

ACCESS TO ELECTRONIC HEALTH RECORDS AGREEMENT

THIS ACCESS TO ELECTRONIC HEALTH RECORDS AGREEMENT (“Agreement”) is made and entered into this ___ day of _____, 20__, by and between Tower Health, a Pennsylvania nonprofit corporation (“Tower”), on behalf of its affiliates, Brandywine Hospital LLC, Chestnut Hill Hospital LLC, Jennersville Hospital LLC, Phoenixville Hospital LLC, Pottstown Hospital LLC, Reading Hospital, STC OpCo, LLC d/b/a St. Christopher’s Hospital for Children (each, a “Hospital,” and collectively, the “Hospitals”), Tower Health Medical Group (“THMG”), and STC Pediatrics, LLC (“STCP”), each of THMG and STCP on behalf of its owned and operated physician practices (each a “Practice,” and collectively, the “Practices”), and _____ (“Outside Entity”). For purposes of this Agreement, Hospitals and Practices shall be referred to collectively as the “Tower Entities.”

BACKGROUND

A. The Tower Entities are covered entities, for purposes of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Clinical and Economic Health Act of 2009 (“HITECH”) and the implementing HIPAA and HITECH Privacy, Security, Enforcement and Breach Notification Rules set forth at 45 C.F.R. Parts 160, 162 and 164, as may be amended from time to time (the “HIPAA Rules”). The Tower Entities utilize certain technology known as EPIC CareLink (“CareLink”) to allow users to remotely access the Hospitals’ and Practices’ patient records in the EPIC electronic health records system (“EHR”) maintained by Tower on behalf of the Tower Entities for the purpose of treatment, payment, and other healthcare operations, to the extent permitted without patient authorization under HIPAA, HITECH, and the HIPAA Rules.

B. Outside Entity provides professional or other medical services to patients of one or more Tower Entities, but does not have a contract with Tower or a Tower Entity for access to the EHR and is a covered entity subject to HIPAA, HITECH, and the HIPAA Rules.

C. Outside Entity has agreed to use CareLink to improve the quality and efficiency of the medical services Outside Entity provides to patients of Tower Entities.

D. Tower desires to provide access to Outside Entity to the EHR maintained by Tower solely to enable the Tower Entities and Outside Entity to coordinate care and treatment for patients of Tower Entities and enhance the quality and efficiency of the services Outside Entity provides to Tower Entities’ patients.

NOW, THEREFORE, in consideration of the premises, the mutual agreements and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. DEFINITIONS

1.1 **Disclose** and **Disclosure** mean, with respect to PHI, the release, transfer, provision of, access to, or divulging in any other manner of PHI outside of the internal operations of the applicable Tower Entity.

1.2 **Electronic Health Record** (“EHR” or “CareLink”) means the Epic CareLink electronic medical record system maintained by Tower on behalf of the Tower Entities that contains protected health information that is subject to protection under HIPAA, HITECH, and the HIPAA Rules.

1.3 **Protected Health Information** (“PHI”) means information, including demographic information, that (i) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; (ii) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (iii) is received by Outside Entity from or on behalf of a Tower Entity, or is created by Outside Entity, or is made accessible to Outside Entity by a Tower Entity. PHI may be contained in other mediums including without limitation, electronic PHI, EHR, paper records, audio, and video recording.

1.4 **Use** or **Uses** means, with respect to PHI, the sharing, employment, application, utilization, examination or analysis of such PHI within the Tower Entities internal operations.

