

**AMENDED AND RESTATED AFFILIATION AND PROGRAM AGREEMENT BETWEEN
TEXAS A&M UNIVERSITY HEALTH SCIENCE CENTER
AND
DETAR HEALTHCARE SYSTEM
FOR THE SERVICES OF THE FAMILY MEDICINE RESIDENCY PROGRAM**

This Amended and Restated Affiliation and Program Agreement effective as of April 1, 2018 (hereinafter "Agreement"), is between Texas A&M University Health Science Center (hereinafter "TAMHSC"), a health-related institution under the administration of Texas A&M University, a member of The Texas A&M University System (hereinafter "TAMUS"), an agency of the State of Texas, on behalf of the College of Medicine (hereinafter "COLLEGE"); Victoria of Texas, L.P. d/b/a DeTar Healthcare System, a Texas limited partnership (hereinafter "HOSPITAL"), Regional Employee Assistance Program (hereinafter "REAP"), a Texas nonprofit corporation, and certain faculty physicians employed by TAMHSC ("PHYSICIANS") identified on Exhibit A hereto, each of which may hereinafter be referred to as a "PARTY" or collectively as "PARTIES".

WITNESSETH:

WHEREAS, TAMHSC is a state-supported institution of higher education, and operates comprehensive professional education programs for the study of medicine, at both the undergraduate and graduate levels;

WHEREAS, the HOSPITAL is accredited by the Joint Commission ("JC") and is a health care facility whose mission is to provide quality health care to all and to promote wellness throughout the Victoria, Texas area;

WHEREAS, the HOSPITAL is the sponsoring institution of a three-year family medicine residency program ("PROGRAM") accredited by the Accreditation Council for Graduate Medical Education ("ACGME") and, therefore, is required to maintain a curriculum meeting standards as set forth by ACGME and other governing bodies;

WHEREAS, REAP is an affiliate of HOSPITAL and employs physicians who provide professional patient care services at HOSPITAL and other facilities owned and/or operated by HOSPITAL, or REAP or any other location at which REAP may, from time to time, require PHYSICIANS to provide services (collectively "FACILITIES");

WHEREAS, HOSPITAL has entered into a resident staffing agreement with REAP through which REAP provides resident physicians who participate in the PROGRAM ("Residents") for a clinical experience in family medicine and provide patient care services for PROGRAM patients at FACILITIES;

WHEREAS, the PARTIES desire to ensure the successful operation of the PROGRAM and this Agreement will set forth the terms and conditions under which TAMHSC and PHYSICIANS shall provide certain services to HOSPITAL in connection with the Program; and

WHEREAS, TAMHSC and HOSPITAL are separate, autonomous institutions with separate, autonomous but complementary missions and wish to enter into this Agreement to enhance their complementary missions.

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the PARTIES and the covenants and agreements set forth hereinafter, the PARTIES hereto agree as follows:

1. **Purpose.**

Consistent with the purposes set forth above, the PARTIES desire to enter into this Agreement under which: (1) HOSPITAL will maintain an ACGME-accredited PROGRAM in Victoria, Texas in collaboration with TAMHSC; (2) the PROGRAM will have six (6) family medicine residency slots per year increasing to eight (8) residency slots per year beginning on July 1, 2018; (3) the PROGRAM will have one (1) PHYSICIAN serving as a Program Director plus three (3) core PHYSICIANS and one (1) additional core PHYSICIAN will be added as of April 1, 2019 bringing the total core PHYSICIANS to four (4) ; (4) the PROGRAM will have a curriculum with a focus that encourages participants to continue practicing in an underserved area; and (5) Residents will be supervised by PHYSICIANS and/or Contracted Physicians under the terms and conditions set forth in this Agreement.

2. **Services Provided by TAMHSC.**

2.1 **PROGRAM Staffing.** TAMHSC will provide to HOSPITAL the services of the following support staff necessary to administer the PROGRAM: a Program Director (as defined below), up to four (4) core PHYSICIANS, a residency program coordinator ("Program Coordinator"), and an administrative associate (collectively "Program Support Staff"). The PARTIES will jointly recruit such Program Support Staff. TAMHSC will develop affiliation agreements and pay reasonable and necessary contract, operating and faculty recruitment expenses associated with the PROGRAM and the Program Support Staff; provided, however, that all expenses paid by TAMHSC hereunder shall be consistent with fair market value and unrelated, directly or indirectly, to the value or volume of any referrals for goods and/or services by and among any PARTY and/or other person receiving compensation in connection with the PROGRAM. Furthermore, the COLLEGE's leadership team, consisting of the Associate Dean of the Round Rock campus and the Assistant Dean of Graduate Medical Education (the "Leadership Team"), will provide general oversight of the Program Support Staff in the ordinary course of business.

2.2 **Accreditation Services.** The Program Director and the Program Coordinator will assist HOSPITAL with (i) submitting annual program and institutional updates to the ACGME, as required, and will lead in the development of corrective action plans to address any identified deficiencies or accreditation citations; and (ii) the creation of program letters of agreement, master affiliation agreements, and GME policies and procedures, as may be necessary and required by ACGME for maintenance of accreditation of the PROGRAM. HOSPITAL agrees to bear the cost of any accreditation expenses, such as filing fees, if any.

2.3 **Residency Consultation Services.**

2.3.1 The Program Director and the Program Coordinator will provide site visit preparation and consultation services in anticipation of ACGME site visits and will actively participate in any accreditation site visit activities and follow-up reporting during the term of this Agreement. The Program Director and the

Program Coordinator will also work with HOSPITAL to further develop HOSPITAL's Graduate Medical Education Committee ("GMEC"), Program Evaluation Committee ("PEC"), and Clinical Competency Committee ("CCC"), as required by the ACGME. The Program Director and the Program Coordinator will guide and participate in HOSPITAL's PEC and CCC and will actively assist in the creation of competency and program evaluation criteria, assessment tools and methods, and remediation programs.

