

**DATA SHARING AND COST REIMBURSEMENT MEMORANDUM OF
UNDERSTANDING
BETWEEN THE NEW YORK STATE DEPARTMENT OF LABOR
AND _____**

THIS DATA SHARING AND COST REIMBURSEMENT MEMORANDUM OF UNDERSTANDING (“MOU”) is between the New York State Department of Labor, Harriman State Office Campus, Building 12, Albany, New York (“NYSDOL”), and _____ (insert name and address of other party) (“Data Requestor”), collectively referred to as “the Parties.”

WHEREAS,

The Parties agree as follows:

I. DATA TO BE DISCLOSED; PURPOSE

- A. A list of the specific information to be furnished by NYSDOL to the Data Requestor under this MOU is included in Appendix A, the Data Collection Plan. (This information is hereinafter referred to as the “Confidential Data.”)
- B. The Data Requestor represents that it is requesting Confidential Data solely for the following purpose(s): _____
- C. NYSDOL will release Confidential Data to the Data Requestor exclusively for this purpose(s).

II. PROCEDURE

- A. The Parties agree that Appendix A, the Data Collection Plan sets forth the details of the Confidential Data which NYSDOL shall furnish to the Data Requestor, including the frequency of the disclosure of data between the Parties. The Parties agree that all Confidential Data disclosed by NYSDOL to the Data Requestor, as described in the Data Collection Plan, will be done via a secure file transfer process to be determined by NYSDOL. This secure file transfer process may include, but not be limited to, requiring that Confidential Data be encrypted in transit and at rest (PGP) and transferred via a secure file transfer (SFTP) or HTTPS.
- B. NYSDOL shall reasonably determine the timing, method and format of its response to the request for Confidential Data (and the request for information itself as needed) in consultation with the Data Requestor as needed.

III. LIMITATIONS ON DATA USE, ACCESS, AND DISCLOSURE; DATA PRIVACY AND SECURITY REQUIREMENTS

- A. In connection with its receipt, use, and disclosure of Confidential Data received from NYSDOL pursuant to this MOU, the Data Requestor shall:
- a. Use Confidential Data received from NYSDOL only for the authorized purposes specified in this MOU;
 - b. Limit access to Confidential Data to the authorized employees of the Data Requestor listed in Appendix B, or their successor in such position, who need such data for the purposes described in this MOU. The Data Requestor will ensure that Appendix B is kept current and will advise NYSDOL in writing whenever an employee of the Data Requestor is added to or deleted from Appendix B, within ten (10) days of any such change. Notice of such change will be sent to: New York State Department of Labor, Office of Counsel, Attention: General Counsel, Building 12, Room 508, State Office Campus, Albany, New York 12240.
 - c. Store and maintain Confidential Data in a place and manner that is physically secure from access by unauthorized persons (e.g., locked cabinets or storage room);
 - d. Store and process Confidential Data obtained from NYSDOL which is maintained in an electronic format, such as magnetic tapes or discs, in such a way that unauthorized persons cannot obtain the information by any means. The Data Requestor shall ensure that Confidential Data are never remotely accessed or maintained in a mobile or portable device;
 - e. Undertake precautions to limit access to disclosed Confidential Data to authorized persons;
 - f. Adopt safeguards and procedures to protect the confidentiality of Confidential Data and to limit dissemination only to authorized individuals as necessary for their work on the project. A description of the Data Requestor's data security and confidentiality procedures that will apply to the use, handling, storage and destruction of Confidential Data disclosed under this MOU is annexed hereto and incorporated herein as Appendix C. The Data Requestor expressly acknowledges and agrees that in the event of a conflict between this MOU and Appendix C that the terms of this MOU shall control;
 - g. Not disseminate, use, or permit the dissemination or use of Confidential Data in any manner not described in this MOU without express prior written consent from NYSDOL;
 - h. Destroy thoroughly and irretrievably all Confidential Data received under this MOU from NYSDOL after completion of the purpose for which the data was disclosed is served. Upon request, the Data Requestor shall provide proof satisfactory to NYSDOL that the Confidential Data have been so destroyed, including the date of destruction and the method utilized, which method must be acceptable to NYSDOL;
 - i. Not make, retain, copy, duplicate, or otherwise use any copies of Confidential Data after completion of the purpose for which the data disclosed is served without prior written permission from NYSDOL; and

- j. Maintain a system and/or procedures for handling, storage, use, and destruction of Confidential Data governed by this Agreement sufficient to allow NYSDOL and/or USDOL, and/or their designee(s) to audit compliance with this Agreement.

