

AGREEMENT TO PROVIDE PEDIATRIC AND ADOLESCENT BEHAVIORAL HEALTH SERVICES VIA TELEMEDICINE

This Agreement to provide pediatric and adolescent behavioral health services via telemedicine (“Agreement”) is made and entered into as of **November 4, 2022** (“Effective Date”) 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”), located at 301 University Blvd., Galveston, Texas 77555, and **GISD** (School), located at Galveston, Texas (“Site”) for the provision and administration of telemedicine services associated with the Texas Child Health Access Through Telemedicine (TCHAT) component of the Texas Children’s Mental Health Care Consortium (TCMHCC).

WITNESSETH

WHEREAS, UTMB is a Health-Related Institution member of the TCMHCC and has received funding through The University of Texas System in its role as administrator of the TCMHCC to provide access to limited behavioral health services via telehealth to schools;

WHEREAS, the component of the TCMHCC for delivering school-based behavioral health services via telehealth is named TCHAT and is more thoroughly described in Exhibit A;

WHEREAS, the TCHAT initiative is designed to provide short-term school-based access to a limited number of visits with a mental health professional for high-risk children and adolescents;

WHEREAS, the role of the TCHAT project is the initial intervention and assessment of these students and referral, if necessary;

WHEREAS, School desires to participate in coordinating and receiving services associated with the TCHAT;

WHEREAS, UTMB maintains a Department of Psychiatry and Behavioral (“Department”) that has considerable experience in telepsychiatry encounters and is capable of managing the delivery of services required by School;

AND WHEREAS, School desires to engage the services of UTMB; and UTMB desires to provide such services for School;

NOW THEREFORE, UTMB and School mutually agree as follows:

Article 1 – Responsibilities of the Parties:

1.1. UTMB’s Responsibilities:

1.1.1. Provide pediatric and adolescent behavioral health services via telemedicine to students identified by School as at-risk students (“Covered Services”). UTMB shall not provide Covered Services on the dates designated as “Holiday: Clinics closed” on

the UTMB Clinic Enterprise FY23 Holiday Schedules included in Exhibit B, attached hereto and incorporated for all purposes.

- 1.1.2. UTMB will not bill School, students, their parents or guardians, or any third-party payors, including but not limited to Medicare and Medicaid, directly for any Covered Services provided under this Agreement.
- 1.1.3. UTMB shall provide School a secure telecommunications method to submit a current list or report of students to be seen, to be used for scheduling students for Covered Services.
- 1.1.4. UTMB shall provide all equipment necessary for the implementation of the Covered Services under this Agreement.
- 1.1.5. UTMB shall maintain and store all patient consents and related documentation necessary for medical treatment, including but not limited to consent to treatment via telemedicine, from the student, student's guardian, or other authorized or designated personal representative as appropriate in the electronic medical record.

1.2. School's Responsibilities

- 1.2.1. School shall be responsible for identifying those at-risk students in need of mental health services and referring them to UTMB for Covered Services.
- 1.2.2. School shall obtain all patient consents and related documentation necessary for medical treatment, including but not limited to consent to treatment via telemedicine, from the student, student's guardian, or other authorized or designated personal representative as appropriate and provide such documentation to UTMB prior to the engagement of any telemedicine encounter under this Agreement.
- 1.2.3. School agrees to furnish in a timely manner and appropriate format, such progress reports, schedules, and other information required for the TCHAT Project to UTMB in order for UTMB to fulfill its reporting requirements to the TCMHCC. Reports shall be sent to the UTMB Project Director at the address shown in Article 10. Furthermore, School agrees to retain all progress reports, statistical records, and all other records pertinent to this AGREEMENT for a minimum of four (4) years from the termination date of this AGREEMENT.
- 1.2.4. School understands that UTMB is a member of the TCMHCC, a multi-institution organization, and School agrees that, from time-to-time, some or all of the services provided under this Agreement may be provided by a different member institution.

Article 2 – Term and Termination

2.1 Initial Term. The initial term of this Agreement is three years from the Effective Date ("Initial Term").

2.2 Renewal Terms. Upon the expiration of the Initial Term, this Agreement will automatically renew for successive one-year terms (each a "Renewal Term" and collectively with the Initial Term, the "Term").

2.3 Termination Without Cause. Either Party may terminate this Agreement without cause by providing the other Party with at least 90 days' advance written notice.