2.3.2 The Program Director and the Program Coordinator will coordinate with HOSPITAL regarding any necessary correspondence with the ACGME, American Academy of Family Practice, and Texas Medical Board regarding residency-related activity of the PROGRAM.

2.3.3 TAMHSC will administer the PROGRAM's residency management software and supplemental curriculum materials. TAMHSC will provide curriculum and faculty development support upon request of the HOSPITAL and will conduct continuing medical education ("CME") programming for the PROGRAM's faculty and residents.

2.4 Graduate Medical Education Consulting Services. TAMHSC shall make the Leadership Team, and executives with similar levels of experience and expertise regarding graduate medical education, available to provide, at HOSPITAL's request, up to 360 hours per year of consulting services related to graduate medical education generally ("GME Consulting Services"). Invoices for GME Consulting Services shall include a description of the GME Consulting Services provided, the personnel providing such GME Consulting Services, and the amount of time spent by personnel providing GME Consulting Services.

3. Term.

The term of this Agreement shall extend from the first day of April 2018 through December 31, 2020 ("Initial Term"). This Agreement may be renewed for subsequent renewal periods of one (1) year each (each a "Renewal Term") and shall remain in full force and effect for the extent of any Renewal Term unless one Party delivers thirty (30) days advanced written notice of termination of this Agreement prior to the expiration of the Initial Term or any Renewal Term, as applicable, to the other Party or unless terminated pursuant to Section 17. Notwithstanding the foregoing, the maximum total term of this Agreement shall not exceed five years.

3.1 Review. At least ninety (90) days prior to the expiration of the Initial Term of any Renewal Term, a review of all the terms and conditions will be conducted by the parties and any proposed amendments to the Agreement shall be provided to each party at least thirty (30) days prior to the expiration of such Initial Term or Renewal Term.

3.2 Transition. If the term of this Agreement is not renewed beyond its then current term, the parties will reasonably cooperate in the transfer and transition of all Program responsibilities to Hospital to allow for continuation and operation of the Program by Hospital.

4. General Terms and Conditions.

- 4.1. Program Director – Generally. The PARTIES understand and agree that the Program Director (“Program Director”) shall have overall authority and responsibility for the general administration of the PROGRAM. The Program Director will be an employee of the TAMHSC and shall assure that the general academic quality of the PROGRAM is consistent with applicable requirements of the ACGME, American Osteopathic Association (hereinafter “AOA”) and the American Board of Family Medicine. The compensation that TAMHSC pays the Program Director shall be consistent with fair market value and unrelated, directly or indirectly, to the value or volume of any referrals made by the Program Director for goods and/or services provided by any PARTY. The GMEC of PROGRAM must approve in advance a change in the Program Director. After approval, the new Program Director must submit this change to the ACGME.
- 4.2. Program Director Requirements. The Program Director shall satisfy the following ACGME/AOA Program Requirements for residency education in family medicine:
- 4.2.1. Academic and Professional Qualifications. The Program Director shall: (i) have demonstrated ability as a teacher, clinician, and administrator; (ii) be capable of administering the PROGRAM in an effective manner; (iii) be actively involved in the care of patients; (iv) have an appropriate medical staff appointment at HOSPITAL and; (v) have requisite specialty expertise and documented educational and administrative experience acceptable to the GMEC or PROGRAM’S review committee.
- 4.2.2. Licensure. The Program Director shall be, and throughout the term of this Agreement remain, licensed to practice medicine in the State of Texas.
- 4.2.3. Certification Requirements. The Program Director shall be, and throughout the term of this Agreement remain, certified by the American Board of Family Medicine or have appropriate educational qualifications, as so judged by the ACGME Review Committee for Family Medicine (hereinafter “RC”).
- 4.3. Program Director Responsibilities. The Program Director shall have the following responsibilities:
- 4.3.1. Written Educational Goals. The Program Director shall have responsibility for a written statement outlining the educational goals of the PROGRAM. These educational goals shall be included in a document that outlines the specific knowledge, skills, and other attitudes expected of Residents at each level of training and for each major rotation or other PROGRAM assignment. The goals must be distributed to Residents and teaching staff.
- 4.3.2. Selection of Residents. The Program Director and HOSPITAL shall be responsible for recruiting and selection of Residents to the PROGRAM, such selection consistent with departmental policies and procedures.

