

SPORTS MEDICINE AGREEMENT

THIS SPORTS MEDICINE AGREEMENT (this ***"Agreement"***) is entered into effective as of July 1, 2024 (the ***"Effective Date"***), for a term expiring on August 31, 2029 (the ***"Term"***), by and among Spring Branch Independent School District (***"SBISD"*** or ***"District"***), Spring Branch Education Foundation (***"SBEF"***), both located at 955 Campbell Road, Houston, Texas, 77024, and Memorial Hermann Health System (***"MHHS"***), located at 929 Gessner Road, Suite 2700, Houston, Texas, 77024, in accordance with the terms and conditions specified herein. SBISD, SBEF, and MHHS are collectively referred to herein as the ***Parties*** and individually, each a ***Party***.

RECITALS

A. MHHS is an acute care hospital system headquartered in Houston, Texas, which operates the Memorial Hermann Rockets Sports Medicine Institute (***"Institute"***) and the Institute Sports Physical Residency Program (***"Residency"***);

B. SBISD is committed to providing a comprehensive program designed for SBISD athletes to play in an environment matched to their abilities and desires;

C. MHHS desires to provide SBISD with the quality resources and services necessary to help all SBISD athletes reach their full potential as described in this Agreement and SBISD has determined that such resources and services are in support of its educational objectives;

D. MHHS and SBISD desire to cooperate in the conduct of educational activities as described below for the execution of supervised clinical education of physical therapists (***"Residents"***), participating in the Residency.

In consideration of the mutual promises set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree to the following terms:

AGREEMENT

1. Responsibilities of the Parties.

- a. MHHS Responsibilities. MHHS agrees to provide to SBISD the services set forth in Exhibit A.
- b. SBISD Responsibilities. SBISD agrees to designate MHHS as the official health care provider of SBISD Athletics and to provide the obligations and opportunities set forth in Exhibit A.
- c. SBEF Responsibilities. SBEF agrees to accept the funds provided by MHHS in this Agreement and to transmit such funds to SBISD for the specific usage as set forth herein.

2. Residency Collaboration

- a. The obligations of MHHS and SBISD with respect to the Residency are set forth in Exhibit A.

- b. SBISD and MHHS agree to comply with all applicable federal laws with respect to discrimination.
- c. SBISD and MHHS agree to work together to maintain an environment of quality clinical learning experiences and quality education participation. At the insistence of either MHHS or SBISD, a meeting or conference will be promptly held between coordinators of the Residency and SBISD. SBISD and MHHS agree to have on-going and open communication to ensure understanding of the expectations and roles of both institutions in providing a quality clinical rotation for Residents.
- d. SBISD shall have the right, in its sole discretion, to accept or deny any Resident. If, in the opinion of either SBISD or MHHS, a Resident is not making satisfactory progress and is unable to complete remediation (if any) agreed-upon by SBISD and MHHS, a Resident shall be dismissed. Any Resident who does not satisfactorily complete the agreed-upon remediation (if any) shall be dismissed from participation in the Residency at SBISD and may be dismissed from the Residency.
- e. Schedules for Residents, including instruction, clinical preparation and availability of each institution's facilities for mutual use, will be agreed upon by the officially designated representative of SBISD and the Residency Program Director.

3. Exclusivity.

- a. Nothing in this Agreement may be construed to imply that MHHS has the exclusive right to provide SBISD goods and services, advertise with, or sponsor SBISD. During the Term of this Agreement, SBISD reserves the right to use all available resources to procure other goods, services, and/or advertisers/sponsors as deemed in the best interest of SBISD in SBISD's sole discretion and doing so will not violate any rights of MHHS.
- b. Notwithstanding the foregoing, SBISD agrees and grants to MHHS the following exclusive right(s): Designates MHHS and all its related sub-brands (i.e., Memorial Hermann Rocket's Sports Medicine Institute, Children's Memorial Hermann, etc.) as the "Official Health Care Provider for SBISD Athletics" and allows MHHS to use this phrase in MHHS marketing and advertising.
- c. The exclusive right to be the sole health care provider to place signage at the SBISD athletic venues and inclusion on SBISD website as detailed in this Agreement. During the Term of this Agreement, SBISD agrees not to enter into a sponsorship agreement similar to this Agreement with any health care provider without the prior written consent of MHHS. For purposes of this Agreement, "health care provider" shall be defined as any entity that provides health care services, including, but not limited to, hospitals, hospital systems, health care systems, freestanding emergency rooms, urgent care centers, imaging centers, sports medicine providers, sports improvement providers, or any other entity that provides services in the health care industry.