2.4 Force Majeure. Neither Party hereto shall be liable for delays to perform due to causes beyond its reasonable control including, but not limited to, acts of God, strikes, epidemics, wars, riots, flood, fire, sabotage, or any other circumstances of like character. In the event of such delay, the period of service hereunder shall be extended for a period equal to the time lost by reasons of delay, and services omitted (or portions thereof) shall be performed during such extension.

2.5 Loss of Funding. Performance by UTMB under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “Legislature”), including without limitation the funding of the TCMHCC, and/or allocation of funds by the Board of Regents of The University of Texas System (the “Board”). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then UTMB will issue written notice to School and UTMB may terminate this Agreement without further duty or obligation hereunder. School acknowledges that appropriation, allotment, and allocation of funds are beyond the control of UTMB.

Article 3 - Compensation

All Parties expressly acknowledge and agree that nothing in this AGREEMENT shall be construed as establishing an obligation of payment to either Party by the other Party.

Article 4 - UTMB Project Director

An UTMB Project Director identified in Article 10 shall be responsible for the general guidance and technical direction of all work under this AGREEMENT.

Article 5 - School District ISD Key Personnel

The key personnel cited below are considered to be essential to the work being performed hereunder (Key Person). In the event that a Key Person leaves School’s employ or becomes unable or unwilling to continue the project, School shall notify UTMB in writing reasonably in advance and may propose an individual to replace such Key Person. Any replacement of a Key Person must be approved, in writing, by UTMB. In the event a mutually acceptable replacement is not available, UTMB shall have the option to immediately terminate this AGREEMENT upon written notice to School. The thirty (30) calendar day prior notice required under Article 10 of this AGREEMENT is not required for termination by UTMB under this Article. Such termination shall be in writing.

Key Personnel: Name:
 Address:

 (Ph):
 Email:

Article 6 - Amendment and Modification

This AGREEMENT, or any portion hereof, may be amended or modified in writing at any time as mutually agreed upon by the Parties, or as required by TCMHCC.

Article 7 - Independent Relationship

Nothing in this AGREEMENT is intended nor shall be construed to create an employer/employee relationship or joint venture relationship between the contracting Parties. The sole interest and responsibility of the Parties is to ensure that the services covered by this AGREEMENT shall be performed and rendered in a competent, efficient, and satisfactory manner.

Article 8 - Governing Law and Venue

This AGREEMENT shall be governed by and construed and enforced in accordance with the laws of the State of Texas. Venue will be in accordance with the Texas Civil Practices and Remedies Code and any amendments thereto.

Article 9 – Notices

All notices, consents or other communications required or permitted to be given to or otherwise be made to any party to this Agreement must be in writing and will be deemed given if: (i) delivered in person; (ii) sent by first class mail (registered or certified, return receipt requested); or (iii) sent by a nationally recognized overnight delivery service or air courier guaranteeing next day delivery. Until a change of address is communicated, as provided below, all notices and other communications must be sent to the parties at the following addresses or facsimile numbers:

If to School: 

If to UTMB: The University of Texas Medical Branch at Galveston
Attention: Department of Psychiatry and Behavioral Sciences
301 University Blvd.
Galveston, Texas 77555-0188

With a copy to: The University of Texas Medical Branch at Galveston

Attention: Senior Vice President & General Counsel
301 University Blvd.
Galveston, Texas 77555-0124

Article 10 - Compliance

The Parties acknowledge that each is subject to applicable federal and state laws and regulations. Accordingly, each Party will enforce and comply with all applicable laws, regulations, and requirements, and will make available such information and records as may be reasonably requested in writing by the other Party to facilitate its compliance, except for records that are confidential and privileged by law.

School District additionally agrees to obtain the appropriate consent(s) to share information it obtains during the course of performance of the work with UTMB staff, as well as maintain the confidentiality of such information, including, but not limited to, personal information subject to Federal Educational Rights and Privacy Act (FERPA) regulations and/or or protected health information subject to Health Insurance Portability and Accountability (HIPAA) regulations.

Article 11 - Indemnity

To the extent authorized by law, School agrees to protect in all legal actions, indemnify and hold harmless UTMB from and against any claims or loss to persons or property including, but not limited to, damages, costs, expenses and attorney fees, which UTMB may suffer or sustain or be threatened with liability for, arising from or related to any act, action, negligence, omission, or default on the part of School. To the extent authorized by law, UTMB agrees to protect in all legal actions, defend (subject to the authority of the Texas Attorney General, indemnify and hold harmless School from and against any claims or loss to persons or property including, but not limited to, damages, costs, expenses and attorney fees, which School may suffer or sustain or be threatened with liability for, arising from or related to any act, action, negligence, omission, or default on the part of UTMB.

