

UT Southwestern EpicCare Link Site Agreement

This UT Southwestern EpicCare Link Site Agreement (“**Agreement**”) is made and entered into as of _____ by and between _____ (“**Outside Entity**”) whose address is _____ and The University of Texas Southwestern Medical Center, an agency of the State of Texas, located at 5323 Harry Hines Boulevard, Dallas, Texas 75390 (“**UT Southwestern**”). Outside Entity and UT Southwestern are collectively referred to as the “**Parties**” or individually as a “**Party**.”

RECITALS

WHEREAS, Outside Entity is a:

- Provider** currently involved in the care and treatment of patients who have received care or treatment at a UT Southwestern facility;
- Research Sponsor** currently involved in conducting a research study, which may include a pharmaceutical product, biological product, device or diagnostic agent through certain clinical research (the “**Study**”) at a UT Southwestern facility;
- Payor Organization** that operates various health plans in a manner consistent with the laws of the State of Texas and the United States for the provision of covered services to persons enrolled as members in such plans (“**Beneficiaries**”), and whose Beneficiaries have received care or treatment at a UT Southwestern facility; or
- Contracted Vendor** engaged by UT Southwestern or a UT Southwestern affiliate to provide certain services (e.g. treatment, payment, health care operation and/or population health services).

WHEREAS, the Parties wish to state the terms and conditions under which Outside Entity will be given access to health information of (i) current patients of the Outside Entity and/or UT Southwestern, or (ii) research participants enrolled in a Study, as applicable, through the EpicCare Link software, a secure electronic database of protected health information (PHI) owned by UT Southwestern, which is needed by the Outside Entity to (i) provide further care to its patients, (ii) ensure the quality and safety of the Study, (iii) assist in the review and processing of claims for Beneficiaries’ care or treatment or (iv) fulfill its contractual duties to UT Southwestern or a UT Southwestern affiliate.

NOW THEREFORE, in consideration of the mutual promises of the Parties hereto, and of the covenants and conditions hereinafter expressed, the Parties hereby agree and covenant, each with the other, as follows:

AGREEMENT

1. THE PROGRAM.

1.1 The Program. UT Southwestern owns and maintains a secure electronic database of confidential patient information, including but not limited to clinical and hospital treatment records, physician notes, laboratory and imaging records, patient demographic information, insurance and third

party payor information and other information regarding UT Southwestern patients (the “**Electronic Health Record**” or “**EHR**”). EpicCare Link is a web-based application used by UT Southwestern to give healthcare providers secure access to select patient information in UT Southwestern’s EHR. The EHR and the EpicCare Link software shall be collectively referred to herein as the “**Program**.” UT Southwestern reserves the right to (i) modify or discontinue the Program or Outside Entity’s access to the Program, or (ii) terminate this Agreement at any time for any reason.

1.2 Grant of Limited Use. Outside Entity is granted the right to access the Program for the following sole and limited purpose:

a. If Provider: Outside Entity may obtain health information about care or treatment received by Outside Entity’s patients from UT Southwestern which is necessary for Outside Entity’s current treatment of the patient for whom the information is sought.

b. If Research Sponsor: Outside Entity may obtain health information about care or treatment received by clinical research participants enrolled on a certain Study, and in accordance with a study-specific Clinical Trial Agreement or Statement of Work.

c. If Payor Organization: Outside Entity may obtain health information about care or treatment received by Outside Entity’s Beneficiaries from UT Southwestern which is necessary for Outside Entity to conduct appropriate care coordination/medical management services, review and process claims, provide payment or reimbursement for UT Southwestern’s services, or to fulfill Outside Entity’s coverage responsibilities and provide benefits under the plan.

d. If Contracted Vendor: Outside Entity may obtain health information about care or treatment of UT Southwestern patients which is necessary for Outside Entity to fulfill its contractual obligations, as documented in a written agreement or Statement of Work, with UT Southwestern and/or UT Southwestern affiliate.

All other use of the Program is strictly prohibited. Any other patient information sought by Outside Entity shall be obtained under the standard patient information release practices and procedures of UT Southwestern and in accordance with applicable laws. Outside Entity’s access to the Program is subject to audit and review at any time by UT Southwestern.

1.3 No Maintenance or Support to Program. No technical or administrative support shall be provided to Outside Entity relative to its use of the Program.