4. Term and Termination.

- a. Term of Agreement. This Agreement is for a term of one year, beginning July 1, 2024 and ending June 30, 2029 (“Term”). The parties shall have the option to renew the Agreement for additional terms (“Renewal Term”) as mutually agreed to, in writing, among the parties. The Term and any Renewal Term(s) are collectively referred to in this Agreement as “Term.” All Agreement extensions and/or Renewal Term(s) shall be subject to the terms and conditions specified herein and all duly executed amendments to the Agreement. The effective date of this Agreement is July 1, 2024.
- b. Termination. This Agreement may be terminated prior to the expiration of the Term as follows:
 - i. By mutual written agreement of the Parties;
 - ii. By any Party, without cause, upon ninety (90) days prior written notice to the other parties, to be effective upon the expiration of the ninety (90) days or as mutually agreed to by the Parties;
 - iii. By SBISD upon thirty (30) days’ written notice to MHHS if MHHS commits a material breach of any of the terms and conditions of this Agreement and does not cure such breach within that thirty (30) day period; or
 - iv. By MHHS immediately upon thirty (30) days’ written notice to SBISD if SBISD commits a material breach of any of the terms and conditions of this Agreement and does not cure such breach within that thirty (30) day period;
 - v. By SBISD immediately, upon written notice to MHHS, in the unlikely event that the SBISD Board of Trustees determines, in its reasonable and good faith opinion, that circumstances have changed such that the advertising and/or sponsorship opportunities outlined herein would adversely impact the reputation, image, mission, or integrity of SBISD;
 - vi. By either Party in the event the SBISD Board of Trustees, Local, State or Federal governments, any court, or any regulatory body or agency enacts any policy, statute, passes any rule, or enters any decision that makes the existence of or performance of this Agreement unlawful or impermissible.
- c. Effects of Termination or Expiration.
 - i. Upon the effective date of termination or expiration of this Agreement, except as otherwise explicitly stated herein, the Parties shall have no obligations to the other parties under this Agreement.

- ii. Within thirty (30) days following the effective date of termination or expiration of this Agreement, SBISD shall remove all MHHS links, logos, and materials from SBISD's website.
- iii. Within thirty (30) days following the effective date of termination or expiration of this Agreement, SBISD shall remove all MHHS signage placed on SBISD property pursuant to this Agreement.
- iv. Upon the effective date of termination or expiration of this Agreement, the Parties shall cease from identifying MHHS as the "Official Health Care Provider for SBISD Athletics" and shall immediately remove all such designations from materials owned or controlled by the Parties. MHHS is not responsible for the costs associated with the removal of signage from SBISD property.

5. **Advertising and Sponsorship Materials.**

- a. MHHS shall submit all Materials, as hereinafter defined, to SBISD for review and approval by SBISD prior to any use in connection with this Agreement. The term "Materials" means all materials used in any advertisement, signage, literature, banners, or the like or posted on any website pursuant to this Agreement and includes, without limitation, text, photos, illustrations, designs, drawings, trademarks, copyrighted information, names, logos, promotional items, product samples, giveaways, and descriptions of any kind relating to MHHS or SBISD. The term "Approved Materials" means the version of the Materials that is reviewed and approved by SBISD. SBISD reserves the right, in its sole discretion, to reject any Materials for any reason. Accordingly, MHHS agrees that rejected Materials which are not revised and become Approved Materials will not be used in connection with this Agreement. MHHS is solely responsible for all Materials and Approved Materials used in connection with this Agreement and MHHS assumes all liability for content contained in the Materials. All costs, expenses, fees, and charges for Materials shall be paid solely by MHHS, including without limitation, all expenses of production, installation, and maintenance of all Materials, including but not limited to, all signage placed on SBISD property pursuant to this Agreement. Similarly, any changes or alterations to Materials requested by MHHS after the initial installation of the Materials shall be the sole responsibility of MHHS, including, but not limited to, all costs, expenses, fees, and charges for amended or altered or reproduced Materials and subsequent installation and maintenance.
- b. Pursuant to SBISD Policy GKB (Local), the District shall retain final editorial authority to accept or reject submitted Materials in a manner consistent with the First Amendment. The District shall retain the authority to determine the size and location of any Materials. The District shall also reserve the right to reject Materials that are inconsistent with federal or state law, Board policy, District or campus regulations, or curriculum; is inappropriate in a school setting with a student audience; advertises products presenting a health hazard; creates a substantial likelihood of material disruption, including adding to the District's obligations for security and facilities maintenance; or adds to the District's administrative burden by exposing the District to complaints, controversy, or litigation.

- c. Acceptance of Materials shall not constitute District approval or endorsement of any product, service, organization, or issue referenced in the Materials, nor shall acceptance of Materials from a District vendor determine whether the District will purchase goods or services from the vendor through the District's formal procurement process.
- d. All Materials must comply with the following guidelines:
 - i. All Materials must be truthful and may not be misleading or deceptive.
 - ii. The products and services advertised must be appropriate for children aged 16 and under.
 - iii. This Agreement is voidable by SBISD immediately if MHHS fails to disclose (or conceals or misrepresents) any involvement with tobacco, alcohol, or pornographic products or services at SBISD events or in connection with the duties and obligations of this Agreement. For clarity, this provision is not intended to prohibit MHHS's provision or consumption of alcohol at non-SBISD events (e.g. a MHHS fundraising event) and not on SBISD property. In addition, SBISD may, in its complete and sole discretion, refuse the use of any advertising or placement of Materials that it deems to be inappropriate based on SBISD policy.
 - iv. Disclosures and disclaimers required by law shall be clear and conspicuous.
 - v. All Materials must at all times comply with any and all applicable laws, rules, regulations, and rights of third parties, and may not infringe any third party's trademark, copyright, right of privacy, right of publicity, right of image, or right of confidentiality, may not misappropriate a trade secret, or be discriminatory, libelous or slanderous.
 - vi. The Materials may not advertise products, services or activities which are illegal in Texas or under federal law.
 - vii. The Materials may not advertise products that negatively affect the health and safety of the public-at-large, such as weapons, tobacco, alcoholic beverages, or pornographic or illegal products or services (which SBISD shall have complete discretion to define).
 - viii. The Materials may not contain any sexual text or images of any kind or make any sexual connotations, inferences, or comments of a nature questionable for children under the age of 16.
 - ix. The Materials may not advertise gambling opportunities.
 - x. The Materials may not contain offensive, profane, obscene, or otherwise inappropriate language, or defamatory statements.

