

**TRIANGLE MEDICAL GROUP , LLC**  
**PORTAL ACCESS TERMS AND CONDITIONS**

PLEASE READ THIS *TRIANGLE MEDICAL GROUP PORTAL ACCESS AGREEMENT* ("AGREEMENT") CAREFULLY BEFORE USING THE *TMG PORTAL* ("TMG Portal").

The Agreement is made and effective as of the date you register as a TMG Portal user (the "Effective Date"), by and between Triangle Medical Group , LLC ("TMG"), and you ("User"), on behalf of yourself and your employees, agents, and subcontractors, collectively the "Parties."

By signing the TMG Portal – Access Request Form, User agrees to comply, and cause each of its employees, agents, and subcontractors to comply, with the following terms:

1. Definitions.

1.1 *Authorized User* means an employee, agent, or subcontractor of User who requests and/or receives access to the TMG Portal.

1.2 *Confidential Information* means (1) patient information (such as medical records and billing records, including protected health information ("PHI")), (2) confidential business information of TMG, and its affiliates, and/or third parties, including third-party software and other licensed products or processes, and (3) operations, quality improvement, or education (such as utilization reports, survey results, and related presentations).

1.3 *TMG Portal* means the TMG secure filing sharing system including without limitation the data or information contained therein or related thereto, individually and collectively, which relates to the provision of services by TMG in either Alliance, or another health care facility or provider that stores data or information on this system.

2. Applying for Access Privileges. User agrees to cause each of its Authorized Users to submit a written request for access to the TMG Portal on a form provided by TMG ("Access Request Form"). **You must also read and comply with TMG's Confidentiality Statement (attached as Exhibit A), incorporated herein by reference.**

3. Grant of Access Privileges. TMG, in its sole discretion, will grant to Authorized Users the right to access the TMG Portal only in accordance with and to the extent permitted under any applicable agreement(s) between the Parties and/or the Access Request Form. Access is limited to (a) Authorized Users individually authorized by TMG according to the processes described herein, and (b) those selected programs, files and applications to which access is necessary to the performance of the terms of any agreement between the Parties. TMG also reserves the right to limit the number of User's Authorized Users. Each Authorized User will be issued unique logon credentials that may not be shared with any other Authorized User or person. User is solely responsible for the implementation and maintenance of security relating to access to the TMG Portal and for all activities occurring under its Authorized User accounts. User shall ensure that such Authorized Users (i) keep any and all usernames, passwords and account information confidential, private and secure, (ii) use only the usernames, passwords and account information assigned to them (iii) successfully complete the TMG Portal training program prior to using or accessing the TMG Portal, and (iv) not share usernames, passwords and account information with any other person or entity including, without limitation, any other User personnel.

TMG reserves the right to temporarily or permanently suspend access to the TMG Portal and/or any user account, as it deems necessary to protect the TMG Portal's security and integrity.

4. Obligation to Report. User will report to TMG (a) any known or suspected misuse of an Authorized User's access credentials or (b) any unauthorized use or disclosure of Confidential Information of which

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User becomes aware. Such report shall be made to TMG by contacting the TMG Security Officer at 919-859-2566 as soon as reasonably possible, but, in any event, no later than two (2) days from the date on which User becomes aware of the unauthorized use or disclosure of the Confidential Information. User will fully cooperate with any remediation that TMG, in its sole discretion, determines is necessary to (i) address any applicable reporting requirements; and (ii) mitigate any effects of such unauthorized use or disclosure of the Confidential Information, including, without limitation, measures necessary to restore goodwill with stakeholders, including patients, collaborators, governmental authorities, and the public. This reporting obligation is in addition to, and not in lieu of, any other reporting obligations that User may have under another agreement, including but not limited to a HIPAA Business Associate Agreement, or law.

5. Term and Termination/Modification.

5.1 Term. TMG, in its sole discretion, will grant access privileges to each Authorized User for a term of no more than one year, consistent with the terms of the Authorized User's access needs. An Authorized User's access privileges will automatically renew for subsequent one- year terms unless and until the Authorized User's privileges are terminated according to the requirements set forth below.

5.2 Termination or Modification of Users' Access. User shall immediately notify TMG if the level of access and/or requested applications for an Authorized User should be modified. User shall notify TMG as soon as possible, but in any event within two (2) business days after an Authorized User has terminated employment or his/her contractual arrangement with User or is otherwise no longer eligible or qualified as an Authorized User, or no longer requires access to the TMG Portal. If User has reason to believe that a departing Authorized User may use the TMG Portal for improper or unauthorized purposes, User shall immediately so notify TMG according to the terms of Section 4 herein. User shall take all steps reasonably requested by TMG to prevent such improper or unauthorized access. TMG reserves the right to monitor lack of use of Authorized User access credentials and to disable an Authorized User's access in its sole discretion at any time.

