

EpicCare Link Agreement

This EpicCare Link Agreement (this "*Agreement*") is made and entered into by and between Froedtert Health, Inc. ("*FH*") effective as of the _____ day of _____, 20____ (the "*Effective Date*"). ("*Company*"),

Background:

FH operates and maintains an electronic health record system (the "*Epic EHR System*"), which includes, without limitation, the EpicCare Link component of the Epic EHR System ("*EpicCare Link*") for itself and for Froedtert Memorial Lutheran Hospital, Inc., d/b/a Froedtert Hospital; Community Memorial Hospital of Menomonee Falls, Inc., d/b/a Froedtert Menomonee Falls Hospital; St. Joseph's Community Hospital of West Bend, Inc., d/b/a Froedtert West Bend Hospital; Holy Family Memorial, Inc.; Froedtert Health Neighborhood Hospital, LLC, d/b/a Froedtert Community Hospital; Froedtert & The Medical College of Wisconsin Community Physicians, Inc.; Froedtert Manitowoc Medical Group, LLC, Froedtert Surgery Center, LLC; Menomonee Falls Ambulatory Surgery Center, LLC; West Bend Surgery Center, LLC; Drexel Town Square Surgery Center, LLC; Wisconsin Diagnostic Laboratories, LLC; Holy Family Health Services, Inc.; Froedtert Health Pharmacy, LLC; Froedtert Health Home Infusion, LLC; Inception Health, LLC, and other affiliates of FH (collectively, "*FH Affiliates*"), and for The Medical College of Wisconsin, Inc. ("*MCW*"), FSINC, Inc. and Froedtert South, Inc. and their respective affiliates (collectively, "*Froedtert South*"), and certain other entities for which FH provides access to the Epic EHR System pursuant to one or more agreements (collectively, "*Additional Organizations*"). FH provides remote access to electronic medical records and other information of FH Affiliates, MCW, Froedtert South, and Additional Organizations to Company through EpicCare Link subject to the terms and conditions of this Agreement.

NOW THEREFORE, In consideration of the right to access and use EpicCare Link hereunder, Company agrees to the following representations, warranties, and other terms and conditions:

1. Company acknowledges and agrees that Company shall be solely responsible for any and all access to and use of EpicCare Link and/or the Epic EHR System by Company and by Company's employees, medical staff, contractors, agents, and other individuals provided access to EpicCare Link at Company's request (each individually, a "*User*", and collectively, the "*Users*"). Company will designate in writing one or more Site Administrators who will have administrative responsibility for access to EpicCare Link by Users, manage Company's EpicCare Link User accounts and act as coordinator with FH in all matters related to EpicCare Link. A Site Administrator shall request a user ID for each User only to the extent that access by such User to electronic medical records through EpicCare Link is permitted under Applicable Laws (as defined below) and for one of the following permitted purposes (collectively, "*Permitted Purposes*"):
 - (a) treatment, including continuity of care and care management, of patients with whom Company has a current treatment relationship;
 - (b) facilitating organ, eye, or tissue donation and transplantation and limited to the minimum amount of patient information necessary to accomplish the specific purpose of facilitating organ, eye, or tissue donation and transplantation for which it was accessed;
 - (c) billing and other activities within HIPAA's definition of Payment at 45 CFR 164.501 related to individuals who are Company's patients or health plan members or beneficiaries, limited to the minimum amount of patient information necessary for the Payment activity and provided further that such access is in accordance with the HIPAA disclosure pathway at 45 CFR 164.506(c)(3);
 - (d) quality improvement or other Health Care Operations activities set forth in paragraph 1 or 2 of HIPAA's definition of Health Care Operations at 45 CFR 164.501, limited to the minimum amount of patient information necessary for the Health Care Operations activity and provided further that such access is in accordance with the HIPAA disclosure pathway at 45 CFR 164.506(c)(4);
 - (e) activities within HIPAA's definition of Research at 45 CFR 164.501, limited to the minimum amount of information necessary for such Research purposes and provided further that such access is in accordance with Applicable Laws, including without limitation, 45 CFR 164.512(i); or
 - (f) activities performed by Company as a Business Associate, as that term is defined at 45 CFR 160.103, of the FH Affiliates, or as a subcontractor Business Associate of FH or any affiliate of FH, provided that Company has entered into a written Business Associate Agreement with FH and/or the applicable FH affiliate, and provided further that Company ensures that any and all access by Company and the Users pursuant to this Section 1(f) is limited to the minimum amount of information necessary for Company to provide the services as a Business Associate and is in accordance with the terms of the underlying services agreement and the applicable Business Associate Agreement.