- B. The Data Requestor will ensure that any study, report, publication, or other disclosure of Confidential Data provided under this MOU is limited to the reporting of aggregate data, and will not contain any information identifiable to a private person or entity. Aggregate data for purposes of this MOU will mean data sets consisting of no fewer than ten (10) individuals and/or data sets consisting of no fewer than three (3) employers with one (1) employer comprising no more than eighty (80) percent of the total.

- C. The Data Requestor will ensure that all individuals authorized by the Data Requestor to have access to Confidential Data for authorized purposes as described in this MOU, have been instructed regarding the confidential nature of the Confidential Data, the safeguards required to protect such data, and the sanctions in applicable state law for unauthorized disclosure of Confidential Data by ensuring that such persons annually take Module (specify appropriate Module(s)) of the online Unemployment Insurance Confidentiality training developed by NYSDOL, as the same may be from time to time be updated or revised.

- D. The Data Requestor will annually sign an acknowledgment that all individuals authorized by it to have access to disclosed Confidential Data have been instructed, as explained in III.C, above, with regard to the confidential nature of the Confidential Data, and that each authorized individual has taken NYSDOL's online Unemployment Insurance Confidentiality training Modules (specify appropriate Modules). The Data Requestor will provide this acknowledgment to NYSDOL prior to the disclosure of any Confidential Data hereunder and annually as required to continue the disclosure of Confidential Data hereunder.

- E. The Data Requestor will take all necessary steps to ensure that the individuals who have access to Confidential Data comply with the limitations on data use, access, disclosure, privacy, and security set forth in this MOU. Such steps will include, but not be limited to, requiring each individual with access to Confidential Data to acknowledge in writing that he/she understands and will comply with such limitations.

- F. The Data Requestor will fully and promptly report any violation or suspected violation of these limitations to NYSDOL. This report will be directed to: New York State Department of Labor, Office of Special Investigations, State Office Campus, Building 12, Room 537, Albany, New York 12240-0001, telephone number 518-457-7012.

- G. The Data Requestor agrees that the Data Requestor shall be deemed the "owner" of private information disclosed by NYSDOL to the Data Requestor under this MOU solely for purposes of complying with the requirements of New York State Technology Law (NYSTL) §208. Private information for purposes of this paragraph shall have the same meaning as defined in NYSTL §208. In the event of a breach of the security of

any system containing private information disclosed by NYSDOL, the Data Requestor shall immediately notify their respective Information Security Officer, commence information security incident response procedures including investigation to verify and determine the scope of the breach, determine the appropriate plan of action addressing federal and State reporting and notification requirements, and restore the security of the system to prevent any further breaches. The Data Requestor shall also notify NYSDOL of any such breach immediately following discovery of such breach, and keep NYSDOL apprised of its efforts to investigate and remedy the breach. The Data Requestor shall be responsible for meeting all reporting and notification requirements and for all costs associated with providing such notice, including the cost to provide notice to all required recipients. Notification to NYSDOL, under the terms of this paragraph, will be directed to the NYSDOL Office of Special Investigations at the address specified in Section III.F.

