

Data Extraction Tool Agreement 2019-20

This Data Extraction Tool Agreement, (“the Agreement”), is in place to protect the rights of and to stipulate the obligations of agreement Parties over sharing of de-identified patient data.

In compliance with *Privacy Act 1988* and the *Australian Privacy Principles*, this Agreement ensures all parties are aware of ‘Who, Where, When, Why and How’ data is collected and used.

In 2019-2020 the Agreement has been updated to include

- Changes required to facilitate practice participation in the Quality Improvement Incentive (PIP QI Incentive);
- clarification of the Practice’s responsibility for data submission

Outline

By signing this agreement, the Practice consents to submitting de-identified patient data to the Sunshine Coast Health Network (SCHN), on a regular basis (by negotiation), to assist the Practice in benchmarking and quality improvement activities. Using this submitted data, SCHN will supply the Practice with a quarterly Benchmarking Report. Upon request, SCHN may assist the Practice learn how to utilise the report to improve data quality, patient care and streamline processes. This support may be offered face to face or via remote access.

The Practice agrees that the de-identified patient data sent to SCHN may be used for the purposes set out in clause 5.

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This Agreement is between:

Sunshine Coast Health Network Limited trading as Central Queensland, Wide Bay, Sunshine Coast PHN, ABN 21 156 526 706 of Level 2, Mayfield House, 29 The Esplanade, Cotton Tree, Queensland, 4558, (“SCHN”)

AND

Organisation Legal Entity Name (“the Practice”)

Please complete the Practice details below

Practice Trading Name:

Entity ABN:

Practice Email:

Address Line One:

Address Line Two:

Address Line Three:

Suburb:

State:

Postal Code:

(Collectively referred to as the ‘Parties’ and each individually a ‘Party’)

Agreement Contact Details

SCHN Contacts:

Contact	Email Address
Donna Waterford (Contracts)	dwaterford@ourphn.org.au
Deidre Ballinger (Program – Sunshine Coast)	dballinger@ourphn.org.au
Paige Martinez (Program – Central Queensland)	pmartinez@ourphn.org.au
Bonnie Dale (Program – Wide Bay)	bdale@ourphn.org.au

Practice Contacts:

Contact	
Person with primary responsibility for leading quality improvement	
First Name	Email
Last Name	Role
Practice Principal / Owner / Duly Authorised Representative	
First Name	Email
Last Name	Role

1. Background

- 1.1 SCHN is funded by the Department to provide Support Services, including but not limited to:
- (1) Supporting the adoption of best practice methods to:
 - (a) Improve patient and population health outcomes;
 - (b) Improve patient experience;
 - (c) Improve the value of care; and
 - (d) Improve health provider experience.
 - (2) Promoting and improving the uptake of practice Accreditation; and
 - (3) Assisting practices in the understanding and meaningful use of Digital health systems in order to streamline the flow of relevant patient information across the health provider community.
- 1.2 SCHN is funding licences for Software for General Practices who are willing to provide de-identified data for the purpose stated at clause 5 of this Agreement.

2. SCHN Responsibilities

- 2.1 The responsibilities of the SCHN pursuant to this agreement are as follows:
- (1) Facilitate the installation of the Software, in conjunction with the Software Vendor and the Practice;
 - (2) Grant the Practice a sub-licence to use the Software in accordance with clause 10;
 - (3) Provide the Practice with Support Services;
 - (4) Provide the Benchmark Reports in a timely manner, after receipt of the Practice Data; and
 - (5) For the avoidance of any doubt, the SCHN is under no obligation to:
 - (a) Provide any hardware to the Practice for the purpose of accessing the Software; or

- (b) Provide the Practice with any Remote Access Software unless specifically requested by the Practice and the provision of such services is agreed by both Parties.

3. The Practice Responsibilities

3.1 The responsibilities of the Practice pursuant to this agreement are as follows:

- (1) Enable the Software Vendor to install Software;
- (2) Provide Practice Data to SCHN on a recurring minimum quarterly basis;
- (3) Participate in training opportunities identified and/or provided by SCHN or Software Vendor;
- (4) Nominate a primary point of contact for issues relating to the Software;
- (5) Agree to the End User Terms and Conditions;
- (6) Where appropriate, permit SCHN staff Remote Access;
- (7) Be responsible for their own IT system, scheduled maintenance and back up, accepting full liability and responsibility for the actions of their employees.

4. Provision of Remote Access Support

4.1 The Practice acknowledges that permission for SCHN's staff to Remote Access will be granted by allowing the SCHN staff to join the remote session.