"*Applicable Laws*" means federal and state laws, regulations and other requirements enforceable in a court of law, including, without limitation, the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (collectively, "*HIPAA*") and Wisconsin and other state confidentiality, privacy, security and security breach response laws. Notwithstanding anything herein to the contrary, FH shall retain final authority with respect to the granting of access to EpicCare Link to Users.

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2. Subject to the terms and conditions of this Agreement and Applicable Law, FH hereby grants to Company a limited, nonexclusive, non-transferable right for Users to access and use EpicCare Link for the Permitted Purposes. Company will, and will cause its Users to, access, use and disclose electronic medical records and other information accessed through EpicCare Link only for a Permitted Purpose, in accordance with Applicable Law and in accordance with the terms and conditions of this Agreement. Company's and each User's access to EpicCare Link is subject to the terms and conditions of the License and Support Agreement for the Epic EHR System between FH and Epic and of any other agreement for third-party software or content accessed or used in connection with EpicCare Link. As a condition to access to EpicCare Link, Company shall sign, and shall cause each User to comply with and to sign, FH's EpicCare Link User Agreement and any software license or access agreement required by Epic or other third-party software or content vendor, if applicable.
3. Company will not, and will not permit Users to, do any of the following: (a) copy or duplicate, by any means, EpicCare Link, the Epic EHR System, or any part thereof; (b) reverse engineer, de-compile, disassemble or otherwise attempt to learn the source code, structure, algorithms or ideas underlying EpicCare Link, the Epic EHR System, or any part thereof; (c) modify, adapt, translate or create derivative works based on EpicCare Link, the Epic EHR System, or any part thereof; (d) remove, obscure or modify any markings or notice of other proprietary rights of Epic, third party vendors or Epic's respective licensors from any media, user interfaces or documentation provided pursuant to this Agreement (to the extent applicable, Company shall affix and maintain the copyright notice of Epic on all permitted backup or multiple use copies made of EpicCare Link or any portion thereof and shall not remove any proprietary notice of FH or Epic from any copy of EpicCare Link); (e) cause or permit any third party to take any action restricted in this Section 3 or otherwise restricted by this Agreement; or (f) share or disclose usernames, passwords or any unique identifiers and information needed to access EpicCare Link.
4. Access to EpicCare Link shall be on a "request-only" and "read-only" basis. Neither Company nor any User shall have any ownership rights in EpicCare Link, the Epic EHR System or electronic medical records or other information accessed through EpicCare Link. Except for the rights expressly granted to Company under this Agreement, all rights, title, and interest in EpicCare Link, the Epic EHR System or electronic medical records or other information accessed through EpicCare Link shall at all times remain solely with FH, Epic, and/or FH's other licensors and vendors.
5. Company shall obtain and maintain connectivity and network configuration and required hardware and equipment (collectively, the "Configuration") in accordance with specifications provided by FH and/or Epic and shall update the Configuration as required in the event of upgrades to EpicCare Link and/or the Epic EHR System. Company shall ensure that its Users access EpicCare Link remotely through equipment owned or leased by Company.
6. Company will protect the confidentiality, privacy and security of the information it and/or its Users access through EpicCare Link in accordance with Applicable Laws. Further, Company and its Users will comply with all applicable policies, including all FH policies related to the confidentiality, privacy and security of electronic medical records and access to EpicCare Link, which are made available to the Company and its Site Administrators and Users on the following webpage: <http://www.froedtert.com/suppliers> (collectively, "FH Policies").
7. Company shall implement reasonable and appropriate administrative, physical and technical safeguards in order to maintain the security of its network, EpicCare Link and the Epic EHR System against unauthorized access, use, or disclosure, consistent with Applicable Laws, including, without limitation, the security standards under HIPAA found at 45 CFR Part 164, Subparts A and C and the terms and conditions of this Agreement. Such efforts shall include, without limitation: (a) establishing physical access controls to Company's hardware and data centers; (b) maintaining effective firewalls, antivirus programs and other electronic systems designed to monitor, track, and prevent unauthorized access; and (c) requiring logon IDs, passwords or other access controls (including, without limitation, biometric access controls) to Company's network and applications. In addition, Company shall adopt and implement Company policies regarding network security and the safeguarding of passwords, logon IDs and other access devices that would enable access to EpicCare Link or the Epic EHR System. Company will cooperate with FH to coordinate and standardize its security response procedures and coordinate the efforts of its security personnel.
8. Company shall have and maintain an ongoing training program for all Users of EpicCare Link regarding its functionality, as well as the appropriate use of Protected Health Information (as defined by HIPAA) and ways to safeguard the Protected Health Information from unauthorized use, access and disclosure according to HIPAA standards, other Applicable Laws, FH Policies and the terms and conditions of this Agreement.
9. Company will do each of the following, and Company will require and ensure that each User will do each of the following: (a) access through EpicCare Link only the minimum necessary Protected Health Information and other information as required by HIPAA and other Applicable Laws; (b) disclose information only to persons authorized to receive it; (c) electronically transmit information only through secure means; and (d) comply with the terms of this Agreement.
10. If a User's employment or other relationship with Company is terminated or the User's role changes and the User no longer requires access to EpicCare Link for the Permitted Purposes, the Site Administrator or other Company representative shall inform FH prior to or within 24 hours after the termination of the relationship or role change by delivering a completed EpicCare Link System Access Enrollment/Termination Form to FH. Company also shall verify that its list of Users authorized by Company to access EpicCare Link is current and accurate and provide FH a list of its current Users at least every six months, including, without limitation, through the site verification process available through the EpicCare Link System.

