invalid, illegal, or unenforceable for any reason, the remainder of this Agreement shall be interpreted as if such unconstitutional, invalid, illegal or unenforceable provisions were not contained herein. If necessary, in Vanderbilt's sole and absolute discretion, Vanderbilt shall modify such provision held to be unconstitutional, invalid, illegal, or unenforceable. The failure of one Party to assert a right hereunder shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other Party.

6.7 This Agreement constitutes the entire understanding between the Parties. Neither Party shall be obligated by any condition or representation other than those expressly stated in this Agreement, as amended.

6.8 Subject to the provisions of Section 2.7 hereinabove, the effective date of this Agreement is the date on which Licensee affirmatively accepts this Agreement by selecting "I Agree" below. Upon Licensee affirmatively accepting this Agreement by selecting "I Agree" below, Vanderbilt shall conduct an export control evaluation in conformity with the provisions of Section 6.2, applicable law and Vanderbilt policy, and otherwise verify that License qualifies as an Eligible License (as defined in Section 2.7 above).

6.9 Sections 2.4, 2.5, 3.1, 3.2, 4.1, 4.2, 6.2, 6.7, 6.8, 7.1, and 7.4 of this Agreement shall survive termination.

7. CONFIDENTIAL INFORMATION

As used herein, "Confidential Information" shall mean any and all technical and non-technical information provided by Vanderbilt to Licensee that is not generally available to the public. Confidential Information shall include, but is not limited to, patent applications, trade secrets proprietary information, ideas, techniques, sketches, drawings, manuals, works of authorship, models, inventions, know-how, processes, apparatuses, equipment, algorithms, software programs, software source documents, and formulae related to the current, future, and proposed products and services of Vanderbilt, information concerning research, experimental work, development, design details and specifications, engineering, financial information and forecasts, procurement requirements,

purchasing, manufacturing, customer lists, investors, employees, business and contractual relationships, business forecasts, and information that Vanderbilt provides regarding third parties. In the event Confidential Information is disclosed to or otherwise obtained by Licensee, the following terms shall apply:

7.1 Licensee shall treat such Confidential Information as confidential and use the same degree of care as it employs in the protection of its own confidential information, but in no event less than a reasonable degree of care.

7.2 Licensee will restrict its use of the Confidential Information to the uses related to and consistent with its activities under this Agreement, and shall disclose Confidential Information only to those of its employees having a need-to-know to further the purposes of this Agreement, and provided that such employee agrees to comply with the terms of this Agreement.

7.3 This Agreement imposes no obligation upon Licensee with respect to Confidential Information that Licensee can establish, with clear and convincing documentary evidence:

(a) was in Licensee's possession before receipt from Vanderbilt;

(b) is or becomes available to the public through no fault of Licensee;

(c) is received in good faith by Licensee from a third party and is not subject to an obligation of confidentiality owed to the third party;

(d) is independently developed by Licensee without reference to Confidential Information received hereunder; or

(e) is required to be disclosed by law.

7.4 Nothing in this Agreement shall in any way limit the ability of the Parties to comply with applicable laws and regulations requiring disclosures by public bodies. The Parties acknowledge that any responses, materials, correspondence or documents provided to the University are subject to all applicable state and federal Freedom of Information Act requirements ("Requirements") and that disclosures mandated by the Requirements may be released to third parties in compliance with such Requirements and such release shall not constitute a breach of this Agreement.

7.5 In no event shall Vanderbilt or Licensee disclose to the other any Protected Health Information ("PHI") as defined in the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. §1320d ("HIPAA"), and further in the Health Information Technology Act of 2009, as codified at 42 U.S.C.A. prec. § 17901 ("HITECH Act"). Each Party warrants that it will comply with (i) for Licensees headquartered in the U.S. or otherwise subject to U.S. law, both HIPAA and the HITECH Act, or (ii) for other Licensees, equivalent protected health information laws, rules and regulations to which they are subject in their jurisdiction, in connection with their respective performance under this Agreement. The Parties will each cooperate with the respective privacy officials and other compliance officers of the other Party as necessary for both parties to comply with all applicable regulations and will sign any documents that are reasonably necessary to maintain compliance with HIPAA and the HITECH Act in the event that it is decided the parties will share PHI in order to further the purposes of this Agreement or otherwise.

NOTICES

Any formal notice or other communication provided for in this Agreement shall be in writing and addressed to the Party.

Notices to Vanderbilt shall be sent to:

Center for Technology Transfer and Commercialization
1207 17th Avenue South, Suite 105
Nashville, Tennessee 37212 USA
Attn: Assistant Vice Chancellor
Email: cttc@vanderbilt.edu (subject line: "REDCap")

Notices to Licensee shall be sent to the "Administrative Contact" indicated when Licensee applied for this license.

Such notice or other communication to Licensee shall be sent by (i) first-class U.S. Mail or express courier to the Party's street address, (ii) by facsimile or (iii) by email as indicated herein. Routine correspondence between the Parties may be made by email to the email address.

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