4.2 Where SCHN is granted Remote Access, the SCHN will:

- (1) Only perform activities that are subject of this Agreement with the Practice;
- (2) Take reasonable precautions to avoid the deletion of or damage to the Practice Data and Software;
- (3) Not guarantee repair or diagnosis;
- (4) May take screen shots of the remote access session for the purpose of offline troubleshooting in which case users will be notified prior to any files being sent;

- (5) Not access or copy user created data without the consent of the practice;
- (6) At all times comply with its obligations pursuant to clause 9 of this Agreement; and
- (7) Not be responsible at any time for loss, alteration or corruption of the Software, or Practice Data.

4.3 The Practice is responsible for:

- (1) Its own system security in accordance with its owner Practice policy and security protocols; and
- (2) Disconnection of the remote access at the conclusion of the session.

5. Use of data

5.1 SCHN will utilise De-Identified Data and Aggregate Data to:

- (1) Generate individual Benchmark Reports which may include comparison of the Practice to the area average Aggregate Data;
- (2) Inform SCHN and Essential Partner Organisations regarding;
 - (a) Population health planning;
 - (b) Health service mapping;
 - (c) Identification of service gaps;
 - (d) Improvement of community health promotion and prevention activities; and
 - (e) Commissioning services in accordance with the Department's Commissioning Framework
<http://www.health.gov.au/internet/main/publishing.nsf/Content/P HNCommissioningResources>.
- (3) Measure the effectiveness of targeted clinical interventions; and
- (4) Measure the effectiveness of the support provided by SCHN.

5.2 SCHN will not use the De-Identified Data, Aggregate Data, PIP Eligible Data Set, or Meta Data for commercial purposes or for monetary gain.

5.3 SCHN may use or permit third parties, who have a formal data sharing agreement in place with SCHN, to use De-Identified Data and Aggregate Data for Research purposes. Use of data for Research purposes will be managed in

accordance with published guidance material and the Australian Code for the Responsible Conduct of Research, 2018.

- 5.4 The Practice may publish or share its Practice Benchmark report, which includes area averages for local benchmarking purposes.

6. PIP QI Incentive

6.1 To the extent that the parties participate in the PIP QI Incentive the following additional terms apply only in respect of the PIP Eligible Data Set supplied by the Practice pursuant to the PIP QI Incentive Program.

6.2 The responsibilities of the Practice include:

- (1) Informing the SCHN that the Practice has applied for the PIP QI Incentive and providing the SCHN with the Practice's PIP Practice Identifier;
- (2) Submitting the PIP Eligible Data Set to the PHNs at least on a quarterly basis;
- (3) Being responsible for the collection, use, access, privacy and security of the PIP Eligible Data Set at the Practice level;
- (4) Complying with the Local Data Custodian requirements as set out in the PIP Eligible Data Set Data Governance Framework.

6.3 The responsibilities of the SCHN include:

- (1) Provide Meta Data to the Department to confirm eligibility for the receipt of Commonwealth funding under the PIP QI Incentive;
- (2) Managing the PIP Eligible Data Set in accordance with the PIP Eligible Data Set Data Governance Framework that may be released by the Department from time to time;
- (3) Providing the Practice with reports at least on a quarterly basis against the Improvement Measures;

- (4) Aggregating and controlling the collection, use, access, privacy and security of data at the regional level;
- (5) Extracting and analysing the PIP Eligible Data Set to support the Practice implementing quality improvement activities;
- (6) Complying with the Regional Data Custodian requirements as set out in the PIP Eligible Data Set Data Governance Framework;
- (7) Collecting identifying information of the Practice not forming part of the Eligible Data Set and providing such information to the Department.

6.4 For the avoidance of doubt, if the Practice declines to install the part of the Software that facilitates the collection and transfer of data (Scheduler), the Practice remains responsible for sharing the PIP Eligible Data Set and any loss of eligibility for the Practice Incentive Payment – Quality Improvement Incentive (PIP QI Incentive) as a result of failing to share the PIP Eligible Data Set.

7. Term of Agreement

7.1 This Agreement shall commence on the date that this agreement is signed and dated by the authorised representative of the Practice and shall end on 30 June 2020.

8. Termination

8.1 Either Party may terminate this Agreement at any time by one month's written notice to the other Party.

8.2 This Agreement terminates:

- (1) Immediately if the Practice suffers an Insolvency Event, breaches clause 11, or breaches any other irremediable provision of this Agreement; or
- (2) If the provision of the Practice Agreement is capable of remedy, within 14 days of notice requiring it to remedy the breach.