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11. Company shall, and shall cause its Users to, ensure the confidentiality of each unique user ID assigned to Company's Users. Company understands that FH may track all user IDs used to access information through EpicCare Link and may use those IDs to discover inappropriate access to information.
12. Company understands and agrees that inappropriate access, use and/or unauthorized release of information is a breach of this Agreement and may result in temporary suspension and/or permanent termination of Company's or a User's access to information through EpicCare Link. Company acknowledges that FH may at any time suspend or terminate Company's or any User's access to EpicCare Link, including, without limitation, if FH determines Company's and/or the User's access violates this Agreement or is otherwise inappropriate and/or unauthorized, if FH determines there has been any misuse, wrongful disclosure, or failure to safeguard patient information, or for any other reason in FH's sole discretion.
13. In the event that Company or any of its Users discovers any of the following incidents ("*Incidents*"), Company shall, and shall cause its Users to, report the Incident to FH within 24 hours of discovery: (a) use of or access to EpicCare Link in violation of this Agreement; (b) any Security Incident (as defined by HIPAA) involving EpicCare Link or the Epic EHR System (including, without limitation, reason to believe that a User's user ID or password has been compromised); or (c) any access of medical records or other information through EpicCare Link or otherwise in violation of this Agreement. Company's report shall identify: (i) the nature of the Incident; (ii) the Protected Health Information or other information at issue; (iii) names of all Users and all workforce members involved in the Incident and the recipients of any unauthorized disclosure of information; (iv) what Company has done or will do to mitigate any harmful effect of the Incident; and (v) what corrective action Company has taken or shall take to prevent future similar incidents. Company shall provide such other information, including additional written reports or other communications, as reasonably requested by FH, and shall work collaboratively with FH upon the discovery of any Incident. Company shall impose appropriate sanctions on any User or other individual who violates this Agreement or Applicable Law and shall cooperate with FH in mitigating any harmful effects of any unauthorized access, use, or violations.
14. At FH's option, Company shall be responsible for notifying individuals of the occurrence of any Incident when FH requires notification and to pay any cost of such notifications, as well as any costs associated with the Incident, including, but not limited to, credit monitoring. Company must obtain FH's approval of the time, manner and content of any such notifications, provide FH with copies of the notifications, and provide the notifications within forty-five (45) days after discovery of the Incident. Company shall have the burden of demonstrating to FH that all notifications were made as required by Applicable Law and this Agreement.
15. Company will cooperate with FH to prevent and identify any unlawful or inappropriate use of EpicCare Link or information available through EpicCare Link or the Epic EHR System. Company will actively monitor the accessing, use, and disclosure of EpicCare Link information by Users. Company will implement policies and procedures that provide detailed guidance for such monitoring, including the scope and timing of the monitoring as well as the persons responsible for the monitoring. FH may, in its sole discretion, monitor EpicCare Link access by Company and Users to confirm adherence with this Agreement. Upon FH's reasonable request, Company shall permit FH and Epic access to Company's books and records related to this Agreement during reasonable business hours and permit electronic audits, for legitimate purposes, including, without limitation, monitoring Company's compliance with the terms of this Agreement and to perform Epic's or FH's obligations hereunder. Company will provide FH with any documentation or information requested by FH to perform audits hereunder, and will cooperate with FH in performing such audits, including providing reasonable access to Company's computer systems and/or networks. Such audits shall not unreasonably interfere with Company's business activities. The fact that FH monitors or audits, or fails to monitor or audit, or has the right to monitor or audit does not relieve Company of its responsibility to comply with this Agreement and Applicable Law, nor does FH's (a) failure to detect or (b) detection of, but failure to notify Company or require Company's remediation of, any unsatisfactory practices constitute acceptance of such practices or a waiver of FH's enforcement or other rights under this Agreement.
16. Company shall be solely responsible for: (a) Company's access to and use of EpicCare Link and/or the Epic EHR System; (b) access to and use of EpicCare Link and/or the Epic EHR System by any and all Users; and (c) the acts or omissions of Company and/or its Users.
17. Company shall indemnify and hold FH and the FH Affiliates harmless from and against any and all claims, demands, liabilities, losses, damages, costs, and expenses, including reasonable attorneys' fees arising out of or resulting from any breach of this Agreement or any negligent or willful act or omission of Company, its agents, or employees.
18. FH MAKES NO REPRESENTATION, WARRANTY OR ASSURANCE THAT ACCESS TO EPICCARE LINK WILL BE UNINTERRUPTED OR ERROR FREE. FURTHER, FH MAKES NO REPRESENTATION OR WARRANTY AS TO THE ACCURACY OF INFORMATION ACCESSED THROUGH EPICCARE LINK. ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE DISCLAIMED. FH SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR OTHER SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA LOSS, OR OTHER LOSSES (EVEN IF FH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). THE MAXIMUM AGGREGATE LIABILITY OF FH TO COMPANY FOR ANY LOSSES IN CONNECTION WITH THIS AGREEMENT SHALL BE \$500.
19. Company shall maintain a liability insurance policy with commercially reasonable amounts of coverage for unauthorized access and use of Protected Health Information and other personally identifiable information, malware and other cyberattacks.

