

TRANSANA CLOUD SERVICE AGREEMENT

Spurgeon Woods LLC (“our” or “us”) provides the TRANSANA Cloud services (“TRANSANA Cloud”) to researchers and research institutions (“Researcher” “your” or “you”) under these terms.

Purchasing TRANSANA Cloud requires your institutional sign off to this agreement. Please scan the entire signed agreement and email it to support@transana.com.

AUTHORITY TO ENTER THIS AGREEMENT.

Only representatives of Researcher with authority to enter agreements on behalf of Researcher’s institution shall enter this agreement. By entering this agreement, you represent that you have authorization to enter this agreement.

LIMITATION OF PERSONAL INFORMATION.

TRANSANA Cloud is not intended for use with HIPPA protected health information or personal information covered by s. 134.98 Wis. Stats (“Prohibited Data”).

Personal information covered by s. 134.98 Wis. Stats includes:

1. An individual’s social security number;
2. An individual’s driver’s license number or state identification number;
3. The number of the individual’s financial account number, including a credit or debit card account number, or any security code, access code, or password that would permit access to the individual’s financial account;
4. An individual’s deoxyribonucleic acid profile, as defined in s. 939.74 (2d) (a) Wis. Stats.; and
5. An individual’s unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical representation.

You shall not store or use any Prohibited Data on TRANSANA Cloud. Violation of this section is grounds for immediate termination of this agreement. You will be solely responsible for any notification or other obligations incurred due to your violation of this section.

RESEARCHER SHALL BE SOLELY RESPONSIBLE FOR ANY NOTIFICATION OBLIGATIONS UNDER S. 134.98 WIS. STATS., OR ANY OTHER OBLIGATIONS INCURRED UNDER SIMILAR STATE OR FEDERAL LAW IF IT VIOLATES THIS SECTION AND USES OR STORES PROHIBITED DATA ON TRANSANA CLOUD.

HUMAN SUBJECTS RESEARCH COMPLIANCE.

If your use of TRANSANA Cloud is for human subject research, you shall comply with all applicable human subjects research compliance laws and regulations during the course of your

study. By entering this agreement, you represent that you have disclosed to your Institutional Review Board (“IRB”) the proposed use of TRANSANA Cloud in your research protocol. You shall not use TRANSANA Cloud in any manner that is in conflict with your IRB approval. You shall, upon our request, provide us with a copy of any applicable IRB protocol, approval or oversight document.

Violation of this section is grounds for immediate termination of this agreement. You will be solely responsible for any obligations incurred due to your violation of this section.

FERPA COMPLIANCE AND CONFIDENTIALITY OBLIGATIONS.

For purposes of these confidentiality obligations, “you” or “your” includes authorized representatives of Researcher.

Use of personally identifiable information (“PII”) from an education record of a student on TRANSANA Cloud without the consent required by the federal Family Education Rights and Privacy Act (“FERPA”) is subject to applicable FERPA regulations, *see* 34 CFR 99. TRANSANA Cloud is only available for use under the study exception, sec. 99.33(a)(6), of FERPA. Use of TRANSANA Cloud for any other exception is strictly prohibited. By entering this agreement, you represent that you have received permission from the originating agency of the student record containing the PII (the “OA”) to conduct your study and to make further disclosure of OA’s PII to Spurgeon Woods LLC and our authorized representatives on behalf of the OA to conduct your study. You shall, upon our request, provide us with a copy of any agreement to demonstrate this permission.

You shall not use TRANSANA Cloud in any manner that would violate FERPA or any covenants to protect student/parent privacy. You shall use OA’s PII in TRANSANA Cloud only to meet the purpose[s] of your study as stated in your written agreement with OA. You shall only provide access to TRANSANA Cloud to your authorized representatives that have a legitimate interest in OA’s PII. You shall not conduct your study using TRANSANA Cloud in a manner that would permit the personal identification of OA’s students or parents except by your authorized representatives that have a legitimate interest in OA’s PII. You shall remove/clear OA’s PII from TRANSANA Cloud when the information is no longer needed for the purposes for which your study is conducted and comply with the Data Protection, Retention and Destruction section of these terms. You shall notify the TRANSANA Cloud data custodian, see below, as soon as practicable if you learn of any violation of this section by you.

Violation of this section is grounds for immediate termination of this agreement. You will be solely responsible for any obligations incurred due to your violation of this section.

SPURGEON WOODS LLC shall conduct TRANSANA Cloud in a manner that does not permit personal identification of parents and students by individuals other than representatives of SPURGEON WOODS LLC that have legitimate interests in the information. SPURGEON

WOODS LLC is strictly prohibited from disclosing OA's PII to anyone except the authorized representatives of Researcher that are conducting the study for or on behalf of OA. SPURGEON WOODS LLC shall destroy OA's PII when it is no longer needed for the purposes for which your study is conducted. Data destruction will be in accordance with the Data Protection, Retention and Destruction section below. SPURGEON WOODS LLC shall not use OA's PII for any purpose except to provide TRANSANA Cloud in furtherance of conducting your study. SPURGEON WOODS LLC shall notify your TRANSANA Cloud Liaison, see User Accounts and Use of TRANSANA Cloud section below, as soon as practicable if we learn of any violation of this section by us.

