

**CERTIFIED ATHLETIC TRAINER SERVICE AGREEMENT BETWEEN
UNIVERSITY OF TEXAS MEDICAL BRANCH (UTMB HEALTH)
AND
GALVESTON INDEPENDENT SCHOOL DISTRICT (GISD)**

I. INTRODUCTION

This Certified Athletic Trainer Service Agreement (“Agreement”) made and entered into this 22 day of July 2020 by and between THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON, AN INSTITUTION OF THE UNIVERSITY OF TEXAS SYSTEM AND AN AGENCY OF THE STATE OF TEXAS (“UTMB HEALTH”), ON BEHALF OF ITS DEPARTMENT OF REHABILITATION SERVICES, and GALVESTON INDEPENDENT SCHOOL DISTRICT “SCHOOL”.

II. PURPOSE

This agreement is to establish certified athletic trainer coverage for School’s sports seasons.

III. UNIVERSITY OF TEXAS MEDICAL BRANCH RESPONSIBILITIES

Under this Agreement, the following will be provided (“UTMB Services”):

- a. UTMB Health agrees to provide one (1) National Athletic Trainer Association (NATA) Certified Athletic Trainer (ATC) assigned to School for a fee of \$32,000 per year as outlined in Exhibit A – Cost Breakdown, attached and incorporated by reference hereto. The UTMB Health ATC will have a cleared background check and drug screening by UTMB Health’s Human Resources Department. School will be served by the ATC who will provide training room hours and coverage of junior high school and high school (if necessary) sanctioned athletic practices and home events. ATC will rotate throughout School junior high schools: (1) Central (2) Collegiate Academy at Weis and (3) Austin Middle School for athletic practices and home events. ATC will not be required to travel out of district for any of the junior high school athletic events. However, School may need an additional ATC to provide coverage for Ball High School Varsity Football away games, as mutually agreed upon by School Athletic Director and UTMB Health ATC. Actual time spent at each school will be dependent on the athletic event practice and event schedule.

- b. UTMB Health's ATC will be on-site rotating throughout the assigned junior high schools during home athletic events as mutually agreed upon by UTMB Health ATC and School Athletic Director. This includes coverage for football, volleyball, basketball, baseball, cheer, and track & field. All home junior high school football games will receive on-site rotating ATC coverage. The UTMB Health ATC will not be required to travel to other schools (outside of Galveston ISD) to provide coverage for Junior High athletic events.
- c. UTMB Health ATC will create and maintain medical records for all middle and high school athletes, managers, and student athletic trainers.
 - Records shall include:
 - i. Injury and treatment log
 - ii. Physician notes and correspondence
- d. UTMB Health will provide, upon request from School, an ATC for special events such as play offs, district and regional events, and tournaments for \$100 per event. This same fee applies to all special events where the ATC is providing coverage outside of the agreements outlined above.
- e. UTMB Health on-site coverage will begin on the date School allows practices for fall sports to begin.
- e. UTMB Health ATC will cover practices as prioritized by School throughout the junior high schools up to (4) hours per day when school is in session, including all full-contact football practices. Coverage will begin at the end of the regular instructional day. When school is not in session, coverage of practice will be based on: risk of injury, number of participating athletes, and current medical needs of athletes as prioritized by School.
- f. UTMB Health ATC shall provide medical coverage for the following School sanctioned sports:
 - i. Junior High practice and game coverage for volleyball, cheer, football, ~~baseball~~ tennis, basketball, and Track and Field.
 - ii. On-call for Junior High UIL club soccer to provide assistance to injured students. UTMB Health ATC is not required to provide coverage during UIL soccer practice or games.
 - iii. High school football game coverage when necessary as mutually agreed upon by School and UTMB Health ATC and UTMB Health Director of Rehabilitation Services.

