

## Collaborative Agreement

This Collaborative Agreement (“Agreement”) is entered into by and between Texas A&M University Health Science Center (hereinafter “TAMHSC”), a health-related institution under the administration of Texas A&M University, a member of The Texas A&M University System, an agency of the State of Texas, on behalf of the A&M Rural and Community Health Institute (hereinafter “ARCHI”), and its Center for Optimizing Rural Health (hereinafter “CORH”), having a principal place of business at 2700 Earl Rudder Frwy. S., Suite 3000, College Station, TX 77845 and [Collaborator] (“Collaborator”), a [state/country] [entity type, such as corporation].

TAMHSC and Collaborator desire to perform certain collaborative work and are willing to have the facility CEO directly collaborate and/or provide TAMHSC with access to proprietary data and materials and receive from TAMHSC certain proprietary data and research materials. Such collaborative work is of mutual interest and benefit to the parties, and will further the capacity of TAMHSC to support healthcare access in a manner consistent with its status as an agency of the State of Texas.

The parties agree as follows:

### 1. Collaborative Program

- 1.1. Each party shall use reasonable efforts to conduct the activities for which it is responsible under the Collaborative program described in Appendix A (the “Program”). The Program may only be changed by written amendment to this Agreement signed by authorized representatives of both parties.
- 1.2. TAMHSC appoints Nancy W. Dickey, MD, or other assignee, to direct its activities under the Program as its Principal. If, for any reason, TAMHSC’s Principal is unable to continue to serve in that role and a successor acceptable to both TAMHSC and Collaborator is not available, either party may terminate this Agreement as provided in Section 2.2.
- 1.3. Collaborator appoints Facility CEO to direct its activities under the Program. If, for any reason, Collaborator’s Principal is unable to continue to serve in that role and a successor acceptable to both TAMHSC and Collaborator is not available, either party may terminate this Agreement as provided in Section 2.2.
- 1.4. Any materials or data (“Materials”) of one party transferred to the other in connection with the Program may only be used as provided in the Program. Unless the parties agree otherwise, Materials are the Confidential Information of the party providing them.
- 1.5. The parties will generally keep one another informed of the results of the work performed in connection with the Program, principally through their respective Principals. The parties’ respective Principals will meet and provide reports as provided in the Program.
- 1.6. Nothing in this Agreement limits the freedom of TAMHSC whether as participants in this Agreement or not, to engage in similar inquiries made independently under other grants, contracts or agreements with other parties.
- 1.7. Each party shall bear its respective costs, risks, and liabilities incurred by it as a result of its activities under this Agreement. Neither TAMHSC nor Collaborator has any right to any reimbursement, payment, or compensation under this Agreement. Any such obligations must be addressed in separate written agreements between the parties.

### 2. Term and Termination

- 2.1. This Agreement commences on date of last signature (the "Effective Date") and, unless earlier terminated under this Article 2, will terminate after a period of 12 months.
- 2.2. Either party may terminate this Agreement for convenience effective upon 30 days written notice.
- 2.3. Either party may terminate this Agreement effective upon written notice to the other party if the other party materially breaches any term of this Agreement and fails to cure such breach within 30 days after receiving written notice of the breach. If the breach is incurable, the non-breaching party may terminate this Agreement effective immediately upon written notice to the breaching party.
- 2.4. Articles 3, 5, 6, and 7 and Section 8.2 will survive the termination of this Agreement. Article 4 will survive the termination of this Agreement for a period of three years.

### **3. Intellectual Property**

- 3.1 "Intellectual Property" means patentable or unpatentable inventions, discoveries, works of authorship, software, information, data, or other intellectual property.
- 3.2 "Program IP" means all Intellectual Property that is authored or conceived and reduced to practice in the performance of the Program.
- 3.3 Ownership of Program IP will be as follows:
  - (a) Title to any Program IP made or conceived solely by TAMHSC personnel vests in TAMHSC.
  - (b) Title to any Program IP made or conceived solely by Collaborator personnel vests in Collaborator.
  - (c) Title to any Program IP made or conceived jointly by personnel of both TAMHSC and Collaborator ("Joint IP") vests jointly in TAMHSC and Collaborator.
- 3.4 Inventorship or authorship of Program IP will be determined according to United States patent or copyright law.
- 3.5 In the absence of a written agreement to the contrary, the filing, prosecution, defense and maintenance of all patents for Joint IP will be conducted jointly in the name of both parties and controlled by them jointly, acting reasonably and in good faith.
- 3.6 In the absence of a written agreement to the contrary, TAMHSC and Collaborator will be independent owners of any corresponding patent rights in any Joint IP under 35 USC §262 with no obligation of accounting to one another.
- 3.7 Nothing in this Agreement grants either party any rights to any of the other party's Materials except to the limited extent necessary to perform that party's obligations under this Agreement.