TRANSANA Cloud and Researcher IT Requirements. TRANSANA Cloud is a MySQL server that allows researchers to use the multi-user version of Transana. TRANSANA Cloud currently supports Windows and OS X setups. Minimum set up requirements and Multi-user Transana requirements are stated on the Transana.com website.

Researcher is responsible for keeping copies of the Transana Client software up-to-date, including upgrading to new releases. Researcher is also responsible for ensuring that security features of the Transana Multi-user version are used, including using SSL connections to the database and Transana Message Server components of the Transana Cloud.

Product and Service Specifications - Software. TRANSANA Cloud is provided "As Is." SPURGEON WOODS LLC may take TRANSANA Cloud offline to fix bugs or errors that may be discovered or reported. If you experience difficulty with TRANSANA Cloud, please report it through the Transana Web site.

TRANSANA Cloud Availability. Except for regularly scheduled and emergency maintenance, SPURGEON WOODS LLC will use best efforts to provide uninterrupted use of TRANSANA Cloud. If TRANSANA Cloud becomes unavailable, SPURGEON WOODS LLC will use best efforts to bring it back online as soon as practicable during regular business hours. However, SPURGEON WOODS LLC makes no representations or warranties that TRANSANA Cloud will be uninterrupted or available for any particular time.

Maintenance. SPURGEON WOODS LLC may perform maintenance on TRANSANA Cloud from time to time making the service unavailable. SPURGEON WOODS LLC will use best efforts in providing notice to users of any interruptions to TRANSANA Cloud but is under no specific obligation to provide notice.

User Accounts and Use of TRANSANA Cloud. Researcher shall designate an individual to act as Researcher's TRANSANA Cloud Liaison. Your TRANSANA Cloud Liaison is responsible for overseeing the use of TRANSANA Cloud by all of your authorized research representatives. The TRANSANA Cloud Liaison is solely responsible for ensuring that only authorized research representatives of Researcher are given access to TRANSANA Cloud. The TRANSANA Cloud Liaison shall set up each authorized research representative as an individual account owner of

TRANSANA Cloud. Each individual account owner shall use TRANSANA Cloud only for conducting authorized research. Individual TRANSANA Cloud accounts shall not be shared between individuals.

Using TRANSANA Cloud does not give Researcher ownership rights in TRANSANA Cloud. Researcher, however, will retain ownership and complete control over all Researcher data.

Researcher and all your authorized research representatives shall only use TRANSANA Cloud in accordance with these terms, any TRANSANA Cloud policies and procedures displayed on <http://www.transana.com> and/or <http://www.transanacloud.com>, and applicable laws, including FERPA. Any impermissible use of TRANSANA Cloud, actions in violation of this agreement or actions not permitted by law by Researcher or its authorized research representatives shall be grounds for immediate termination of this agreement. SPURGEON WOODS LLC may, in its sole discretion, suspend any/all user accounts associated with Researcher if any one user of Researcher is in violation of this section or if SPURGEON WOODS LLC notices suspicious network traffic activity associated with a user account. The account suspension will be lifted upon adequate remedy of any impermissible use, violation or suspicious network activity.

Data Protection, Retention and Destruction.

SPURGEON WOODS LLC certifies that it has the capacity to restrict access to TRANSANA Cloud solely to its authorized representatives that have a legitimate interest in the data stored on TRANSANA Cloud and to ensure that any PII is accessed only for the purposes described in these terms. SPURGEON WOODS LLC shall require its authorized representatives to comply with FERPA and other applicable state and federal student privacy law. SPURGEON WOODS LLC shall store all PII on secure data servers using current industry best practices. SPURGEON WOODS LLC shall notify Researcher's TRANSANA Cloud Liaison as soon as practicable if it learns of any security breach to the server containing PII or of any disclosure of PII to anyone other than SPURGEON WOODS LLC's authorized representatives or your authorized representatives authorized to use TRANSANA Cloud. In case of a breach to TRANSANA Cloud, SPURGEON WOODS LLC and Researcher shall cooperate to find a mutually agreeable remedy as soon as practicable.

YOU ARE SOLELY RESPONSIBLE FOR BACKUP OF YOUR STUDY DATA.

Except as provided by this section, TRANSANA Cloud does not include any data back up or recovery service. SPURGEON WOODS LLC shall provide basic disaster recovery for the TRANSANA Cloud in case of server failure only. In case of disaster recovery, SPURGEON WOODS LLC will revert to the latest recovery point, which may be up to 24 hours after previous backup.