6. Confidentiality. User's access to and use of the TMG Portal is subject to, and User agrees to cause its Authorized Users to comply with, the terms of this Agreement, any other applicable agreement, and all applicable federal, state, and local laws and regulations, including, without limitation, requirements set forth in rules and regulations promulgated under the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, as amended (collectively, "HIPAA"), and further subject to the American Recovery and Reinvestment Act of 2009, including its provisions commonly known as the HITECH Act and rules and regulations promulgated thereunder, as may be amended from time to time ("HITECH"), 42 C.F.R Part 2 ("Part 2"), import, export, and re-export laws, as well as any other federal, state or local laws, rules and regulations protecting the confidentiality, privacy and security of patient records, protected health information (PHI), and other confidential, proprietary, sensitive or personal information (regardless of form or format, and whether or not obtained hereunder) (collectively, "Applicable Laws").

User further acknowledges and agrees that, to the extent it or its Authorized Users access or view any information in a patient record that is considered confidential pursuant to Part 2, User will abide by Part 2's restrictions on and requirements for the use, disclosure, and/or redisclosure of such confidential information. For purposes of this Agreement, "treatment" and "payment" shall have the same definitions as those in HIPAA and HITECH (*see* 45 CFR 164.501).

User further agrees that it, and each of its Authorized Users, will access Confidential Information or other information via the TMG Portal solely as permitted by this Agreement, any other agreement between the Parties, the Access Request Form(s), and Applicable Laws. User further represents and warrants that it has policies and procedures in place to ensure its compliance with Applicable Laws and

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this Agreement, and has provided or will provide training on such policies and procedures to each of its Authorized Users in advance of their initial access to the TMG Portal and periodically thereafter.

User will cause Authorized Users to apply appropriate safeguards to protect Confidential Information from misuse and unauthorized access or disclosure, including, without limitation, (i) maintaining adequate physical controls and password protections for any server or system on which the Confidential Information may reside; (ii) ensuring that Confidential Information is not stored on any mobile device (e.g. laptop, smartphone) or transmitted electronically unless encrypted; and (iii) taking any other measures reasonably necessary to prevent any unauthorized use or disclosure of the Confidential Information.

7. Compliance with Laws. User is responsible for all use of the TMG Portal by its Authorized Users, and shall ensure that all Authorized Users are bound by the applicable terms and conditions set forth in this Agreement. User represents and warrants that it shall comply with: (a) all reasonable remote access and network security requirements communicated by TMG from time to time and (b) all Applicable Laws and rules of professional conduct. User shall not use or enable its Authorized Users to use the TMG Portal (a) in violation of any Applicable Laws or (b) in ways that interfere with other users of the TMG Portal or other networks.
8. No Foreign Outsourcing. User, and its employees, agents, and subcontractors, shall not transmit, maintain, access, or manipulate Confidential Information, including but not limited to PHI, outside of the United States or its territories without the explicit prior written permission of TMG. If TMG provides User with such written permission, User shall comply with the laws of the United States with regard to the privacy, security, and confidentiality of the Confidential Information.
9. License Restrictions. User shall not, nor shall it authorize or enable any other person or entity to: (a) reproduce, distribute, publicly display, sublicense, lease, rent, loan, transfer, or otherwise make available the TMG Portal to any third party; (b) modify, adapt, alter, translate, or create derivative works of the TMG Portal; (c) merge the TMG Portal with any other software; (d) use the TMG Portal for the benefit of a third party, whether in or as part of a service bureau, timesharing or other capacity; (e) use the TMG Portal in violation of any Applicable Laws; (f) attempt to deactivate, bypass, or otherwise circumvent the license keys, access controls, or other security measures for the TMG Portal; (g) attempt to gain unauthorized access to any data, functionality, or systems of TMG or any other user of the TMG Portal; (h) attempt to use automated systems (such as test tools, screen capture technology, scripted browsers, or other programmatic methods) not approved by TMG for use in conjunction with the TMG Portal; (i) remove or obscure any copyright or other proprietary rights, notices, trademarks, logos or trade designations for the TMG Portal, or on any user screens or documentation therefor; (j) disseminate viruses, Trojan horses, spyware, adware, or other malicious code through the TMG Portal; (k) disclose the results of any benchmarking or other performance testing of the TMG Portal, except as required to meet its obligations under this Agreement; or (l) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the TMG Portal.
10. Ownership and Reservation of Rights.
  - 10.1 TMG Portal. Except for the express rights granted to User under this Agreement, all rights, title and interest in and to the TMG Portal, the software applications used to provide the TMG Portal, the documentation and any other information and materials provided to User by TMG in connection with this Agreement, including all intellectual property rights therein, shall at all times remain solely with TMG and/or its licensors and vendors. User shall reproduce all copyright and trademark notices appearing on all copies of the documentation.
  - 10.2 Third-Party Software. If TMG licenses any third-party software on User's behalf, User shall execute any required third-party license agreements prior to access to the third-party software.
  - 10.3 Reservation of Rights. No rights or licenses, express or implied, are granted to User, other than the

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express license rights set forth in this Agreement or granted to User by the applicable vendor. The rights and licenses granted by TMG and its vendors do not include a license to any patents or patent rights that may be held by a third party.

