

**ATHLETICS SUPPORT AND DEVELOPMENT AGREEMENT
BETWEEN
EL PASO CHILDREN’S HOSPITAL CORPORATION D/B/A
EL PASO CHILDREN’S HOSPITAL
AND
TORNILLO INDEPENDENT SCHOOL DISTRICT**

This Athletics Support and Development Agreement (“Agreement”) is entered into as of [] (“Effective Date”) by and between El Paso Children’s Hospital Corporation d/b/a El Paso Children’s Hospital, a nonprofit health care organization organized under the laws of the State of Texas, with its principal office located at 4845 Alameda Ave., El Paso, Texas 79905 (“Hospital”); and Tornillo Independent School District, a political subdivision of the State of Texas and an independent school district as defined by the Texas Education Code (“District”).

RECITALS

WHEREAS, Hospital is a Hospital District Management Contractor, as that term is defined in Texas Health & Safety Code Section 285.072, operating pediatric specialty hospital and provider-based clinics in El Paso, Texas; and

WHEREAS, Hospital’s primary purpose is to provide pediatric specialty health care services to patients requiring comprehensive pediatric care; and

WHEREAS, Hospital is committed to improving the health and safety of youth and student-athletes in its community and recognizes the critical role of licensed athletic trainers, nurses, coaches, and athletic directors in ensuring student well-being; and

WHEREAS, District employs athletic trainer(s) licensed pursuant to Texas Occupations Code Chapter 451 (“Athletic Trainers”), licensed nurses (“Nurses”) coaches, and athletic directors;

WHEREAS, District desires to expand and enhance the level of medical and athletic care available to its student-athletes; and

WHEREAS, District desires to create formal pathways for continuing education credits for its Nurses, Athletic Trainers, emergency response coordination, and clinical partnerships; and

WHEREAS, Hospital desires to provide financial support for District’s Nurses, and professional development opportunities for the District’s Athletic Trainers, Nurses, coaches, and athletic directors, as well as clinical coordination to District to strengthen the athletic training, nursing, coaching, and athletic director staff.

NOW, THEREFORE, in consideration of the mutual promises herein, and intending to be legally bound, the Parties agree as follows:

**ARTICLE I
PURPOSE AND OVERVIEW**

This Agreement sets forth the terms under which Hospital will provide financial support, professional development opportunities, and clinical coordination to enhance training services within District schools, as well as the quality and availability of Athletic Trainers, Nurses, coaches, and athletic directors (“Sponsored Initiative”).

**ARTICLE II
SPONSORSHIP**

- A. Hospital will pay District an annual contribution to pay its Nurses. Specifically, Hospital will pay District fifty thousand dollars (\$50,000.00) annually (the “Sponsorship Contribution”). The Sponsorship Contribution will be paid to District in twelve (12) equal, monthly installments of four thousand, one hundred and sixty-six dollars and sixty-seven cents dollars (\$4,166.67) in each year of the Agreement.
- B. In addition to the Sponsorship Contribution, Hospital will provide training and education opportunities for the Athletic Trainers, Nurses, coaches, and athletic directors at no additional cost to District.
- C. District will use each annual Sponsorship Contribution exclusively for costs directly related to the salary and benefits for Athletic Trainers;
- D. District will not use any portion of the Sponsorship Contribution on:
 - 1. Overhead, administrative, or unrelated District organizational expenses;
 - 2. Political, lobbying, or advocacy-related activities;
 - 3. Payments or reimbursements to individuals or entities with a conflict of interest related to the Hospital, Hospital’s board or executive leadership, unless fully disclosed and expressly approved in writing by Hospital;
 - 4. Any activity that would risk noncompliance with applicable federal, state, or local laws, regulations, or tax-exempt status requirements applicable to either Party.
- E. District will:
 - 1. Utilize a portion of the Sponsorship Contribution to provide all District Nurses with an annual lump sum one thousand dollar (\$1,000.00) participation incentive.
 - 2. Maintain separate accounting records tracking all Sponsorship Contributions received and expended;
 - 3. Retain original receipts, invoices, and substantiating documentation;

4. Make such records available for inspection, audit, or reasonable review by Hospital or its authorized representatives as requested by Hospital.
- F. Hospital may withhold or condition any future year's Sponsorship Contribution if District fails to comply with any material provision of this Agreement, including failure to deliver timely reports or expend funds appropriately or timely.
- G. If this Agreement is terminated, or if District fails to expend funds in accordance with this Agreement, District will, within thirty (30) days of written notice, return to Hospital any unexpended or improperly used funds from the most recent Sponsorship Contribution.
- H. Hospital may also request a final accounting and reconciliation at the conclusion of each Agreement year, and may withhold future payment until District satisfactorily completes such reconciliation.
- I. Nothing in this Agreement should be construed as obligating Hospital to renew or continue the Sponsorship Contribution beyond the Term. Renewal of contributions will be governed exclusively by this Agreement and will be subject to mutual agreement of the Parties, Hospital's budgetary capacity, and satisfactory performance by District.
- J. Each annual Sponsorship Contribution will be contingent on:
 1. Receipt of an updated project budget and implementation plan from District;
 2. Certification by District that all prior Sponsorship Contributions were spent in accordance with this Agreement; and
 3. Hospital's prior written approval of any proposed branding, signage, or promotional materials not previously approved.
- K. No part of the Sponsorship Contribution will be considered a donation or charitable grant. The Sponsorship Contribution reflects a contractual payment made in exchange for defined performance, branding rights, and programmatic commitments outlined in this Agreement.