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20. Company shall, and shall cause its Users, to: (a) verify the accuracy of information and other outputs obtained through EpicCare Link that Company or Users know, or following generally accepted standards of medical practice, should know, have potential for negative impact on patient care; (b) not rely solely on EpicCare Link for data that Company or Users know, or following generally accepted standards of medical practice, should know has the potential for negative impact on patient care (for example, Company and Users must verify allergies, current medications, relevant histories, and problems with the patient); (c) if Company or any User discovers any actual or suspected EpicCare Link software errors which either Company or any User knows, or should know, could adversely impact patient care, Company shall report it to FH within 24 hours of discovery; and (d) use EpicCare Link in accordance with applicable standards of good clinical practice.
21. The initial term of this Agreement shall begin on the Effective Date and continue for a period of one (1) year. This Agreement shall renew automatically thereafter for successive one (1)-year terms. Either party may terminate this Agreement upon providing the other party five (5) days prior written notice.
22. In the event that Company is served with a subpoena or other court order relating to the access to or use of EpicCare Link, Company shall, to the extent legally permissible, immediately notify FH of the subpoena in accordance with Section 24, below. In addition, Company shall also contact FH by phone at the phone number at the top of page 1 of this Agreement or by calling the FH compliance hotline, and cooperate regarding the response to such subpoena or court order.
23. Except as otherwise expressly stated herein, the parties do not intend to create any enforceable rights in any third party under this Agreement, and there are no third party beneficiaries to this Agreement; provided, however, that Epic shall be a third party beneficiary to this Agreement solely with respect to enforcing the obligations and covenants of FH's agreement with Epic relating to the Epic EHR System.
24. Unless otherwise specified herein, any notice, consent, approval, request, report or other communication required or permitted to be given in connection with this Agreement shall be given in writing and shall be delivered either by hand, by certified mail, return receipt requested, or by overnight delivery service to the party at the party's address listed on the signature page of this Agreement or such other address as may be designated by a party in a written notice delivered in accordance with this Section 24. Any notice delivered by hand shall be deemed delivered when received. Any notice or other communication sent by certified mail shall be deemed delivered on the fifth (5th) business day following the postmark date which it bears. Any notice or other communication sent by overnight delivery service shall be deemed delivered on the next business day following the postmark date which it bears. Notwithstanding anything herein to the contrary, any reports or other communications required to be delivered pursuant to Section 13 or Section 22 shall be delivered both by (a) sending an email to comphotl@froedtert.com, calling the phone number at the top of this Agreement, or calling the FH compliance hotline; and (b) either by hand or by overnight delivery service.
25. Each party's status in all matters pursuant to this Agreement shall be that of an independent contractor and not an agent of the other. This Agreement constitutes the entire understanding between Company and FH with respect to the subject matter of this Agreement, and supersedes all other prior and contemporary agreements, understandings and commitments between Company and FH with respect to the subject matter of this Agreement. This Agreement shall not be modified or amended except by a written instrument executed by both parties. No waiver by a party of any breach of this Agreement or waiver of any other provision hereunder shall be deemed to be a waiver of any other breach or provision. No failure or delay by a party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or as a modification of this Agreement or shall prevent the exercise of any right of the non-defaulting party under this Agreement. This Agreement shall be governed and interpreted in accordance with the laws of the State of Wisconsin. If FH prevails in any proceeding to enforce this Agreement or to recover damages for Company's violation of this Agreement, Company will pay all costs incurred by FH in seeking such relief, including, but not limited to, reasonable attorneys' fees. FH shall not be liable for failure to perform under this Agreement if such failure is due to any cause beyond its reasonable control, including, but not limited to, acts of God, governmental authorities, civil disturbances or labor disputes, embargo, riots, acts of war or terrorism, fires, power surges or power failures, malfunctioning communication lines or failures of suppliers. The provisions of Sections 3, 4, 6, 13-15, 17, 18, and 20-26 shall survive expiration or termination of this Agreement.

