

SKYGEN USA CREDENTIALING SERVICE SUBSCRIBER AGREEMENT

Last Updated: February 24, 2017.

The SKYGEN USA Credentialing Service described in this **SKYGEN USA CREDENTIALING SERVICE** Subscriber Agreement (“**Subscriber Agreement**”) is provided by SKYGEN USA, LLC and its affiliates (collectively referred to as “**SKYGEN USA**,” “**us**,” “**our**,” or “**we**”), and provides web-based access to Credentialing Files regarding those Healthcare Professionals who have applied for or have been granted Participation with You and other Subscriber(s), with a goal of promoting efficiency and cost-savings for the initial data collection processes for credentialing of Healthcare Professionals (“**Service**”). The Service does not include any Credentialing Activities or other verification of Healthcare Professional User Credentialing Information included in Credentialing Files, which service may be provided by SKYGEN USA under a separate agreement. SKYGEN USA is not a party to any employee or contractor relationship between Healthcare Professionals and healthcare or dental provider groups (“**Provider Group(s)**”). **SKYGEN USA does not control the content of any information entered into the Service by a Healthcare Professional, Subscriber (including a Provider Group), Third Party Source, or any other party. SKYGEN USA does not control the conduct of any Healthcare Professional or Subscriber. SKYGEN USA DOES NOT GUARANTEE THAT USE OF THE SERVICE WILL RESULT IN ANY SPECIFIC COST-SAVINGS, OR ANY COST-SAVINGS AT ALL, ANY SUBSCRIBER APPROVAL OF ANY HEALTHCARE PROFESSIONAL OR PROVIDER GROUP TO PARTICIPATE IN NETWORKS, PAYMENT FOR HEALTHCARE PROFESSIONAL SERVICES, OR ANY SUBSCRIBER APPROVAL OF HEALTHCARE PROFESSIONAL PARTICIPATION (DEFINED BELOW). PLEASE READ THIS ENTIRE DOCUMENT, AND THE DOCUMENTS AT THE HYPERLINKS BELOW, AND PRINT COPIES FOR YOUR RECORDS.**

By accessing and using the technology used by SKYGEN USA to provide the Service, including the SKYGEN USA website located at www.skygenusa.com/credentialing (“**SKYGEN USA Site**”), any SKYGEN USA mobile application (“**SKYGEN USA App(s)**”), and other websites, online services, social media sites, and related documentation and help files related to the Service that are provided by SKYGEN USA (collectively, the “**Platform**”), **you are entering into a binding legal agreement between you, on behalf of yourself and your company** (collectively referred to as “**You**” or “**Your**”) and SKYGEN USA, LLC as a Subscriber. **You warrant and represent that You are authorized to bind Your company if You are accepting the Subscriber Agreement on Your company’s behalf. If You and Your company do not agree with all the terms in the Agreement (defined below), You must not access or use the Service.**

Remember that Your use of the Platform is at all times also subject to the SKYGEN USA Platform Terms of Use, SKYGEN USA Privacy Policy, and all applicable SKYGEN USA App agreements, all of which are incorporated into this Subscriber Agreement (the Subscriber Agreement, SKYGEN USA Platform Terms of Use, SKYGEN USA Privacy Policy, and SKYGEN USA Mobile App agreements are referred to collectively as the “**Agreement**”). If the company has signed a written Subscriber Agreement (“**Signed Agreement**”), the Signed Agreement shall supersede any inconsistent terms in the Agreement.

YOU AGREE TO BE BOUND BY THE AGREEMENT, AND YOU REPRESENT AND WARRANT THAT:

- (A) YOU ARE AT LEAST 18 YEARS OF AGE;
- (B) YOU HAVE READ AND UNDERSTAND THE ENTIRE AGREEMENT;
- (C) YOU ARE NOT RELYING ON ANY REPRESENTATION, GUARANTEE, OR STATEMENT OTHER THAN AS EXPRESSLY SET FORTH IN THE AGREEMENT; AND
- (D) YOUR PURCHASES UNDER THE AGREEMENT ARE NOT CONTINGENT ON THE DELIVERY OF ANY FUTURE SERVICE FUNCTIONALITY OR FEATURES.