ARTICLE III HOSPITAL OBLIGATIONS

- A. Provide funding support to the District as outlined above in Article II.
- B. Offer continuing education, certifications, and training seminars for District's Athletic Trainers, Nurses, coaches, athletics directors and other relevant team members as follows:
 1. One (1) half-day training (4 hour minimum) prior to the beginning of every school year;
 2. In-person quarterly meetings with parents and student athletes.

- C. Facilitate preferred access to Hospital's clinical care pathways for student-athletes, students, or their families needing evaluation, emergency services, or follow-up care.
- D. Designate a liaison to coordinate care plans and communication between Athletic Trainers, Nurses, coaches, and athletics directors and Hospital clinicians.
- E. Hospital will ensure that use of all images used by Hospital, or proposed by Hospital for use, in joint marketing, promotional, and public-facing materials are properly authorized.
- F. Hospital will provide each Nurse at each school ten (10) athletic polo shirts, and one (1) athletic polo shirt to each nurse at each school in the District. Such athletic polo shirts will be branded in a manner consistent with this Agreement.

**ARTICLE IV
DISTRICT OBLIGATIONS**

- A. Retain sole responsibility for hiring, credentialing, and supervising all Athletic Trainers, Nurses, coaches, and athletics directors.
- B. Ensure that Nurses, Athletic Trainers, coaches, and athletics directors comply with all Texas state licensing requirements and professional standards.
- C. Maintain, at District's sole expense, memberships in THSCA for each of its coaches and Athletic Trainers.
- D. Ensure that Athletic Trainers, Nurses, coaches, and athletic directors attend continuing education and training seminars organized for the benefit of the Athletic Trainers, Nurses, coaches and athletic directors.
- E. District agrees that pursuant to Hospital's sponsorship, Hospital will be recognized as a key sponsor and healthcare partner of the District's athletic programs, and receive various co-branding and promotional benefits pursuant to the terms of this Agreement, including but not limited to inclusion of Hospital in marketing, promotional, and other public facing materials used to promote special sports and other events hosted or sponsored by the District.
- F. Permit Hospital to co-brand in accordance with this Agreement, consistent with applicable UIL and District guidelines.
- G. District will ensure that use of images by District, or proposed for use by District, in joint marketing, promotional, and public-facing materials are properly authorized.
- H. District will assist Hospital in facilitating communication and coordination with each District school's Parent-Teacher Association, Parent Teacher Student Organization, and Athletic Booster Clubs as applicable (collectively referred to as "School-Based Organizations"). Such assistance will include, but not be limited to:

1. Supporting the provision of Hospital's sponsorship-related materials, announcements, notifications, and other relevant communications to the appropriate School-Based Organization.
 2. Collaborating with Hospital to ensure consistent branding and messaging across School-Based Organization media channels, including but not limited to such organizations' newsletters, emails, group chats, websites, social media, and any electronic or other platforms on which Student-Based Organizations communicate.
 3. Providing guidance and support to ensure implementation of the Hospital's sponsorship and sponsorship activities that involve or impact individual School-Based Organizations.
 4. Facilitating regular and ad hoc meetings between Hospital staff and School-Based Organizations.
- I. Participate in data collection and feedback activities reasonably required to measure impact and performance of the support arrangement, including but not limited to providing Hospital with demographic information such as the number of athletes by sport and by school.

**ARTICLE V
MARKETING AND BRANDING RIGHTS**

- A. District will acknowledge Hospital's financial contribution and strategic partnership in all marketing, promotional, and public-facing materials related to the Sponsored Initiative. Such acknowledgment will include prominent placement of Hospital's approved name and logo, and will appear on:
1. Any branded uniforms, shirts, tents, signage, and other physical materials purchased with Sponsorship Contributions;
 2. Printed and digital outreach materials, including brochures, flyers, websites, videos, social media posts, and event materials related to the Sponsored Initiative;
 3. Press releases, media communications, and public statements referencing the program or the Nurses or Athletic Trainers, where appropriate and consistent with Hospital's branding guidelines.
- B. District agrees that in all printed and digital outreach materials, including but not limited to brochures, flyers, websites, videos, social media posts, and event materials related to the Sponsored Initiative, District will refer to Hospital as the "Official Healthcare Partner of the District".
- C. District will submit all materials that include or reference Hospital's name, logo, marks, or likeness, whether in print, digital, audiovisual, or social media form to Hospital for written approval. Hospital will provide approval within ten (10) business days of receipt. No such

material will be released publicly until Hospital's approval is received in writing. District will not alter or distort Hospital's approved branding in any way.