You are responsible for ensuring that PII is destroyed when no longer needed for the purpose of your study. Upon completion of your study, you shall clear all PII from TRANSANA Cloud and

request a final destruction of your data files by us. Requests should be made to the TRANSANA Cloud data custodian, below. Upon request, SPURGEON WOODS LLC will initiate and complete a data destruction process that will render your TRANSANA Cloud data, including all PII, irretrievable. The TRANSANA Cloud data custodian will provide a certificate of data destruction upon request. Researcher acknowledges that the data destruction and certification may take up to 45 days after receipt of destruction request.

If your TRANSANA Cloud subscription expires and you do not request final destruction of your data files by us within 30 days, we will deem any remaining data associated with your TRANSANA Cloud subscription as no longer needed for the purpose for which your study is being conducted with respect to using TRANSANA Cloud and destroy according to this section.

This section shall survive the termination of this agreement in order to meet other legal requirements of the parties.

TRANSANA Cloud Data Custodian.

David Woods
Spurgeon Woods LLC
1104 Garfield St.
Madison, WI 53711
(608) 251-3837

Term and Termination. These terms shall remain effective as long as you subscribe to TRANSANA Cloud. You may end your subscription at any time.

In addition to the conditions for immediate termination of this agreement outlined in other sections of this agreement, SPURGEON WOODS LLC may terminate, in its sole discretion, a TRANSANA Cloud user account that is in violation of these terms. If SPURGEON WOODS LLC terminates your subscription or any user accounts in accordance with these terms, or if you cancel your subscription to TRANSANA Cloud, then Researcher will not be refunded any incurred TRANSANA Cloud fees.

SPURGEON WOODS LLC shall provide Researcher notice as soon as practicable if it learns of any funding restrictions that will prevent it from providing TRANSANA Cloud for the length of your research study/TRANSANA Cloud subscription. A lack of funding is reason for SPURGEON WOODS LLC to terminate this agreement. However, SPURGEON WOODS LLC shall take reasonable steps to preserve the integrity of Researcher's data and permit secure transfer of data according to the Data Retention and Destruction section of this agreement.

Copyright and Trademark Ownership. SPURGEON WOODS LLC owns and shall own the copyrights to some components of TRANSANA Cloud and subsequent updates, modifications

and new editions. SPURGEON WOODS LLC does not convey any exclusive rights, title or interest in or to the TRANSANA Cloud Works to Researcher.

Researcher owns and shall own the copyrights to all Researcher data. Researcher does not convey any exclusive rights, title or interest in or to Researcher data.

All PII shall remain the property of its respective owners. Nothing in these terms shall be construed as conveying any exclusive rights, title or interest in or to any originating agency's PII to SPURGEON WOODS LLC.

TRANSANA and TRANSANA Cloud are trademarks of Spurgeon Woods LLC (collectively the "TRANSANA Trademarks"). Any use of the TRANSANA Trademarks shall inure to the benefit of SPURGEON WOODS LLC.

Disclaimer. SPURGEON WOODS LLC DOES NOT PROVIDE WARRANTIES FOR TRANSANA CLOUD, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

Indemnity and Limitation of Liability.

Researcher shall hold SPURGEON WOODS LLC harmless from any loss, claim, damage, or liability of any kind arising out of Researcher's and Researcher's authorized research representatives' use of TRANSANA Cloud, except to the extent that it is founded upon or grows out of the acts or omissions of any of the officers, employees or agents of SPURGEON WOODS LLC while acting within the scope of their employment.

Miscellaneous. SPURGEON WOODS LLC may modify these terms to reflect changes in the law or TRANSANA Cloud. Researcher shall review these terms on a regular basis. Changes will not apply retroactively to any existing purchases and shall become effective as stated in the change notice. Researcher's continued use of TRANSANA Cloud shall be construed as Researcher's acceptance of the modified terms.

The parties shall provide notice of any failure to keep in force these TRANSANA Cloud terms. In the event of a disagreement regarding the terms or implementation these terms, the parties shall agree to discuss their dispute in good faith and make best efforts to achieve a mutually agreed-upon resolution.

Researcher, by purchasing TRANSANA Cloud expressly agrees that these TRANSANA Cloud terms shall supersede any conflicting terms that Researcher may attach or incorporate to any purchase order or agreement procuring TRANSANA Cloud. These TRANSANA Cloud terms shall take precedence in any contract document hierarchy between the parties.

Spurgeon Woods LLC shall comply with all federal and state laws. Spurgeon Woods LLC and its subcontractors shall comply with Federal and State of Wisconsin non-discrimination laws, including the Wisconsin Fair Employment Act and similar Federal law. Spurgeon Woods LLC cannot be subject to or subject its subcontractors to another state's/municipalities' specific subcontracting, non-discrimination and employee relations laws unless it expressly assents to these requirements in writing. Researcher shall waive any terms in any procurement contract or purchase order that it issues that is in conflict with this section.

This TRANSANA Cloud Service Agreement will become effective once Researcher's institution and Spurgeon Woods LLC both sign it. The date of this agreement shall be the date on which it is signed by the last party to sign it.

For Researcher's Institution

Signature

Date

Name

Date

Title

Institution or Organization

For Spurgeon Woods LLC

David K Woods
Spurgeon Woods, LLC

Date