

**PACS Minimum Use Agreement**

Practice Name: \_\_\_\_\_

Office Address: \_\_\_\_\_

CITY: \_\_\_\_\_ ZIP: \_\_\_\_\_

Primary Office Contact: \_\_\_\_\_

Office Phone: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ EXT: \_\_\_\_\_

Office Fax: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Date Completed: \_\_\_\_\_, 201\_\_

*Please return completed form to your marketing representative.*

Marketing Rep: \_\_\_\_\_

Call for pickup: (813) \_\_\_\_\_ - \_\_\_\_\_ or

Fax to marketing reps attention at (813) \_\_\_\_\_ - \_\_\_\_\_

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**\*\*FOR INTERNAL USE ONLY\*\***

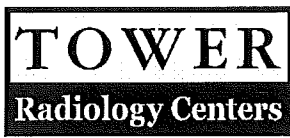
**Account Type:**

- PACS Filter Setup
- PACS Full Access
- Email Reports only (limit 2 email addresses)

**Date Completed:** \_\_\_\_\_ **Completed By:** \_\_\_\_\_

**IT Checklist:**

- A.D account / Avreo account/ Filter created (if filter setup)QA Performed and Emailed to Marketing
- Usernames and Passwords logged into Database.



**COVERED ENTITY MINIMUM USE AGREEMENT**

**THIS COVERED ENTITY MINIMUM USE AGREEMENT** (this "Agreement") is entered into effective as of the \_\_\_ day of \_\_\_\_\_ 20\_\_ (the "Effective Date"), by and between **TOWER IMAGING, INC.**, a Florida corporation ("Tower") and \_\_\_\_\_, a Florida \_\_\_\_\_ (the "Provider") (Tower and Provider may be referred to hereinafter individually, as a "party" or collectively, as "parties").

**WITNESSETH:**

**WHEREAS**, Tower and Provider acknowledge and agree that each is a Covered Entity, as defined in 45 C.F.R. §160.103, for purposes of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act");

**WHEREAS**, Tower operates a Referring Physician Portal, Enterprise Imaging Management Solution and PACS Electronic Medical Records Platform (the "Platform"), which Platform enables Tower to provide Provider with remote internet access (the "Access") to certain protected health information, as defined at 45 C.F.R. § 160.103 ("PHI"), of a patient receiving medical treatment from both Tower and Provider, or a patient referred to Tower for medical treatment by Provider (a "Patient");

**WHEREAS**, the parties acknowledge and agree that the use and disclosure of such PHI is subject to the minimum necessary standard set forth at 45 C.F.R. §§ 164.502(b) and 164.514(d);

**WHEREAS**, Tower desires to continue to provide Provider with Access to PHI in reliance on Provider's representations set forth herein; and

**WHEREAS**, the parties desire to further set forth the terms and conditions that will govern their relationship, and the use of and Access to PHI by Provider.

**NOW, THEREFORE**, in consideration of the foregoing, and of the covenants and agreements set forth herein, the parties, intending to be legally bound, agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated herein by this reference.

2. **Authorized Users.**

(a) **Definition.** The term "Authorized User" or "Authorized Users" shall

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mean an individual or individuals (*i.e.*, natural persons) designated by the Provider to Access and use the Platform on behalf of the Provider.

(b) Access. Provider shall provide Tower with a list set forth on the form attached hereto as Schedule A and incorporated herein by reference, identifying all of Provider's Authorized Users. Participant shall notify Tower, within twenty-four (24) hours of termination of employment or affiliation of an Authorized User of Provider, and Provider shall take all such actions necessary to terminate the former Authorized User's Access to the Platform. Provider shall be solely liable for any acts or omissions related to its failure to properly terminate a former Authorized User's access and/or failure to notify Tower within the appropriate time frame.

(c) No Use by Other than Authorized Users. Provider agrees to restrict Access to the Platform and PHI to only those Authorized Users provided to Tower by the Provider in accordance with this Section 2.