WE WILL REVISE AND UPDATE THIS SUBSCRIBER AGREEMENT, AND THE OTHER DOCUMENTS INCORPORATED AT THE HYPERLINKS ABOVE, FROM TIME TO TIME WITHOUT PRIOR NOTICE TO YOU. ANY CHANGES TO THE AGREEMENT WILL APPLY IMMEDIATELY UPON POSTING. Note that if there are any inconsistencies between this Subscriber Agreement and the SKYGEN USA Platform Terms of Use, SKYGEN USA Privacy Policy, or any SKYGEN USA Mobile App, this Subscriber Agreement will govern. YOU AGREE TO PERIODICALLY REVIEW THIS SUBSCRIBER AGREEMENT, AND THE OTHER INCORPORATED DOCUMENTS, FOR SUCH CHANGES.

1. DEFINITIONS

In addition to terms defined in the text of the Agreement, the following terms shall have the meanings set forth below:

“**Authorized User(s)**” means Subscriber, and Subscriber’s employees and contractors who are approved by Subscriber to access the Platform on behalf of Subscriber and who agree to be bound by the confidentiality obligations and use limitations under the Agreement, and any Authorized User agreements that SKYGEN USA may post on the Platform.

“**Credentialing Activities**” means the process performed by or for Subscriber(s) of assessing, primary source verification, and otherwise validating the Credentialing Information or qualifications of Healthcare Professionals, for the sole purposes of deciding whether to allow, deny, or modify the terms of Participation with one or more Subscriber(s).

“**Credentialing File(s)**” means the electronic file(s) containing the Credentialing Information that is not specific to any Provider Group or Subscriber formatting requirements.

“**Credentialing Information**” means the credentialing information provided by Healthcare Professionals using the Service, Subscribers (including Provider Groups), and by other Third Party Sources engaged by SKYGEN USA, and which is contained in Credentialing Files, such as information specifically in Credentialing Information List posted on the Platform.

“**Credentialing Subscription**” means Subscriber’s annual subscription to access Credentialing Files regarding individual Healthcare Professionals, as reflected in the My Providers List, as updated from time to time.

“**Credentialing Subscription Fee**” means the annual fee charged by SKYGEN USA for Subscriber’s access to each Healthcare Professional’s Credentialing File, as further defined in the published rates or rate schedule provided by SKYGEN USA.

“**Healthcare Professionals**” means professionals who provide healthcare or dental services, and who hold licenses and actively engage in a healthcare or dental practice.

“**Healthcare Professional Credentialing Platform**” means those portions of the Platform used by Healthcare Professional Users of the Service.

“**Healthcare Professional User**” means a Healthcare Professional who has registered with the Service.

“**Intellectual Property**” includes, without limitation, all intangible legal rights or interests evidenced by or embodied in: (a) any idea, design, concept, technique, invention, discovery, enhancement or improvement, regardless of patentability, but including patents, patent applications, trade secrets, and

know-how; (b) any work of authorship, regardless of copyrightability, but including copyrights and any moral rights recognized by law; (c) any trademark, trade name or service mark; and (d) any other intellectual property, proprietary or similar rights, including all goodwill pertaining thereto and in each case, on a worldwide basis.

“**Directory**” means Subscriber’s directory of Healthcare Professionals who have been granted Participation with a Subscriber, , including demographic information, which Subscriber makes available to customers of Subscriber..

“**My Providers List**” means the list of Healthcare Professionals for whom Subscriber has an annual Credentialing Subscription, and for whom Subscriber is authorized by the Healthcare Professional to receive a Credentialing File, as the My Providers List is generated and updated through the Platform.

“**Participation**” means a Healthcare Professional’s eligibility for credentialing, membership, clinical privileges, employment or contracting as a provider of health care services for one or more Subscriber(s).

“**SKYGEN USA Marks**” means company names, logos, products and service names, trademarks, service marks, trade dress, copyrights or other indicia of ownership, alone and in combination with other letters, punctuation, words, symbols, or designs, which are owned or controlled by SKYGEN USA.