1.5 Other terms used, but not otherwise defined in this Agreement, shall have the same meanings as those terms in HIPAA.

2. HOSPITAL OBLIGATIONS

2.1 **Access.** Subject to the terms and conditions of this Agreement, Tower grants Outside Entity non-transferable and non-exclusive access to CareLink to permit the individuals listed on Exhibit A, attached hereto (collectively “Authorized Users”), to electronically access and use the EHR solely for accessing patient medical records in the EHR for a particular Tower Entity for purposes of coordinating care and treatment of patients of the Tower Entity. Outside Entity understands and warrants that such access and use shall be limited to the access provided to Authorized Users through unique usernames/passwords and a second authentication factor, such as but not limited to SMS, push notice, or physical token. Authorized Users shall be prohibited from using any other Authorized User’s username/password to access and/or use CareLink. Authorized Users may not disclose, share, or transfer usernames/passwords to unauthorized parties, and shall not store usernames/passwords in written form. Outside Entity further acknowledges and understands and acknowledges that Tower may terminate individual Authorized Users’ access at any time for any reason without penalty, regardless of any effect such termination may have on Outside Entity’s operations. Outside Entity shall ensure that its Authorized Users shall personally enter all usernames/passwords and two-factor forms of identification when accessing the EHR and shall not attempt or take action to circumvent such authentication measures through manual, automated or other means.

2.2 **Equipment.** Outside Entity acknowledges and agrees that any hardware, software, network access, or other components necessary for Outside Entity to access and use CareLink must be obtained separately by Outside Entity. Neither Tower nor the Tower Entities shall be responsible for the procurement, installation, or maintenance of any such components, and Tower and the Tower Entities make no representations or warranties regarding the components whatsoever.

3. OUTSIDE ENTITY OBLIGATIONS

3.1 **Permitted Use.** Tower shall make access to CareLink available to Outside Entity and its Authorized Users to enable the Tower Entities and Outside Entity to coordinate care and treatment for patients of Tower Entities and enhance the quality and efficiency of the services Outside Entity provides to Tower Entities' patients (the "Permitted Purpose"). Outside Entity shall ensure that its Authorized Users shall use CareLink to access PHI that is necessary and used solely for the Permitted Purpose. Outside Entity shall ensure that Authorized Users do not use CareLink for any other purpose.

3.2 **Application for Use.** Before accessing CareLink, Outside Entity shall require each Authorized User to acknowledge and sign the confidentiality statement (the "Confidentiality Statement") in the form attached hereto as Exhibit B, which is incorporated herein by reference, as that form may be amended from time to time. Outside Entity agrees to ensure that each Authorized User approved for access under this Agreement adheres to the requirements of this Agreement and the Confidentiality Statement. Each Authorized User shall also complete, in a form and in a manner to be determined by the Tower Entities, training regarding the requirements of HIPAA, HITECH, and the HIPAA Rules as such requirements pertain to CareLink access.

3.3 **Compliance.** Outside Entity is responsible for ensuring compliance by Outside Entity and its Authorized Users with the terms and conditions of this Agreement and the requirements of all applicable state and federal laws and regulations governing the use, access to, and disclosure of patient medical information, including HIPAA, HITECH, and the HIPAA Rules, and state and federal laws and regulations governing the use and access to mental health and substance abuse disorder treatment records and HIV/AIDS treatment records ("Applicable Laws"). Outside Entity shall not and shall ensure that its Authorized Users shall not, Use or Disclose PHI accessed via the EHR in any manner that would constitute a violation of Applicable Laws, or that would otherwise constitute a breach of this Agreement.

3.4 **Notice of Discontinuance of Access.** Outside Entity will notify the Tower Health Service Desk at 484-628-8151 within two (2) business days of the departure (employment relationship or otherwise) or change in job functions of any Authorized User to ensure that the Authorized User's access is terminated as soon as possible.

3.5 **Authorized User Validation.** Outside Entity further agrees to validate on an annual basis, that the Authorized Users listed on Exhibit A continue to require access to CareLink and continue to be employees or agents of Outside Entity. This annual revalidation shall be completed based on the Authorized User's date of account creation.

3.6 **Audits.** The Tower Entities have the right, at Outside Entity's sole cost and expense, at any time, to monitor, audit, and review activities and methods in implementing this Agreement in order to assure compliance therewith, within the limits of Outside Entity's technical capabilities.

3.7 **Maintenance of Information Technology.** Outside Entity warrants that it shall implement and maintain appropriate safeguards in accordance with the HIPAA Rules to prevent the Use or Disclosure of PHI in any manner other than as permitted by this Agreement. Outside Entity warrants that it shall implement administrative, physical, and technical safeguards that

reasonably and appropriately protect the confidentiality, integrity, and availability of PHI that it receives, maintains, or transmits from the Tower Entities as required by law. Outside Entity shall not cause, directly or indirectly, any malware or similar program to affect or infiltrate CareLink or the Tower Entities' other information technology systems. Outside Entity shall not attempt to bypass any security or authentication method presented by the Tower Entities.