- xii. The Materials may not advertise political candidates, parties, or ballot initiatives.
 - xiii. The Materials may not contain or be used to generate unsolicited spam, or advertising to email lists that are not pre-approved by SBISD.
 - xiv. The Materials may contain URL/links to a third-party website, provided, that such website must be under MHHS's control and may not sell or distribute products or services prohibited under this Agreement. MHHS hereby agrees to assume full liability and responsibility for any third-party website to which a site user may link through a URL/link contained in MHHS Materials.
 - xv. The Materials must not threaten or adversely affect the public image of SBISD or its ability to perform its public duties. The Materials must not criticize or disparage SBISD or otherwise have a tendency to injure the reputation of SBISD.
6. **Right to Use Trade Names, Trademarks, Logos, and Copyrighted Materials.** During the Term of this Agreement, MHHS hereby grants SBISD a non-exclusive right to use any of MHHS's trade names, trademarks or logos, and copyrighted materials as supplied by MHHS from time to time, in connection with this Agreement, provided that SBISD obtains MHHS's prior written approval of any materials distributed by SBISD which contain MHHS's trade names, trademarks, copyrighted materials, or logos. SBISD hereby grants MHHS a non-exclusive right to use any of SBISD's trade names, trademarks or logos, and copyrighted materials as supplied by SBISD from time to time, in connection with this Agreement, provided that MHHS obtains SBISD's prior written approval of any materials distributed by MHHS which contain SBISD's trade names, trademarks, copyrighted materials, logos, or any common law or registered design mark, trademark, or copyright of SBISD or of any SBISD school, including any individual employee, department, or student thereof.
7. **Privacy Rights; Confidentiality.** MHHS acknowledges that it does not have the right to use the names, signatures, photographs, or likenesses of any SBISD student in connection with any submitted Materials or Approved Materials for a commercial product or service, unless MHHS obtains appropriate consent as required by applicable law, including, without limitation, the Family Educational Rights and Privacy Act and Tex. Educ. Code 26.009.

Based on the scope of services as of the effective date, SBISD and MHHS agree that SBISD is not a business associate of MHHS for purposes of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and is not required to enter into any business associate agreement relating to HIPAA. If the scope of services are to change, SBISD and MHHS agree to work together in good faith to determine if a business associate agreement is necessary.

All Parties agree to secure the confidentiality of all information and records in accordance with applicable federal and state laws, rules, and regulations, including but not limited to all privacy laws. MHHS acknowledges that the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99, governs the privacy and security of educational records and personally identifiable information of students and agrees to abide by applicable FERPA rules and regulations, as applicable, including, but not limited to, in its, Licensed Athletic Trainers', Residents' and

Residency Faculty's handling of educational records of SBISD students. It is also understood and recognized that MHHS employees (including, but not limited to, the Licensed Athletic Trainers, Residents, and Residency Faculty), and agents of MHHS will need to have access to the educational records maintained by SBISD in properly administering MHHS's duties and obligations under this Agreement. MHHS acknowledges that to the extent MHHS, including, but not limited to, its staff, employees, and/or representatives, receives confidential SBISD student information during the performance of duties under this Agreement, MHHS and its staff are considered a "school official" in accordance with FERPA and shall not disclose confidential student information or education records except as otherwise permitted by applicable law. MHHS assumes full and sole responsibility to ensure that its representatives (including, but not limited to, Licensed Athletic Trainers, Residents, and Residency Faculty) comply with all FERPA requirements, including, but not limited to, those referenced in this paragraph. MHHS shall inform its employees and other agents of their obligations regarding confidentiality of SBISD student records, including, but not limited to FERPA rules and regulations, as they apply to personally identifiable information and/or education records of SBISD students. MHHS further agrees that it has permission from any Resident, prior to the Resident's Residency program with SBISD, to share and exchange personally identifiable information and/or education record(s) of the Resident between MHHS and SBISD. To the extent allowable by law, MHHS agrees to indemnify and hold harmless SBISD and its officers, directors, employees, and agents from liability, damages, claims, actions, causes of actions, demands, judgments, and awards of whatsoever kind or nature, arising out of any failure by MHHS or its officers, directors, employees, or agents to abide by FERPA or its implementing regulations applicable to MHHS. This paragraph shall survive the expiration or termination of this Agreement. Upon request from SBISD, MHHS shall return to SBISD or provide written certification of appropriate destruction to SBISD of all copies of documents and materials relating to any SBISD student and shall not retain copies of any such documents or materials.