“**Subscriber**” means a federal or state government agency, a managed care organization, an insurance carrier, a healthcare network, a hospital, employer, Provider Group or a third party administrator. You are a Subscriber under the Agreement.

“**Term**” means collectively the Initial Term and any Renewal Term defined under Section 5 of this Subscriber Agreement.

“**Third Party Source(s)**” includes, but is not limited to, individuals, agencies, dental or medical groups responsible for credentials verification, corporations, companies, employers, former employers, hospitals, health plans, health maintenance organizations, managed care organizations, law enforcement or licensing agencies, insurance companies, educational and other institutions, military services, medical credentialing and accreditation agencies, professional medical societies, the Federation of State Medical Boards, the American Association of Dental Boards, the National Practitioner Data Bank, and the Health Care Integrity and Protection Data Bank.

2. PLATFORM ACCESS AND PERMITTED USES

2.1 *Access.* Subject to the terms of the Agreement and upon payment of the applicable Credentialing Subscription Fee, SKYGEN USA grants to You and Your Authorized Users a limited, non-exclusive, non-transferable, non-sublicensable right during the Term of the Agreement to access and use the Platform to view and download Credentialing Files regarding Healthcare Professional on Your My Providers List, solely for use in connection with Your Credentialing Activities and/or Your other internal business purposes relating to Healthcare Professional Participation (“**Authorized Uses**”). Upon Your acceptance of the Agreement, SKYGEN USA will review Your subscription request and in its sole discretion, approve or deny access to the Service. If You are approved, SKYGEN USA or its designated agent will provide You and Your Authorized Users with unique user ID and password information to allow You and Your Authorized Users to access the Platform (“**Platform User ID and Password**”). You shall also comply with the security requirements set forth below.

2.2 *License to Credentialing Files.* Subject to the terms of the Agreement and in connection with the foregoing grant of rights to access and use the Platform, SKYGEN USA further grants to Subscriber and its Authorized Users an irrevocable, perpetual, non-exclusive, unlimited, worldwide, fully-paid, transferable and sublicensable license to use, copy, modify, and disclose the Credentialing Files downloaded from the Platform by an Authorized User during the Term of the Agreement, and any Credentialing Information and Intellectual Property contained therein (“**SKYGEN USA Property**”), solely for use in connection with the Authorized Uses. Credentialing Files made available through the Platform during the Term may be updated by SKYGEN USA, Provider Groups, and/or by Subscribers from time to time. Access shall be available only for Subscribers to the Credentialing Files regarding those Healthcare Professional Users who have provided to SKYGEN USA general approval for such access by Platform Subscribers and not indicated that a specific Subscriber is not so approved, and have fully completed the Credentialing File. Credentialing Files will be available for download in pdf, extensible markup language (xml) format, or via a web service application programming interface (api). **The Credentialing File format is not specific to any Subscriber formatting requirements.**

2.3 *Usage Restrictions.* Except as otherwise provided under the terms of the Agreement, Subscriber agrees that it will not, and it will not permit any Authorized User to: (a) make the Platform or any Credentialing Files available to any third party; (b) sell, resell, license, distribute, loan, outsource or otherwise transfer any SKYGEN USA Property to any third party; (c) modify or alter any Credentialing Information; or (d) use the Platform, Credentialing Files or Credentialing Information except as expressly allowed under the Agreement. Notwithstanding anything to the contrary herein, Subscriber is permitted to use certain Credentialing Information contained in the Credentialing Files, including, but not limited to, Healthcare Professional name, practice location, office phone number, healthcare or dental specialty, if any, and education (“**Directory Information**”), to populate and update Subscriber’s Directory and to disclose Directory Information to Subscriber’s Networks members to assist them in finding a Healthcare Professional that participates in Subscriber’s Networks.