3.8 Training. Outside Entity is responsible for training and educating the Authorized Users regarding their obligations under HIPAA, HITECH, and the HIPAA Rules. Outside Entity will provide evidence of the training and education of the Authorized Users on Tower's request.

3.9 Safeguards Against Unauthorized Use or Disclosure of PHI. Outside Entity agrees that it will implement all appropriate safeguards to prevent unauthorized Use or Disclosure of PHI.

3.10 Reporting Unauthorized Use or Disclosure of PHI.

3.10.1 Outside Entity shall report to Tower any unauthorized Use or Disclosure of PHI by Outside Entity, any Authorized User, or any of its officers, directors, employees, contractors, or agents or by a third party to which Outside Entity Disclosed PHI within one (1) business day of becoming aware of such unauthorized Use or Disclosure. Such notice shall be made to the following:

Privacy Officer
Tower Health
420 South Fifth Avenue
West Reading, PA 19611
Phone Number: 484-628-4588

3.10.2 If at any time Outside Entity has reason to believe that PHI accessed by an Authorized User pursuant to this Agreement may have been accessed or Disclosed without proper authorization and contrary to the terms of this Agreement, Outside Entity will immediately give Tower notice and take actions to eliminate the cause of the impermissible use or disclosure.

3.11 Third Party Access. Outside Entity and its Authorized Users are expressly prohibited from allowing any third-party entity, agent or subcontractor to access the EHR via CareLink or otherwise.

3.12 Mitigation. Outside Entity shall mitigate, to the extent practicable, any harmful effect that is known to Outside Entity of a Use or Disclosure of PHI by Outside Entity or its Authorized Users in violation of the requirements of this Agreement. Outside Entity shall work cooperatively with the Tower Entities in mitigating and preventing any further unauthorized Use or Disclosure of PHI.

3.13 Data Ownership. Outside Entity acknowledges and agrees that the Tower Entities own all rights, interests, and title in and to the PHI and other data contained in the EHR and that such rights, interests, and title shall remain vested in the Tower Entities at all times. Outside Entity shall not compile, de-identify, aggregate, and/or distribute analyses to third parties utilizing any

data received from or created or received on behalf of without express written permission from Tower and the Tower Entities.

3.14 **Indemnification.** Outside Entity agrees to indemnify, defend, and hold harmless Tower and the Tower Entities, and their respective governing boards, officers, employees, and agents, from and against any and all claims, costs, losses, damages, liabilities, expenses, demands, and judgments, including litigation expenses and attorneys' fees, which may arise from Outside Entity's performance under this Agreement or negligent acts or omissions of its Authorized Users, subcontractors, agents, or employees, including, but not limited to, any costs, penalties, claims or damages arising from or pertaining to a breach of this Agreement, or the violation of any state or federal law applicable to the Use, Disclosure, or protection of PHI subject to this Agreement. Such indemnification shall include but shall not be limited to the full cost of any required notice the Tower Entities are required to provide to impacted individuals, including the costs to retain an outside consulting firm, vendor or outside attorneys to undertake the effort.

4. **TERM AND TERMINATION**

4.1 **Term.** The initial term of this Agreement shall be one (1) year. Unless otherwise terminated, this Agreement shall automatically renew for successive one (1) year terms thereafter on the same terms and conditions.

4.2 **Termination.**

4.2.1 Either party may terminate this Agreement by providing thirty (30) days' prior written notice to the other party of its intent to terminate.

4.2.2 Tower may terminate this Agreement immediately upon giving written notice if Tower determines, in its sole discretion, that Outside Entity or its Authorized Officers, directors, officers, employees, contractors, or agents have violated a material provision of this Agreement.

5. **MISCELLANEOUS**

5.1 **Covered Entity Status.** The Tower Entities and Outside Entity shall comply in all material respects with the standards for privacy of individually identifiable health information of the Administrative Simplification subtitle of HIPAA. The Tower Entities and Outside Entity recognize their status as "covered entities" under HIPAA and agree to carry out their responsibilities under this Agreement in accordance with such status.