8. **Insurance.** MHHS represents and agrees that it shall provide and maintain professional liability, general liability, automobile liability, and workers' compensation insurance as required by law. Unless self-insured, on request by SBISD, MHHS shall provide SBISD certificates of insurance indicating proof of any such required insurance. Unless self-insured, MHHS shall assure that SBISD will receive written notice of at least thirty (30) days in advance of the effective dates of any reduction, modification, cancellation, or termination of such insurance policies. MHHS may provide and maintain any such insurance through adequately funded self-insurance.
9. **Warranties and Limitation of Liability.** MHHS warrants and represents that: (a) MHHS has full power and authority to enter into this Agreement on behalf of MHHS; (b) the Materials provided to SBISD and used in connection with this Agreement are original material belonging to MHHS and/or that MHHS has obtained any and all rights, permissions, and licenses necessary for the use of the Materials in connection with this Agreement; and (c) that the use, reproduction, distribution, or transmission of Materials will not violate any criminal laws or any rights of any third parties, including, but not limited to, such violations as infringement or misappropriation of any copyright, patent, trademark, trade secret, music, image, or other proprietary or property right, false advertising, unfair competition, defamation, invasion of privacy or rights of celebrity, violation of any antidiscrimination law or regulation, or any other right of any person or entity. SBISD warrants and represents that SBISD has full power and authority to enter into this

Agreement on behalf of SBISD. SBEF warrants and represents that SBEF has full power and authority to enter into this Agreement on behalf of SBEF.

EXCEPT AS MAY OTHERWISE BE PROVIDED HEREIN, NEITHER PARTY MAKES ANY EXPRESS OR IMPLIED WARRANTIES OF ANY KIND. TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, EACH PARTY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, OMISSIONS, COMPLETENESS, AND DELAYS. SBISD DOES NOT MAKE ANY WARRANTY AS TO THE EFFECTIVENESS OF OR POTENTIAL RESULTS ARISING FROM PLACEMENT OF MHHS'S MATERIALS ON ANY SBISD PROPERTY, INCLUDING, WITHOUT LIMITATION, SBISD'S WEBSITE, OR THAT ACCESS TO ANY SBISD WEBSITE WILL BE UNINTERRUPTED, SECURE, COMPLETE, OR ERROR FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT SBISD WEBSITES OR THE SERVER(S) ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR AS REQUIRED BY LAW, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR EXEMPLARY, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, BUSINESS REVENUE, OR GOODWILL DUE TO ANY CAUSE WHATSOEVER, EVEN IF SBISD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. **Relationship of the Parties.** It is understood and agreed that MHHS is a separate legal entity from SBISD and MHHS is not an employee, agent, joint venturer, or partner of SBISD. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between SBISD and either MHHS or any employee or agent of MHHS (including, without limitation, any Resident, Residency Faculty, and/or Licensed Athletics Trainer) . MHHS assumes full responsibility for the actions of its personnel while performing any services incident to this Agreement and shall remain solely responsible for their supervision, direction and control, payment of salary, workers' compensation, disability benefits, and like requirements and obligations. MHHS agrees that SBISD has no responsibility for any conduct of MHHS or MHHS's employees, agents, representatives, contractors, or subcontractors. This Agreement shall not be construed or deemed an endorsement of MHHS or Memorial Hermann Health Systems by SBISD.
11. **No Waiver of SBISD's Immunity; Non-Monetary Agreement for SBISD.** The execution of this Agreement and the performance by SBISD of any of its obligations hereunder are not, and are not intended to waive or relinquish, and SBISD shall not waive or relinquish, any governmental, sovereign immunity or defense from or to liability or prosecution available to SBISD, its trustees, officers, employees, or agents under federal or Texas laws.

Every Party shall bear its respective costs, risks, and liabilities incurred by it as a result of its activities under this Agreement. This is a non-monetary agreement on SBISD's part; MHHS agrees that it has any right to any reimbursement, payment, or compensation under this Agreement from SBISD. MHHS agrees that it is not entitled to payment in any form from SBISD under the terms of this Agreement.

12. **INDEMNIFICATION. MHHS AGREES THAT MHHS SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS SBISD, SBEF, AND THEIR RESPECTIVE PAST, PRESENT, AND FUTURE TRUSTEES,**

OFFICERS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, DEMANDS, CAUSES OF ACTION, DAMAGES, COSTS, AND EXPENSES, INCLUDING, WITHOUT LIMITATION, COURT COSTS AND REASONABLE ATTORNEYS' FEES, OF ANY KIND OR NATURE ASSERTED BY ANY THIRD PARTY, OCCURRING OR IN ANY WAY ARISING OUT OF ANY ACTS OF MHHS AND/OR MHHS'S AGENTS, EMPLOYEES, AND/OR SUBCONTRACTORS DONE IN CONNECTION WITH THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE ARISING FROM CLAIMED INFRINGEMENT OF ANY PATENTS, TRADEMARKS, COPYRIGHT OR OTHER CORRESPONDING RIGHT(S). MHHS's obligations under this clause shall survive termination or expiration of this Agreement. NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO CREATE A CLAIM OR CAUSE OF ACTION AGAINST SBISD FOR WHICH SBISD IS NOT OTHERWISE LIABLE, OR TO WAIVE ANY IMMUNITY OR DEFENSE TO WHICH SBISD MAY BE ENTITLED, OR TO CREATE AN IMPERMISSIBLE DEFICIENCY DEBT OF SBISD.