2. OUTSIDE ENTITY OBLIGATIONS.

2.1 Outside Entity Access. Program access is managed by UT Southwestern Information Resources. Outside Entity shall identify users whom it shall authorize to access the Program on its behalf (“**User**”) under the Agreement by submitting an EpicCare Link Access Request Form. Outside Entity shall also have each User agree to UT Southwestern’s Security and Confidentiality Agreement (in the form of **Exhibit A** attached hereto). A confidential User ID and temporary password shall then be assigned to each User.

2.2 Sharing of Passwords Prohibited. Outside Entity shall protect the confidentiality of User IDs and passwords consistent with the requirements detailed in the Confidentiality and Security Agreement, Texas Law, and the Health Insurance Portability and Accountability Act of 1996 as amended

("HIPAA"). Further, Outside Entity shall not divulge such confidential IDs and/or passwords to any other persons and shall be responsible for the use of passwords issued to its designated Users.

2.3 Notification of Compromised Password. In the event that a password assigned to a User is compromised or disclosed to a person other than the user, Outside Entity shall immediately notify UT Southwestern (as set forth in Section 5.6) so actions can be taken to limit access by that password and to issue a new password to the User as appropriate.

2.4 Termination of Access. Outside Entity shall immediately notify UT Southwestern (as set forth in Section 5.6) in the event any User (i) ceases to be employed or associated with the Outside Entity, (ii) experiences a change in job function that no longer requires access to the Program, and/or (iii) no longer requires access for any other reason as determined by Outside Entity. Unless and until UT Southwestern receives proper notification, Outside Entity remains responsible for such User's actions in accessing the Program and using the obtained information.

2.5 Outside Entity Training Requirement. Outside Entity shall provide annual training to its User on issues related to information security and patient confidentiality. Outside Entity shall maintain written records evidencing such annual training and provide copies to UT Southwestern upon request.

2.6 Designated Site Administrator. Outside Entity shall designate a single point of contact at the Outside Entity ("**Site Administrator**") for the Program, and who shall also be responsible for notifying UT Southwestern (as set forth in Section 5.6) of any events indicated in Sections 2.3, 2.4 and 3.5.

3. OWNERSHIP; CONFIDENTIALITY; REPORTING.

3.1 Ownership. No rights to the Program or patient information contained therein are transferred to the Outside Entity under this Agreement. Outside Entity understands it will be obtaining access to a component of the computer resources of The University of Texas System (UT System). These resources, including all related equipment, networks, and network devices, are provided only for authorized use. All data residing on any component of this system is the property of the State of Texas and is protected by the Texas Public Information Act.

3.2 Accessing, Using and Disclosing PHI.

a. Outside Entity may only make paper copies of Program medical records which are necessary and essential for the sole purposes as defined in Section 1.2. Such copies shall be maintained, protected and destroyed in the same manner as the Outside Entity maintains, protects and destroys other PHI in its possession.

b. Outside Entity shall not use or disclose any medical records obtained from the Program for any purpose other than the purposes defined in Section 1.2, except as otherwise permitted in this Agreement and as set forth by Section 3.3.

c. Outside Entity shall not rewrite or otherwise alter, destroy, circumvent or sabotage the Program or the electronic medical records and documents stored and maintained in the Program.

d. Outside Entity shall not access, use or disclose any information contained in the Program for any purpose with the intent to harm the reputation of UT Southwestern.

3.3 Medical Records Confidential. The Parties recognize that the medical records maintained in the Program are subject to various state and federal privacy laws and regulations, including but not limited to HIPAA and the Health Information Technology for Economic and Clinical Health Act (HITECH). UT Southwestern and Outside Entity are under an obligation to maintain the confidentiality of such records. Outside Entity shall not disclose information from such records except to: (i) other physicians and personnel under the direction of the Outside Entity who are participating in the treatment of respective patients; (ii) an Outside Entity's designee under the direction of the Outside Entity who is participating in or supporting a certain Study; (iii) entities involved with the payment or collection of fees for medical services rendered by the Outside Entity; (iv) to other persons or entities as to whom such disclosure is required by law; and (v) upon obtaining the patient's written consent, in accordance with applicable law.