- D. All uses of Hospital's name, logo, and other brand elements must comply with Hospital's then-current branding standards and guidelines, which Hospital will provide in writing. District will take all reasonable steps to ensure accurate and professional use of Hospital's marks and to preserve the goodwill associated with such marks.
- E. Hospital reserves the right to revoke permission for use of its name, logo, or branding in any material or context that:
 - 1. Is inaccurate, misleading, or inconsistent with the spirit or terms of this Agreement;
 - 2. Reflects poorly on Hospital's public image or is otherwise likely to expose Hospital to reputational or legal risk; or
 - 3. Occurs after termination or expiration of this Agreement, unless otherwise authorized in writing.

Upon such revocation, District will immediately cease the specified use and will not produce, distribute, or display any new materials incorporating the revoked content.

- F. Neither Party will state or imply that the other endorses any commercial product, service, political position, or unrelated initiative without the prior written consent of the other Party. The Parties acknowledge that Hospital's support reflects a strategic partnership and not a blanket endorsement of District's full range of activities.
- G. Each Party retains all right, title, and interest in and to its own name, logo, trademarks, service marks, and other brand identifiers ("Marks"). Nothing in this Agreement should be interpreted to confer, by implication or otherwise, any ownership interest in the Marks of the other Party.
 - 1. Each Party grants to the other a limited, revocable, non-exclusive, non-transferable, royalty-free license to use its Marks solely in accordance with this Agreement and solely for the purpose of acknowledging or promoting the sponsorship. This license shall expire automatically upon the expiration or termination of this Agreement, unless extended in writing by the Parties.
 - 2. Any use of the other Party's Marks will be subject to prior written approval and ongoing compliance with any brand usage guidelines provided. Each Party will maintain the quality and integrity of the other's Marks and will not use them in any way that disparages, misrepresents, or dilutes their value.
 - 3. Upon written notice of unauthorized or inappropriate use of a Party's Marks, the offending Party shall immediately cease all such use and take reasonable steps to retrieve or halt the distribution of such materials.

4. All goodwill associated with such use will inure to the benefit of the Mark's owner.
- H. The Parties will not sublicense, assign, or otherwise permit any third party to use the other's Marks or branding without the express written consent of the Mark's or branding's owner. Any unauthorized use by a third party will constitute a material breach of this Agreement.
- I. The Parties agree to collaborate in good faith to plan, coordinate, and execute promotional and community visibility strategies related to the Sponsored Initiative. At Hospital's request, District will participate in co-branded press events, photograph sessions, or community programming where feasible and with reasonable notice.

**ARTICLE VI
PUBLIC STATEMENTS AND MEDIA COORDINATION**

- A. The Parties agree that all press releases, media advisories, public statements, or public-facing descriptions of the Sponsored Initiative or this Agreement will be jointly prepared and mutually approved in writing to each Party prior to distribution. Neither Party will issue any public communication naming or referencing the other Party without the other Party's prior written consent, except where disclosure is required by law as specified in Article XV. The non-disclosing Party will be provided a reasonable opportunity to review and propose revisions to any such communication before its release.
- B. The Parties will include each other in all public ceremonies, media engagements, and community events related to the Sponsored Initiative. This includes, but is not limited to, ribbon cuttings, awards presentations, sporting events, and news interviews. Hospital and District will be entitled to designate a spokesperson or representative to speak or appear on their behalf in such forums.
- C. Any social media content, website postings, or digital promotional materials referencing the Hospital, District, or the Sponsored Initiative will be subject to the same approval process described in section A, above. Neither Party will tag, reference, or otherwise link to the other Party in online platforms without prior written consent. A Party may revoke such consent at any time for future uses.
- D. The Parties will have no less than five (5) business days to review any proposed public communications or materials requiring its approval. If a Party reasonably withholds approval based on concerns of accuracy, branding inconsistency, reputational harm, or regulatory conflict, the requesting Party will revise such materials in good faith to address the concerns and resubmit to the other Party for approval or refrain from publication.
- E. The Parties agree, to the extent permitted by law, to use all commercially reasonable efforts to protect from disclosure any non-public, proprietary, or brand-sensitive information provided by the other Party under this Agreement. This includes documents bearing a party's internal strategies, marketing plans, or proprietary assets such as Marks and branding.

- F. If either Party publishes, distributes, or otherwise releases public-facing materials or statements referencing the other Party in violation of this Agreement, the non-breaching Party shall be entitled to the following remedies, in addition to any others available under law or equity:
1. Immediate written retraction or clarification in a format and forum mutually agreed upon;
 2. Removal or correction of the unauthorized material from all digital and physical media immediately. For the purposes of this section (Article VI, Section (F)), immediately mean as soon as possible, but in no case more than four (4) hours, once notified by the non-disclosing Party of the unauthorized material;
 3. Reimbursement of reasonable out-of-pocket costs incurred to mitigate reputational harm or regulatory risk directly resulting from the unauthorized disclosure;
 4. Temporary suspension of any branding or publicity rights granted under this Agreement until corrective action is completed.
- G. The obligations in this article (Article VI) shall survive the termination or expiration of this Agreement.