- 4.3.3. **Teaching Staff and Other PROGRAM Personnel.** The Program Director shall be responsible for selecting and supervising the teaching staff and PROGRAM faculty at HOSPITAL. The Program Director shall evaluate teaching staff and faculty and approve the continued participation of PROGRAM faculty and teaching staff based on the evaluations.
- 4.3.4. **Supervision of Residents.** The Program Director shall (i) ensure that all Residents are appropriately supervised and monitor such supervision at all participating institutions; (ii) verify the residency education of all Residents; (iii) implement policies and procedures for Residents duty hours (including moonlighting restrictions); and (iv) monitor Resident duty hours with a frequency sufficient to ensure compliance with ACGME requirements.
- 4.3.5. **Resident Evaluation.** The Program Director shall ensure that there are regular and formal evaluations of the Residents with participation of the teaching staff.
- 4.3.6. **Discipline.** The Program Director shall be responsible for the implementation of written disciplinary procedures, as established by the PROGRAM, regarding academic discipline and shall ensure compliance with such disciplinary procedures. The Program Director may terminate a Resident from the PROGRAM, provided such action is consistent with the written disciplinary procedures of the ACGME/AOA and HOSPITAL, if applicable. Such termination shall only be effective with the prior written approval of the HOSPITAL, which shall not be unreasonably withheld.
- 4.3.7. **Provision of Accurate Information.** The Program Director shall prepare and submit accurate and complete (i) program information forms and annual program Resident updates; (ii) other information as directed or requested by the RC; or (iii) information or forms as required and requested by the ACGME.
- 4.3.8. **Education Oversight.** The Program Director shall oversee and ensure the quality of didactic and clinical education of the PROGRAM.
- 4.4. **Resident Patient Care Services.** Residents who are officially part of the PROGRAM shall participate in the provision of care to patients in HOSPITAL. All such care shall be with the proper patient consent, either general or specific as required.
- 4.5. **Program Director Supervision.** All care rendered by the Residents shall be under the general supervision of the PROGRAM and the Program Director.
- 4.6. **Faculty Supervision.** All care rendered by the Residents shall be under the specific supervision of faculty who have been identified and credentialed, and are overseen by the Program Director. No Resident physician shall admit or perform patient care services without an attending physician and/or faculty physician under whose supervision the care is rendered and such supervision is consistent with HOSPITAL and PROGRAM policies and procedures. All faculty must provide appropriate supervision of Residents in patient care activities and maintain a learning environment conducive to educating the Residents in the ACGME competency areas. Faculty will evaluate

Resident performance in a timely manner during each rotation and document this evaluation at completion of the rotation.

- 4.7. **Moonlighting Services.** No Resident or faculty physician shall provide services as a physician, other than physician services provided in connection with the PROGRAM, without prior mutual approval of the Program Director and the Hospital Chief Executive Officer. Notwithstanding the foregoing, services set forth in **Exhibit D** shall be approved by HOSPITAL.
- 4.8. **PHYSICIAN Patient Care Services.** PHYSICIANS shall provide, and shall supervise Residents' provision of, professional patient care services for PROGRAM patients ("Services") according to the schedule established by REAP and HOSPITAL.
 - 4.8.1 **Obligations of TAMHSC and PHYSICIANS.** TAMHSC and PHYSICIANS shall comply with the duties and obligations set forth in **Exhibit B**.
 - 4.8.2 **Maintenance of Time Records.** TAMHSC and PHYSICIANS shall maintain complete and accurate records verifying the amount of time devoted to providing Services, which excludes time spent performing administrative, consulting and educational duties, each month on a timesheet in the form of **Exhibit C**. TAMHSC shall submit a monthly invoice together with all underlying PHYSICIAN timesheets to REAP as a condition precedent to HOSPITAL's and REAP's payment obligation hereunder no later than the 15th day following the close of the month to which the timesheets refer. TAMHSC will maintain such records for at least four (4) years after the rendering of Services.
 - 4.8.3 **Assignment of Right to Bill and Collect for Professional Services.** PHYSICIANS hereby assign to REAP any rights PHYSICIANS have to payments made by Medicare, Medicaid, any commercial insurance plan and/or managed care plan, and payments made by any other entity or person for PHYSICIANS' Services, and PHYSICIANS agree to take any act(s), including executing documents and authorizing REAP (or REAP's duly authorized employees, contractors and/or agents, and affiliates) to execute documents on behalf of REAP giving effect to such assignment.
 - 4.8.4 **Contracted Physicians.**
 - (a) It is understood that the intent of the PARTIES is for the PHYSICIANS to provide the Services and the PARTIES will work in good faith to jointly recruit such PHYSICIANS. However, in the event a PHYSICIAN leaves and/or is no longer be able to provide the Services and perform their duties and obligations under this Agreement, TAMHSC may contract with physicians ("Contracted Physicians") on a temporary basis to provide the Services and perform the duties and obligations set forth in **Exhibit B** subject to HOSPITAL's written consent, which shall not be unreasonably withheld.

- (b) Contracted Physicians shall have the same duties and responsibilities as PHYSICIANS, and are similarly subject to approval by REAP in accordance with the provisions of Exhibit B. TAMHSC will work in good faith (i) to have Contracted Physicians assign to REAP any rights they have to payments made by Medicare, Medicaid, any commercial insurance plan and/or managed care plan, and payments made by any other entity or person for Contracted Physician's professional health care services provided while supervising Residents in connection with the Program, and (ii) to have these Contracted Physicians agree to take any act(s), including executing documents and authorizing REAP (or REAPs duly authorized employees, contractors and/or agents, and affiliates) to execute documents on behalf of REAP giving effect to such assignment.
- (c) HOSPITAL agrees and authorizes TAMHSC to engage the Contracted Physicians listed in Exhibit E, attached hereto, to provide the Services and perform the duties and obligations set forth in Exhibit B effective as of October 1, 2017.

4.8.5 With respect to community physicians, including Contracted Physicians, who have private practices or any type of practice providing professional medical services in the HOSPITAL's community, or in communities where any affiliate of HOSPITAL operates, and with respect to which TAMHSC might contract with to provide Services ("Community Physicians"), each Community Physician shall be paid a flat fee amount per shift that is consistent with fair market value for the services provided, not taking into account the value or volume of any referrals made to HOSPITAL, HOSPITAL's affiliate(s), and/or TAMHSC by the Community Physicians.

4.9 Practice of Medicine. Nothing in this Agreement shall be interpreted to dictate any PHYSICIAN'S practice of medicine, delivery of direct patient care, or independent judgment in the practice of medicine. PHYSICIANS shall have complete control over their diagnosis and treatment of patients assigned to PHYSICIANS and their performance of professional medical services. Neither the board of directors of REAP or HOSPITAL, nor any non-physician employee of REAP or HOSPITAL, shall exercise and direct supervision or control over the individual treatment of patients by PHYSICIANS.

