

## CONTRACT FOR SPECIALIZED MEDICAL EDUCATION SERVICES

This Contract for Specialized Medical Education Services ("Agreement") is entered into by and between Texas A&M University Health Science Center ("TAMHSC"), a health-related institution under the administration of Texas A&M University ("Texas A&M"), a member of The Texas A&M University System (the "A&M System"), an agency of the state of Texas, on behalf of the College of Medicine ("COM"), and TMH Physician Organization ("METHODIST"). TAMHSC and METHODIST are each individually sometimes referred to as a "Party" and collectively sometimes referred to as the "Parties".

WHEREAS, the Parties entered into a AAMC Uniform Clinical Training Affiliation Agreement and Implementation Letter effective on January 1, 2019 (the "Affiliation Agreement") pursuant to which METHODIST provides clinical education experience and teaching support services to COM medical students; and

WHEREAS, the Parties intend to modify the terms of the Affiliation Agreement and enter into one or more definitive agreements.

NOW, THEREFORE, in consideration of the foregoing and the agreements and provisions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

### 1. SERVICES:

- A. In addition to the Physician services set forth in the Affiliation Agreement, METHODIST agrees to cause the provision of services of time and effort of Johanna Marietta Clewing, MD (the "Physician"), a physician employed by METHODIST and duly licensed to practice medicine in the state of Texas, to act as COM's Executive Clerkship Director in Internal Medicine ("Executive Clerkship Director") to perform the duties set forth in Exhibit A attached hereto and incorporated herein (the "Services") or as otherwise specified in this Agreement. The Physician shall perform such other duties as may from time to time be agreed to between the Parties.
- B. The Physician shall coordinate his/her activities under this Agreement with the Associate Dean, Houston Campus or their designee. The Services rendered under this Agreement will be assessed for quality assurance and compliance by the Associate Dean, Houston Campus. The Associate Dean, Houston Campus will communicate with Methodist regarding the performance evaluation of the Physician in the fulfillment of the duties set forth in this Agreement.
- C. Methodist shall cause the Physician to provide the Services in a competent and qualified manner in accordance with the terms specified in this Agreement and shall ensure that the Physician maintains a valid and unlimited license to practice medicine in the state of Texas. The Physician shall comply with all federal, state and local laws applicable to the Services and all applicable rules, regulations, policies and procedures of Texas A&M, TAMHSC and COM.

### 2. CONSIDERATION:

- A. COM shall pay Methodist twelve (12) monthly payments of one thousand six hundred sixty six dollars and sixty seven cents (\$1,666.67) for a total commitment of twenty thousand dollars and four cents (\$20,000.04) for this contract period in accordance to the terms of this Agreement from available state appropriations.

- B. All sums due Methodist shall be paid by COM within thirty (30) days upon receipt of a properly prepared and submitted invoice or a certification of fulfillment of the Physician duties consistent with the state of Texas Prompt Payment Act. Certification will be provided to COM by authorized representative of Methodist.

**3. TERM:**

This Agreement, upon acceptance by both Parties, shall be effective from January 1, 2020 through midnight on December 31, 2020, unless earlier terminated as provided herein or in the Affiliation Agreement.

**4. DISPUTE RESOLUTION:**

The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by TAMHSC and Methodist to attempt to resolve any claim for breach of contract made by Methodist that cannot be resolved in the ordinary course of business. Methodist shall submit written notice of a claim of breach of contract under this Chapter to the Associate Vice President & Chief Financial Officer of TAMHSC, who shall examine Methodist's claim and any counterclaim and negotiate with Methodist in an effort to resolve the claim.

**5. TERMINATION:**

TAMHSC, at its sole discretion, reserves the right to remove the Physician from any TAMHSC appointments thereby terminating this Agreement. This Agreement shall terminate automatically upon termination of the Affiliation Agreement. Upon termination, Methodist shall be entitled to receive compensation accrued but unpaid and prorated to the date of termination. This Agreement, will terminate if Physician is not employed by Methodist.