2.4 *Ownership.* Access to and use of the SKYGEN USA Property is licensed and not sold. Subscriber shall not, by virtue of the Agreement or otherwise, acquire any rights whatsoever in the any SKYGEN USA Property aside from the limited access rights granted herein, and Subscriber hereby expressly disclaims any other rights therein. As between the parties, SKYGEN USA shall have and retain all right, title and interest in and to the SKYGEN USA Property. Provided, however, Subscriber shall own all rights in and to any modifications, enhancements, revisions, updates and upgrades made to the SKYGEN USA Property, or derivative works incorporating any of the foregoing. You may not use any SKYGEN USA Marks for any commercial purposes, except that You may use and publish SKYGEN USA Marks on Your website or in materials solely to promote Your participation in the Service, and solely in compliance with all usage and quality instructions from SKYGEN USA. SKYGEN USA shall have the right to monitor Your use of SKYGEN USA Marks, and You shall modify such use upon SKYGEN USA’s reasonable request.

2.5 *My Providers List.* Subscriber’s My Providers List of Healthcare Professionals will be developed and updated as follows:

- (a) Subscriber may use the SKYGEN USA Site (or otherwise interact with the Platform, as agreed by the parties or permitted by the procedures posted on the SKYGEN USA Site) to search for and identify those Healthcare Professionals who have authorized access to the Healthcare Professional’s Credentialing File, have not excluded Subscriber from such authorization, and for whom Subscriber desires to purchase a Credentialing Subscription. Subscriber will select the Healthcare Professionals’ names and the names selected will be stored on Subscriber’s “My Providers” List.

- (b) Subscriber may update its My Providers List at any time to add or delete for Healthcare Professionals, as set forth in the updating procedures posted on the SKYGEN USA Site, or as otherwise agreed by the parties.
- (c) Subscriber will pay the annual Credentialing Subscription Fee (defined below) established by SKYGEN USA for each Healthcare Professional on the My Providers List.
- (d) Once Subscriber has added a Credentialing Subscription for a Healthcare Professional to the My Providers List, Subscriber may access and download the Healthcare Professional's Credentialing File an unlimited number of times during the one year period of the Credentialing Subscription.
- (e) For each Healthcare Professional on Subscriber's My Providers List, Subscriber may indicate whether the Credentialing File Subscription will automatically renew year-to-year by so indicating as instructed in the Platform.
- (f) Subscriber understands that Subscriber can only access Credentialing Files for Healthcare Professionals on the My Providers List for whom Subscriber has an active Credentialing Subscription.

2.6 *Training and Support.* SKYGEN USA will provide telephone support for Authorized Users regarding access to and use of the Platform and accessing of Credentialing Files, during regular business hours.

3. SUBSCRIBER'S CREDENTIALING ACTIVITIES

Credentialing Information and Credentialing Files supplied by the Service has not had primary source verification. Subscriber is solely responsible for its Credentialing Activities including, but not limited to, querying the National Practitioner Data Bank, conducting any criminal background checks, and verifying and otherwise validating any Credentialing Information contained in Credentialing Files, each as deemed appropriate by Subscriber. Subscriber is solely responsible for any decisions to deny or to permit Healthcare Professional Participation.

4. CREDENTIALING SUBSCRIPTION PROCESS

Subscriber will pay SKYGEN USA the annual fee established by SKYGEN USA for each Healthcare Professional on Subscriber's My Providers List (the "**Credentialing Subscription Fee**"). The annual Credentialing Subscription Fee will be the stated rate as listed on the SKYGEN USA Site or as otherwise agreed to in writing by both parties. SKYGEN USA may adjust the annual Credentialing Subscription Fee from time to time, upon at least 90 days' notice to Subscriber, applicable prospectively for new and renewed Credentialing Subscriptions.