- g. UTMB Health ATC will rotate throughout the junior high schools providing coverage for home games as prioritized by School. UTMB Health ATC will be responsible for providing care to opposing team athletes injured during home games. In the event that the UTMB Health ATC is scheduled to provide coverage for Ball High School Varsity Football Away games as necessary, conflicting events/practice coverage shall be coordinated with UTMB Health ATC and School Athletic Director. Conflicts will be addressed by prioritizing based on level of play, risk associated with activity, and location and medical status of the involved team.
- h. Per School's prioritized schedule, the UTMB Health ATC will be available for all athletes, parents and coaches to discuss injury prevention, preventative taping and bracing, evaluation and assessment of athletic injuries, as well as the rehabilitation of injuries. The UTMB Health ATC will also be available to provide student athletic trainer supervision and instruction at no cost to assist coaches. Any significant information on student athletic trainer effectiveness shall be provided to the coaches as necessary.

IV. SCHOOL DISTRICT RESPONSIBILITIES

- a. In exchange for the above services, School agrees to provide UTMB Health with the following ("School Marketing Opportunities"):

 - i. School agrees to recognize the services provided by UTMB Health in School athletic programs.
 - ii. School agrees that UTMB Health is the exclusive provider of Sports Medicine Services and shall designate UTMB Health as the exclusive Official Sports Medicine Provider and Official Healthcare Provider of athletics.
 - iii. School agrees to allow UTMB Health to place signage at athletic venues on the campus of the school and athletic areas. The specific type and size of the signage shall be mutually agreed upon by the School and UTMB Health.
 - iv. The School agrees to permit UTMB Health's representatives to wear clothing bearing UTMB Health's logo whenever providing services under the agreement.

- v. School agrees to utilize UTMB Health logo on forms and distribution of correspondence from the Athletic trainer to athletes, coaches, and parents.
 - vi. School agrees to provide opportunities for UTMB Health to promote screenings, educational events, seminars, and speaker bureaus.
- b. School will provide a suitable room/adequate space at the School to be used as an athletic training room. School shall maintain this room in a reasonable clean condition to ensure that safe and effective treatment may be rendered by ATC to School athletes. School shall further provide suitable storage for maintenance of the necessary equipment and supplies set forth in the Agreement . This storage area shall be secured by locks or other suitable devices against theft of equipment or supplies. School will grant UTMB Health Athletic Trainer reasonable and necessary access to such room/space and storage area.
- c. School will set times in the morning for training room evaluation, rehabilitation and treatment led by UTMB Health ATC.
- d. School will provide facilities with equipment, supplies and maintenance of equipment necessary to conduct examinations and other athletic training services. School shall order medical supplies reasonably necessary for events required of UTMB Health Athletic Training services. When necessary, the school shall also ensure the presence of the parent, coach, or school designee during the examination and treatment of the student athlete
- e. UTMB Health ATC will be oriented on School policy (i.e. pertaining to student athletes and chains of command) beginning with the Athletic Director, followed by Assistant Athletic Director and Head Athletic Trainer.
- f. Consent to Treatment
School shall obtain the authorization for UTMB Health Sports Medicine Services and UTMB Health Consent to Treatment for each student participating on any sport team or who otherwise uses the services of the ATC
- g. School Point of Contact
School should select a contact person who will be responsible for communicating with UTMB Health ATC. School contact person shall plan and coordinate with the ATC in regards to selected weekend, holiday, and/or Saturday athletic events the ATC will attend and specific out-of-town athletic events the Athletic Trainers will attend

- h. School shall provide at least seven (7) days' notice to UTMB Health ATC of the dates, times, and locations of School-sponsored athletic events requiring the provision of services by UTMB Health, if possible. UTMB Health shall cover most home athletic events of School by rotating throughout the junior high school athletic practices and home games.
- i. School will be responsible to call and inform UTMB Health Rehabilitation Director and ATC of schedule changes. All changes in practice times and games must be made available to the ATC no less than 24 hours in advance for those events to be covered properly, if possible.
- j. School may provide one (1) or more students to assist UTMB Health with the provision of services hereunder. School shall be solely responsible for student assistants.
- k. School understands and agrees that the UTMB Health ATC is supervised by clinical staff at UTMB Health and that the ATC will discuss confidential information, as deemed appropriate, with his/her supervisor.
- l. Provide UTMB Health ATC with reasonable access to a telephone in, or in close proximity to the Athletic Training room.