ARTICLE VII EXCLUSIVITY

- A. District agrees that during the Term of this Agreement, it will not accept funding, in-kind support, or sponsorship of any kind from any other children's hospital that offers services materially similar to those provided by Hospital, including pediatric hospitals and services, health systems, urgent care networks, telehealth providers, physicians, physician groups, nurse practitioners, physical therapists, clinics, or other medical service providers (each a "Competitor"), without the express written consent of Hospital, which consent will not be unreasonably withheld.
- B. District will not display, distribute, or permit the use of any materials, logos, uniforms, signage, or messaging associated with a Hospital competitor at any event, program, or public activity related to the Sponsored Initiative or District student athletics.
- C. If District intends to expand the Sponsored Initiative or launch a substantially similar initiative during the Term, Hospital will have the right of first refusal to match any written, bona fide offer made by a third party for exclusive sponsorship. District will provide Hospital with written notice of such opportunity, including the name of the third party, material terms, and Hospital will have thirty (30) days to accept or decline in writing.
- D. District will not disclose the financial terms or other terms of this Agreement to any potential sponsor or funding entity that may be considered a competitor of Hospital, subject to the requirements of the Texas Public Information Act and as stated in paragraph XV.F hereinbelow. This restriction shall survive the expiration or termination of this Agreement for a period of one (1) year.

- E. A breach of this Section will be considered a material breach of this Agreement. In the event of such breach, Hospital may:
1. Require District to immediately cease all co-branding and remove Hospital's Marks from all public-facing materials and events;
 2. Terminate this Agreement for cause upon ten (10) business days' written notice and withhold any unpaid Sponsorship Contributions;
 3. Require a public statement clarifying the status of the sponsorship and disassociating Hospital from the competing sponsorship;
 4. Seek reimbursement of any portion of the Sponsorship Contribution that, in Hospital's reasonable determination, was rendered ineffective or devalued due to the breach of exclusivity.
- F. Until the termination or expiration of this Agreement, District will not enter into a sponsorship or funding agreement with a Competitor of Hospital for the Sponsored Initiative, or a substantially similar program, unless Hospital has declined its right of first refusal in accordance with subsection (C) above.

ARTICLE VIII TERM AND TERMINATION

- A. The initial term of this Agreement will commence on the Effective Date and will continue for a period of five (5) years (the "Initial Term"), unless terminated earlier in accordance with the provisions of this Agreement. The Initial Term reflects the Parties' mutual understanding that a multi-year duration is reasonably necessary to realize the intended programmatic and branding value of the Hospital's financial contribution, including but not limited to investments in personnel, branded materials, and community engagement infrastructure.
- B. No later than eighteen (18) months following the Effective Date, the Parties will confer in good faith to evaluate the effectiveness of the sponsorship, including the achievement of implementation plan performance objectives, branding visibility, and alignment with each Party's strategic goals.
- C. Upon expiration of the Initial Term, this Agreement may be renewed for successive one (1) year terms (each, a "Renewal Term") upon mutual written agreement of the Parties at least ninety (90) days prior to the expiration of the then-current term. Any renewal will be on such terms as the Parties may mutually agree.
- D. Either Party may terminate this Agreement without cause after the first anniversary of the Effective Date by providing ninety (90) days advance written notice to the other Party. In the event of such early termination, District shall return to Hospital any unexpended sponsorship funds on a pro rata basis, along with a final accounting of expenditures and programs goals achieved.

- E. Additionally, and only after the first anniversary of the Effective Date, the District retains the right to terminate this Agreement effective at the end of any of its fiscal years, with ninety (90) days advance written notice.

**ARTICLE IX
INDEPENDENT STATUS OF DISTRICT**

- A. District acknowledges that it retains full and independent control over the hiring, supervision, and deployment of Athletic Trainers.
- B. Hospital assumes no responsibility for employment-related decisions or liabilities, and nothing in this Agreement should be interpreted to create a joint venture, partnership, fiduciary, or agency relationship between the Parties.
- C. Nothing contained herein will be construed as creating the relationship of employer and employee between District and Hospital, insofar as Hospital will not direct District in its management of its employees, or in any manner interfere with the professional clinical judgment of its athletics department providers and staff.
- D. No District employee, to specifically include the Nurses, will be included in any employee retirement or fringe benefit plan of Hospital, and will not be covered by Hospital's Worker's Compensation Coverage.
- E. Hospital will not withhold monies for state or federal income tax or Social Security payments, and the fees stipulated herein will be paid in full to District without deductions of any kind. District will be responsible for payment of Social Security and state and federal income taxes for its employees.

**ARTICLE X
COMPLIANCE WITH LAW AND UIL GUIDELINES**

- A. District will ensure that all activities, expenditures, and representations carried out under this Agreement, including those involving the Athletic Trainers, Nurses, coaches, and athletic directors and any marketing, educational, or athletic programming, comply fully with all applicable laws, regulations, and institutional policies, including but not limited to:
 - 1. Compliance with all applicable provisions of federal, Texas state, and local law, including but not limited to:
 - a) Education law and public school governance regulations;
 - b) Employment and wage laws governing District and its employees; and
 - c) Procurement and conflict-of-interest laws applicable to public entities;
 - 2. Strict compliance with all rules, regulations, and guidance issued by the University Interscholastic League (UIL), including but not limited to those governing:
 - a) Advertising and commercial sponsorships;