### **4. Confidential Information**

- 4.1 The parties anticipate that under this Agreement it may be necessary for either party to transfer to the other information of a confidential nature ("Confidential Information"). The disclosing party shall clearly identify Confidential Information at the time of disclosure by:
  - (a) Appropriate stamp or markings on the document exchanged; or
  - (b) Written notice, with attached listings of all material, copies of all documents, and complete summaries of all oral disclosures (under prior assertion of the confidential nature of the same) to which each notice relates, delivered within 30 days of the disclosure to the other party.
- 4.2 "Confidential Information" does not include information that:
  - (a) Is or becomes publicly known or available other than as a result of a breach of this Agreement by the receiving party;

- (b) Was already in the possession of the receiving party as the result of disclosure by an individual or entity that was not then obligated to keep that information confidential;
  - (c) The disclosing party had disclosed or discloses to an individual or entity without confidentiality restrictions; or
  - (d) The receiving party had developed or develops independently before or after the disclosing party discloses equivalent information to the receiving party.
- 4.3 For a period of 3 years from the date of disclosure, each party shall use the same reasonable efforts to protect Confidential Information as it uses to protect its own confidential information of a similar nature. Each party may only disclose Confidential Information to its personnel who are directly involved with the Program.
- 4.4 Neither party may reproduce, disclose, or use Confidential Information except in performing its obligations under this Agreement.
- 4.5 If a party is legally required to disclose Confidential Information, the party shall, to the extent allowed by law, promptly give the other party written notice of the requirement so as to provide that party a reasonable opportunity to pursue appropriate process to prevent or limit the disclosure. If the party complies with the terms of this Section 4.5, disclosure of that portion of the Confidential Information which the party is legally required to disclose will not constitute a breach of this Agreement.
- 4.6 Each party shall, upon request of the other party, promptly return or destroy all materials embodying Confidential Information, except that the party may securely retain one copy in its files solely for record purposes.
- 4.7 The furnishing of any Confidential Information does not grant the other party any license under any invention or patent owned or controlled by the disclosing party.

## **5. Publications**

- 5.1 TAMHSC may publish the results of the Program, except for the Collaborator's Confidential Information, after providing the other with a 30-day period in which to review each publication to identify patentable subject matter and to identify any inadvertent disclosure of Confidential Information. If necessary to permit the preparation and filing of U.S. patent applications, the parties may agree to an additional review period not to exceed 60 days. Such delay may not be imposed on the filing or publication of any student thesis or dissertation. Failure by the Collaborator to respond within 30 days will constitute de facto agreement that no delay in publication is necessary. Any further extension will require agreement between the parties.
- 5.2 TAMHSC shall appropriately acknowledge the contributions of the Collaborator in each publication.

## **6. Liability**

- 6.1 At all times during and after the termination of this Agreement, Collaborator shall indemnify and defend TAMHSC, The Texas A&M University System, its regents, officers and employees and affiliates against any claim, proceeding, demand, liability, or expenses (including legal expenses and reasonable attorneys' fees) which relates to injury to persons or property or against any other claim, proceeding, demand, expenses and liability that arises in whole or in part from the negligence or willful misconduct of Collaborator, except to the extent that such loss, claim, damage or other liability arises in whole or in part from the negligence or willful misconduct of TAMHSC.
- 6.2 **Neither party makes any warranties, express or implied, as to any matter, including, without limitation, warranties as to the conduct, completion, success or particular**

**results of the Program and any Materials, or the condition, ownership, merchantability, or fitness for a particular purpose of the Program results, Materials, or any Program IP, or that the use of any Program IP, Program results, or Materials will not infringe any intellectual property right of a third party.**

**7. Export Controls**

7.1 It is understood that TAMHSC is subject to United States laws and regulations controlling the export of technical data, computer software, laboratory prototypes and other commodities, and that its obligations hereunder are contingent upon compliance with applicable United States export laws and regulations. Furthermore, it is understood that the transfer of certain technical data and commodities may require a license from one or more agencies of the United States Government. Each Party will comply with applicable U.S. export control laws including without limitation the Export Administration Regulations and the International Traffic in Arms Regulations as currently codified or later amended. This section survives any termination of this Agreement.