11. Warranties.

11.1 By TMG. TMG represents to User that TMG has the full right, power and authority to enter into this Agreement.

11.2 By User. User represents and warrants to TMG that: (i) User has the full right, power and authority to enter into this Agreement and (ii) User will not infringe or violate the rights of any third party including, but not limited to, intellectual property rights; will not be abusive; will not be defamatory or obscene; and will not violate any applicable law.

11.3 DISCLAIMER. THE REPRESENTATIONS AND WARRANTIES STATED IN THIS SECTION ARE THE ONLY REPRESENTATIONS AND WARRANTIES MADE BY THE PARTIES. THE PARTIES EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, ACCURACY AND FITNESS FOR A PARTICULAR PURPOSE. TMG DOES NOT REPRESENT THAT USER'S USE OF THE TMG PORTAL SHALL BE UNINTERRUPTED OR ERROR-FREE. NO REPRESENTATION OR STATEMENT SHALL BE BINDING UPON TMG AS A WARRANTY OR OTHERWISE UNLESS EXPRESSLY CONTAINED IN THIS AGREEMENT.

12. Disclaimer and Limitation of Liability. IN NO EVENT SHALL TMG BE LIABLE FOR ANY LOST OR ANTICIPATED PROFITS, OR ANY INCIDENTAL, EXEMPLARY, SPECIAL, RELIANCE, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER TMG WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TMG'S ENTIRE LIABILITY TO USER FOR DAMAGES UNDER OR RELATED TO THIS AGREEMENT, WHETHER BASED IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID TO TMG UNDER THIS AGREEMENT.

13. Indemnification. User shall indemnify, defend and hold TMG and its affiliates, and the employees, officers, directors, and agents of each, harmless from and against any and all losses, liabilities, claims, costs, expenses and damages, including reasonable attorneys' fees, resulting from, arising out of, or in any way connected with third-party claims arising from use of the TMG Portal by User or one or more of its Users, except to the extent that such claims arise from breach of this Agreement by TMG.

14. Injunctive Relief and Other Remedies. User acknowledges and agrees that any unauthorized disclosure or use of Confidential Information will cause irreparable harm, injury, and loss to TMG. In the event of any actual or threatened breach or violation of this Agreement by User or its employees, agents, or subcontractors, TMG shall have full rights to injunctive relief, in addition to any other rights and remedies it may have.

15. Right to Monitor and Audit. TMG reserves the right to monitor direct and remote access sessions, both retrospectively and concurrently for the purpose of monitoring compliance with this Agreement and for providing support (e.g., troubleshooting issues). TMG will routinely audit User's access to TMG Portal Protected Health Information. In the event that User's use of the TMG Portal violates a TMG policy, this Agreement, or the law, TMG may take such action as it deems necessary or appropriate, including but not limited to, immediate suspension or termination of User's and/or its Authorized Users' access privileges. User will promptly comply with the efforts of TMG to update or verify Authorized User(s), including but not limited to responding to inquiries from TMG about Authorized User credentials and activity.

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16. Severability. Should any provision of this Agreement be deemed illegal or unenforceable, then any such provision is to be considered as stricken here from, and the remaining provisions of this Agreement shall nonetheless be given full force and effect.
17. Successors and Assigns. This Agreement shall inure to the benefit of, and be binding upon, the Parties hereto and their successors or permitted assigns. User may not assign rights or delegate duties of this Agreement without the prior written consent of TMG.
18. No Third Party Beneficiaries. This Agreement is made only to benefit the two Parties named herein. Nothing in this Agreement is intended to create, nor has it created, any rights, interests, or benefits for any other parties whatsoever.
19. Waiver and Modification. No waiver, amendment, or modification of any provision of an Agreement will be effective unless in writing and signed by both Parties. No failure or delay by either Party in exercising any right, power or remedy under an Agreement will operate as waiver of any such right, power or remedy or of any other right, power or remedy under an Agreement. The subheadings of this Agreement are for convenience only and do not add to or amend the terms of the Agreement.
20. Choice of Law. This Agreement shall be construed in accordance with and governed by the laws of the State of North Carolina, without regard to its conflicts of law or choice of law principles, regardless of the forum where it may be considered for construction. The parties consent to the exclusive jurisdiction of the courts of North Carolina.
21. Survival. The provisions of Sections 4, 5, 6, 13, and 14 of this Agreement shall survive the expiration or termination of this Agreement.
22. Authority. Each party represents that it is authorized to enter into this Agreement and is capable of performing its obligations under this Agreement.

**IN WITNESS WHEREOF**, the undersigned have executed this Agreement as of the Effective Date.

**TRIANGLE MEDICAL  
GROUP**

**[USER]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_