13. **Compliance with applicable laws and SBISD policies.** MHHS agrees to comply with all applicable requirements of state and federal laws, executive orders, regulations, guidelines, and policies, including, without limitation, SBISD's policies and procedures, applicable to this Agreement. For the entire duration of this Agreement, MHHS shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Agreement. MHHS further agrees that MHHS, its employees, subcontractors, and subcontractor's employees may not use or possess any firearms, alcoholic or other intoxicating beverages, illegal drugs or controlled substances while on SBISD's property, nor may such workers be intoxicated or under the influence of alcohol or drugs while on SBISD's property.
14. **Public Information.** MHHS acknowledges that SBISD is subject to the Texas Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this agreement, as well as any other disclosure of information required by applicable Texas law. Upon the written request of SBISD, MHHS will promptly provide specified contracting information that is required to be disclosed by applicable state law and is not otherwise protected by from disclosure by the Texas Public Information Act for or on behalf of SBISD, and SBISD shall have the right to disclose such information and records. MHHS waives any claim against and releases from liability SBISD, its trustees, officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this agreement or otherwise created, assembled, maintained, or held by MHHS or SBISD and determined by SBISD, the Attorney General of Texas, or a court of law to be subject to disclosure under the TPIA.
15. **Notification of Significant Change in Business Operations.** MHHS is required to notify SBISD when any material change in MHHS's operations occurs, including but not limited to, bankruptcy, material changes in financial condition, change of ownership, and the like, within ten (10) business days of such change.
16. **Debarment and Suspension.** Each Party certifies, to the best of its knowledge and belief, that it is not presently debarred, suspended for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

17. **Criminal History Background Checks.** MHHS represents and warrants that its employees providing services under this Agreement and Residents will comply with SBISD's background check requirements in accordance with state law.
18. **Conflict of Interest.** SBISD is required to comply with Texas Local Government Code Chapter 176, Disclosure of Certain Relationships with Local Government Officers. MHHS must fill out a Conflict of Interest Questionnaire (CIQ) whether or not a conflict of interest exists. A conflict of interest exists in the following situations:
- The person has employment or other business relationship with the local government officer or a family member resulting in the officer or family member receiving taxable income, and/or
 - The company has given one of SBISD's local government officers or family members one or more gifts (excluding food, lodging, transportation, and entertainment) that has an aggregate value of more than \$100 in the twelve-month period preceding the date the officer becomes aware of an executed contract or consideration of the person for a contract to do business with SBISD.
19. **No Third Party Beneficiaries.** Nothing in this Agreement shall be deemed or construed to create any third party beneficiaries or otherwise give any third party any claim or right of action against any party to this Agreement.
20. **Notice.** All notices and other communications shall be in writing and are effective three (3) days after deposit in the U.S. mail, certified and postage paid, or upon receipt if personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below. SBISD and MHHS may from time to time designate any other address for this purpose by providing written notice to the other party.

If to SBISD, to:

Spring Branch Independent School District
Attn: Paige Hershey
955 Campbell Road
Houston, TX 77024

If to SBEF, to:

Spring Branch Education Foundation
Attn: Cecilia Thompson
955 Campbell Road
Houston, TX 77024

If to MHHS, to:

Memorial Hermann Memorial City Medical Center
921 Gessner Road

Houston, TX 77024
Attn.: MHMC CEO

For Residency matters:

Memorial Hermann Health System
929 Gessner Road, Suite 2700
Houston, TX 77024
Attn: VP Orthopedic Service Line

21. **Force Majeure.** Neither SBISD nor MHHS shall be deemed to have breached any provision of this Agreement as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, pandemics, epidemics or any other occurrences which are reasonably beyond such party's control.
22. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflicts of laws provisions. The mandatory and exclusive venue for the adjudication or resolution of any dispute arising out of this Agreement shall be in Harris County, Texas.
23. **Entire Agreement.** This Agreement and the attached and incorporated addendum or exhibits, if any, contain the entire agreement of the parties relative to the purpose(s) of the Agreement and supersede any other representations, agreements, arrangements, negotiations, or understanding, oral or written, between the parties to this Agreement.
24. **Severability.** In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.
25. **Interpretation.** The Parties agree that the normal rules of construction that require that any ambiguities in this Agreement are to be construed against the drafter shall not be employed in the interpretation of this Agreement.
26. **Changes and Amendments.** This Agreement may be amended, modified, and/or supplemented only by the mutual agreement of the Parties, in writing, to be attached to and incorporated in this Agreement.
27. **Assignment.** Neither this Agreement nor any duties or obligations under it shall be assignable by MHHS without the prior written acknowledgment and authorization of SBISD. Any attempted assignment by MHHS without SBISD's prior written consent shall be void.
28. **No Waiver.** No failure on the part of any Party at any time to require the performance by another Party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such

Party's right to enforce such term, and no waiver on the part of any Party of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by duly authorized representatives of the Parties hereto.

29. **Captions.** The captions herein are for convenience and identification purposes only, are not an integral part hereof, and are not to be considered in the interpretation of any part hereof.
30. **Counterparts.** This Agreement may be executed in separate counterparts, each of which when so executed shall be an original, but all of such counterparts shall together constitute but one and the same instrument.
31. **Certifications.** MHHS hereby certifies that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State.

Paul O'Sullivan
Chief Executive Officer
Memorial Hermann Memorial City Medical Center

Date_____

Tim Couture
VP, Orthopedic Service Line
Memorial Hermann Health System

Date_____

Jennifer Blaine, Ed.D.
Superintendent of Schools
Spring Branch Independent School District

Date_____

Cecilia Thompson
Executive Director
Spring Branch Education Foundation

Date_____

EXHIBIT A

MHHS Responsibilities.