(d) Responsibility for Conduct of Provider and Authorized Users. Provider shall be solely responsible for all acts and omissions of the Provider and jointly and severally liable for all acts and omissions of the Provider's Authorized Users and all other individuals who Access the Platform and/or PHI therein either through the Provider, or the Provider's data or computer network, regardless of the origination of such Access, or by use of any password, identifier, mechanism, or log-on received or obtained from the Provider or any of the Provider's Authorized Users.

### 3. Access.

(a) Representation and Warranty by Provider. Provider represents and warrants to Tower that Provider shall strictly limit Provider's and/or the Provider's Authorized Users' use and Access to PHI stored in the Platform to: (i) the minimum necessary to accomplish the intended purpose of the use, disclosure, or request with respect to a Patient, or (ii) treatment of a Patient. Any other Access or use of PHI contained in the Platform is strictly prohibited, and shall be deemed a material breach of this Agreement. Provider expressly acknowledges and agrees that Tower is granting Access to the Platform in reliance on Provider's representation and warranty herein.

(b) Notification of Breach. During the term of this Agreement, Provider shall notify Tower within twenty-four (24) hours of any actual or suspected use, Access, and/or disclosure of PHI in the Platform in violation of the Privacy Regulations or this Agreement. Provider shall take prompt corrective action to mitigate and cure any harmful effect that is known to Provider of an improper use, Access, and/or disclosure of PHI in the Platform.

4. Indemnification. Provider shall indemnify and hold Tower, and its employees, officers, directors, independent contractors, agents and representatives, harmless from and against all claims, liabilities, judgments, fines, assessments, penalties, awards or other expenses, of any kind or nature whatsoever, including, without limitation, attorneys' fees, expert witness fees, and costs of investigation, litigation or dispute resolution, relating to or arising out of any

breach of this Agreement by Provider. The obligations set forth in this Section 4 shall survive termination of this Agreement, regardless of the reasons for termination.

5. **Term and Termination.**

(a) **Term.** This Agreement shall commence on the Effective Date and will remain effective during the term while medical treatment is being rendered to Patient, unless earlier terminated in accordance with the terms herein; provided, however, that certain of Provider's obligations may survive the termination of this Agreement as set forth in Section 5(c).

(b) **Termination of Agreement.** This Agreement may be terminated with or without cause by either party at any time upon written notice to the other party.

(c) **Effect of Termination.** As of the effective date of termination of this Agreement, neither party shall have any further rights or obligations hereunder except: (a) as otherwise provided herein or in a separate agreement between the parties, if any; (b) for continuing rights and obligations accruing under HIPAA or the HITECH Act; or (c) arising as a result of any breach of this Agreement, including, but not limited to, any rights and remedies available at law or equity.

6. **Other Use of Information.** Provider shall have no right whatsoever to use health information made available to Provider by Tower, including PHI which has been de-identified as set forth in 45 C.F.R. § 164.514, for any purpose other than to accomplish the specific objectives of Patient treatment among the parties.

7. **Patient Notification.** Provider acknowledges and agrees that it shall timely provide any and all necessary and required notification, follow-up, and information to Patients to whom Provider is rendering medical treatment, and Provider releases Tower from any and all liability for Provider's failure to perform in accordance with this Section 7.

8. **Standard Terms and Conditions.** The provisions of the attached Standard Terms and Conditions of Use set forth on Addendum A are incorporated herein by this reference.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective as of the Effective Date.