V. GISD SCHOOL BOARD RESPONSIBILITIES

- a. Assure that the coaching staff and athletic director of each school will set aside a time to meet with the UTMB Health ATC assigned to their school before each school semester to establish priorities.
- b. Assure that each school will cooperate with the assigned UTMB Health ATC to develop a defined plan for dealing with emergencies in any athletic activity situation.
- c. Assure that School, and individuals employed, associated or affiliated with School, does not offer or extend, or attempt to offer or extend, this Agreement to other state governmental agencies, entities or school districts.

VI. TERM

This Agreement shall take effect on August 1, 2020 and shall terminate on July 31, 2021, unless sooner terminated as provided under this Agreement.

VII. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AFFIRMATIVE ACTION

UTMB Health, in compliance with applicable federal laws and regulations, strives to maintain an environment free from discrimination against individuals on the basis of race, color, national origin, sex, age, religion, disability, sexual orientation, gender identity or expression, genetic information, or veteran status. The University of Texas Medical Branch is committed to equal employment opportunity for all employees. It accepts the obligation as a member of the community at large and as a government employer to exercise an active and positive program of nondiscrimination in all areas of employment. UTMB is also committed to programs of affirmative action designed to overcome underutilization and underrepresentation of women, minorities, Vietnam era veterans, disabled veterans, and other such historically underrepresented groups in the workplace.

VIII. RISK MANAGEMENT

School and UTMB Health Risk Management Department will make reasonable efforts to inform one another of any lawsuit which is threatened if a UTMB Health ATC is involved with said athlete's care.

IX. TRANSFERABILITY

Neither party may transfer or assign this Agreement, in whole or in part, without the prior written consent of the other party.

X. ENTIRE AGREEMENT; AMENDMENT

This Agreement constitutes the entire Agreement and understanding of the parties with respect to the matters contained herein. This Agreement shall not be waived or altered, in whole or in part, except in writing signed by the parties.

XI. GOVERNING LAW AND VENUE

The Agreement shall be governed by, and interpreted in accordance with, the internal laws of the State of Texas without giving effect to its conflict of law provisions. Galveston County shall be the sole and exclusive venue for any litigation, special processing or other proceeding as between the parties that may be brought under, or arises out of, this Agreement.

XII. NOTICE

All notices and other communications required or permitted pursuant to this Agreement shall be in writing, addressed to the party at the address set forth at the end of this agreement, or to such other address as either party may designate from time to time. All notices and other communications shall be mailed by registered or certified mail, return receipt requested, postage prepaid, or transmitted by hand delivery or telegram, facsimile or other means of electronic submission.

XIII. BINDING EFFECT

The Agreement is binding on the parties and, to the extent such assignment is permitted by this Agreement, their successors and assigns. There are no third party beneficiaries of this Agreement.

XIV. WAIVER

Failure to insist upon strict compliance with any of the terms of this Agreement by any of the parties hereto shall not be deemed to be a continuous waiver in the event of any future breach or waiver of any condition hereunder.

XV. INDEMNIFICATION

To extent permitted under the laws and Constitution of the State of Texas, each party will indemnify and hold the other party, its employees, agents, officers, directors and shareholders, harmless from any and all loss or liability, directly arising out of any failure to perform this Agreement in accordance with its terms or arising out of any intentional act, willful misconduct, negligence, medical or professional malpractice, or other act or omission of such party, its employees or agents in connection with this Agreement.

XVI. EXECUTION

This Agreement may be executed in multiple counterparts, each of which shall constitute on original and all of which shall constitute but one (1) Agreement.

XVII. FORCE MAJEURE

The parties to this Agreement shall be excused from performance of their obligations under this Agreement where they are prevented from so performing by wars, acts of enemies, strikes, fires, floods, acts of God or, without limiting the foregoing, by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence, the party is unable to prevent. All parties shall perform such parts of aspects of their obligations that's are not interfered with by these causes.