8.3 If this Agreement is terminated under clause 8, SCHN will withdraw the provision of the Software to the Practice.

9. Liability

9.1 The Practice hereby indemnifies SCHN from any and all losses, costs (including reasonable solicitor and client costs), expenses, demands or liability, whether

arising in contract, tort (including in each case negligence), or equity or otherwise incurred, arising out of or in any way caused by:

- (1) Any breach by the Practice of this Agreement, or End User Terms & Conditions;
- (2) Any breach of the Software Vendor's Intellectual Property Rights; or
- (3) Any breach of clause 10 and 11.3 of this Agreement.

9.2 Except with respect to any Non-Excludable Guarantees under the Australian Consumer Law or for any proven gross negligence or wilful misconduct, the Practice agrees that:

- (1) SCHN is not responsible for:
 - (a) Any non-performance, failure or other aspect of the Software;
 - (b) Any loss, alteration or corruption of the Software or Practice Data; and
 - (c) The security of the Practice Data.
- (2) SCHN has provided no guarantee or warranty in respect of System Performance.

10. Confidentiality

10.1 Each Party agrees to maintain in strict confidence the Confidential Information and not publish, disclose or in any way directly or indirectly permit or suffer the disclosure of the existence, source, content or substance of the Confidential Information unless:

- (1) The disclosure is required by a court of competent jurisdiction, by a regulatory body, (in the case of the SCHN this includes the Department), or otherwise by operation of law; or
- (2) (a) Both Parties have provided written consent to the planned disclosure; and (b) The disclosure is to such employees, directors, officers, advisors or representatives who have a specific need to receive such Confidential Information for a proper and reasonable purpose, and who are aware and have accepted that the Confidential Information is, and should be treated as, of a confidential nature.

- 10.2 Practice Data provided to SCHN will be De-Identified Data.
- 10.3 Practice Data obtained by SCHN will be held and disposed of in accordance with the Australian Privacy Principles.
- 10.4 The obligations outlined in this clause 10 shall apply to all Confidential Information whether disclosed before or after the date or dates of this Agreement and shall continue in force notwithstanding termination of this Agreement.

11. Privacy Act

- 11.1 Both Parties agree that they will:
- (1) Not do any act or engage in any practice which would be a breach of an Australian Privacy Principle;
 - (2) Comply with all applicable obligations contained in the *Australian Privacy Principles*;
 - (3) Notify the other party immediately if they become aware of a breach or possible breach of the *Australian Privacy Principles* or an Eligible Data Breach; and
 - (4) Comply with the requirements of the Notifiable Data Breaches Scheme.
- 11.2 The Practice must:
- (1) Ensure that the Practice has a process for recording and monitoring patient consent.
- 11.3 For the avoidance of any doubt in respect of an Eligible Data Breach or suspected Eligible Data Breach in respect of Personal Information jointly held by the Practice and the SCHN, the Practice is responsible for complying with the Notifiable Data Breaches Scheme, including, but not limited to complying with the requirements of section 26WH of the *Privacy Act 1988*.

12. Dispute resolution

- 12.1 If a dispute between the Parties to this Agreement arises out of or in connection with this Agreement, then the aggrieved Party must deliver by registered post

or by hand a notice of dispute which adequately identifies and provides details of the dispute.

- 12.2 Within 14 days after service of a notice of dispute, a senior manager for each Party, who has authority to resolve the dispute, shall confer with each other at least once and use their best endeavours to resolve the dispute.
- 12.3 In the event that the dispute cannot be resolved within 14 days of the conference, or if at any time either Party considers that the other Party is not making reasonable efforts to resolve the dispute, the Parties must refer the dispute for mediation to the Australian Commercial Dispute Centre Limited (ACDC) to be conducted in accordance with the Mediation Rules of the ACDC. Mediation must take place within 21 days of the referral to the ACDC and must take place at a location within the Sunshine Coast region unless SCHN consents to a different location.
- 12.4 If the dispute is not resolved within 14 days of the Mediation having ended, either Party may commence proceedings in a court of competent jurisdiction.
- 12.5 Clauses 12.1 to 12.4 of this Agreement do not prevent either Party from applying to the court for urgent injunctive relief.