MHHS agrees to provide:

- (a) From August 1 through July 31, one (1) Licensed Athletic Trainer for each of SBISD's four (4) high schools (for a total of four athletic trainers) to provide part-time (around 30 hours/week) assistance to the SBISD staff athletic trainers in necessary coverage of SBISD athletic events. From June 1 through July 31, one (1) Licensed Athletic Trainer for each of SBISD's four (4) high schools (for a total of four athletic trainers) will be provided part-time (a minimum of 10 hours/week) to assist the SBISD staff athletic trainers of SBISD in necessary coverage of events. Specific date(s), time(s), and location(s) for MHHS Licensed Athletic Trainer to provide assistance to SBISD shall be mutually agreed upon by designated representatives of SBISD and MHHS. As SBISD opens additional high schools, the new high school(s) may be covered by this Agreement as mutually agreed upon between SBISD and MHHS, without the necessity of a formal amendment to the Agreement. Physical Therapist and Physical Therapist Residents may also be provided under this section to provide supervised coverage under an athletic trainer and support to students as mutually agreed by SBISD and MHHS.
- (b) Four (4) \$1,000 Sports Medicine Scholarships for SBISD High School student athletic trainers, to be awarded through a process mutually agreed upon by SBISD and MHHS and as follows: \$1,000.00 per SBISD High School for scholarships or student athletic trainer workshops. (4 high schools with a total value of \$4,000.00.
- (c) \$4,000 for the SBISD football program cover, the proceeds of which will be distributed evenly (\$1,000 each) to the four SBISD high school athletic booster clubs, as part of the revenue they generate from ad sales within the program.
- (d) CPR and AED training for SBISD coaches, staff, LAT's and RN's upon request (Red Cross fee not covered).
- (e) branded shirts to student athletic trainers at Memorial High School, Northbrook High School, Spring Woods High School and Stratford High School to be worn at games and contest.
- (f) physician coverage for home varsity football games for all four (4) SBISD high schools.
- (g) neuro-cognitive testing for athletes in SBISD (as mutually agreed upon by MHHS and SBISD) at the discretion of the treating physician for those athletes being treated for a concussion or concussion like symptoms. Post-injury tests may incur a fee, the cost of which shall be covered by SBISD athletes at standard rates.
- (h) MHHS will allow the provisioning of EKG testing services by another third-party vendor, that is agreed upon by SBISD and MHHS, to SBISD student-athletes at mutually agreed-upon selected times during the year. Cost and terms of EKG testing services to be mutually arranged between

vendor and SBISD. MHHS will, through a designated coordinator, facilitate the scheduling of follow-up medical services as needed, to be covered by SBISD student athlete.

- (i) two (2) sports physical events for SBISD student athletes. One in the spring and one in the fall, on a date and at a site mutually agreed upon by both Parties. The cost of the physical will be set by SBISD. For students who do not qualify for free or reduced lunch, such cost will be paid by the SBISD student athletes or such other students designated by SBISD Athletics to participate in the physicals. The funds collected by SBISD under this Agreement or any previous agreements with SBISD for the sports physicals shall be used by SBISD for student activities including, but not limited to, college visits. SBISD Athletes and other students designated by SBISD Athletics to participate in the physical who are on free and reduced lunch will receive the physical at no cost. In order for the student to receive a physical from MHHS personnel they must have a completed UIL physical form with the medical history question section filled out ahead of time. SBISD agrees that its high schools will not hold additional sports physical events without MHHS' prior written consent.
- (j) continuing education opportunities for SBISD staff athletic trainers, coaches, athletes and athletes' families, at time(s), location(s), manner(s) and with subject matter content to be mutually agreed upon in advance by SBISD and MHHS.
- (k) up to three (3) continuing medical education opportunities annually for SBISD coaching and athletic training staffs.
- (l) one (1) back-to-school orientation session, including discussion of injury pathways and protocols, for SBISD coaching staff and athletic trainers, annually as requested.
- (m) option to conduct one (1) community education opportunity annually for SBISD athletes and their families.
- (n) assist with one (1) SBISD student trainer workshop annually.
- (o) preferred access for all SBISD athletes to MHHS physicians and facilities through a designated MHHS coordinator, if permitted by applicable law and/or regulations. Cost of medical services to be covered by SBISD athletes at standard rates.
- (p) a fast-track protocol for SBISD athletes into MHHS emergency rooms, Memorial Hermann Convenient Care Centers and MH Go-Health Urgent Cares, if permitted by applicable law and/or regulations. Cost of medical services to be covered by SBISD athletes at standard rates.
- (q) at the request of SBISD, MHHS to provide additional sideline athletic trainers at SBISD athletic events at specific event(s), time(s), location(s) and manner(s) to be mutually agreed upon in advance by SBISD and MHHS and at a cost of \$40.00 per hour per athletic trainer to be paid by SBISD. For the avoidance of doubt, this is supplemental coverage in addition to the athletic trainers provided for in subsection (a)
- (r) At its cost and expense, signage, at the SBISD venue(s) detailed herein, including any permits, installation, and the like. The size, content, and exact location(s) of the sign(s) are subject to prior

written approval of SBISD and shall conform to the requirements outlined in this Agreement, applicable law, and SBISD policy. MHHS agrees to maintain signage in good repair, at its sole cost. For the avoidance of doubt, MHHS is not responsible for any costs incurred with the removal of signage.