**8. General Provisions**

8.1 This Agreement does not create a partnership or joint venture between the parties. Neither party may bind the other or otherwise act in any way as the representative of the other, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The employees of either party are not employees of the other, nor are they are entitled or eligible, by reason of this contractual relationship, to participate in any benefits or privileges given or extended by the other party to its employees.

8.2 Neither party may use the name or any adaptation of the name of the other party or any of its personnel in any way except in factual statements that, in context, are not misleading or imply an endorsement by the other party or its employees.

8.3 The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates. Venue for any claim arising out of or relating to this Agreement and all of the transactions it contemplates is as provided under Texas law.

8.4 Any notices required or permitted under this Agreement will be deemed given (a) three business days after it is sent by certified or registered mail, return receipt requested, (b) the next business day after it is sent by overnight carrier, (c) on the date sent by facsimile or email transmission with confirmation of transmission and receipt, if sent during the recipient's normal business hours and if not, on the next business day, or (d) on the date of delivery if delivered personally, in each case, addressed to the intended recipient at the address below or such other address as the intended recipient may specify in writing:

(a) TAMHSC: Center for Optimizing Rural Health: 2700 Earl Rudder FWY S., Suite 3000, College Station, TX 77845

(b) Collaborator: [address]

8.5 This Agreement contains the entire understanding of the parties as to the Program, and supersedes all other written and oral agreements between the parties as to the Program. The parties may execute other contracts, but those will not alter this Agreement unless expressly stated in writing.

8.6 This Agreement is assignable only with the written consent of both parties.

8.7 TAMHSC is an agency of the State of Texas and nothing in this Agreement waives or relinquishes TAMHSC's right to claim any exemptions, privileges, and immunities as may be provided by law.

- 8.8 The failure of either party at any time to require performance by the other party of any provision of this Agreement will in no way affect the right to require such performance at any time thereafter nor will the waiver by either party of a breach of any provision be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.
- 8.9 Each provision of this Agreement is severable. If any provision is rendered invalid or unenforceable by statute or regulations or declared null and void by any court of competent jurisdiction, the remaining provisions will remain in full force and effect if the essential terms of this Agreement remain valid, legal, and enforceable.
- 8.10 If either party fails to fulfill its obligations under this Agreement, when such failure is due to an act of God, or other circumstance beyond its reasonable control, including but not limited to fire, flood, civil commotion, riot, war, revolution, acts of foreign or domestic terrorism, or embargos, then the other party shall excuse the failure for the duration of the event and for such a time as is reasonable to enable the parties to resume performance under this Agreement, provided however, that in no event will such time extend for more than 30 days.
- 8.11 Any provision of this Agreement that may reasonably be interpreted as being intended by the parties to survive the termination or expiration of this Agreement will survive the termination or expiration of this Agreement.
- 8.12 This Agreement may be signed in counterparts each one of which is considered an original but all of which constitute a single instrument.

The parties have executed this Agreement on the dates indicated below.

**Texas A&M University Health Science Center,  
a health related institution under the  
administration of Texas A&M University**

**[Collaborator]**

By: \_\_\_\_\_  
 Name: Katherine Kissmann  
 Title: Director, Research Contracts  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

## **Appendix A Program**

TAMHSC will:

- 1.) Provide intensive technical assistance based on a thorough needs assessment of the facility and community.
- 2.) Attend multi-day site visit to meet with hospital leadership, hospital board members and key community members.
- 3.) Provide periodic written updates and recommendations.

Collaborator will:

- 1.) Provide all data and information requested by TAMHSC to assist in developing and implementing course of action
- 2.) Be available for a multi-day onsite visit from the TAMHSC team
- 3.) Facilitate community and hospital board introductions, meetings, and discussion as needed by TAMHSC to complete a needs assessment and move forward with a course of action
- 4.) Agree to share data and other information with TAMHSC team
- 5.) Participate in webinars, peer to peer mentoring, and HOT topic discussions that pertain to the situation as hosted by TAMHSC
- 6.) Agree to notify TAMHSC if there is a significant change in vulnerability status that would impact the needs assessment as well as the action plan