**6. INDEPENDENT CONTRACTOR:**

The Parties hereby acknowledge that they are independent contractors, and neither of the Parties nor any of their respective agents, representatives, students or employees shall be construed to be the agent, representative, student or employees of the other Party. In no event shall this Agreement be construed as establishing a partnership, joint venture, joint enterprise or similar relationship between the Parties. Methodist shall be liable for its own debts, obligations, acts and omissions, including the payment of all required withholding, social security and other taxes or benefits of its employees.

**7. COMPLIANCE WITH FEDERAL LAW**

- A. The Parties will comply with all applicable federal, state, and local laws, ordinances, rules, and regulations; comply with all applicable requirements of any accreditation authority; and certify such compliance upon request by the other Party.
- B. The Parties will not discriminate, sexually harass, or retaliate against any employee, applicant or student enrolled in their respective programs because of race, color, sex, religion, national origin, age, disability, genetic information, veteran status, sexual orientation, gender identity, or any other basis protected by law. Should either the TAMHSC or Methodist be given actual or constructive notice of discrimination, harassment, or retaliation on the basis of any of these protected classes, TAMHSC and Methodist will cooperate in an investigation to ascertain the

facts; stop the discriminatory, harassing, or retaliatory conduct; remedy the effects of such conduct; and prevent the recurrence of such conduct. TAMHSC takes responsibility for training its students on its nondiscrimination policies and grievance procedures, and Methodist takes responsibility for training its employees on its nondiscrimination policies and grievance procedures. Failure to meet the terms of this section may result in the immediate termination of this Agreement.

- C. The Parties agree to comply with the requirements of the Health Insurance Portability & Accountability Act of 1996 ("HIPAA"). In the event that the students are determined to be part of Methodist's workforce (as referenced in Section F of the AAMC Agreement), the students shall be required to fully comply with all Methodist requirements of its workforce. Such activities include but are not limited to: 1) compliance with and participation in any required Methodist training regarding patient privacy and security; 2) compliance with Methodist patient information access safeguard procedures; 3) use or disclosure of protected health information only as required to (i) complete the educational purposes of this Agreement or (ii) for a student or faculty's necessary services under this Agreement.

## **8. FERPA**

For purposes of this Agreement, pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), TAMHSC hereby designates Methodist as a school official with a legitimate educational interest in the educational records of the students whom Methodist encounters to the extent that access to the records are required by Methodist to carry out the services under this Agreement. Methodist agrees to maintain the confidentiality of the education records in accordance with the provisions of FERPA, to the extent applicable to Methodist.

## **9. NOTICES**

Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email (to the extent a facsimile number or email address is set forth below) or other commercially reasonable means and will be effective when actually received. Each Party can change their respective notice address by sending to the other Party a notice of the new address. Notices should be addressed as follows:

### **For COM:**

Texas A&M College of Medicine  
Attn: Associate Dean for Finance & Administration  
8447 Riverside Parkway  
Bryan, TX 77807

Phone: (979) 436-0208

Fax:

Email: [COM-Contracts@tamu.edu](mailto:COM-Contracts@tamu.edu)

### **For Methodist:**

Houston Methodist Hospital  
Attn: Marc L. Boom, MD  
6565 Fannin Street, D200  
Houston, TX 77030

Phone: (     )

Fax: (     )

Email:

### **With a copy to TAMHSC:**

Texas A&M University Health Science Center  
Attn: Associate Vice President & Chief Financial  
Officer  
8441 Riverside Parkway, Suite 3100  
Bryan, TX 77807

## 10. INDEMNIFICATION

TAMHSC, to the extent allowed by the Constitution and laws of the State of Texas, agrees to indemnify and hold harmless Methodist, its trustees, officers, employees and agents from and against any and all losses, claims, demands, damages, liabilities and costs resulting from or caused by the actions of TAMHSC, COM or its employees (including students and faculty members) pertaining to the activities and obligations under this Agreement.

Methodist agrees to indemnify and hold harmless COM, its trustees, regents, officers, employees and agents from and against any and all third party losses, claims, demands, damages, liabilities and costs to the extent resulting from or caused by the negligent or otherwise wrongful actions of Methodist, its agents or employees pertaining to the activities and obligations under this Agreement.

If both COM and Methodist are negligent or otherwise at fault or strictly liable without fault, the obligations of indemnification shall continue, but each Party shall indemnify the other Party only to the extent of the damages and injuries attributable to such indemnifying Party.