5. Rights and Obligations of Respective Parties.

5.1. Rights and Obligations of the PARTIES with Respect to PROGRAM.

As the sponsoring institution for the PROGRAM, HOSPITAL shall, in accordance with the guidance and consultation provided by TAMHSC, ensure the existence and availability of the basic educational and patient care resources necessary to provide the Residents with meaningful involvement and responsibility in the required clinical specialties. HOSPITAL and TAMHSC shall ensure the design and implementation of an educational program that describes in detail the clinical education component of the PROGRAM, establishing courses and clinical assignments for Residents. The curriculum may be

updated from time to time. In addition to any other rights and obligations of the PARTIES set forth in this Agreement, TAMHSC and HOSPITAL agree that the following shall apply to the PROGRAM:

- 5.1.1. **PROGRAM Requirements.** PROGRAM shall comply with all applicable ACGME/AOA program Requirements for Residency Education in Family Medicine and all applicable guidelines of the American Board of Family Medicine.
- 5.1.2. **Accreditation.** HOSPITAL and TAMHSC will ensure that the PROGRAM will be ACGME accredited. It is the intent of all PARTIES hereto that the PROGRAM shall remain accredited, and continued accreditation shall be dependent on the cooperative efforts of TAMHSC and HOSPITAL.
- 5.1.3. **Resident Recruitment.** TAMHSC will assist in the recruitment of resident applicants to HOSPITAL, utilizing both the Electronic Resident Application System (ERAS) and National Residency Match Program (NRMP), as required. TAMHSC will assist in the development of an applicant rank order list in preparation for residency match and will assist HOSPITAL with employment onboarding and orientation as requested by HOSPITAL.
- 5.1.4. **PROGRAM Communication.** TAMHSC shall communicate on a regular basis with HOSPITAL and its representatives, through the Program Director.
- 5.1.5. **Scheduling and Learning Experience.** The Program Director shall provide to HOSPITAL a regular rotation schedule and a call schedule for Residents with appropriate documentation. HOSPITAL and TAMHSC shall have the joint authority and be responsible for the selection, assignment, coordination and evaluation of the educational learning experiences of the Residents.
- 5.1.6. **Faculty Appointment.** Physicians who wish to teach Residents at HOSPITAL must be approved by the Program Director prior to performing any teaching or preceptor services to Residents.
- 5.1.7. **Non-Exclusive Training Sites.** Residents may from time to time participate in a training program at another location, including telemedicine programs approved by the Hospital and Program Director, provided any such training is not inconsistent with the terms and conditions of this Agreement. Program Director shall work with HOSPITAL to review Resident FTE assignments to HOSPITAL facilities in order to ensure such assignments are consistent with the financial commitment of HOSPITAL.
- 5.1.8. **Insurance.** HOSPITAL acknowledges that because TAMHSC is an agency of the State of Texas, liability for the tortious conduct of the agents and employees of TAMHSC or for injuries caused by conditions of tangible state property is provided solely by the provisions of the Texas Tort Claims Act (Texas Civil Practice and Remedies Code, Chapters 101 and 104), and that Workers' Compensation Insurance coverage for employees of TAMHSC is provided by TAMHSC as mandated by the provisions of Chapter 502, Texas Labor

Code. TAMHSC shall have the right, at its option, to (a) obtain liability insurance protecting TAMHSC and its employees and property insurance protecting TAMHSC's buildings and contents, to the extent authorized by Section 51.966, Texas Education Code, or other law, or (b) self-insure against any risk that may be incurred by TAMHSC as a result of its operations under this Agreement.

- 5.1.9. **Nametags.** Faculty shall be required to wear nametags to properly identify themselves to patients.
- 5.1.10. **Resources and Scholarly Activities.** TAMHSC will make available online library resources to residency faculty and will assist in the development of on-site library resources of HOSPITAL. TAMHSC will also mentor residency program faculty and aid in the development of scholarly activities (publications, research, lectures, poster presentations, etc.) by faculty and Residents.
- 5.1.11. **Videoconferencing.** TAMHSC will purchase and install videoconferencing equipment within the identified family medicine center space provided by HOSPITAL and will be responsible for any up-front purchase costs and recurring maintenance and telecommunication service fees during the duration of this Agreement. Any equipment and software purchased by TAMHSC will remain property of TAMHSC, in accordance with the rules and regulations of the state of Texas, until otherwise negotiated.

5.2. Rights and Obligations of HOSPITAL.

HOSPITAL shall support the clinical instruction of the Residents on all clinical rotations in HOSPITAL facilities as set forth herein. HOSPITAL supports and agrees with the clinical objectives articulated herein with respect to the curriculum.

- 5.2.1. **PROGRAM Standards.** As PROGRAM's sponsoring institution, HOSPITAL shall comply, and shall engage in good faith efforts to assure that physician members of HOSPITAL'S medical staff comply with all applicable ACGME requirements.
- 5.2.2. **Staff Privileges.** Subject to prior satisfaction of HOSPITAL'S applicable credentialing requirements, HOSPITAL shall provide staff privileges at HOSPITAL'S facilities for the PROGRAM Director, other clinical faculty of PROGRAM, and Residents as appropriate for their level of training.
- 5.2.3. **Recruitment and Employment of Residents.** HOSPITAL will reasonably cooperate in the recruitment and ranking of resident applicants to HOSPITAL, in consultation with TAMHSC and REAP. REAP will employ those Residents who match into the PROGRAM.
- 5.2.4. **Accreditation.** HOSPITAL shall advise the Program Director of requirements to maintaining HOSPITAL'S JC accreditation status. While the Program Director may request changes to HOSPITAL'S operations or facilities in order to better ensure continued accreditation of the PROGRAM, HOSPITAL reserves the right to implement or reject any such request, if the request would jeopardize HOSPITAL'S accreditation status as solely determined by HOSPITAL.