3.4 Indemnification. Outside Entity shall indemnify and hold harmless UT Southwestern and the University of Texas System, and their respective Regents, officers, directors, employees, representatives and agents from and against any claims, demands, suits, judgments, costs and expenses that may be made or taken against UT Southwestern as a result of any unauthorized access, use or disclosure of any Program information (including but not limited to PHI) by Outside Entity and/or any of its designated Users, employees, agents or representatives or utilized through passwords issued to their Users.

3.5 Reporting. If the Outside Entity discovers an unauthorized access, use or disclosure of PHI by Outside Entity, any designated User or as a result of a compromised ID and/or password issued to a User, Outside Entity shall notify UT Southwestern within two (2) days of discovery as set forth in Section 5.6. Outside Entity shall be considered to have discovered such unauthorized activity as of the first day on which the unauthorized activity is known or by exercising reasonable diligence would have been known to the Outside Entity. Such notice shall include identification of each individual whose unsecured PHI has been or is reasonably believed by Outside Entity to have been accessed, acquired or disclosed during such unauthorized activity. If UT Southwestern determines the unauthorized activity by Outside Entity or its agent or employee qualifies as a "Breach" (as defined by 45 C.F.R. §164.402) that triggers the breach notification requirements, then the Outside Entity will reimburse UT Southwestern for all costs incurred by UT Southwestern to notify individuals affected by such Breach. UT Southwestern, in its sole discretion, shall make the determination of whether or not the definition of "Breach" (as set forth in 45 C.F.R. §164.402) has been met. Additionally, UT Southwestern may, in its sole discretion, terminate this Agreement and terminate Program access to Outside Entity. Outside Entity agrees to promptly and fully cooperate with UT Southwestern in any investigation of suspected breach of patient confidentiality.

3.6 Additional Legal Remedies for Prohibited Acts. Should Outside Entity or any contractor, agent, employee or designated User access, use or disclose any data, patient information or other information stored or maintained in the Program for any purpose not authorized by this Agreement, UT Southwestern may unilaterally and immediately terminate the access to the Program by Outside Entity and seek such legal and/or equitable relief as UT Southwestern deems appropriate.

4. DISCLAIMERS.

4.1 Disclaimer of Warranties. Outside Entity understands that the Program may not be available all the time due to system failures, back-up procedures, maintenance, or other causes beyond the control of UT Southwestern. Access is provided on an "as-is, as-available" basis and does not guarantee that Outside Entity will be able to access the Program at any particular time. OUTSIDE ENTITY UNDERSTANDS THAT UT SOUTHWESTERN TAKES NO RESPONSIBILITY FOR AND DISCLAIM ANY AND ALL

LIABILITY ARISING FROM ANY INACCURACIES OR DEFECTS IN SOFTWARE, COMMUNICATION LINES, VIRTUAL PRIVATE NETWORK, THE INTERNET OR OUTSIDE ENTITY'S INTERNET SERVICE PROVIDER (ISP), ACCESS SYSTEM, COMPUTER HARDWARE OR SOFTWARE, OR ANY OTHER SERVICE OR DEVICE THAT OUTSIDE ENTITY USES TO ACCESS THE PROGRAM.

FURTHER UT SOUTHWESTERN MAKES NO REPRESENTATION, WARRANTY OR GUARANTY, EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH REGARD TO THE PROGRAM SUPPLIED TO PRACTICE PURSUANT TO THIS AGREEMENT. SHOULD THE PROGRAM FAIL OR BE INACCURATE, UNDER NO CIRCUMSTANCES SHALL UT SOUTHWESTERN BE LIABLE FOR ANY LOSS OF PROFITS TO OUTSIDE ENTITY OR FOR SPECIAL, CONSEQUENTIAL, EXEMPLARY OR ANY OTHER DAMAGES, EVEN IF UT SOUTHWESTERN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

5. GENERAL PROVISIONS.

5.1 Term and Termination. The term of this Agreement shall begin upon execution by both Parties and shall continue until terminated by either Party by providing thirty (30) days prior written notice.