13. Intellectual Property

- 13.1 Any Intellectual Property such as business processes and policies developed during the course of this Agreement will remain the property of SCHN. Data provided by the Practice for use under the terms of this Agreement remain the property of the Practice, however, the Practice grants SCHN a free licence to use the Material and Aggregate Data, for the purposes outlined in this Agreement.
- 13.2 The SCHN grants the Practice a non-exclusive, non-transferable licence to use the Software for its own internal business only for the Term of this Agreement (the Software Licence). The Software Licence will terminate immediately upon expiry of the Term of this Agreement.

13.3 The Practice must not use, and must ensure that the Software are not used, other than as expressly permitted by the Software Licence or End User Terms and Conditions.

14. Notices

14.1 Method of giving notice:

A notice, consent or communication under this Agreement is only effective if it is:

- (1) In writing, signed by or on behalf of the Party giving it;
- (2) Addressed to the Party to whom it is to be given; and
- (3) Given, except as specified in clause 12.1, as follows:
 - (a) Delivered by hand to that Party's address;
 - (b) Sent to that Party's address by prepaid mail or by prepaid airmail, if the address is overseas; or
 - (c) Sent by email where the sender receives a read receipt confirmation.

14.2 Address for notices is as per the details listed under 'This Agreement is between:' of this Agreement or as otherwise advised by the recipient of the notice, in writing.

15. General

15.1 In this Agreement:

- (1) Words in the singular include the plural and vice versa;
- (2) Words indicating any gender indicate the appropriate gender;
- (3) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;

- (4) References to any Agreement (including this Agreement) include references to the Agreement as amended, consolidated, supplemented, notated or replaced;
- (5) A reference to a Statute includes a reference to or citation of all enactments amending or consolidating the Statute and to an enactment substituted for the Statute; and
- (6) Headings are included for convenience only and do not affect interpretation of this Agreement.

16. Amendment of this Agreement

16.1 This Agreement may only be amended following the agreement in writing of both Parties.

17. Warranty of authority

17.1 The signatories to this Agreement warrant that they have the authority to enter into this Agreement on behalf of the party they are stated to represent.

18. Definitions

18.1 In this Agreement:

Aggregate Data means any process in which information is gathered and expressed in a summary form, for purposes such as statistical analysis.

Agreement refers to this Agreement between the Parties

Australian Privacy Principles has the meaning given in the *Privacy Act 1988* (Cth).

Benchmark Report means the quarterly report, including the Improvement Measures, produced by SCHN and distributed to the Practice participating in data collection as per this Agreement.

Claim includes any claim, proceeding, action, cause of action, demand or suit (including by way of contribution or indemnity), at law or in equity, including for payment of money (including damages) or for an extension of time, including by statute (to the extent permitted by Law), in tort for negligence or otherwise, including negligent misrepresentation or for strict liability, breach or for restitution.

Confidential Information

- (1) Means the information, forms, manuals, specifications, intellectual property, know how, ideas, computer software, financial information and records, processes, publications, statements, and data concerning this Agreement and/or the Program, and includes:
 - (a) The matters contained in this Agreement;
 - (b) Information relating to the operations, workings, techniques and/or dealings of SCHN;
 - (c) All information obtained (whether in writing, pictorially, in machine readable form, orally or by observation) in connection with the operation of the Program;
 - (d) Any information belonging to SCHN and/or any third Party which, by its nature, is confidential or that a reasonable person would consider to be confidential;
 - (e) Any information which is designated by SCHN as confidential; or
 - (f) Any other information that a Party knows or ought to know is confidential.
- (2) But does not include information:
 - (a) That is independently created or rightfully known by, or in the possession or control of, the other Party and not subject to an obligation of confidentiality on the other Party;
 - (b) Which the discloser certifies in writing as not being confidential information;
 - (c) Which is or becomes public knowledge (otherwise than as a result of a breach of this Agreement or any other confidentiality obligation); or
 - (d) The Aggregate Data.

Data means information obtained by the Practice and de-identified before provision to SCHN.

Data extraction and clinical audit tools means a suite of software and add-ons, including a scheduler, for the purpose of extracting data from the practice clinical and billing software. This includes any up-upgrades that may become available during the term of this Agreement. For the term of this Agreement SCHN will purchase licenses for Pen Systems Clinical Audit Tool (CAT) with Cleansing CAT add-on and Practice Aggregation Tool (PAT), referred to as CAT PLUS or CAT Plus

De-identified Data Personal information is 'de-identified' if the information is no longer about an identifiable individual or an individual who is reasonably identifiable. De-identification involves removing or altering information that identifies an individual or is reasonably likely to do so.

Department means the Australian Commonwealth Government Department of Health.

Eligible Data Breaches means a data breach that is likely to result in serious harm to any of the individuals to whom the information relates as defined under the *Privacy Act 1988*.