5.2 **No Referral Obligation.** The parties acknowledge and agree that nothing contained in this Agreement is conditioned on any requirement that either party make referrals to, be in a position to make or influence referrals to, or otherwise generate business for the other party or any of the other party's affiliates, and nothing contained in this Agreement shall be interpreted to require or obligate either party to make referrals to, be in a position to make or influence referrals to, or otherwise generate business for the other party or any of the other party's affiliates

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 the Tower Entities, or

created or received on behalf of a Tower Entity, available to the Secretary of the U.S. Department of Health and Human Services (the “Secretary”) for purposes of determining the Tower Entities’ and Outside Entity’s compliance with the HIPAA standards. Outside Entity promptly shall provide to Tower a copy of any documentation that Outside Entity provides to the Secretary.

5.4 Insurance. Each party shall maintain for its respective business, at its sole expense, policies of general liability and professional liability insurance, or self-insurance, in an amount considered adequate for such businesses and deemed satisfactory to the other party. In addition, each party shall maintain for its respective business, at its sole expense, policies of insurance or self-insurance for workers compensation and property loss in an amount considered adequate for such business and in accordance with any applicable state statutory requirements and deemed satisfactory to the other party. Such policies shall insure against any claim or claims for damages arising directly or indirectly in connection with the acts or omissions of the respective party, its agents or employees pursuant to performance under this Agreement. Each party shall provide, upon request of the other party, applicable and valid certificates of insurance for any of the aforementioned policies of insurance or self-insurance. Such policies shall include “cyber liability” insurance coverage.

5.5 Entire Agreement. This Agreement and all Exhibits attached hereto, which are hereby incorporated by reference, constitutes the entire understanding and agreement between of the parties regarding access to CareLink and supersedes and replaces all prior oral or written agreements, commitments, or understandings concerning the subject matter provided for herein.

5.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

5.7 Assignability. Except as otherwise expressly provided in this Agreement, Outside Entity may not assign any of its rights or obligations under this Agreement.

5.8 Amendment. This Agreement may be modified only by a subsequent written amendment executed by the parties. The provisions in this Agreement may not be modified by any attachment or letter agreement.

5.9 Waiver. Neither the waiver by any of the parties hereto of a breach of or a default under any of the provisions of this Agreement, nor the failure of either of the parties, on one (1) or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder, will thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder.

5.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

5.11 Notice. Any notices given under this Agreement shall be in writing and delivered by overnight U.S. mail, postage prepaid, return receipt requested or by certified U.S. mail, return

receipt requested, postage prepaid, or by Federal Express or another nationally recognized courier service (billed to sender), addressed as follows:

If to Outside Entity:

[INSERT ADDRESS]

If to Tower Entities:

Reading Hospital
420 South Fifth Ave
West Reading, PA 19611
Attention: Privacy Officer

Notices shall be effective three (3) days after mailing if mailed. Addresses for notice may be changed from time to time without requiring an amendment to this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, effective the date first written above.

TOWER HEALTH

OUTSIDE ENTITY (Insert Legal name and information)

TOWER HEALTH, on behalf of its affiliates, Brandywine Hospital LLC, Chestnut Hill Hospital LLC, Jennersville Hospital LLC, Phoenixville Hospital LLC, Pottstown Hospital LLC, Reading Hospital, STC OpCo, LLC d/b/a St. Christopher's Hospital for Children, Tower Health Medical Group, and STC Pediatrics, LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

Authorized Users

EXHIBIT B

Confidentiality Statement

The protection of the confidentiality, security and privacy of patient medical record and other confidential information (“Confidential Health Information”) is required by federal and state laws and regulations and failure to do so may result in fines and criminal penalties, as well as sanctions that may be imposed against me by my employer under its applicable policies and procedures.

Confidential Health Information can be in any form, including written, electronic, oral, overheard or observed, and includes, but is not limited to:

- Protected health information, (patient medical, financial, and demographic data);
- Data protected by governmental statute or regulation, such as HIV, mental health, or drug and alcohol records.