MHHS Obligations with Respect to the Residency:

- a. attempt to place a minimum of one (1) Resident (possible two (2)) at SBISD throughout the SBISD academic year. MHHS will ensure that all Residents placed at SBISD have been duly vetted during the application and interview process and have completed all necessary prerequisite course work including earning an entry-level physical therapy degree from a program accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE), be fully licensed to practice physical therapy in the State of Texas, and possess one of the following: current Board of Certification (BOC) Athletic Trainer (AT) designation, current certification through the National Registry of Emergency Medical Technicians and/or certification through the Texas Department of Health Services as an Emergency Medical Technician, completion of the American Red Cross Emergency Medical Response course, or completion of the Emergency Response Course through the Sports Physical Therapy Section of the American Physical Therapy Association.
- b. provide SBISD with copies of current course syllabi, course objectives and a list of Residency Faculty and qualifications upon request. Any such Residency Faculty proposed to visit SBISD location(s) must also, prior to such visit, undergo all criminal history checks required by SBISD, with satisfactory completion confirmed in writing by the Residency Liaison to the authorized representative of SBISD.
- c. be fully and solely responsible for the payment of any and all compensation, expenses, and employment benefits (*e.g.*, wages, workers' compensation benefits, disability benefits, and health insurance) to Residents, Residency personnel, and other agents, including, without limitation, Residency Faculty, who are involved in the Residency.
- d. extend the authorized representatives of SBISD an open invitation to visit the Residency and consult with Residency Faculty and Residents.
- e. have representatives from the Residency available to SBISD for assistance and consultation as the need arises and when possible.
- f. ensure verification and maintenance of documentation of the following for Residents placed at SBISD in conjunction with Memorial Hermann Human Resources Policies and Procedures:
 - a. proof of Health Insurance
 - b. immunizations and health requirements: (1) Hepatitis B, MMR, Varicella, Tdap (tetanus, diphtheria/acellular pertussis), and the appropriate seasonal immunization for influenza and (2) proof of negative TB infection.

- c. current CPR card (American Heart Association for Health Care Provider or American Red Cross for Professional Rescuers).
 - d. provision of training and educational regarding compliance for infection control, defining OSHA's Bloodborne Pathogens Standard, including information on the Hepatitis B Virus (HB) and the Human Immunodeficiency Virus (HIV)
 - e. criminal background check and confirmation that Resident is not a person listed excluded in the Federal or Texas exclusion database with respect to government-sponsored health benefit programs, and is not listed as an excluded party by the Federal System of Award Management.
- g. inform Residents of their responsibility to arrange for his/her own transportation/parking, appear in appropriate attire acceptable to SBISD, respect the confidentiality of the information regarding patients and clients affiliated with SBISD; and strictly adhere to all applicable Residency and SBISD rules, regulations, policies, directives, and procedures while assigned to SBISD, on SBISD property, at SBISD event(s), or working with SBISD student(s) (including, without limitation, those rules, regulations, policies, directives, and procedures addressing: (a) the use and disclosure of educational records and personally identifiable information of SBISD students; (b) the need to maintain the confidentiality of all information in SBISD records; and (c) the prohibition of the use, possession, distribution, or sale of illicit or unprescribed controlled drugs or drug paraphernalia; (d) the prohibition of the misuse of legitimate prescription drugs; (e) the prohibition of the possession, distribution, or sale of alcoholic beverages; and (f) the prohibition of the use of tobacco or tobacco products), as currently written and as may be amended from time to time during the Program, including the SBISD's board policy manual, available online at <https://pol.tasb.org/PolicyOnline?key=599>, as well as any rules and regulations specific to the SBISD campus where the Resident is placed. Failure of a Resident to adhere to the above-described standards of conduct shall result in the immediate removal of the offending Resident from the Residency at SBISD. The failure of multiple Residents to comply with such prohibitions or one serious infraction can result in the immediate termination of this Agreement by SBISD. Residents are responsible to review SBISD's board policy manual for any changes to SBISD's policies, procedures, rules, and/or regulations during the Residency; SBISD is not required to notify Residents of any such changes,
- h. Assume full responsibility for planning and execution of the educational phase of the program including curriculum, administration, faculty appointments, and matters which normally are reserved as Residency functions, including advising and mentoring Residents. However, recommendations and suggestions will be solicited from SBISD faculty in making significant revisions.

SBISD Responsibilities

SBISD agrees to:

- a. Include MHHS on SBISD's website as follows: Logo provided by MHHS with official health care provider of SBISD Athletics language and hyperlink to MHHS website on the following SBISD web pages:
 - Athletics Department page
 - Athletics Department Schedules/Brackets page
 - Athletics Department Sports Medicine page
 - Athletics Department SBISD Required Participation Documents page
 - Athletics Department SBISD Team Physician Page
- b. MHHS signage at the following SBISD athletic venues and placed in high visibility locations within the venue as mutually agreed upon by SBISD and MHHS. Venues may be amended by mutual agreement of SBISD and MHHS from time-to-time:
 - Stadiums**
 - Darrell Tully Stadium
 - Grob Stadium
 - Don Coleman Stadium
 - Spring Woods High School
 - Stratford High School
 - Memorial High School
 - Northbrook High School
 - Gymnasiums**
 - Memorial High School
 - Northbrook High School
 - Spring Woods High School
 - Stratford High School
 - Baseball/Softball Fields**
 - Memorial High School
 - Northbrook High School
 - Spring Woods High School
 - Stratford High School
- c. opportunity for MHHS to promote screenings and educational events among SBISD coaching staff, athletic trainers, athletes and their families at time(s), location(s) and manner(s) to be mutually agreed upon in advance by SBISD and MHHS and at no cost to SBISD.
- d. opportunity for MHHS to provide material (as defined herein), erect tents and post banners at location(s) and in manner(s) to be mutually agreed upon in advance by SBISD and MHHS and at no cost to SBISD.