- (a) Each Credentialing Subscription entitles Subscriber to one year of unlimited access to the Healthcare Professional's Credentialing File through the Platform, unless access is specifically denied by the Healthcare Professional.
- (b) If Subscriber indicates it wishes a Credentialing File Subscription to automatically renew year-to-year by so indicating as instructed in the Platform, Subscriber's Credentialing Subscription for that Healthcare Professional will automatically renew from year to year, and Subscriber will be charged the Credentialing Subscription Fee for each successive year.
- (c) Subscriber will be billed Credentialing Subscription Fees monthly for each new or renewed Credentialing Subscription for a Healthcare Professional on Subscriber's My Provider List. Payments are due within 30 days of Subscriber's receipt of the invoice. Upon at least 30 days' prior notice to Subscriber, SKYGEN USA may implement an automatic payment system through the Platform, through which the Credentialing Subscription Fee will automatically be charged to a credit card or ACH as designated by Subscriber, or to a pre-funded amount designated by Subscriber held on account. You hereby authorize us to make withdrawals from Your ACH Account, charge Your credit card, or both, for all Credentialing Subscription Fees, and other costs

incurred by us in obtaining payment owed to us under the Agreement, until You cancel such authority in writing. You must notify us in writing if You dispute any ACH withdrawal or credit card charge made by us for payment of Credentialing Subscription Fees within 60 days after the applicable withdrawal.

- (d) Credentialing Subscription Fees are not refundable or prorated for partial years for any reason, including in the event a Healthcare Professional ceases to be a Healthcare Professional User as defined in this Subscription Agreement, a Healthcare Professional no longer participates in Subscriber's network, a Healthcare Professional denies Subscriber access to his or her Credentialing File, or the Agreement terminates for any reason.
- (e) Subscriber understands and agrees that SKYGEN USA may suspend access to the Platform if Subscriber fails to pay the Credentialing Subscription Fees as required by the Agreement or if Subscriber does not comply with terms of the Agreement.

5. TERM AND TERMINATION

5.1 *Term.* The Agreement is effective the date it is accepted (electronically or in writing) by the Subscriber for an initial term of one (1) year (the "**Initial Term**"), and shall automatically renew from year to year unless terminated as set forth below (each successive term is a "**Renewal Term**").

5.2 *Termination.* Either party may terminate the Agreement with or without cause upon 30 days' prior written notice to the other party.

5.3 *Automatic Termination.* The Agreement will automatically and immediately terminate for any of the following reasons:

- (a) The dissolution, insolvency, or loss of any required state licensure of Subscriber or SKYGEN; or
- (b) The enactment of any federal or state legislation or regulation, or the written opinion of any federal or state court, which either party reasonably believes prohibits the continuance of the Agreement.

5.4 *Effect of Termination.* Upon termination of the Agreement for any reason, (a) Subscriber's and its Authorized User's rights to access and use the Platform shall immediately and automatically terminate, and Subscriber and its Authorized Users shall cease all access and use of the Platform and any of Intellectual Property related thereto; and (b) Subscriber may retain any copies of SKYGEN USA Property that it or its Authorized Users have previously downloaded from the Platform prior to termination of the Agreement, provided that all continuing use of such SKYGEN USA Property remains subject to the terms of the license grant set forth in Section 2.2 and the usage restrictions set forth in Section 2.3 of this Subscriber Agreement, each of which shall survive the termination of the Agreement for any reason. This termination shall not release SKYGEN USA or Subscriber from obligations under the Agreement that accrued prior to the date of termination or from those obligations which, by their terms, survive termination.

6. SECURITY

6.1 *Notification Required of Subscriber.* In the event that Subscriber experiences an unauthorized use or disclosure involving individually identifiable information in Credentialing Information or Credentialing Files that is reportable to affected individuals or government officials under any applicable law, Subscriber will notify SKYGEN USA within five (5) days of discovery of such reportable unauthorized use or disclosure. Subscriber will identify each Authorized User to SKYGEN USA, and will promptly notify SKYGEN USA of any addition or deletion of an Authorized User. Subscriber is responsible for: (i) maintaining the strict confidentiality of its Platform User ID and

Password, (ii) not allowing unauthorized persons to use the Platform User ID and Password to access the Platform, and (iii) promptly informing SKYGEN USA of the need to deactivate any Platform User ID and Password due to suspected unauthorized use of such Platform User ID and Password, security concerns or other concerns.