Article 12 - Warranty of Authority

The person(s) executing this AGREEMENT on behalf of the Parties, or representing themselves as executing this AGREEMENT on behalf of a Party, warrant and guarantee that each has been duly authorized by the appropriate Party to execute this AGREEMENT on behalf of the Party and to validly and legally bind the Party to all of its terms, performances, and provisions.

Article 13 – Insurance

Insurance. The Parties acknowledge that, because UTMB is an agency of the State of Texas, liability for the tortious conduct of the agents and employees of UTMB (other than medical liability of medical staff physicians) or for injuries caused by conditions of tangible state property is provided for 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 UTMB is provided by UTMB as mandated by the provisions of Texas Labor

Code, Chapter 503. The Parties further acknowledge that, as an agency of the State of Texas, UTMB has only such authority as is granted to UTMB by state law or as may be reasonably implied from such law, and that UTMB shall have the right, at its option, to either (a) obtain liability insurance protecting UTMB and its employees and property insurance protecting UTMB's buildings and the contents, to the extent authorized by Section 51.966 of the Texas Education Code or other law; or (b) self-insure against any risk that may be incurred by UTMB as a result of its operations under this Agreement. Any obligation by UTMB under this Agreement to obtain insurance is expressly made subject to UTMB's authority under state law to obtain such insurance.

Article 14 - Signatures

IN WITNESS WHEREOF, the undersigned contracting Parties bind themselves to the faithful performance of this AGREEMENT.

School

UTMB

By: _____
Superintendent ISD

By: _____
Nancy Devino, PhD, CRA
Director, Office of Sponsored Programs

Name of Signee: _____

Date: _____

Date: _____

Content Reviewed: _____

By: _____
Karen D. Wagner, MD, PhD
Chair, Department of Psychiatry and
Behavioral Sciences
Date: _____

EXHIBIT A: DESCRIPTION OF TCHATT PROJECT

Vision Statement –

Every child receiving public education in the State of Texas has access to school-based crisis prevention, intervention, and stabilization.

Definition of TCHATT –

The TCHATT initiative is designed to provide short-term (approximately up to two month) school-based access to a limited number (2-4) of visits with a mental health professional for high-risk children and adolescents.

The role of TCHATT is the initial intervention and assessment of these students and referral, if necessary. TCHATT funds may not be used for ongoing management of the student's mental health needs.

Key Components of a Successful TCHATT Program –

•**Telemedicine or telehealth** – Programs should leverage the use of technology to ensure prompt access to a mental health professional. Technology should be located at both the originating site in the school and at the location of the mental health professional.

•**Identify mental health needs** – Schools should be trained/educated on how to identify children who may have need for TCHATT services. This initial identification may be done by a variety of school personnel, including teachers, counselors, nurses, or school administrators. The goal is to quickly identify a child who is experiencing a mental health challenge.

•**Assess mental health needs** – Programs must use a mental health professional (LPC, CAP, etc.) to provide an appropriate assessment of the mental health needs of the child who is identified and referred by school personnel.

•**Provide access to mental health services** – Utilizing technology, a program will provide initial mental health services to an identified child. These services should include a diagnostic evaluation and up to 4 total visits with a behavioral health professional with primary goals of assessment and stabilization. The duration of these services should not exceed two months. If ongoing care is needed, the child should be referred to a separately funded resource (e.g, public or private insurance, indigent-funded services) for longer term care using one of the strategies outlined above.

•**Prioritize needs of at-risk children and adolescents** – Programs should have a triage system for prompt review of school referral and appropriate triage of symptom severity.

EXHIBIT B: UTMB CLINIC ENTERPRISE FY23 HOLIDAY SCHEDULE

09/05/2022	Labor Day
11/24/2022	Thanksgiving Day
11/25/2022	Thanksgiving Holiday
12/23/2022	Christmas Holiday
12/26/2022	Christmas Holiday
01/02/2023	New Year's Holiday
01/16/2022	Martin Luther King Day
05/29/2023	Memorial Day
06/19/2023	Juneteenth
07/04/2023	Independence Day