

## DATA SHARING AGREEMENT

THIS DATA SHARING AGREEMENT made as of the 9<sup>th</sup> January 2019.

BETWEEN:

**TRILLIUM GIFT OF LIFE NETWORK**  
("TGLN")

with an address for notice purposes of:  
483 Bay St., South Tower,  
Toronto, ON  
M5G 2C9

- AND -

**BRUCE COUNTY PARAMEDIC SERVICES**

30 Park Street  
PO Box 70  
Walkerton, ON N0G2V0

### BACKGROUND

- A. TGLN is a not-for-profit agency of the Government of Ontario established under the *Trillium Gift of Life Network Act* (the "**TGLN Act**") that plans, promotes, coordinates and supports organ and tissue donation and transplantation across the Province of Ontario.
- B. TGLN is seeking to increase its number of tissue donor referrals by exploring alternative methods of receiving tissue donor referrals from its community-based partners. To assist in achieving this purpose, TGLN and Bruce County Paramedic Services are seeking to engage in a collaborative partnership to implement a paramedic service community-based death referral program.
- C. Pursuant to the TGLN Act, TGLN may enter into agreements with other persons to collect, use or disclose personal information for any purpose related to tissue donations or transplants, subject to the requirements of the Act. Any such agreement shall provide that the information collected, used or disclosed under it is confidential and TGLN shall establish mechanisms for maintaining the confidentiality of the information.
- D. In order to conduct the program, TGLN requires certain personal information, being PI (defined below) in Bruce County Paramedic Services custody and/or control.
- E. The parties wish to enter into this Agreement to set out the terms and conditions upon which Bruce County Paramedic Services will provide access to, and TGLN will access and use, the PI for the Purpose (defined below).

FOR VALUE RECEIVED, the parties agree as follows:

### 1. DEFINITIONS

- 1.1. "**Authorized Users**" has the meaning given to it in Section 5.1.
- 1.2. "**Confidential Information**" has the meaning given to in Schedule D.
- 1.3. "**paramedic**" means a paramedic employed or contracted by Bruce County Paramedic Service.
- 1.4. "**personal information**" has the meaning given to it in the TGLN Act.

- 1.5. **“Personal Information”** or **“PI”** means the Referred Information and the Reported Information, collectively.
- 1.6. **“PHIPA”** means the *Personal Health Information Protection Act, 2004* (Ontario), including the Regulations made thereunder and as amended from time to time.
- 1.7. **“PRC”** means TGLN’s Provincial Resource Centre.
- 1.8. **“Purpose”** has the meaning given to it in Section 2.1.
- 1.9. **“Referral Criteria”** has the meaning given to it in Section 6.2.
- 1.10. **“Referred Information”** has the meaning given to it in Schedule A.
- 1.11. **“Reported Information”** has the meaning given to it in Schedule A.
- 1.12. **“Term”** has the meaning given to it in Section 12.
- 1.13. **“TGLN Act”** has the meaning given to it in the Background.
- 1.14. **“Tissue”** means eye, skin, heart-valve, and/or bone tissue (including connective tissue).

## 2. PURPOSE OF THE DATA SHARING

- 2.1. The parties are entering into this Agreement to govern the disclosure by Bruce County Paramedic Services and collection and use by TGLN of the PI for a purpose related to tissue donations or transplants, specifically the **“Purpose”**, which is further detailed in Schedule B.

## 3. ACCESS AND SCOPE

- 3.1. Bruce County Paramedic Services grants TGLN with access to the PI during the Term for the Purpose subject to the terms and conditions of this Agreement.

## 4. AUTHORITY AND APPLICABLE LAW

- 4.1. Bruce County Paramedic Services will collect and disclose the PI pursuant to its authority under PHIPA.
- 4.2. TGLN will collect and use the PI pursuant to sections 8.19(1) and (2) of the TGLN Act.
- 4.3. Each of the parties acknowledges and agrees that this Agreement is intended in good faith to meet the requirements set out in all applicable legislation and regulations dealing with the protection of PI. The parties further acknowledge that they shall work together to ensure that any new or amended privacy legislation and regulations that may, in the future, be applicable to the activities governed by this Agreement are complied with.