Confidential Health Information includes but is not limited to:

Any individually identifiable information in possession of or derived from a provider of health care regarding a patient’s medical history, mental, or physical condition or treatment, as well as the patient’s and/or their family members’ records, test results, conversations, research records and financial information. (Note: this information is defined in HIPAA and the HIPAA Privacy Rule as “protected health information.”) Examples include, but are not limited to:

- Physical, medical and psychiatric records including paper, photo, video, diagnostic and therapeutic reports, laboratory and pathology samples; and
- Patient insurance and billing records.

Only individuals who have been approved and issued credentials to log in and use EPIC CareLink (“Authorized Users”) may access EPIC CareLink. As a condition of being granted status as an Authorized User for permitted purposes of accessing EPIC CareLink and the electronic health records (“EHR”) system maintained by Tower Health on behalf of its affiliates, Brandywine Hospital LLC, Chestnut Hill Hospital LLC, Jennersville Hospital LLC, Phoenixville Hospital LLC, Pottstown Hospital LLC, Reading Hospital, STC OpCo, LLC d/b/a St. Christopher’s Hospital for Children (each, a “Hospital,” and collectively, the “Hospitals”) Tower Health Medical Group (“THMG”) and STC Pediatrics, LLC and the medical practices operated by THMG and STC Pediatrics (collectively, the “Tower Entities”), and accessing Confidential Health Information under the Access to Electronic Health Record Agreement entered into by my employer, _____ (Outside Entity) and Tower Health,

I agree to access Confidential Health Information through CareLink only for purposes of accessing medical records in the EHR for purposes of coordinating care and treatment of patients of Tower Entities by _____ (Outside Entity) and for no other purpose.

I will be assigned a Username ID and a one-time use activation code. I agree to immediately select and enter a new password known only to me. I may also be required to provide additional information needed for two-factor identification. I understand I may change my **password at any** time, and will do so based on Tower-established policy and/or when prompted. I understand that I am to be the only individual authorized to use and possess my confidential password. The following terms and conditions apply to my access to and use of the Tower Entities' EHR system through CareLink:

- I understand that I am accountable for all actions done under my assigned username and password. Usernames and passwords assigned to gain access to the Tower Entities' EHR system are my electronic signature and the equivalent of my legal written signature. I will not disclose, share or allow any other person to use my username and/or passwords or store my username or password in writing or attempt to use any other Authorized Users username and password to access the Tower Entities' EHR system.

I understand that my username ID and password are equivalent to my signature. Also, I am aware that I am responsible for any use of Epic CareLink utilizing my User ID and password. This includes data entered, viewed, printed or otherwise manipulated. If I have reason to believe that my password has been compromised I will promptly report this information to the Tower Health Privacy Officer and I will also immediately change my password. I understand that User IDs cannot be shared. Inappropriate use of my ID (whether by me or anyone else) is my responsibility and exposes me to severe consequences

- I will not work under another Authorized User's ID.
- I will contact the Tower Health Technology Service Desk if I have any questions regarding use of CareLink and the EHR.
- I agree not to circumvent or attempt to circumvent any security mechanisms or authentication processes in place.
- I agree that I will not access my own health information, or health information pertaining to my family members or friends that may be maintained in the Tower Entities' EHR unless I am the treating provider or require access to perform my permissible functions under the Access to Electronic Health Records Agreement.
- I understand that my access to the EHR system maintained by Tower for the Tower Entities and its contents may be monitored from time to time by Tower.

By signing this Confidentiality Statement:

1. I agree to protect the privacy and security of Confidential Health Information I access using CareLink through in the EHR system maintained by Tower Health on behalf of the Tower Entities at all times.
2. I agree to a) access Confidential Health Information to the minimum extent necessary for my assigned duties and b) disclose such Confidential Health Information only to persons authorized to receive it for permissible purposes.

3. I understand that Tower tracks all username IDs used to access electronic records. Those username IDs enable discovery of inappropriate access to patient records.

4. I understand that inappropriate access and/or unauthorized release of Confidential Health Information will result in temporary and/or permanent termination of my access to the Tower Entities' EHR system maintained by Tower on behalf of the Tower Entities.

Acknowledged and agreed:

By: _____

Name: _____

Date: _____