

Appendix 1

Template DTA

Parties to the contract

Specify the receiver and provider

Specify who is the responsible party in terms of POPIA

Conditions of data use

The provider has the necessary ethics approval to transfer data for research purposes.

The receiver has the necessary research ethics approvals to conduct the research.

The research for which the data is to be shared.

If re-use of this data is for purposes other than in the DTA then express approval of the provider and REC is required.

If the sharing of the data by the receiver is to a third party, this requires the express approval of the provider and in line with REC approval.

That the receiver cannot share the data with a third party outside of the country of the receiver without the express approval of the provider.

If consent is the lawful basis of processing, the receiver has a process in place to facilitate the withdrawal of consent.

The necessary security safeguards are in place and specified to ensure that the receiver is POPIA compliant.

The receiver must notify the provider within 72 hours of any data breach.

Intellectual property

The data cannot be patented.

That the data cannot be shared for commercial purposes.

If the sharing is for research only, this must be specified. In the event that due to the research, the receiver obtains results that may be capable of IP protection, this must first be discussed and negotiated with the providers.

If IPRs are expected, the DTA must specify who holds the rights.

Reporting of results

Obligation of the receiver to report results to the provider and specify the time-frame.

Benefit sharing

The benefit to be provided to the provider by the receiver.

Whether the benefits will directly or indirectly involve gain for participants.

Cost recovery

If applicable, the costs to be provided.

Acknowledgment

The acknowledgment to be included for the reporting of results that relate to the data.

Destruction of data

Upon completion of the research that the data should be destroyed and this destruction notified to the provider. Whether a copy of data can be kept for quality and/or reproducibility proposes only.

Termination of agreement

How the DTA may be terminated.

Applicable laws and court having jurisdiction

The relevant SA laws and the court in SA that has jurisdiction in case of a dispute.

International transfers can include the laws of the receiving country, but that a court in SA has jurisdiction in case of a dispute.

For international transfers, the basis under section 72 of POPIA on which the transfer is to take place.

Think Box

- Whether samples and data should be treated the same way
- Types of data transfers that the DTA will apply to and the differing relationships.
- Meaningful benefit sharing how to translate this into practical implementation
- Cost recovery