## 5. OBLIGATIONS OF TGLN

- 5.1. TGLN shall:
  - a) limit access to the:
    - i. Referred Information to TGLN’s employees that work in TGLN’s PRC; and
    - ii. Reported Information to the TGLN employees identified in Schedule C, (collectively, the **“Authorized Users”**);
  - b) ensure that each Authorized User has access to the PI only to the extent that he/she requires access to carry out his/her obligations in support of the Purpose;

- c) require each Authorized User, prior to accessing any PI, to complete TGLN's privacy training with respect to his/her legal obligations relating to privacy;
- d) have in place effective administrative, technological and physical safeguards to stop theft, loss and unauthorized access, copying, modification, use, alteration, disclosure or disposal of PI that are consistent with industry practice. Without limiting the foregoing, TGLN shall ensure that the PI is, at all times maintained on a secure server in a physically secure and restricted location that is only accessible to Authorized Users or any other third party authorized by applicable law or this Agreement (if any). The same requirements apply to any copies of PI;
- e) without limiting any of the foregoing obligations, take reasonable steps to prevent any unauthorized collection, use or disclosure of the PI, including monitoring the activities of the Authorized Users to ensure that they are complying with the privacy, security and confidentiality obligations of this Agreement;
- f) ensure that PI is used and disclosed solely in accordance with the terms of this Agreement; and
- g) notify Bruce County Paramedic Services immediately in the event that it becomes aware that any of its obligations under this Section 5 have been, or are reasonably likely to have been, breached.

## 6. OBLIGATIONS OF BRUCE COUNTY PARAMEDIC SERVICES

6.1. Bruce County Paramedic Services shall:

- a) provide TGLN with the Referred Information where the Referral Criteria are met in accordance with Schedule A;
- b) provide TGLN with the Reported Information where the Referral Criteria are met in accordance with Schedule A; and
- c) remove any personal information that is unnecessary for the Purpose prior to disclosing it to TGLN.

6.2. The following criteria comprise the "**Referral Criteria**" unless otherwise changed and both parties agree in writing to the modifications:

- a) the decedent:
  - i. has been given a time of death outside of a hospital in Bruce County Paramedic Services' catchment area;
  - ii. is less than 76 years of age; and
  - iii. was last seen alive within 12 hours;
 (collectively, the "**Referral Criteria**").

## 7. PUBLICATION OF DATA

7.1. TGLN shall provide Bruce County Paramedic Services with an advance copy of any research arising from or in connection with the Purpose that it proposes to be published or presented to an external audience ("**Publication**"). Bruce County Paramedic Services shall have the right to review and provide comments on any Publication provided to it under this Section 7.1 within

seven (7) days of its receipt of same from TGLN. TGLN agrees to consider any comments provided by Bruce County Paramedic Services in respect of the Publication.

- 7.2. TGLN acknowledges and agrees not to include any identifying PI in any Publication.
- 7.3. Bruce County Paramedic Services shall not publish any research arising from or in connection with the Purpose without the prior written consent of TGLN, and acknowledges and agrees that any such publication shall not include any identifying PI.
- 7.4. To ensure consistency and accuracy in messaging, Bruce County Paramedic Services shall direct media notifications or questions related to the Purpose or this Agreement to [JLong@giftoflife.on.ca](mailto:JLong@giftoflife.on.ca), and Bruce County Paramedic Services will not communicate with the media regarding this Agreement or Purpose without obtaining the prior written consent of TGLN

## **8. CONFIDENTIAL INFORMATION**

- 8.1. Each of the parties agrees to comply with the confidentiality terms set out in Schedule D, and as otherwise required by any applicable legislation.

## **9. METHOD OF DATA SHARING**

- 9.1. Bruce County Paramedic Services will make the PI available to TGLN in accordance with Schedule A.
- 9.2. TGLN shall not, and will cause its Authorized Users to not, share access to PI with any other person, except as expressly permitted by this Agreement or permitted or required by applicable law.