- 5.2.5. **HOSPITAL Rules, Policies and Procedures.** HOSPITAL shall advise Residents, faculty, and others involved in the PROGRAM of their responsibility to abide by all applicable rules, policies and procedures of, and applicable to, HOSPITAL while they are involved in the PROGRAM at the facilities of HOSPITAL. These rules, policies and procedures shall include but not be limited to the policies and regulations of the JC, OSHA and any other governmental or regulatory agency. Residents shall be required to wear nametags to properly identify themselves to patients.
- 5.2.6. **Resident Insurance.** HOSPITAL shall furnish evidence of adequate professional liability insurance for Residents on an annual basis or within thirty (30) calendar days of any changes in coverage or limits; such evidence must demonstrate minimal compliance with Hospital's insurance requirements.
- 5.2.7. **Hospital Support and Services.** HOSPITAL shall provide the support necessary for the PROGRAM to obtain and maintain accreditation for the PROGRAM in regard to the education of Residents in HOSPITAL facilities. HOSPITAL'S commitments and obligations hereunder are as follows:
- (a) **Inpatient Facilities.** HOSPITAL shall provide inpatient clinical facilities. Within its facilities, HOSPITAL shall enable Residents to observe and participate in various activities under faculty supervision in order to meet the requirements of the accrediting bodies. The intent is to provide a quality community HOSPITAL clinical experience for Residents to ensure a thorough training program with "hands-on" experience.
 - (b) **Family Medicine Center.** In addition to inpatient facilities, HOSPITAL or its designee shall provide facilities necessary to house the PROGRAM and allow for an outpatient clinical experience. The facility or family medicine center shall have adequate space for patient exam rooms, a patient waiting area, resident offices, adequate teaching space, faculty offices, and space for program and clinical support staff. The family medicine center shall meet all requirements as required by ACGME.
 - (c) **HOSPITAL Orientation.** In regard to the education of Residents in HOSPITAL facilities, HOSPITAL shall provide necessary orientation and written administrative guidelines and procedures as may be reasonably necessary for the Residents in order to comply with ACGME requirements. HOSPITAL shall coordinate HOSPITAL orientation activities with the Program Director.
 - (d) **Operation of HOSPITAL.** HOSPITAL shall advise Program Director of any changes in personnel, operation, or policies that may affect participation of Residents in PROGRAM activities in HOSPITAL facilities. HOSPITAL shall maintain responsibility for overall delivery of patient care at HOSPITAL facilities in which PROGRAM activities are being conducted.

- (e) **Resident Capacity.** Residents occupy the position of Residents and will not replace employees or other professionals who work at HOSPITAL facilities. HOSPITAL acknowledges that Residents participating in programs other than the PROGRAM may rotate at the HOSPITAL or any designated auxiliary site.
- (f) **Restriction of Activities.** A Resident may be restricted from participating in the clinical experience in HOSPITAL facilities only for good cause shown, after notice and an opportunity for hearing are provided. Prior to the provision of notice, the basis for such restriction shall be presented in writing to the Program Director, following which the Program Director and HOSPITAL shall agree, on a case-by-case basis, to the appropriate action, notice and hearing to be utilized in each such instance. Notwithstanding the foregoing, a Resident may be suspended immediately, without notice or hearing, in the event the Resident is arrested or indicted for any crime other than a minor traffic violation, tests positive for illegal drugs, or is insubordinate, displays professional incompetence or engages in conduct that could be detrimental to patient care.
- (g) **Call Rooms.** HOSPITAL shall provide a sufficient number of call rooms for use of the PROGRAM Residents who are assigned to in-hospital overnight call.

6. Coordination of Educational Programming.

- 6.1. **Program Director.** The Program Director coordinates the Program's Resident education and supervision at HOSPITAL. Specific responsibilities of the Program Director include:
 - 6.1.1. Responsibility for the day-to-day activities of the PROGRAM at HOSPITAL;
 - 6.1.2. Membership on the GMEC;
 - 6.1.3. Provide liaison between Residents, medical staff and Hospital Administration; and
 - 6.1.4. Report on Residency activity, education and supervision to Chief Medical Officer and Medical Executive Committee ("MEC"), quarterly, such reports including:
 - (a) Review of policies, procedures, protocols of PROGRAM in HOSPITAL facilities that delineate role, responsibilities and patient care activities of Residents;
 - (b) Review of protocols and mechanisms through which the Program Director, faculty and supervising physicians make decisions about Residents' progressive involvement and independence in delivering patient care;

- (c) Quarterly review of Residents' performance as related especially to patient safety and quality of care issues;
 - (d) Quarterly review to ensure that supervising physicians possess privileges commensurate with their supervising activities; and
 - (e) Summary of GMEC meetings as appropriate.
- 6.2 **HOSPITAL.** HOSPITAL, through its Board of Trustees, shall appoint representatives to the GMEC, including but not limited to the Physician Advisor, CEO and members of specialty services to review at least every quarter:

- (a) Responsibilities of HOSPITAL as a participating institution in the PROGRAM; and
- (b) Written criteria and processes for selection, evaluation, promotion and dismissal of Residents employed by HOSPITAL and participating in PROGRAM.

7. **PROGRAM Expenses and Payments.**

7.1. **Annual Payment Amount.** As compensation to TAMHSC for its expenses associated with the development and implementation of the PROGRAM, HOSPITAL and REAP shall collectively pay TAMHSC an annual amount ("Annual Payment Amount") each Calendar Year, payable as set forth in this Section 7.