XVIII. SURVIVAL

The obligations and/or rights of the parties contained in the Governing Law and Venue, Binding Effect, and Survival shall survive the termination of this Agreement.

XIX. UTMB HEALTH COMPLIANCE PROGRAM

School acknowledges that UTMB Health maintains an Institutional Compliance Program and an Institutional Compliance Plan and that School is bound by a number of compliance-related policies, including a conflict of interest policy for certain purposes, including, but not limited to, the purpose of ensuring that the provision of, and billing for, all health care services by UTMB Health are in full compliance with applicable Federal and State laws. Inclusion in UTMB Health's Compliance Program is UTMB Health's Vendor Code of Conduct. Vendor acknowledges that its employees, subcontractors, representatives and/or agents will abide by UTMB Health's Vendor Code of Conduct, as well as other compliance policies, and School shall fully adhere to and support the policies set forth therein. School further agrees to abide by, and not violate, or assist any employee of UTMB Health to violate, any of the State ethics laws. To the extent applicable, Vendor shall participate in training and education sessions relating to the Compliance Program, to include training and education sessions related to 42 U.S.C 1320a-7b(b) (the Anti-Kickback Statute) and 42 U.S.C 1395nn (The Stark Law) as requested by UTMB Health. School agrees to, and at all times shall, comply with all laws, rules, and regulations impacting School and UTMB Health. Any UTMB Health policies, including the Compliance Plan and the Vendor Code of Conduct shall be made available to School in electronic or paper format upon request, as School is responsible for acknowledging and adhering to same. To the extent that if at any time the actions of the School violates the terms of UTMB Health's Vendor Code of Conduct, UTMB Health may immediately terminate this Agreement for cause.

XX. DISQUALIFIED PERSONS/VENDORS

School represents and warrants that it: (i) has never been convicted of a criminal offense related to healthcare (unless such entity has been officially reinstated into the Federal healthcare programs by the Department of Health and Human Services, Office of Inspector General (“OIG”) and provided proof of such reinstatement to UTMB Health); (ii) is not under sanction, exclusion or investigation (civil or criminal) related to healthcare by any Federal or state enforcement, regulatory, administrative or licensing agency or is ineligible for Federal or state program participation; or (iii) is not listed on the General Services Administration’s List of Parties Excluded from the Federal Procurement and Non-Procurement Programs or the OIG’s List of Excluded Individuals/Entities. School warrants that it will immediately notify UTMB Health’s Hospital administrator in writing of any such conviction, sanction, exclusion, investigation, or listing and UTMB Health may, at its sole option, immediately terminate this agreement for services for cause.

XXI. PROTECTION OF CONFIDENTIAL INFORMATION

Each party shall retain the other Party’s Confidential Information in the strictest confidence and shall not disclose such Confidential Information to any person, third party, contractor, agent, assign, company, or other person or entity without the other Party’s prior express written consent. Notwithstanding the foregoing, each Party may disclose the other Party’s Confidential Information to: (i) any of its directors, officers and employees, or (ii) to legal counsel, auditors and any other consultants specified in a writing signed by both Parties; provided that the recipient(s) has (a) need to know the information, (b) has been advised of the confidential nature of the information, and (c) is under an obligation of confidentiality and an obligation to use the information solely to assist the Party it represents in performing its obligations under or realizing the benefits contemplated for such Party under this agreement.

XXII. RESTRICTED USE

Each party, including any parent, subsidiary, affiliate, agent, consultant or otherwise agrees:

- i. To use the Confidential Information only for the purposes of this Agreement and as expressly permitted by this Agreement; and
- ii. Not to make copies of or store Confidential Information or any part thereof except as expressly permitted by this Agreement,
- iii. Violations of either of the above claims shall constitute grounds for immediate termination of this Agreement.