6.2 *Security Practices*. Subscriber will follow industry best practices for computer security and information security to protect Credentialing Information and Credentialing Files, including implementing reasonable and appropriate administrative, technical, and physical safeguards for protection of Credentialing Information and Credentialing Files (and the individually identifiable information contained therein), and for all systems that access the Platform, or that store or process Credentialing Information and Credentialing Files (and the individually identifiable information contained therein), whether or not such systems are owned by Subscriber. Subscriber will implement those industry best practices and ensure that Subscriber and its Authorized Users use appropriate safeguards when they access, receive, process, store, use, disclose, or transmit Credentialing Information or Credentialing Files.

7. DISCLAIMER OF WARRANTIES

THE SERVICE IS PROVIDED “AS IS” AND “AS AVAILABLE”. SKYGEN USA MAKES NO WARRANTIES, WHETHER EXPRESS OR IMPLIED. AND ALL WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY EXCLUDED AND DISCLAIMED AS MORE PARTICULARLY SET FORTH IN THE PLATFORM TERMS OF USE. SUBSCRIBER ACKNOWLEDGES THAT ANY INFORMATION IT RECEIVES FROM THE PLATFORM, INCLUDING WITHOUT LIMITATION CREDENTIALING FILES, CREDENTIALING INFORMATION, AND/OR INFORMATION THAT A HEALTHCARE PROFESSIONAL HAS ENTERED INTO THE HEALTHCARE PROFESSIONAL CREDENTIALING PLATFORM, OR THAT HAS BEEN ENTERED BY OR PROVIDED TO SKYGEN BY SUBSCRIBERS OR OTHER THIRD PARTIES, HAS NOT BEEN VERIFIED BY EITHER SKYGEN OR ITS AGENTS OR SUBCONTRACTORS.

8. LIMITATIONS OF LIABILITY

8.1 *EXCLUSION OF SPECIAL DAMAGES*. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, AND AS FURTHER SET FORTH IN THE PLATFORM TERMS OF USE, NEITHER SKYGEN USA NOR ITS AFFILIATES SHALL, UNDER ANY CIRCUMSTANCES, BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY DAMAGES ARISING FROM LOSS OF USE OR LOST BUSINESS, REVENUE, PROFITS, DATA OR GOODWILL) ARISING IN CONNECTION WITH THE AGREEMENT, WHETHER IN AN ACTION IN CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR OTHER LEGAL THEORY, EVEN IF SUBSCRIBER IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

8.2 *LIMITATION OF LIABILITY*. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, NEITHER SKYGEN USA NOR ITS AFFILIATES AGGREGATE LIABILITY TO SUBSCRIBER, ITS AFFILIATES AND REPRESENTATIVES, FOR LIABILITIES, DAMAGES, LOSSES AND EXPENSES SHALL EXCEED THE TOTAL AMOUNT PAID BY SUBSCRIBER TO SKYGEN UNDER THE AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE OCCURRENCE OF THE EVENT GIVING RISE TO THE LIABILITIES, DAMAGES, LOSSES OR EXPENSES.

9. INDEMNIFICATION

Subscriber shall indemnify, defend, and hold harmless SKYGEN, its affiliates, subcontractors, suppliers, and assigns, and their officers, directors, employees, and agents, and each of them, as set forth in the Platform Terms of Use.

USE OF OUR PLATFORM AND ANY RELATED SERVICES ARE SUBJECT TO YOUR COMPLIANCE WITH THE TERMS SET FORTH IN ALL THE DOCUMENTS INCORPORATED INTO THE AGREEMENT. PLEASE READ THIS INFORMATION CAREFULLY. BY CLICKING “I AGREE” OR OTHERWISE INDICATING YOUR AGREEMENT, OR BY YOUR USING OUR PLATFORM, YOU ARE INDICATING THAT YOU AND YOUR COMPANY AGREE TO BE BOUND BY THE AGREEMENT, AND THAT YOU HAVE THE AUTHORITY TO BIND YOUR COMPANY. IF YOU DO NOT AGREE TO BE BOUND BY THE AGREEMENT, PROMPTLY EXIT THE PLATFORM.