## **10. THEFT, LOSS OR UNAUTHORIZED ACCESS OF PERSONAL INFORMATION**

- 10.1. In the event that TGLN becomes aware that PI has been stolen, lost or subject to unauthorized access, or has been used, disclosed or disposed of other than as contemplated by this Agreement, TGLN shall at the first reasonable opportunity, notify Bruce County Paramedic Services by email at [rlux@brucecounty.on.ca](mailto:rlux@brucecounty.on.ca) or alternate email identified by Bruce County Paramedic Services followed by written notice to the address listed on the first page of this Agreement to the attention of Paramedic Chief or designate, email: [\[sschaus@brucecounty.on.ca\]](mailto:sschaus@brucecounty.on.ca).
- 10.2. Bruce County Paramedic Services may require TGLN to provide it with details of any event(s) that give rise to notice provided by TGLN to Bruce County Paramedic Services under Section 10.1, with the scope of such obligation to be set by Bruce County Paramedic Services, acting reasonably.
- 10.3. Bruce County Paramedic Services may request a meeting between the two parties following any theft, loss or unauthorized use of PI as more fully described in Section 10.1, with the purpose of such meeting to discuss any remedial steps that TGLN will be required to take.
- 10.4. Bruce County Paramedic Services will direct privacy inquiries/breaches to [ABhogal@giftoflife.on.ca](mailto:ABhogal@giftoflife.on.ca).

## **11. OWNERSHIP OF PERSONAL INFORMATION**

11.1. Each of the parties acknowledges and agrees that, between the parties, Bruce County Paramedic Services is and shall remain the owner of the PI.

## **12. TERM AND TERMINATION**

12.1. This Agreement shall commence on the Effective Date and can be terminated in accordance with the terms of this Agreement (the “**Term**”).

12.2. Each of the parties acknowledges and agrees that either party will be entitled to immediately terminate this Agreement without further notice or penalty in the following circumstances:

- a) the failure of either party to carry out a material duty or obligation under this Agreement, which by default is not cured to the satisfaction of the non-defaulting party, acting reasonably, within five (5) days of providing notice in writing to the defaulting party detailing the nature of the default, except to the extent that a party breaches a material privacy or confidentiality obligation in which case the other party may terminate this Agreement immediately on written notice to the other party;
- b) the bankruptcy or insolvency of the other party or if the other party seeks the protection of any law for bankrupt or insolvent debtors;
- c) either party giving the other no less than 90 days written notice of its intent to terminate; and
- d) the mutual agreement of both parties to this Agreement.

## **13. INDEMNITY AND LIMITATION OF LIABILITY**

13.1. TGLN agrees to defend, indemnify and save Bruce County Paramedic Services harmless from all loss, cost, claim, suit, expense, judgment or damages in any way resulting or arising from the failure of TGLN (or anyone for whom TGLN is responsible at law) to comply with its obligations under this Agreement or its statutory obligations relating to this Agreement, together with all legal expenses and costs incurred by Bruce County Paramedic Services in defending any legal action pertaining to the above

13.2. No party shall be liable for any indirect, special, incidental or consequential damages, or for punitive or exemplary damages, even if that party has been advised of the possibility of such loss or damage in advance. The foregoing disclaimer of liability shall apply regardless of whether such liability is based on breach of contract, tort (including without limitation negligence), strict liability, breach of a fundamental term, fundamental breach, or otherwise.

## **14. INSURANCE**

14.1. During the term, each of the parties shall maintain in full force and effect general insurance that is at least commensurate to the nature and scope of the activities it is carrying out under this agreement.

14.2. Each party shall provide evidence of the insurance required to be held by this Section 14 to the other party upon request.

## **15. AMENDING PROCEDURES**

15.1. This Agreement may be amended by the written agreement of the parties herein. In order to be valid, any amendment to this Agreement must comply with applicable law.

## 16. CHANGES THAT AFFECT THE AGREEMENT

- 16.1. Each of the parties undertakes to give the other party written notice of any changes in legislation, regulations or policies that come into that party's knowledge and are relevant to this Agreement.