XXIII. BREACH OF CONTRACT CLAIMS

To the extent that Chapter 2260, Texas Government Code, is applicable to the Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, will be used by UTMB Health and School to attempt to resolve any claim for breach of contract made by School that cannot be resolved in the ordinary course of business. The chief business office of UTMB Health will examine School's claim and any counterclaim and negotiate with School in an effort to resolve such claims. The parties specifically agree that (i) neither the execution of the Agreement by UTMB Health nor any other conduct, action or inaction of any representative of UTMB Health relating to the Agreement constitutes or is intended to constitute a waiver of UTMB Health's or the state's sovereign immunity to suit; and (ii) UTMB Health has not waived its right to seek redress in the courts.

XXIV. LOSS OF FUNDING

Performance by UTMB Health under the agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by The University of Texas System Board of Regents. If the legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, UTMB Health will issue written notice to School and UTMB Health may terminate the Agreement without further duty or obligation hereunder. School acknowledges that appropriation, allotment, and allocation of funds are beyond control of UTMB Health.

XXV. LIMITATIONS

The parties are aware that there are constitutional and statutory limitations on the authority of UTMB Health (A state of Texas Agency) to enter into certain terms and conditions of the agreement, including, but not limited to, those terms and conditions relating to liens on UTMB Health's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (Collectively, the "Limitations"), and terms and conditions related to the limitations will not be binding on UTMB Health except to the extent authorized by the laws and constitution of the State of Texas.

XXVI. TERMINATION OF CONTRACT -- NON-COMPLIANCE

Either party may terminate the contract, if either fails to perform at the level specified in the document by giving at least thirty (30) days prior written notice of termination. The procedure outlined below shall be followed prior to a contract being terminated:

- i. Issue warning letter and outline the violations and length of time to correct the issue.
- ii. Issue a letter of Intent to cancel the contract if the problem is not resolved by mutually agreed upon date.
- iii. Issue letter to cancel contract.

XXVII. TERMINATION FOR CONVENIENCE -- NO CAUSE TERMINATION

Either party may terminate the Agreement, without cause, for convenience with 60 days' written notice to the other party prior to June 1 of the then current school year. If the Agreement is terminated as provided herein, either party that has conveyed value to the other will be reimbursed for the actual value conveyed to the other party as of the date of termination; actual value shall be based upon the terms of this Agreement, and determined through mutual agreement, as a result of which the parties further agree to produce a written document representing such actual value to be reimbursed by one party to the other.

XXVIII. TERMINATION FOR CAUSE

Some circumstances may warrant cancellation of contract for an offense without using all or any of the steps for poor or non-performance. This would be when a circumstance is severe and warning letters would not meet the gravity of the circumstance.

[signatures next page]

AUTHORIZING CERTIFICATE

This Agreement and any successful proposal shall constitute the final contract between School and UTMB Health. No contract/agreement terms required by UTMB Health shall be considered by School that are not submitted within the proposal. UTMB Health understands any subsequent document to School to accept/sign will not be considered or accepted by School.

In compliance with the agreement, in consideration of the detailed description attached hereto, and subject to all conditions thereof, the undersigned agrees, if its Proposal is accepted within the time stipulated above, to furnish any or all of the items upon which prices are quoted in accordance with the specifications applying at the price set opposite each item.

IN WITNESS WHEREOF, the undersigned have duly executed this agreement or have caused this agreement to be duly executed as of the day and year first written above.

UTMB Health

Signature: _____

Date _____

Cheryl A. Sadro, CPA, MSM

Chief Financial Officer

Content Review: _____

School District/School

Signature: _____

Date _____

Authorizing Agent (Please Print): _____

Title: _____

EXHIBIT A -- COST BREAKDOWN

Price per Athletic Trainer services, per school year, as described in the Agreement:

Quarter 1 (August-October):	\$8,000
Quarter 2 (November-January):	\$8,000
Quarter 3 (February-April):	\$8,000
Quarter 4 (May-July):	<u>\$8,000</u>
	\$32,000

Optional Coverage/Services:

1) ATC Coverage Special Events.

Cost: \$100 per event

Taxpayer Identification Number: 74-6000949