7.1.1 **Annual Payment Amount CY 2018.** For the remainder of Calendar Year 2018 (April 1, 2018-December 31, 2018), the Annual Payment Amount shall be One Million Five Hundred Thirty-Three Thousand Sixty-Eight Dollars (\$1,533,068.00).

7.1.2 **Annual Payment Amount for CY 2019.** For Calendar Year 2019, the Annual Payment Amount shall be Two Million Five Hundred Sixty-Four Thousand Three Hundred Seventy-Seven Dollars (\$2,564,377.00).

7.1.3 **Annual Payment Amount for CY 2020.** For Calendar Year 2020, the Annual Payment Amount shall be Two Million Six Hundred Eighty-Five Thousand Three Hundred Sixty-Four Dollars (\$2,685,364.00).

7.2. **Timing of Payments.** HOSPITAL shall remit to TAMHSC the Monthly Hospital Payment Amount, as defined at Section 7.3.2, and REAP shall remit to TAMHSC the Monthly Professional Payment Amount, as defined at Section 7.3.1, no later than the thirtieth (30th) day of each month of the then current calendar year.

7.3. **Monthly Payment.**

7.3.1 **Monthly Professional Payment Amount.** REAP shall compensate TAMHSC for professional patient care services at an hourly rate of \$98.56/hour ("Hourly Rate"). REAP shall pay TAMHSC the amount invoiced for patient care services pursuant to Section 4.8.2 of this Agreement, which shall be determined by

multiplying the Hourly Rate times the number of hours documented on the PHYSICIANS' monthly time cards for each month ("Monthly Professional Payment Amount").

7.3.2 **Monthly Hospital Payment Amount.** HOSPITAL shall compensate TAMHSC for staffing, consulting, teaching, administrative and all other non-professional patient care services provided by TAMHSC pursuant to this Agreement in the amount remaining after subtracting the Monthly Professional Payment Amount, as defined above in Section 7.3.1, for the then-current month from one-ninth (1/9th) of the then-current Annual Payment Amount for CY 2018, and one-twelfth (1/12) of the then-current Annual Payment Amount for CY 2019 and 2020.

7.3.3 **Quarterly Reconciliation.** Each quarter, HOSPITAL, REAP and TAMHSC shall reconcile the Monthly Professional Payment Amount and Monthly Hospital Payment Amount to ensure that the total amounts paid do not exceed one-quarter of the Annual Payment Amount.

7.4. **Extraordinary Expenses.** TAMHSC will use reasonable efforts to establish and operate the PROGRAM with the use of internal and available resources and budgeted amounts; however, in some cases the use of non-budgeted outside resources may be required and will result in additional expenses to be borne by HOSPITAL. TAMHSC will notify HOSPITAL, in writing, if the use of outside resources are required or recommended and the cost to HOSPITAL for such resources. TAMHSC will not incur expenses relating to the use of outside resources without the written consent of HOSPITAL. Reimbursement for such additional expenses shall be in addition to the Monthly Payment Amount.

7.5. **GME Consulting Services.** HOSPITAL shall compensate TAMHSC for GME Consulting Services at the rate of \$125/hour. TAMHSC shall submit an invoice to HOSPITAL no later than the 15th day following the close of each month in which GME Consulting Services were provided, and HOSPITAL shall remit payment for such services no later than the thirtieth (30th) day of each month of the then current calendar year.

8. **Compliance with Centers for Medicare and Medicaid Services Regulations.**

TAMHSC shall assist HOSPITAL in meeting the requirements set forth in Medicare regulations currently codified at 42 Code of Federal Regulations §§ 413.75-413.83, as may from time to time be amended, by providing reasonable and necessary information as requested by HOSPITAL.

9. **Independent Contractor.**

PROGRAM'S faculty shall not be deemed to be employees of HOSPITAL during their assignments. Nothing herein will be construed as giving a degree of control or direction on the part of HOSPITAL and/or REAP that creates an employer-employee relationship between TAMHSC employed physicians, on the one hand, and HOSPITAL and/or REAP. HOSPITAL and/or REAP will not exercise control or direction over the professional services performed by TAMHSC employed physicians hereunder, including, but not limited to, the practice of medicine. This Agreement does not create a fiduciary or employment relationship between PROGRAM and

Hospital, and the PARTIES shall be independent contractors. Nothing in this Agreement is intended to constitute either PROGRAM or HOSPITAL as an agent, legal representative, subsidiary, joint venture, partner, employee, or servant of any other for any purpose whatsoever.

10. Indemnification and Hold Harmless.

10.1. TAMHSC. To the extent permitted by the laws and Constitution of the State of Texas, TAMHSC and COLLEGE agree to indemnify and hold harmless the HOSPITAL, REAP and their trustees, officers and employees from and against any and all claims, costs, actions, causes or action, losses or expenses resulting from or caused by the actions of the TAMHSC or its employees in furnishing services under this Agreement or that arise out of the failure of TAMHSC or its employees to perform their obligations or duties under this Agreement.

10.2. HOSPITAL. Hospital agrees to indemnify and hold harmless the TAMUS, TAMHSC, and Program Director, their trustees, regents, officers and employees from and against any and all claims, costs, actions, causes of action, losses or expenses resulting from or caused by the actions of HOSPITAL, REAP or its employees in furnishing services under this Agreement or that arise out of the failure of HOSPITAL, REAP or its employees to perform their obligations or duties under this Agreement.