- e. front-cover advertising (logo and official health care provider language) and one full page ad in SBISD football program(s). Memorial Hermann advertising will also be placed in the Concussion Manual and in the Athletic Department Handbook placed within the publications at no cost to MHHS.
- f. first right of refusal to MHHS on premium placement advertisements (inside front cover, center spread and back cover) in SBISD athletic program(s), as they may become available, at the incremental increase in ad value from current placement to premium placement using the prevailing rate(s) and cost(s) for such advertisements, and as mutually agreed upon in advance by SBISD and MHHS.
- g. public address announcements at SBISD sporting events held at Tully Stadium, Grob Stadium, Coleman Coliseum and other sports venues where available recognizing MHHS as the official health care sponsor of SBISD Athletics.

This Agreement will not constitute a lease or license of any part of the SBISD facility(ies) or venue(s); rather, it will represent only a contractual obligation of SBISD to provide advertising and/or sponsorship opportunities and other matters set out herein.

SBISD's Obligations with Respect to the Residency

- a. subject to SBISD's right to accept or deny Resident(s) as stated in Section 2 of the Agreement, accept a minimum of one (1) Resident (possible two (2)) Residents yearly throughout the SBISD academic year that staff, space and program permit and, in collaboration with Residency and Residency Faculty, provide supervised clinical education consistent with the American Board of Physical Therapy Residency and Fellowship Education Standards for Residency Training.
- b. Provide planned, supervised program of clinical education based on objectives compatible with those of the Residency.
- c. Provide a BOC Athletic Trainer who, in collaboration with Residency and Residency Faculty, will mentor the Resident directly during clinical education and rotations at SBISD.
- d. Designate an SBISD staff member (preceptor) who will be responsible for working with the Resident and Residency Faculty to coordinate and direct the clinical education program.
- e. Have all personnel directly mentoring Residents complete the appropriate preceptor training that will be provided by the Residency.
- f. Inform, on a schedule and in a format that is mutually agreeable to MHHS and SBISD, both the Residency and Residents concerning the Residents' level of clinical growth and competence and to complete two evaluation reports to be provided by the Residency. The evaluation process will be completed during a conference between the preceptor and the Resident. The Residency Liaison shall be solely responsible to use good faith efforts address and resolve all questions from or issues raised by SBISD staff members involved in the Residency, including, but not limited to, preceptors, regarding the evaluation criteria to be used by such SBISD staff members. Information and reports

provided by SBISD pursuant to this paragraph shall relate only to general Resident participation in the Residency, and shall in no way be construed as a certification by SBISD of any Resident's competence or a representation by SBISD of any Resident's ability or competence in connection with the practical implementation of knowledge gained through the Residency program.

- g. Subject to SBISD rules, regulations, policies, and procedures, and subject to all applicable laws, permit periodic inspection by the Residency and appropriate accrediting agencies of its facilities, Resident records or other items that pertain to the Residency. Requests for such inspections shall be submitted in writing to SBISD's authorized representative a reasonable time in advance of such inspection.
- h. Support the continuing education and professional growth and development of those SBISD staff supervising Residents, consistent with SBISD rules, regulations, policies, and procedures and as appropriate and feasible in the sole discretion of the SBISD.
- i. If feasible and not unduly burdensome in the sole discretion of SBISD, prepare and submit a list of all supplies that are usually kept in SBISD's athletic training room(s). If such a list is not already in existence and preparing such a list would be infeasible or would present a significant burden to the SBISD (in its sole discretion), SBISD shall make reasonable accommodations to allow representative(s) of Residency to visit SBISD's athletic training facility(ies) for the purpose of preparing such a list. If instructed by an SBISD preceptor or another authorized SBISD representative, Residents shall be permitted to access and use SBISD's supplies in the performance of activities directly related to the Residency at SBISD. SBISD supplies available for use pursuant to this paragraph shall be strictly limited to those items already owned and in use by SBISD in its facilities. If additional supplies are necessary for Residency activities, Residency may provide additional supplies, in its sole discretion. However, in no event shall SBISD be required to expend any funds or other resources (including, without limitation, personnel time) to purchase or otherwise provide any additional supplies beyond those items already owned and in use by the SBISD in its facilities.
- j. Consistent with SBISD rules, regulations, policies, and procedures and all applicable laws, and as appropriate and feasible in the sole discretion of SBISD, have all modalities and required electrical machines calibrated and inspected for safety on an annual basis.
- k. Consistent with SBISD rules, regulations, policies, and procedures and all applicable laws, and as appropriate and feasible in the sole discretion of SBISD, have an updated Emergency Action Plan (EAP) for review with Resident and Residency Faculty upon request by Residency.
- l. Subject to SBISD rules, regulations, policies, and procedures and all applicable laws, permit Memorial Hermann Health System employed board certified sports therapists access to SBISD.
- m. Have no financial responsibility with respect to Residents; financial arrangements (*e.g.*, Resident salary, benefits, and professional liability insurance) will be borne by Residency. Under no circumstances shall SBISD be responsible for maintaining coverage for any liability arising from the acts and/or omissions of the Residents, employees (including, without limitation, Residency

Faculty), representatives, or agents of Residency. Workers' compensation coverage is not provided to the Residents or the Residency Faculty by SBISD.