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26. The parties agree that this Agreement may be executed in two (2) counterparts, both of which shall be considered an original for all purposes and, collectively, shall be considered to constitute this Agreement. The parties further agree that signatures transmitted electronically by DocuSign or in Portable Document Format (pdf) may be considered an original for all purposes, including, without limitation, the execution of this Agreement and enforcement of this Agreement.

<p>FROEDTERT HEALTH, INC.</p> <p>By: _____ <i>(Signature of Authorized FH Representative)</i></p> <p>Name: _____ <i>(Name of Authorized FH Representative)</i></p> <p>Title: _____ <i>(Title of Authorized FH Representative)</i></p> <p>Date: _____ <i>(Date of Signature by Authorized FH Representative)</i></p>	<p>COMPANY: _____</p> <p>By: _____ <i>(Signature of Authorized Company Representative)</i></p> <p>Name: _____ <i>(Name of Authorized Company Representative)</i></p> <p>Title: _____ <i>(Title of Authorized Company Representative)</i></p> <p>Email: _____ <i>(Email of Authorized Company Representative)</i></p> <p>Date: _____ <i>(Date of Signature by Authorized Company Representative)</i></p>
<p>Address for Notices in accordance with Section 24:</p> <p>Froedtert Health, Inc. 9200 W. Wisconsin Ave Milwaukee, WI 53226 Attention: General Counsel</p> <p>with a copy to: Froedtert Health, Inc. 400 Woodland Prime N74 W12501 Leatherwood Court Menomonee Falls, WI 53051 Attention: Privacy Officer</p>	<p>Address for Notices in accordance with Section 24:</p> <p>Company Name: _____</p> <p>Company Address: _____ _____</p> <p>Company Telephone: _____</p> <p>Company Fax Number: _____</p> <p>Company Email Address: _____</p>

Site Administrator(s) Designated by Company

Company Name: _____ (“Company”)

WHEREAS, Froedtert Health, Inc. (“FH”) and Company entered into an EpicCare Link Agreement (the “Agreement”) effective as of the ____ day of _____, 20__.

In accordance with the Agreement, **Company hereby designates in writing the following individuals as Site Administrator(s). This designation of Site Administrator(s) by Company supersedes and replaces any prior designations by Company.** If any individual was previously designated by Company as a Site Administrator and is not designated below, access for such individual as Site Administrator shall be terminated.

Company represents that the information provided below is complete and accurate.

Site Administrator name:	
Site Administrator location:	
Site Administrator email address:	
Site Administrator name:	
Site Administrator location:	
Site Administrator email address:	
Site Administrator name:	
Site Administrator location:	
Site Administrator email address:	
Site Administrator name:	
Site Administrator location:	
Site Administrator email address:	
Site Administrator name:	
Site Administrator location:	
Site Administrator email address:	

COMPANY: _____

By: _____
(Signature of Authorized Company Representative)

Name: _____
(Name of Authorized Company Representative)

Title: _____
(Title of Authorized Company Representative)

Email: _____
(Email of Authorized Company Representative)

Date: _____
(Date of Signature by Authorized Company Representative)