- H. The Data Requestor will immediately notify NYSDOL upon receipt of any legal, investigatory, or other demand for access to Confidential Data provided to the Data Requestor under this MOU that is not otherwise authorized under this MOU and will take all necessary legal action to prevent any disclosure including, but not limited to, moving to quash subpoenas issued for such information. The Data Requestor will keep NYSDOL Counsel's Office fully and timely notified of all developments related to such legal actions and their response thereto. This notification will be directed to: NYSDOL, Office of Counsel, Attention: General Counsel, Building 12, Room 508, State Office Campus, Albany, New York 12240. Phone: 518-457-7069.
- I. The Data Requestor will permit NYSDOL and/or USDOL and/or their designee(s) to enter upon the Data Requestor's premises at reasonable times to inspect and review their safeguards and procedures for protecting the confidentiality and limiting the dissemination of Confidential Data. The Data Requestor will also cooperate, with NYSDOL and/or USDOL and/or their designee(s) in connection with any request for access to staff, information, or material related to a NYSDOL confidentiality compliance review, audit, or monitoring visit as provided for under this MOU.
- J. a. The Data Requestor will complete an annual Self-Assessment report developed by NYSDOL in order to monitor the Data Requestor's compliance with the terms of this MOU, including the obligation to safeguard and maintain the confidentiality of the Confidential Data disclosed by NYSDOL under this MOU. The Data Requestor shall submit this completed Self Assessment, no later than June 30th during each year that this MOU is in effect, to: New York State Department of Labor, Unemployment Insurance Integrity and Quality Control, Program Analysis and Support, State Office Campus, Building 12, Room 261, Albany, New York 12240.
- b. The Data Requestor's designated contact for purposes of this annual Self Assessment, or any other confidentiality compliance review, audit, or monitoring visit conducted by NYSDOL is:

Name: _____

Title: _____

Address: _____

Phone: _____

Email: _____

Notice of an upcoming or scheduled NYSDOL monitoring visit shall be limited to the employee identified above so that NYSDOL may observe the Data Requestor's actual confidentiality procedures.

IV. PAYMENT OF COSTS

- A. The Data Requestor shall pay to NYSDOL the reasonable costs to disclose the Confidential Data. These costs include, but are not limited to, development and processing of this MOU, actual NYSDOL staff hours incurred in generating Confidential Data (including overhead rates, as applicable), and the reasonable costs to inspect and review the safeguards and procedures for protecting the confidentiality, and limiting the dissemination of, Confidential Data as referenced in Section III of this MOU.
- B. NYSDOL has established an administrative fee of \$1,000 to cover the cost of MOU development and processing and review of the initial Self Assessment form to be submitted to NYSDOL. This administrative fee excludes the cost to generate the Confidential Data or to conduct any onsite monitoring visit deemed necessary by NYSDOL. In addition to this administrative fee, at the time of signing, the estimated hourly cost to produce the Confidential Data is \$80 to \$100 per hour.
- C. NYSDOL will invoice the Data Requestor for payment after each disclosure under this MOU. The initial invoice will include NYSDOL's administrative fee. NYSDOL will invoice by submitting a partially completed Journal Voucher/Revenue Transfer to:

Name: _____

Title: _____

Address: _____

Phone: _____

Email: _____

- D. Payment will be accomplished by the Data Requestor processing the Journal Voucher/Revenue Transfer. Payment is due within thirty (30) days of receipt of the Journal Voucher/Revenue Transfer.
- E. If NYSDOL determines that it is necessary to enter upon the Date Requestor's premises in order to conduct an on-site monitoring visit, the costs of such monitoring visit(s), if any, will be invoiced and subject to payment in the same manner as the costs to disclose the Confidential Data as described in this Section IV. At the time of execution of this MOU, the estimated hourly cost of such on-site monitoring visit is \$78 per hour plus travel expenses in accordance with the State rate then in effect.
- F. Failure to make timely payment of any NYSDOL invoice(s) hereunder may result in NYSDOL ceasing to release data to the Data Requestor until any outstanding balance has been paid in full, without NYSDOL first providing notice to the Data Requestor of such cessation.

V. SUSPENSION/TERMINATION OF MOU

- A. NYSDOL agrees to provide Confidential Data pursuant to this MOU subject to the representations and agreements by the Data Requestor contained in this document. NYSDOL will suspend the MOU and the further disclosure of any Confidential Data hereunder if: i) the Data Requestor fails to comply with any provision of this MOU or ii) the NYSDOL Commissioner of Labor believes in good faith that the Data Requestor has violated its obligations to maintain the confidentiality of such data or limit their dissemination. Such suspension will continue until NYSDOL is satisfied that corrective action has been taken. In the absence of prompt and satisfactory corrective action, NYSDOL will terminate the MOU. Upon termination, the Date Requestor must return all Confidential Data obtained by the Data Requestor under the MOU (and any copies thereof) and any other information relevant to the MOU or must provide proof, satisfactory to NYSDOL, that all such Confidential Data and information have been thoroughly and irretrievably destroyed in a manner acceptable to NYSDOL.
- B. Either Party may terminate this MOU at any time upon written notice to the other Party.