- b) Use of school branding and athlete likeness;
 - c) Permitted and prohibited external relationships affecting student-athlete eligibility or competition rules;
 - d) Staffing and credentialing of Athletic Trainers, Nurses, coaches and athletic directors as applicable.
- B. Where applicable, District will comply with the Family Educational Rights and Privacy Act (FERPA) and any comparable state student privacy laws in connection with program activities, branding, communications, or data sharing.
- C. Upon Hospital's written request, District will promptly provide written certification of compliance with applicable legal requirements and UIL standards, and may be required to provide documentation reasonably sufficient to demonstrate such compliance.
- D. A material failure to comply with applicable law or this Section will constitute a material breach of this Agreement. If such failure occurs, Hospital may in its sole reasonable discretion suspend funding, require a corrective action plan, or terminate this Agreement.
- E. District represents and warrants that it will not contract with any individual(s) or entity that is excluded from participation under the Office of Inspector General ("OIG") or any other governmental program. District will notify Hospital immediately in the event that District, or any individual(s) District contracts with to provide services under this Agreement, is excluded from participating under the OIG or any other governmental program. For the purposes of this section (Article X, Section E), "immediately" means within twenty-four (24) hours.
- F. District represents and warrants that neither it nor its Athletic Trainers, Nurses, coaches, and athletic directors have been (a) convicted of a criminal offense related to healthcare (unless such person or entity has implemented a compliance program as part of an agreement with the federal government); or (b) listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation under 42 U.S.C. 1320a-7, the OIG List of Excluded Individuals/Entities and/or the General Services Administration list of debarred contractors.
- G. District will notify Hospital within seven (7) business days of the time District receives notice of any final action being taken against District or its employees providing services under this Agreement which results in its exclusion from participating in the Federal health care programs. District acknowledges that Hospital may terminate this Agreement without penalty or further payment upon the resolution of a pending criminal charge or proposed disbarment or exclusion which results in a conviction, disbarment or exclusion of District or its employees.
- H. District hereby acknowledges that Hospital has adopted a Code of Conduct for the purpose of identifying and rectifying compliance issues as they may arise. District hereby represents and warrants that it and its employees providing services under this Agreement will comply with the Code of Conduct and will meet all applicable Hospital compliance guidelines only insofar as there is no conflict with the policies, rules, and regulations of District or the laws and Constitution of the State of Texas.

- I. District represents and warrants that neither it nor its employees are listed by federal or state agency as debarred, excluded or otherwise negligible for participation in federally funded programs, and will notify the Hospital immediately of any allegations that would affect this status. For the purposes of this section (Article X, Section I), “immediately” means within twenty-four (24) hours.

**ARTICLE XI
DATA AND RECORDS**

- A. District will maintain accurate, complete, and segregated records relating to all activities funded or supported by this Agreement, including:
 1. Receipt and use of all Sponsorship Contributions;
 2. Employment, deployment, and compensation of Nurses;
 3. Procurement and use of branded materials and other sponsorship-related expenditures;
 4. Public communications and media activities referencing Hospital or the Sponsored Initiative.

Records will be maintained in accordance with sound accounting principles and applicable legal requirements, and shall be retained for a minimum of five (5) years following the termination or expiration of this Agreement.

- B. District will provide Hospital with a comprehensive written report no later than thirty (30) days following each anniversary of the Effective Date. Each report will include:
 1. A detailed financial accounting of how the Sponsorship Contribution was used;
 2. A narrative summary of program implementation, outcomes, and any changes to scope or delivery; and
 3. Metrics of impact or reach, including relevant student, family, or community engagement statistics, if available.
- C. Hospital will have the right to request interim updates or clarifications relating to the use of funds, compliance with obligations, or public representation of the Sponsored Initiative. District agrees to provide such updates within a reasonable time following request, not to exceed five (5) business days, unless otherwise agreed to in writing.
- D. Hospital or its designated representative will have the right, upon at least two (2) business days written notice and during normal business hours, to inspect and audit District’s records relevant to this Agreement. This includes, without limitation, access to financial ledgers, employee rosters, procurement files, and other supporting documentation demonstrating compliance with the terms of this Agreement.

- E. Any data collected, generated, or received through the Sponsored Initiative that specifically relates to Hospital's branding, funding outcomes, or engagement may be used by District for internal evaluation and public reporting, subject to applicable laws protecting student or individual privacy. District will not sell or commercialize any data derived from Hospital-funded activities without Hospital's prior written consent.
- F. Failure to timely submit required reports, maintain accurate records, or respond to reasonable information requests will constitute a material breach of this Agreement. In such event, Hospital may withhold future contributions, suspend branding rights, or take such other action as provided under this Agreement.