**TOWER:**

**PROVIDER:**

**TOWER IMAGING, INC.**, a Florida corporation

**Practice Name:** \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## ADDENDUM A

### Standard Terms and Conditions of Use

1. **Assignment.** This Agreement and the rights and obligations hereunder shall not be assigned, delegated, or otherwise transferred by the Provider without the prior written consent of the Tower and any assignment or transfer without proper consent shall be null and void.
2. **Governing Law; Venue; Jurisdiction.** This Agreement shall be governed by and controlled by the laws of the State of Florida. The parties agree that exclusive venue shall be in the courts of Hillsborough County, Florida for all disputes arising out of this Agreement. The parties each hereby consent to the jurisdiction of such courts, agree to accept service of process by mail, and hereby waive any jurisdictional or venue defenses otherwise available to them.
3. **Amendment or Modification.** This Agreement may only be amended or modified by mutual written agreement of the parties; provided, however, that in the event provisions of this Agreement shall conflict with the requirements of HIPAA or the HITECH Act, this Agreement shall automatically be deemed amended as necessary to comply with such legal requirements.
4. **Waiver.** The failure of either party at any time to enforce any right or remedy available hereunder with respect to any breach or failure shall not be construed to be a waiver of such right or remedy with respect to any other breach or failure by the other party.
5. **Severability.** In the event that any provision or part of this Agreement is found to be totally or partially invalid, illegal, or unenforceable, then the provision will be deemed to be modified or restricted to the extent and in the manner necessary to make it valid, legal, or enforceable, or it will be excised without affecting any other provision of this Agreement, with the parties agreeing that the remaining provisions are to be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.
6. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the matters contemplated herein and supersedes all previous and contemporaneous oral and written negotiations, commitments, and understandings relating thereto.
7. **Representations and Warranties of Provider.** Provider hereby represents and warrants to Tower as follows: (i) the person executing this Agreement on behalf of Provider has the legal capacity and unrestricted right to execute and deliver this Agreement; (ii) the execution and delivery of this Agreement by Provider and the performance of Provider's obligations hereunder will not violate or be in conflict with any fiduciary or other duty, instrument, agreement, document, arrangement, or other understanding to which Provider is a party or by which Provider is or may be bound or subject; and (iii) Provider is not a party to any instrument, agreement, document, arrangement, or other understanding with any person or entity (other than Tower) restricting Provider's performance or obligations hereunder.
8. **Counterparts.** This Agreement may be executed in any number of counterparts, including facsimile or an e-mail of a PDF file containing a copy of the signature page of the person executing this document, each of which shall be an original, but all of which together shall constitute one in the same instrument.

**TOWER**  
**Radiology Centers**  
**SCHEDULE A**  
**Authorized Users**

The following individuals are designated by the Provider to Access and use the Platform on behalf of the Provider: \_\_\_\_\_ (Provider or Practice Name)

**EACH PHYSICIAN AND STAFF MEMBER MUST COMPLETE THIS FORM IN ORDER TO BE ISSUED A USERNAME & PASSWORD**

Print First Name \_\_\_\_\_ Print Last Name \_\_\_\_\_ Title: \_\_\_\_\_

NPI if applicable \_\_\_\_\_ UPIN if applicable \_\_\_\_\_

Email address (work): \_\_\_\_\_ @ \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

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Print First Name \_\_\_\_\_ Print Last Name \_\_\_\_\_ Title: \_\_\_\_\_

NPI if applicable \_\_\_\_\_ UPIN if applicable \_\_\_\_\_

Email address (work): \_\_\_\_\_ @ \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

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Print First Name \_\_\_\_\_ Print Last Name \_\_\_\_\_ Title: \_\_\_\_\_

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Signature \_\_\_\_\_ Date \_\_\_\_\_

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Email address (work): \_\_\_\_\_ @ \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

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**Authorized Users**

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Signature \_\_\_\_\_ Date \_\_\_\_\_

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Email address (work): \_\_\_\_\_ @ \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print First Name \_\_\_\_\_ Print Last Name \_\_\_\_\_ Title: \_\_\_\_\_

NPI if applicable \_\_\_\_\_ UPIN if applicable \_\_\_\_\_

Email address (work): \_\_\_\_\_ @ \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print First Name \_\_\_\_\_ Print Last Name \_\_\_\_\_ Title: \_\_\_\_\_

NPI if applicable \_\_\_\_\_ UPIN if applicable \_\_\_\_\_

Email address (work): \_\_\_\_\_ @ \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

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