5.2 Conformance with Law. The Parties recognize that this Agreement is subject to, and they agree to comply with, applicable local, state and federal statutes, rules and regulations. Without limiting the foregoing, the Parties understand and agree that this Agreement may be subject to the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**"), the administrative regulations and/or guidance which have been issued or may in the future be issued pursuant to HIPAA, including but not limited to the Department of Health and Human Services regulations on privacy and security, the Health Information Technology for Economic and Clinical Health Act, Texas state laws pertaining to medical privacy and other applicable federal or state privacy or security statutes, rules or regulations (collectively, "**Privacy Laws**"). Any provisions of applicable statutes, rules or regulations, including the Privacy Laws, that invalidate any term of this Agreement, that are inconsistent with any term of this Agreement or that would cause one or more of the Parties hereto to be in violation of law shall be deemed to have superseded the terms of this Agreement; provided, however, that the Parties shall use their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of applicable statutes, rules and regulations, and negotiate in good faith toward amendment of this Agreement in such respect.

5.3 Availability of Books and Records. Outside Entity agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from UT Southwestern available UT Southwestern and to the Secretary of the U.S. Department of Health and Human Services for purposes of determining UT Southwestern's and Outside Entity's compliance with the HIPAA standards. Outside Entity promptly shall provide to UT Southwestern a copy of any documentation that Outside Entity provides to the Secretary.

5.4 Governing Law and Venue. This Agreement shall be construed and governed according to the laws of the State of Texas, without giving effect to its conflict of laws provisions. Any suit, action or proceeding with respect to this Agreement, or any judgment entered by any court in respect thereof may be brought in the Courts of the State of Texas, County of Dallas, or in the United States courts located in the State of Texas, and the Parties hereby submit to the non-exclusive jurisdiction of such courts for the purpose of any such suit, action or proceeding.

5.5 Assignment. Outside Entity may not assign this Agreement.

5.6 Notices. Notice for reporting of potential privacy breaches/unauthorized use of the Program or information shall be given to:

UT Southwestern Privacy Office: (214) 648-6080

For matters relating to Program use, authorization and termination; password assignment and/or revocation:

UT Southwestern Information Resources (IR) Service Desk: (214) 648-7600

Except as provided above, any notice to a Party hereto pursuant to this Agreement shall be given in writing by personal delivery, overnight delivery, facsimile, telecommunications or United States certified or registered mail, return receipt requested, addressed as follows:

If to Outside Entity: _____

Copy to: _____

If to UT Southwestern: Executive Vice President for Health System Affairs
The University of Texas Southwestern Medical Center
5323 Harry Hines Boulevard
Dallas, TX 75390-9131

With copy to: Legal Contract Services
The University of Texas Southwestern Medical Center
5323 Harry Hines Boulevard
Dallas, TX 75390-9056

The Parties shall hereafter notify each other in writing in accordance herewith of any change of address to which notice is required to be sent.

5.7 Survival of Obligations. All privacy and confidentiality obligations under this Agreement shall survive termination of this Agreement.

5.8 Entire Agreement. This Agreement, including any exhibits or addenda identified and incorporated by reference herein, contains the entire understanding of the Parties and supersedes any prior written or oral agreements or understandings among them concerning the subject matter set forth herein. There are no representations, warranties, covenants, promises, agreements, arrangements or understandings, oral or written, express or implied, among the Parties hereto relating to the subject matter set forth herein which have not been fully expressed herein.

5.9 Amendments. This Agreement can be amended only by an instrument in writing signed by the Parties. Amendments to this Agreement shall be effective as of the date stipulated therein.

5.10 Counterparts. This document may be executed in multiple counterparts, each of which when taken together shall constitute but one and the same instrument.

[Signature Page Follows]

OUTSIDE ENTITY

**UNIVERSITY OF TEXAS
SOUTHWESTERN MEDICAL CENTER**

Name: _____
Title: _____
Date: _____

Name: William Ward
Title: Sr Manager, Legal Contract Services
Date: _____

EXHIBIT A

Security and Confidentiality Agreement (Authorized Users) – EpicCare Link

I have been authorized by “**Outside Entity**” (defined as my employer or entity with whom I am contracted) to access health information of current patients of the Outside Entity or UT Southwestern or current research participants of UT Southwestern through the EpicCare Link software, a secure electronic database of protected health information (PHI) owned by **UT Southwestern**.* Outside Entity has entered into a separate “UT Southwestern EpicCare Link Site Agreement” establishing the terms and conditions by which Outside Entity and its employees and agents shall be permitted to access the aforementioned secure electronic database for the limited purpose as herein stated. Outside Entity has authorized me, as its agent and/or employee, to receive individual access credentials to this database pursuant to the terms of that agreement. In consideration for receiving individual access credentials (User ID and password) and access to the UT Southwestern database, I hereby agree as follows:

1. **Limited Purpose:** I will only access PHI for the sole purpose of obtaining health information about the treatment from UT Southwestern provided to UT Southwestern’s or Outside Entity’s patients, beneficiaries or research participants which is necessary for Outside Entity’s treatment or review of such patients, beneficiaries, or research participants (as applicable); and I will at all times maintain the confidentiality and security of any PHI I access or use. Any other use is prohibited and may subject the Outside Entity and myself to civil, administrative and/or criminal liability. I further understand that UT Southwestern may report any suspected unauthorized use under this Agreement (unauthorized access to or disclosure of PHI) to both the affected patients and to the US Department of Health and Human Services, Office for Civil Rights, and other law enforcement agencies or regulatory bodies with jurisdiction.
2. **Privacy/Confidentiality:** I will protect the confidentiality of PHI and follow all applicable privacy and confidentiality laws relating to medical records, including, but not limited to, HIPAA. I understand that UT Southwestern has implemented administrative, technical, and physical safeguards to protect the confidentiality and security of PHI and I agree not to bypass or disable these safeguards. I agree to access PHI only on-line as “View Only”. I understand that I may only make paper copies of medical records which are necessary and essential for the sole purpose of (i) diagnosis, evaluation and treatment of a current patient or (ii) review of such patient’s, research participant’s or beneficiary’s information as required by contract. Such copies shall be maintained, protected and destroyed in the same manner as the Outside Entity maintains, protects and destroys other PHI in its possession. I have no expectation of privacy when using EpicCare Link to access PHI, as UT Southwestern shall have the right to record, audit, log, and monitor access to the PHI database attributed to my User ID or password.
3. **User ID/Password:** I understand that my User ID and password are confidential and that I am responsible for safekeeping my password and that I am also responsible for any activity initiated by my User ID or password. If I suspect that my User ID or password has been compromised, I should immediately contact the UT Southwestern IR Service Desk: (214) 648-7600.

4. **Workstation Security:** I agree to practice good workstation security measures on any computing device I use to access the secure electronic database. Good security measures include, but are not limited to, maintaining physical security of electronic devices, never leaving a device unattended while in use, and adequately shielding the screen from unauthorized viewing by others.
5. **Data Ownership:** I understand I will be obtaining access to a component of the computer resources of The University of Texas System (UT System). These resources, including all related equipment, networks, and network devices, are provided only for authorized use. All data residing on any component of this system is the property of the State of Texas and is protected by the Texas Public Information Act.
6. **Disclaimer:** I understand that UT Southwestern EpicCare Link may not be available to me all the time due to system failures, back-up procedures, maintenance, or other causes beyond the control of UT Southwestern. Access is provided on an "as-is, as-available" basis and does not guarantee that I will be able to access UT Southwestern EpicCare Link at any particular time. I UNDERSTAND THAT UT SOUTHWESTERN TAKES NO RESPONSIBILITY FOR AND DISCLAIM ANY AND ALL LIABILITY ARISING FROM ANY INACCURACIES OR DEFECTS IN SOFTWARE, COMMUNICATION LINES, VIRTUAL PRIVATE NETWORK, THE INTERNET OR MY INTERNET SERVICE PROVIDER (ISP), ACCESS SYSTEM, COMPUTER HARDWARE OR SOFTWARE, OR ANY OTHER SERVICE OR DEVICE THAT I USE TO ACCESS UT SOUTHWESTERN EPICCARE LINK.
7. **Term/Survival:** This Agreement takes effect on the date on which it is signed below and will remain in effect until my access is terminated. My confidentiality obligations under this Agreement survive termination of this Agreement, the EpicCare Link User Agreement or my employment/engagement by the Outside Entity.
8. **Violations:** I agree to immediately report any known or suspected violation of the confidentiality or security of PHI of patients of UT Southwestern to the Outside Entity and to the UT Southwestern Privacy Office. Violations of this Agreement may result in revocation of my user privileges, and UT Southwestern may seek any civil or criminal recourse and/or equitable relief.

By clicking **ACCEPT**, I acknowledge that I have read this Agreement and agree to comply with all the terms and conditions stated above.

*For purposes of this form, **UT Southwestern** includes The University of Texas Southwestern Medical Center, The University of Texas System and their respective Regents.