ARTICLE XII INTELLECTUAL PROPERTY

- A. Each Party will retain all right, title, and interest in and to any intellectual property, materials, designs, trademarks, logos, copyrights, proprietary methods, and other protected works developed or acquired independently of this Agreement ("Preexisting IP"). Nothing in this Agreement should be construed to transfer or license such rights except as explicitly stated herein.
- B. Any materials, content, curricula, designs, videos, photographs, or written work product developed jointly by the Parties in connection with the Sponsored Initiative ("Joint IP") is, unless otherwise agreed in writing, deemed jointly owned. However:
 - 1. No Party may commercially exploit or publicly distribute Joint IP after the termination or expiration of this Agreement without the other Party's written consent;
 - 2. Hospital maintains the right to require that Joint IP containing Hospital's name, branding, proprietary concepts, or strategy be withdrawn, de-branded, or destroyed within thirty (30) days of termination or upon written demand;
 - 3. Where Joint IP incorporates any Preexisting IP of Hospital, such Preexisting IP will remain the sole property of Hospital, and District will have no continuing right to use it outside of the term of this Agreement.
- C. To the extent necessary to fulfill the obligations of this Agreement, each Party grants to the other a non-exclusive, non-transferable, royalty-free license to use the other's Preexisting IP solely for the execution of the Sponsored Initiative and solely during the Term. Such license shall automatically expire upon termination or expiration of this Agreement unless renewed in writing.
- D. Upon expiration or termination of this Agreement:
 - 1. Each Party will retain archival copies of Joint IP, subject to confidentiality and non-disparagement obligations;

2. Either Party may, at its discretion, request certification that all Joint IP containing its Preexisting IP has been deleted, destroyed, or permanently de-branded from public-facing use;
 3. Any materials incorporating Hospital's trade dress, slogans, or visual identity will not be used, adapted, or reformatted by District without express written consent of Hospital.
- E. Each Party will promptly notify the other of any known or suspected infringement, misuse, or unauthorized use of any Joint IP or licensed Preexisting IP. Hospital retains the exclusive right, but not the obligation, to enforce its intellectual property rights, including seeking injunctive relief or damages for unauthorized use of its assets or misappropriation of jointly developed materials.
- F. The provisions of this article (Article XII) shall survive the expiration or earlier termination of this Agreement for so long as either Party retains access to or control over Joint IP or the other's Preexisting IP.

**ARTICLE XIII
INDEMNIFICATION AND INSURANCE**

- A. To the extent permitted by the laws and Constitution of the State of Texas, District agrees to defend, indemnify, and hold harmless Hospital, its governing board, officers, employees, and agents from and against any and all third-party claims, demands, damages, losses, liabilities, costs, or expenses (including reasonable attorneys' fees) arising out of or resulting from:
1. The negligent, unlawful, or intentionally wrongful acts or omissions of District, its employees, subcontractors, or representatives in connection with this Agreement;
 2. Alleged or actual violations of UIL regulations, student privacy laws, or other applicable law related to the Sponsored Initiative;
 3. Any claims brought by or on behalf of District employees arising from their employment, supervision, or conduct while under District's control.
- B. Nothing in this section should be construed as a waiver of District's governmental immunity or as creating any obligation beyond that which is permitted under applicable law. This provision shall be enforceable only to the extent not prohibited by the Texas Constitution, Article III, Sections 49 and 52.
- C. District will maintain, at its own expense and throughout the Term of this Agreement, insurance or self-insurance coverage customary and sufficient for a Texas public educational institution of similar size and scope, including:
1. General liability coverage;
 2. Educators' legal liability or public officials' liability;
 3. Workers' compensation coverage for Sponsored Employees;

4. Automobile liability coverage (if transporting students or Hospital representatives as part of the Sponsored Initiative).
- D. Upon Hospital's written request, the District must provide a certificate of coverage or self-insurance letter verifying such protection.
- E. Hospital will maintain general liability and professional liability insurance customary for a Texas healthcare provider engaged in community and educational partnerships. Hospital will provide evidence of such coverage upon District's reasonable request.
- F. Nothing in this Section or Agreement is intended to create, and will not be deemed to create, any rights in or benefits for any person or entity not a Party to this Agreement, including any student, employee, or third-party participant.
- G. The indemnification and insurance obligations set forth in this Section shall survive the expiration or earlier termination of this Agreement for a period of four (4) years or for so long as a claim arising from this Agreement may lawfully be brought under Texas law.

**ARTICLE XIV
NON-SOLICITATION OF PERSONNEL**

- A. District recognizes the special relationship that exists between Hospital and its personnel in that recruiting and training of such personnel by Hospital is costly, time consuming, and District will not, during the term of this Agreement directly or indirectly through any means or manner impair or initiate any attempt to impair the relationship which exist between Hospital and the personnel it employs or retains and shall not employ or contract with such personnel. District will not directly or indirectly solicit, employ or retain in any capacity, or directly or indirectly offer to employ or retain in any capacity, any employee of Hospital. Should District violate this article (Article XIV), District will reimburse Hospital for its reasonable costs in recruiting and training a replacement employee.
- B. Hospital recognizes the special relationship that exists between District and its personnel in that recruiting and training of such personnel by District is costly, time consuming, and Hospital will not, during the term of this Agreement directly or indirectly through any means or manner impair or initiate any attempt to impair the relationship which exist between District and the personnel it employs or retains and shall not employ or contract with such personnel. Hospital will not directly or indirectly solicit, employ or retain in any capacity, or directly or indirectly offer to employ or retain in any capacity, any employee of District. Should Hospital violate this article (Article XIV), Hospital will reimburse District for its reasonable costs in recruiting and training a replacement employee.