11. Notices.

All notices to be given under this Agreement shall be in writing and shall be deemed to have been given and served when delivered, by certified mail, return receipt requested, to the following addresses (which may be changed by written notices):

To TAMHSC:

Texas A&M Health Science Center
Associate Vice President and Chief Financial
Officer
8441 Riverside Pkwy
Suite 3100
Bryan, Texas 77807

Copy to COM:

Texas A&M Health Science Center
College of Medicine
8441 Riverside Pkwy
Suite 3100
Bryan, Texas 77807

To Hospital:

Victoria of Texas, L.P. d/b/a DeTar Healthcare
System
506 East San Antonio
Victoria, Texas 77901
Attn: Chief Executive Officer

Copy to:

Legal Department
4000 Meridian Boulevard
Franklin, Tennessee 37067
Attn: General Counsel

Additional Copy to:

Husch Blackwell LLP
2001 Ross Avenue, Suite 2000
Dallas, Texas 75201

To REAP:
Regional Employee Assistance Program

Copy to:
Legal Department
4000 Meridian Boulevard
Franklin, Tennessee 37067
Attn: General Counsel

To Physicians
As indicated on the signature page

12. Compliance With Law.

The PARTIES recognize that this Agreement, at all times, is to be subject to applicable state, local and federal laws, including but not limited to, the Social Security Act, and the rules and regulations and policies of the Centers for Medicare and Medicaid Services ("CMS") of the Department of Health and Human Services, and all public health and safety provisions of state law and regulations. The PARTIES further recognize that this Agreement shall be subject to amendments to such new laws and regulations and to applicable legislation. Any provision of law that invalidates, or is otherwise inconsistent with, the terms of this Agreement or that would cause either of the PARTIES to be in violation of law, shall be deemed to have superseded the terms of this Agreement; provided however, that the PARTIES shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent consistent with the requirements of law. All PARTIES shall comply with applicable standards of the JC.

13. Governing Law

This Agreement has been executed and delivered and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of Texas. To the extent that any provision hereof is invalid, unenforceable, inconsistent with or in violation of any applicable law, rule, or regulation, such provision shall be deemed modified so as to comply with such applicable law, rule, or regulation and shall not otherwise affect any other provision of this Agreement. Pursuant to Section 85.18, Texas Education Code, venue for any suit filed against HSC 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.

14. Construction.

The language of this Agreement shall be construed according to its fair meaning and not strictly for or against any PARTY. All words herein refer to whatever number or gender the context requires. Headings are for reference purposes and do not control interpretation. All words used in this Agreement are to be given their usual and ordinary meaning unless specific definitions are otherwise included herein.

15. Access to Records, Records Retention And Audit.

15.1. Government Access to Book and Records. Insofar as 42 United States Code § 1395x(v)(1)(I) is applicable to this Agreement, the Parties agree to comply with the

following statutory requirements governing the maintenance of documentation to verify the cost of services rendered under this Agreement:

15.1.1. Until the expiration of four (4) years after the furnishings of such services pursuant to this Agreement, the PARTIES shall make available, upon written request of the Secretary of Health and Human Services, or upon request of the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement, and books, documents and records pertaining to the PROGRAM that are necessary to certify the nature and extent of such costs.

15.1.2. If any PARTY carries out any of the duties of this Agreement through a subcontract, with a value or cost of Ten Thousand Dollars (\$10,000.00) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that, until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request of the Secretary of Health and Human Services or upon request of the Comptroller General of the United States, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of such costs.

15.2. Notification. If any PARTY is requested to disclose any books, documents or records relevant to this Agreement for the purpose of any audit or investigation, such PARTY shall notify the all other PARTIES of the nature and scope of such request and shall make available, upon written request of any PARTY all such books, documents or records. The PARTY shall further agree that upon written request by any PARTY will provide the requested records to such PARTY within ten (10) working days of such written request,

16. Confidentiality of Patient Records.

The PARTIES acknowledge that this Agreement is subject to, and the PARTIES agree to comply with, local, state and federal laws, rules, and regulations. In particular, the PARTIES agree to comply with the requirements of the Health Insurance Portability & Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH") and any current and future regulations promulgated thereunder. The PARTIES agree that they are each Covered Entities. The PARTIES further agree that, to the extent TAMHSC uses or discloses Protected Health Information of HOSPITAL's patients for any purpose, other than for Treatment, Payment or Health Care Operations, such PHI shall be de-identified, as required by HIPAA and Texas law, or a Limited Data Set shall be used for such purposes where permitted by HIPAA. Unless otherwise provided, capitalized terms used in this Section 16 have the same meanings as set forth in the federal privacy regulations contained in 45 Code of Federal Regulations Part 160 and subparts A and E of Part 164.