## 11. MISCELLANEOUS:

- A. Delinquent Child Support Obligation: Under Section 231.006, *Texas Family Code*, Methodist certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. The foregoing clause shall remain inapplicable unless or until Methodist becomes a sole proprietorship, or has a partner, shareholder, or owner or with a partnership of at least 25%.
- B. Payment of Debt or Delinquency to the State: Pursuant to Section 2252.903, *Texas Government Code*, Methodist agrees that any payments owing to Methodist under this Agreement may be applied directly toward certain debts or delinquencies that Methodist owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
- C. Loss of Funding: Performance by TAMHSC under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, TAMHSC will issue written notice to Methodist and TAMHSC may terminate this Agreement without further duty or obligation hereunder. Methodist acknowledges that appropriation of funds is beyond the control of TAMHSC.
- D. Certification regarding Boycotting Israel: Pursuant to Chapter 2270, *Texas Government Code*, Methodist certifies Methodist (a) does not currently boycott Israel; and (b) will not boycott Israel during the term of this Agreement. Methodist acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- E. Certification regarding Business with Certain Countries and Organizations: Pursuant to Subchapter F, Chapter 2252, *Texas Government Code*, Methodist certifies Methodist is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Methodist acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- F. Prohibition on Contracts Related to Persons Involved in Human Trafficking: A state agency may

not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been convicted of any offense related to the direct support or promotion of human trafficking. A bid or award subject to the requirements of this section must include the following statement: "Under Section 2155.0061, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

- G. Not Eligible for Rehire. Methodist is responsible to ensure that employees participating in work for any A&M System member have not been designated by the A&M System as Not Eligible for Rehire as defined in A&M System Policy 33.02, Section 4. Non-conformance to this requirement may be grounds for termination of this Agreement.
- H. Non-Waiver: Methodist expressly acknowledges that TAMHSC is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by TAMHSC of its right to claim such exemptions, privileges, and immunities as may be provided by law.
- I. Public Information Act: Methodist acknowledges that TAMHSC is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. Upon TAMHSC's written request, Methodist will promptly provide specified contracting information exchanged or created under any resultant agreement for or on behalf of TAMHSC. Methodist acknowledges that TAMHSC may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and Methodist agrees that this Agreement can be terminated if Methodist knowingly or intentionally fails to comply with a requirement of that subchapter.
- J. Governing Law: This Agreement shall be construed under and in accordance with the laws of the State of Texas without reference to the conflicts of laws principles thereof.
- K. Venue: Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against TAMHSC shall be in the County in which the primary office of the chief executive officer of TAMHSC is located. At the execution of this Agreement such county is Brazos County, Texas.
- L. Force Majeure: Neither Party is required to perform any term, condition, or covenant of this Agreement, if performance is prevented or delayed by a natural occurrence, a fire, an act of God, an act of terrorism, or other similar occurrence, the cause of which is not reasonably within the control of such Party and which by due diligence it is unable to prevent or overcome.
- M. Execution and Modification: This Agreement is binding only when signed by both Parties. Any modifications or amendments must be in writing and signed by both Parties.
- N. Severability: If any of the provisions of this Agreement in the application thereof to any person or circumstance is rendered or declared illegal for any reason, or shall be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.

- O. Assignment: This Agreement, with the rights and privileges it creates, is assignable only with the written consent of both Parties.
- P. Audits: Methodist understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), Texas Education Code. Methodist agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested.
- Q. Entire Agreement: This Agreement and Exhibit A constitute the entire Agreement between the Parties and supersedes any prior agreement or understanding, written or oral, between the Parties with regard to the subject matter covered by this Agreement.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their authorized representatives

APPROVED AND ACCEPTED:

APPROVED AND ACCEPTED:

TEXAS A&M UNIVERSITY  
HEALTH SCIENCE CENTER  
ON BEHALF OF  
THE COLLEGE OF MEDICINE

\_\_\_\_\_  
Texas A&M College of Medicine

Date: 8/17/2020

APPROVED AS TO FORM

\_\_\_\_\_  
Administration

Date: 4/27/2020

\_\_\_\_\_  
Jc. \_\_\_\_\_, MD

Date: 7/10/2020