**ARTICLE XV
CONFIDENTIALITY**

- A. As used in this Agreement, the term "Confidential Information" means any and all confidential, proprietary, or trade secret information, whether disclosed, directly or indirectly, verbally, in

writing, or by any other means in tangible or intangible form of both Parties, including that which is conceived or developed by the Parties collectively or individually, applicable to or in any way related to: (i) patients with whom Hospital has, through the members of its Medical Staff, a physician/patient relationship; (ii) the present or future business or financial performance of the Parties; (iii) the research and development of the Parties or any affiliate of either Party; (iv) information regarding the physicians of Hospital or any affiliate of Hospital; (v) information relating to Hospital's sources and practices of referring physicians; or (vi) information relating to Hospital's relationships with third party payors and other health care facilities. By way of further definition, and without limiting the generality of the foregoing, Confidential Information includes (a) the development and operation of either Party's program to provide services, including information relating to budgeting, staffing needs, marketing, research, equipment capabilities, and other information concerning such facilities and operations; (b) billing practices and contractual arrangements between Hospital and insurers or managed care associations or other payors; (c) the databases of each Party; (d) the clinical and research protocols of Hospital; (e) coding guidelines and algorithms developed by Hospital; (f) the referral sources of Hospital; (g) Hospital's practice management methods; (h) the terms of this Agreement; and (i) other confidential information of Hospital and District that are not generally known to the public, including the terms of this Agreement, donors, and fundraising efforts. The Parties agree that, as between them, this Confidential Information constitutes important, material, and confidential trade secrets that affect the successful conduct of the Parties' business and its goodwill. The Parties acknowledge that the Confidential Information specifically enumerated above, is special and unique information and is not information that would be considered a part of the general knowledge and skill the Parties have or might otherwise obtain and that the Parties did not possess any of it prior to this Agreement. The Parties further acknowledge that this Confidential Information is constantly changing and being developed so that over time, the Parties will be exposed to, and provided, new Confidential Information in addition to that provided at the Effective Date. Notwithstanding the foregoing, Confidential Information shall not include any information that (1) was known by a Party from a third party source before disclosure by or on behalf of the other Party; (ii) becomes available to a Party from a source other than the disclosing Party that is not bound by a duty of confidentiality to the non-disclosing Party; (iii) becomes generally available or known in the industry other than as a result of its disclosure by the disclosing Party; or (iv) has been independently developed by the disclosing party and may be disclosed by the disclosing party without breach of this Agreement, provided, in each case, that disclosing party shall bear the burden of demonstrating that the information falls under one of the above-described exceptions.

- B. Hospital and District acknowledge and agree that (i) the Parties have been or will be given each other's Confidential Information, and is the Parties hereby grant new and further access and rights to continue to possess such Confidential Information, subject to certain restrictions on disclosure as set forth herein; (ii) the Parties have or will disclose new Confidential Information contemporaneously with the execution of this Agreement that the Parties had not previously received and will disclose additional Confidential Information to each other which the Parties need in order to perform hereunder and which the Parties desire to obtain the benefit of in connection with his Agreement; (iii) during the term of this Agreement, the Parties will

develop new Confidential Information, which Confidential Information shall be owned by the Parties; and (iv) such Confidential Information is of significant value to the Parties.

- C. The Parties acknowledge the proprietary interest in all Confidential Information learned by the Parties during the term of this Agreement, including Confidential Information developed by District and Hospital, and that such Confidential Information is and shall remain the exclusive property of the Party who developed the Confidential Information. The Parties acknowledge and agrees that the unauthorized disclosure of any Confidential Information will result in irreparable injury and damage to the non-disclosing party and a material breach of this Agreement.
- D. The Parties specifically agree that neither Party will at any time, whether during the term of this Agreement or at any time thereafter—regardless of whether such Agreement is terminated with or without cause—in any fashion, form, or manner, unless specifically consented to in writing by the non-disclosing Party, either directly or indirectly, use, divulge, disclose, or communicate to any person, firm, or hospital, in any manner whatsoever, any Confidential Information of any kind, nature, or description concerning any matters affecting or relating to the business of either Party, except as necessary to provide patient care and subject to applicable law, or as required by applicable law.
- E. All notes, data, forms, reference materials, diagrams, formulae, memoranda, computer printouts, or other documentation and records which incorporate or reflect in any way the Confidential Information described above, shall belong exclusively to the Parties, and each Party agrees to deliver any such property of the other in its possession or under its control, and any copies thereof, including all electronic copies, to the originating Party upon termination of this Agreement for any reason. Neither Party shall take or retain any documents or other information, or any reproduction or excerpt thereof, containing or pertaining to any Confidential Information.
- F. Notwithstanding the foregoing, Hospital understands and acknowledges that District is a political subdivision of the State of Texas and is governed by the Texas Public Information Act, Chapter 552, Texas Government Code. The parties acknowledge and agree that the District will only be obligated to perform its duties under this section and this Agreement in compliance with the Public Information Act. To the extent to which some duties hereunder are not in conformity with the requirements of the Public Information Act, District will be relieved of said duties without penalty or further liability. In the event either party receives a request under the Public Information Act for Confidential Information, it will immediately notify the other party and confer on whether disclosure should be opposed. It is expressly agreed that District may request a determination from the Attorney General of the State of Texas in regard to the application of the Public Information Act to the requested information and whether the information is to be made available to the public. It is further agreed that the District, its officers and employees will have the right to rely on the determinations of the Texas Attorney General, and that District, its officers and employees will have no liability to Hospital for disclosure to the public in reliance on a decision by the Attorney General. Further, in the event that Texas Government Code Section 552.371 applies to the contract, the parties agree to the following statement: “The requirements of Subchapter J, Chapter 552, Government Code, may

apply to this contract [Agreement] and the contractor or vendor agrees that the contract [Agreement] can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.” Nothing in this agreement will require Hospital or District to violate the terms of the Public Information Act.