## 17. GENERAL

- 17.1. **Assignment.** Neither party will be entitled to assign this Agreement without the prior written consent of the other party.
- 17.2. **Governing Law.** This Agreement will be governed by and interpreted in accordance with the laws of the Province of Ontario.
- 17.3. **Notices.** All notices under this Agreement shall be in writing (including, without limitation, fax, and letter communications) and shall be delivered by personal delivery/courier, fax or registered mail to the other party, care of its CEO/Chief, at its address indicated on the first page. The notice shall be deemed to have been delivered on the day of personal delivery, on the day received by fax (as evidenced by a transmission confirmation), or on the fifth day following mailing.
- 17.4. **Severability.** Each of the provisions contained in this Agreement is distinct and severable. Any declaration by a court of competent jurisdiction of the invalidity or unenforceability of any provision, or part of a provision, will not affect the validity or enforceability of any other provision of this Agreement.
- 17.5. **Waiver.** The failure of either party to insist upon strict performance of any terms and conditions or to exercise any of its rights set out in this Agreement shall not constitute a waiver of these rights, and these rights shall continue in full force and effect.
- 17.6. **Entire Agreement.** This Agreement, including Schedules A, B, C and D, contains all of the agreements, representations and understanding of the parties and supersedes and replaces any and all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof.
- 17.7. **Independent Legal Advice.** Each party confirms that, prior to the execution of this Agreement, it had a full and complete opportunity to obtain independent legal advice and representation and that it has either done so or has freely chosen not to obtain such advice.
- 17.8. **Relationship of Parties.** Nothing contained herein shall be deemed or construed to create among the parties a partnership or employment or principal-agent relationship or joint venture. No party shall have the authority to act on behalf of another party or to bind another party in any manner, except as expressly agreed in writing between the parties.
- 17.9. **Counterparts.** This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.

IN WITNESS WHEREOF this Agreement, the parties have executed this Agreement as of the day and year first written above.

**TRILLIUM GIFT OF LIFE NETWORK**

**BRUCE COUNTY PARAMEDIC SERVICES**

Per: \_\_\_\_\_

Name: Ronnie Gavsie  
Title: President and CEO

I have authority to bind the corporation

Per: \_\_\_\_\_

Name: Steve Schaus  
Title: Director/Chief Paramedic Services

I have authority to bind the service

**SCHEDULE A  
PERSONAL INFORMATION (PI)**

Referred Information

1. Where a decedent meets the Referral Criteria, Bruce County Paramedic Services shall disclose the following PI of the decedent to TGLN:
  - i. Name;
  - ii. Date of Birth;
  - iii. Gender;
  - iv. Health Card #;
  - v. Next of kin information;
  - vi. Course of events/ circumstances of death;
  - vii. Last time seen alive;
  - viii. Pronounced time of death;
  - ix. Medical history;
  - x. Time coroner's dispatch was notified; and
  - xi. List of any medications/ fluids give on scene,

(collectively, the "**Referred Information**").

2. Wherever possible, the Referred Information shall be disclosed by Bruce County Paramedic Services to TGLN within two (2) hours of the pronounced death of the decedent to whom the Referred Information relates.
3. Bruce County Paramedic Services shall disclose the Referred Information to TGLN verbally by calling such information in to TGLN's PRC at 416-363-4438 or 1-877-363-8456. To the extent that Referred Information comes into the custody and/or control of Bruce County Paramedic Services following the initial disclosure under paragraph 2, Bruce County Paramedic Services may fax the outstanding Referred Information to the PRC at: 416-304-7729.

Reported Information

1. Bruce County Paramedic Services shall provide TGLN with a monthly report ("**Report**") of all calls responded to by Bruce County Paramedic Services in respect of decedents who meet the Referral Criteria for the applicable month. The monthly report shall include the following information:
  - i. Name;
  - ii. Date of Birth;
  - iii. Gender; and
  - iv. Health Card #,

(collectively, the "**Reported Information**").

2. The Reported Information shall be submitted by Bruce County Paramedic Services to TGLN within ten (10) days of the end of the month to which the Report relates.
3. The Reported Information shall be disclosed by Bruce County Paramedic Services to TGLN in an encrypted email at: EMSreferrals@giftoflife.on.ca or other secured means to be determined by both parties.