VI. GENERAL PROVISIONS

- A. In addition to suspension or termination of the MOU as provided for herein, NYSDOL reserves the right to undertake any other action under the MOU, or state or federal law, to enforce the MOU and secure satisfactory corrective action and/or return or destruction of Confidential Data furnished hereunder, including seeking damages, penalties, and restitution from the Data Requestor or its subcontractors as permitted

under law.

- B. The Data Requestor may not assign or subcontract this MOU, its obligations or any interest hereunder, without the express, prior written consent of NYSDOL. Any assignment or subcontract made without such consent will be null and void and would constitute grounds for immediate termination of the MOU by NYSDOL.
- C. This MOU may only be amended by the mutual consent of the Parties in writing.
- D. The term of this MOU will commence upon _____ and end upon the completion of the work subject to this MOU but no later than _____.
- E. The Data Requestor's confidentiality and related assurances and obligations hereunder, including the obligation to pay the costs of providing Confidential Data to the Data Requestor, shall survive termination or expiration of the MOU.
- F. This Agreement is complete and contains the entire understanding of the Parties relating to the subject matter contained herein, including all the terms and conditions of the Parties' agreement. This Agreement supersedes any and all prior understandings, representations, negotiations, discussions, and/or agreements between the Parties relating hereto, whether written or oral.
- G. If any terms or conditions of this Agreement are held to be invalid or unenforceable as a matter of law, the other terms and conditions thereof will not be affected thereby and shall remain in full force and effect.
- H. This Agreement shall be governed by the laws of the State of New York.

VII. ADMINISTRATION CONTACTS

- A. Except as otherwise specified herein, NYSDOL's designated contact concerning this MOU, shall be:

Name: _____
Title: _____
Address: New York State Department of Labor
State Office Campus
Building 12, Room ____
Albany, New York 12240
Phone: (518) ____ - ____
Email: _____ @labor.ny.gov

NYSDOL may designate a new or alternate contact by providing the Data Requestor a

written notice to that effect.

B. The Data Requestor's designated contact concerning this MOU shall be:

Name: _____

Title: _____

Address: _____

Phone: _____

Email: _____

The Data Requestor may designate a new or alternate contact by providing NYSDOL a written notice to that effect.

VIII. SIGNATURE; EFFECTIVE DATE

Each of the Parties represents that the individual signing this MOU on behalf of such Party is duly authorized to execute this Agreement and to agree to the terms and conditions of the MOU on behalf of their respective Party. This MOU shall not be deemed valid or binding until executed by both Parties.

NYS DEPARTMENT OF LABOR

THE DATA REQUESTOR

Name:

Name:

Title:

Title:

Date: _____

Date: _____

APPENDICES

- Appendix A: Data Collection Plan
- Appendix B: List of Authorized Employees
- Appendix C: Security/Confidentiality Plan

**APPENDIX A
DATA COLLECTION PLAN**

A. The Data Requestor is requesting <insert data being requested>

More specifically, is requesting the following Confidential Data, on [specify specific data elements requested and time period for which requested]

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B. The Data Requestor will transfer to NYSDOL, on a [specify frequency] basis, a request file in a format approved by NYSDOL containing a list of participants for whom the Data Requestor needs Confidential Data. The file will include:

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-
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C. On a [specify frequency] basis for the time period specified herein, NYSDOL will provide the Data Requestor with a return file containing the following individual level Confidential Data:

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D. NYSDOL shall determine the format of the electronic file in which it shall disclose Confidential Data to the Data Requestor and the timing of the NYSDOL response in consultation with the Data Requestor. The Parties agree that all data disclosed to each other, including the Confidential Data disclosed by NYSDOL as described in the Data Collection Plan, will be done via a secure electronic transmission process to be determined by NYSDOL.

APPENDIX B
AUTHORIZED EMPLOYEES OF THE DATA REQUESTOR

The Data Requestor shall limit access to the Confidential Data obtained under this MOU to the authorized employees (identified by name or position) of the Data Requestor listed below for authorized purposes as described in this MOU:

Name:

Position/Organization:

APPENDIX C
SECURITY/CONFIDENTIALITY PLAN