ARTICLE XVI MISCELLANEOUS

- A. If any provision of this Agreement is construed to be illegal or invalid, it will not affect the legality or validity of any other provisions hereof provided that any invalid provision is not material to the overall purpose and operation of this Agreement, and the illegal or invalid provision will be deemed stricken and deleted herefrom to the same extent and effect as if never incorporated herein, but all other provisions will continue to the extent that they substantially reflect the Agreement contemplated by the parties.
- B. All signatories to this Agreement warrant their authority to execute this document.
- C. This Agreement constitutes and expresses the entire Agreement between the parties regarding the subject matter addressed and will not be amended or modified except by written instrument signed by all parties.
- D. For the purpose of determining the place of Agreement and the law governing same, this Agreement is entered into in the County of El Paso, State of Texas and will be governed by the laws of the State of Texas. Venue for all causes of action arising from or in connection with this Agreement will be in El Paso County, Texas.
- E. Neither party will have the right to assign or otherwise transfer any rights, interests, or obligations under this Agreement without prior written consent of the other party.
- F. Neither party will be responsible for any delay, damage, failure, or inability to perform resulting from causes not within the control of the party and which the party is unable to prevent through reasonable diligence.
- G. The terms and provisions contained in this Agreement will inure to the benefit of and be binding upon the parties hereto and their heirs, respective successors in interest, legal representatives and assigns, except as otherwise herein expressly provided. No person or entity other than the parties, except governmental entities to the extent required by law, will be entitled to bring any action to enforce this Agreement, and the terms of this Agreement are intended solely for the benefit of, and to be enforceable only by, the parties or their respective successors in interest or assigns as permitted under this Agreement.
- H. Except as otherwise provided, no term or condition of this Agreement will be waived except by written waiver of the waiving party. The forbearance or indulgence by a party in any regard whatsoever will not constitute a waiver of the term or condition to be performed by the other party, and until complete performance by the other party of such term or condition, the forbearing party will be entitled to invoke any remedy available under this Agreement or by law despite such forbearance or indulgence. The waiver by a party of any breach of any term or condition of this

Agreement will apply to and be limited to the specific instance involved and will not be deemed to apply to any other instance or to any subsequent breach of the same or any other term or condition of the Agreement.

J. Pursuant to Public Law 96-499, sec. 952 (Sec. 1861 (v)(1) of the Social Security Act), the parties agree that: each party will, until the expiration of four (4) years after the furnishing of the services under this Agreement, retain and make available, under written request by the secretary of the U.S. Department of Health and Human Services, or upon written request, by the U.S. Comptroller General, or any of their duly authorized representatives, the contract and books, documents and records of either party that are necessary to verify the nature and extent of the cost of the services under this Agreement.

K. All notices under this Agreement will be sent to the following addresses:

If to Hospital:

President & Chief Executive Officer
4845 Alameda Avenue
El Paso, Texas 79905

If to District:

Superintendent
19200 Cobb Ave
Tornillo, Texas 79853

Any notice required or permitted under this Agreement will be mailed by certified mail, return receipt requested, to the addresses above. A party may change its address by giving notice in compliance with this section.

L. HOSPITAL ACKNOWLEDGES THAT DISTRICT IS A POLITICAL SUBDIVISION OF THE STATE OF TEXAS, IS REQUIRED TO COMPLY WITH THE LAWS OF THE STATE OF TEXAS, AND HOSPITAL ACKNOWLEDGES AND AGREES TO THE FOLLOWING:

1. District is governed by the Texas Tort Claims Act, Chapter 101, Civil Practice and Remedies Code. District is limited to money damages in a maximum amount of one hundred thousand dollars (\$100,000.00) for each person and three hundred thousand dollars (\$300,000.00) for each single occurrence for bodily injury or death.
2. Pursuant to Chapter 2271, Texas Government Code, Hospital represents that Hospital does not boycott Israel and will not boycott Israel during the term of the Agreement.
3. Hospital represents that it is not a company engaged in business with Iran, Sudan or a foreign terrorist organization as defined under Chapter 2252, Texas Government Code, and that it is not on a list prepared and maintained by the Comptroller of Public Accounts of the State of Texas under Texas Government Code Sections 2252.153 or 2270.0201.

4. Pursuant to Chapter 2274, Texas Government Code, Hospital represents and warrants that Hospital: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association; (3) does not boycott energy companies; and (4) will not boycott energy companies during the term of the contract.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

**EL PASO CHILDREN'S HOSPITAL CORPORATION D/B/A
EL PASO CHILDREN'S HOSPITAL**

CINDY A. STOUT, DNP, RN, NEA, BC
President and Chief Executive Officer

Date _____

TORNILLO INDEPENDENT SCHOOL DISTRICT

ROSY VEGA-BARRIO
Superintendent

Date _____