4. Upon its receipt of the Reported Information, TGLN will compare such information to the Referred Information for the same month in order to determine Bruce County Paramedic Services' compliance with its referral obligations under this Agreement, and TGLN will prepare a report on compliance. This report on compliance will not contain PI and will be sent to Raymond Lux [[rlux@brucecounty.on.ca](mailto:rlux@brucecounty.on.ca)] or alternate email identified by Bruce County Paramedic Services.

## **SCHEDULE B PURPOSE**

As stated in the body of this Agreement, TGLN will collect and use PI for the purpose of this Agreement. Further details are included below

The Agreement has three general objectives:

1. To obtain information on new, potential tissue donors.
2. To utilize the information received on potential tissue donors to:
  - Determine donor suitability.
  - Discuss relevant case details and medical history with investigating coroners and paramedic staff.
  - Access the registry to determine donation decision.
  - Obtain authorization for tissue donation from the investigating coroner or reason(s) for tissue restriction.
  - Approach families for consent in all suitable cases.
  - Coordinate tissue recovery for all consented donors.
3. To evaluate the following metrics:
  - Referral rate-percentage of referrals made by Bruce County Paramedic Services to TGLN under this Agreement, regardless of the suitability of such referrals.
  - Approach rate-percentage of medically suitable cases that are approached for donation by TGLN.
  - Consent recovered rate-percentage of cases that are consented in response to TGLN's approach.
  - Consent not recovered rate-percentage of consented cases where recovery is not completed due to medical suitability, lack of recovery resources, or coroner restrictions.
  - Donors - the number of cases that move forward to donation.

**SCHEDULE C**  
**RECIPIENTS OF REPORTED INFORMATION**

1. Marco Raggi; Community Program Coordinator, and
2. Brent Browett, Director, Tissue Program.

TGLN may amend this Schedule C upon written notice to Bruce County Paramedic Services.

**SCHEDULE D**  
**CONFIDENTIAL INFORMATION**

1. The parties may wish to disclose to each other their own information, in whatever media or form, whether written or oral, that is either non-public, confidential or proprietary in nature, in connection with the agreement (“**Confidential Information**”). All Confidential Information will remain the property of the disclosing party. Each of the parties agrees that any Confidential Information disclosed to its personnel and to the extent permitted by this Agreement, subcontractors, will be: (i) used only in connection with the fulfillment of its obligations in performing this Agreement, (ii) disclosed on a need-to-know basis and (iii) held in confidence to the same extent that each of the parties hold its own information of a similar nature in confidence. Confidential Information shall not be disclosed by a receiving party to third parties without the consent of the disclosing party or as permitted under this Agreement. To the extent that Confidential Information is disclosed by a receiving party in accordance with this paragraph, the receiving party shall ensure that the individual or entity to whom the Confidential Information is being disclosed is bound by confidentiality terms in respect of such information no less stringent than those imposed by the parties herein.
2. With the exception of Confidential Information that is personal information:
  - 2.1. The obligations of confidentiality set forth in this Schedule shall not apply to information that would otherwise be Confidential Information that:
    - i. is documented as being known to the receiving party by receiving party’s own sources or in the receiving party’s possession at the time of disclosure;
    - ii. is or later becomes part of the public domain through no fault of the receiving party;
    - iii. is lawfully received from a third party having no obligations of confidentiality to the disclosing party;
    - iv. can be documented to have been independently developed by the receiving party without any reference to Confidential Information; or
    - v. is published in accordance with this Agreement.
  - 2.2. Confidential Information may also be disclosed to the extent required by law, regulation or legal process, provided that the receiving party requested to make such disclosure of the disclosing party’s Confidential Information gives, to the extent possible, advance notice of same so that disclosing party may seek a protective order. The receiving party shall take all reasonable steps to limit the scope of such disclosure to only include that portion that is required by law to be disclosed, and reasonably cooperate with disclosing party in its efforts to limit such disclosure.
  - 2.3. Upon written request of the disclosing party, the receiving party agrees to return to the disclosing party or destroy (at disclosing party’s option) all copies of Confidential Information upon termination or expiry of this Agreement; provided, however, that the receiving party shall be entitled to retain archival copies of all Confidential Information solely to ensure compliance with its right.