End User Terms and Conditions means the end user terms and conditions as stipulated by the Software Vendor.

Essential Partner Organisations of SCHN are:

- Relevant Australian Commonwealth Government Departments
- Hospital and Health Service
- ABT Associates
- PHN Clinical Advisory Group Councils and service improvement forums such as the Integrated Care Alliance
<https://www.ourphn.org.au/join-integrated-care-alliance/?hilite=%27integrated%27%2C%27care%27%2C%27alliance%27>.

Improvement Measures. The first tranche of ten Improvement Measures are clearly and precisely specified in the Department's PIP QI Incentive documentation or as may be amended by the Department from time to time.

Intellectual Property Rights includes, but is not limited to all copyright, all rights in relation to inventions (including patents and patent rights), all trade mark rights, all registered and unregistered design rights and all other rights resulting from intellectual activity in the industrial, professional, legal, scientific, literary or artistic fields in Australia or elsewhere, irrespective of whether such rights are capable of being registered.

Losses mean liabilities, expenses, losses, damages and costs (including but not limited to legal costs on a full indemnity basis, whether incurred by or awarded against a Party).

Material includes software, documented methodology or process, property, information, documentation or other material in whatever form, including any reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property Rights.

Meta Data includes, but is not be limited to, the Practice's PIP Practice Identifier, affirmation of quarterly data extraction, data extraction dates, and the occurrence of any extraction error.

Notifiable Data Breaches Scheme means the schedule requiring entities to notify particular individuals and the Australian Information Commissioner about Eligible Data Breaches as outlined in the *Privacy Act 1988*.

Party means a Party to this Agreement.

Pen CS means Pen CS Pty Ltd, Software Vendor

PIP Eligible Data Set means only the De-identified Data comprising the Improvement Measures specified by the Department as part of the PIP QI Incentive. The PIP Eligible Data Set is a national data asset.

PIP Eligible Data Set Data Governance Framework means the framework as released by the Department from time to time.

PIP Practice Identifier means the unique number assigned to the Practice by the Department.

PIP QI Incentive means the Practice Incentives Program (PIP) Quality Improvement (QI) Incentive described in the PIP Eligible Data Set Data Governance Framework.

Practice Data means data read, captured, extracted and/or produced by the Software (in any form) from the Practice's practice management system including patient demographic data, patient diagnoses, medications, allergies, diagnostic reports and Medicare item numbers.

Health System Improvement Officer means an employee or agent of SCHN who is engaged by SCHN to provide support services to the Practice, this may include Digital Health Officer or other relevant roles.

Remote Access Software is software used for the purpose of providing education or support from a location other than the practice using a secure online connection for communication.

Remote Access involves connecting to the Practice computer to take control of the computer remotely and being able to view the desktop, share control of the mouse and keyboard and access programs and applications without assistance for the express purpose of providing training, support, configuration and basic troubleshooting services.

Research in this Agreement has the definition used the Australian Government, Australian Code for the Responsible Conduct of Research, 2018

<https://nhmrc.gov.au/about-us/publications/australian-code-responsible-conduct-research-2018>

SCHN Material means any Material provided to the Practice by SCHN.

Software means any software, including the respective licences for such software, supplied by SCHN to the Practice, as required to support and facilitate the collection and transfer of data, including Scheduler.

Software Vendor for the Data extraction and clinical audit tools is Pen CS and the vendor for the Remote Access Software is TeamViewer.

Support Services means the following services provided by SCHN to the Practice by Health System Improvement Officers:

- (1) Training the relevant Practice staff in using the Software to establish clinical support systems (not clinical procedures) such as:
 - (a) Chronic disease registers;
 - (b) Establishment of recall and reminder systems;
 - (c) Performing data cleansing activities; and
 - (d) Identifying Practice population health priority groups.
- (2) Facilitating Pen CS Installation Services, Training Services and Support Services in accordance with the End User Terms and Conditions.

System performance includes but not limited to: Internet speed, bandwidth or data throughput rate, interruption free, error-free, secure, or free of viruses, worms, or hidden code.

Term means the period commencing on the date of signing of this agreement and ending on 30 June 2020.

**Signed for and on behalf of
Organisation Legal Entity Name
("the Practice")**

**by a duly authorised
representative:**

Name:

Title:

Date:

**Signed for and on behalf of SCHN
by a duly authorised
representative:**

Pattie Hudson.

Name: Pattie Hudson

Title: Chief Executive Officer

Date: 10/06/2019