17. Termination of Agreement.

17.1. Termination for Cause. This Agreement may be terminated for cause for the following reasons:

- 17.1.1. By HOSPITAL, effective upon submission of written notice to TAMHSC if TAMHSC fails to maintain the required professional liability insurance coverage as required by this Agreement or to maintain its accreditation status.
- 17.1.2. By TAMHSC, effective upon submission of written notice to the HOSPITAL if the HOSPITAL fails to maintain the required professional liability insurance coverage as required by this Agreement or to maintain its accreditation status.
- 17.1.3. If either PARTY is out of compliance with Federal, State or regulatory authority and does not correct the non-compliance issue within ninety (90) days of notification of non-compliance, this Agreement may be terminated upon written notice to the other PARTY.
- 17.1.4. By either PARTY in the event of a conviction of an officer, director, member or manager of the other PARTY that is related to health care fraud and abuse or may harm or injure the finances or reputation of the terminating party.
- 17.1.5. By either PARTY, in the event the other PARTY becomes insolvent, becomes the subject of a voluntary or involuntary petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, has a receiver appointed for it or any of its assets, or otherwise takes advantage of any statute or law designed for relief of debtors.
- 17.1.6. By either PARTY in the event another party fails to perform, keep and observe any terms or conditions required by this Agreement to be performed after the non-defaulting PARTY gives the defaulting PARTY written notice, pursuant to Section 11 of this Agreement. If the defaulting PARTY fails to cure such default for thirty (30) calendar days after receipt of such notice, the non-defaulting PARTY may terminate this Agreement by written notice to the defaulting party sent pursuant to Section 11 of this Agreement.
- 17.2. Termination Without Cause. Either PARTY may terminate this Agreement without cause at any time prior to the expiration date upon giving the other PARTY six (6) months written notice of its intention to terminate.
- 17.3. Termination Upon Change in Control. This Agreement shall be terminated upon the execution of any definitive agreements to effectuate a change in control of either PARTY through merger, restructuring, acquisition, relocation; disposition of a significant portion of its assets, or cessation of the business of such PARTY.
- 17.4. Dispute Resolution Procedure. 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 HOSPITAL, to attempt to resolve any claim for breach of contract made by HOSPITAL that cannot be resolved in the ordinary course of business. HOSPITAL shall submit written notice of a claim of breach of contract under this Chapter to the Vice President for Finance and Administration of TAMHSC, who shall examine HOSPITAL'S claim and any counterclaim and negotiate with HOSPITAL in an effort to resolve the claim.

17.5 Surviving Covenants and Conditions. All covenants and conditions relating to the rights and obligations of the PARTIES subsequent to the termination of this Agreement shall survive said termination. The termination rights provided to the PARTIES by this Agreement are in addition to any other remedies the PARTIES may have for justifiable reason.

18. Compliance with Laws.

The PARTIES enter into this Agreement with the intent of conducting their relationship in full compliance with all applicable federal, state, and local laws, including, without limitation, the federal Stark Law and regulations, the federal Medicare/Medicare anti-fraud and abuse statutes and regulations, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and the Health Information Technology for Economic and Clinical Health Act ("HITECH"). TAMHSC agrees not to use or disclose any protected health information or individually identifiable health information (as defined in 45 CFR Part 164) (collectively, "Protected Health Information") concerning any patient of HOSPITAL other than as expressly permitted by this Agreement and the requirements of the federal privacy regulations and security standards as contained in 45 CFR Part 164. TAMHSC further agrees to comply with all policies, procedures, and directives of HOSPITAL regarding the use and disclosure of Protected Health Information. Notwithstanding any unanticipated effect of any of the provisions of this Agreement, neither party shall intentionally conduct itself under the terms and conditions of this Agreement in a manner that constitutes a violation of any law or regulation or in a manner that would jeopardize either party's participation in any federal or state health care program, including without limitation, Medicare or Medicaid. In the event any state or federal law or regulation, now existing or enacted or promulgated after the Effective Date, is interpreted by judicial decision, a regulatory agency, or legal counsel of a party, in such a manner as to indicate that the structure of this Agreement is in violation of any such law or regulation, the parties shall amend this Agreement as necessary to comply with such law or regulation. The parties warrant and represent that the compensation paid to TAMHSC hereunder is consistent with fair market value for the services provided by TAMHSC, not taking into account any referrals for goods and/or services made by a party to the other.

19. No Referral Obligation.

The PARTIES expressly agree that nothing contained in the Agreement shall require PHYSICIANS or Contracted Physicians to refer or admit any patients to, or order any goods or services from HOSPITAL. Notwithstanding any unanticipated effect of any provision of the Agreement, neither party will knowingly or intentionally conduct itself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medicaid programs (42 U.S.C. §1320a-7b).

20. Entire Agreement.

This Agreement constitutes the entire agreement between the PARTIES, and may not be changed except by written document executed by all PARTIES with the same degree of formality as this Agreement has been executed. No oral statements or written material not specifically incorporated herein shall be of any force and effect, and no changes in or addition to the Agreement shall be recognized unless incorporated herein by amendment.

21. Non-Waiver.

HOSPITAL 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.

22. Approvals.

Neither this Agreement nor any amendment or modification hereto shall be effective or legally binding upon HOSPITAL, or any officer, director, employee or agent thereof, unless and until it has been reviewed and approved electronically by a Division President of Community Health Systems Professional Services Corporation, HOSPITAL's Management Company, and by HOSPITAL's Legal Counsel.

23. On-Going Representation.

HOSPITAL, TAMHSC, and COLLEGE represent that neither they nor any of their officers, directors, employees, agents, subcontractors, etc., have been suspended, excluded, or debarred from any government payor program.

IN WITNESS WHEREOF, the Parties hereto have executed this contract in multiple originals on the date indicated.

RECOMMENDED FOR EXECUTION

**TEXAS A&M UNIVERSITY
HEALTH SCIENCE CENTER**

Carrie L. Byington, MD
The Jean and Thomas McMullin Professor and Dean of Medicine
Senior Vice President, Health Science Center
Vice Chancellor for Health Services

Date

DETAR HEALTHCARE SYSTEM

By: Gary Malaer, CEO
Title: Chief Executive Officer

Date

REGIONAL EMPLOYEE ASSISTANCE PROGRAM

By: CEO, FACHE
Title: Chief Executive Officer

Date


PHYSICIAN

Sidney Ontai, M.D.

Date

Address for Notification:

PH

Mark Stevens, M.D. 

Date

Address for Notification:

PHYSICIAN

Karla S. Vitale, D.O.

Date

Address for Notification:

EXHIBIT A

Faculty Physician Employees of TAMHSC

Sidney Ontai, M.D.

Mark Stevens, M.D.

Karla S. Vitale, D.O.