UNIVERSITY OF TEXAS MEDICAL BRANCH
SCHOOL OF HEALTH PROFESSIONS
ADDENDUM TO AGREEMENT

The following terms and conditions are incorporated into and form a part of the agreement (the "Agreement") dated:
_______________________________________, 2010, and

for all purposes. "University" means The University of Texas Medical Branch ("UTMB") at Galveston, a health institution of The University of Texas System, ("System"), an agency of the State of Texas, for and on behalf of its School of Health Professions and "Facility" means <FACILITY LEGAL NAME including any “d/b/a” designations.

Representations and Warranties by Facility. If Facility is a corporation or a limited liability company, Facility warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of Facility has been duly authorized to act for and bind Facility. If Facility is not an entity formed in state of Texas, nor with any enterprise contacts with the state of Texas, Facility certified that it is properly organized and legally authorized to conduct business within the United States and at least one jurisdiction or state.

Tax Certification. If Facility is a taxable entity as defined by Chapter 171, Texas Tax Code ("Chapter 171"), then Facility certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Facility is exempt from the payment of those taxes, or that Facility is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

Eligibility Certifications. Pursuant to Sections 2155.004 and 2155.006, Texas Government Code, Facility certifies that the individual or business entity named in the Agreement is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if these certifications are inaccurate.

Access by Individuals with Disabilities. Facility represents and warrants (the "EIR Accessibility Warranty") that the electronic and information resources and all associated information, documentation, and support that it provides to University under the Agreement (collectively, the “EIRs”) comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, Rule §206.70 of the Texas Administrative Code (as authorized by Chapter 2054, Subchapter M of the Texas Government Code.) To the extent Facility becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Facility represents and warrants that it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Facility fails or is unable to do so, then University may terminate the Agreement and Facility will refund to University all amounts University has paid under the Agreement within thirty (30) days after the termination date.
Venue; Governing Law. If both parties are properly organized under the laws of the state of Texas, Travis County, Texas will be the proper place of venue for suit on or in respect of the Agreement. The Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas. Notwithstanding the previous regarding Texas law, if there is a dispute between the parties about which state’s laws shall apply, the parties agree that a dispute under this Agreement may be heard by a court with proper and competent jurisdiction over the matter.

Entire Agreement; Modifications. The Agreement supersedes all prior agreements, written or oral, between Facility and University and will constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. The Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by University and Facility.

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

Insurance and Liability. With regard to commercial general liability insurance, it is the stated policy of the State of Texas not to acquire commercial general liability insurance for torts committed by employees of the state who are acting within the scope of their employment; rather, Chapter 101 of the Civil Practice and Remedies Code addresses such liability. As an agency of the State of Texas, University’s liability for the tortious conduct of its employees and agents or for injuries caused by conditions of tangible state property is provided for by the provisions of the Texas Tort Claims Act (Texas Civil Practice and Remedies Code, Chapters 101, 104 and 108). Further, University shall self-insure against any risk that may be incurred by University as a result of its operations under this Agreement. Workers’ Compensation Insurance coverage for employees of University is provided under a self-insured, self-managed program as authorized by the provisions of Texas Labor Code, Chapter 503. Additionally, the students of the School of Health Professions are covered under a professional liability insurance policy in the amounts of $1,000,000 per occurrence and $3,000,000 in the aggregate. Any applicable certificate or proof of insurance that applies only to students shall be made available by University upon request.

Limitations. The Parties are aware that there are constitutional and statutory limitations on the authority of University (a state agency) to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions relating to liens on University’s property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys’ fees; dispute resolution; indemnities; and confidentiality (collectively, the “Limitations”), and terms and conditions related to the Limitations will not be binding on University except to the extent authorized by the laws and Constitution of the State of Texas.
Ethics Matters; No Financial Interest. Facility and its applicable employees, agents, representatives and sub-facilities have an understanding of University’s Standards of Conduct Guide available at http://intranet.utmb.edu/compliance/SOCG_2005_3rdEd/SOC_Guide2005.pdf and applicable state ethics laws and rules available at www.utsystem.edu/ogc/ethics. Neither Facility nor its employees, agents, representatives or sub-facilities will assist or cause University employees to violate University’s Standards of Conduct Guide or applicable state ethics laws or rules. Facility represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of the Agreement.

FERPA. For purposes of this Agreement, pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), the University hereby designates the Facility as a school official with a legitimate educational interest in the educational records of the Students who participate in the Program to the extent that access to the records are required by the Facility to carry out the Program. Facility agrees to maintain the confidentiality of the educational records in accordance with the provisions of FERPA.

HIPAA. The parties agree that:
   (a) the Facility is a covered entity for purposes of the Health Insurance Portability and Accountability Act (HIPAA) and subject to 45 CFR Parts 160 and 164 (“the HIPAA Privacy Regulation”);
   (b) to the extent that University students are participating in the Program [and University faculty members are providing supervision at the Facility as part of the Program], such students [and faculty members] shall:
      1. be considered part of the Facility’s workforce for HIPAA compliance purposes in accordance with 45 CFR §164.103, but shall not be construed to be employees of the Facility;
      2. receive training by the Facility on, and subject to compliance with, all of Facility’s privacy policies adopted pursuant to the Regulations; and
      3. not disclose any Protected Health Information, as that term is defined by 45 CFR §160.103, to University which a student accessed through Program participation [or a faculty member accessed through the provision of supervision at the Facility] that has not first been de-identified as provided in 45 CFR §164.514(a);
   (c) University will never access or request to access any Protected Health Information held or collected by or on behalf of the Facility, from a student [or faculty member] who is acting as a part of the Facility’s workforce as set forth in Section 15(b) of this Agreement or any other source, that has not first been de-identified as provided in 45 CFR §164.514(a); and
   (d) no services are being provided to the Facility by the University pursuant to this agreement and therefore this agreement does not create a “business associate” relationship as that term is defined in 45 CFR §160.103.

Force Majeure. Neither UTMB nor Facility shall be required to perform any term, condition, or covenant of this Agreement so long as such performance is delayed or prevented by acts of God, material or labor restrictions by any governmental authority, civil riot, floods, hurricanes, or other natural disasters, and any other cause not reasonably within the control of UTMB or Facility and that by the exercise of due diligence UTMB or Facility is unable, wholly or in part, to prevent or overcome.
Addendum Controlling. In the event there is a conflict between the terms and conditions of the Agreement and this Addendum, this Addendum will control.

FACILITY:  
<FACILITY LEGAL NAME>  including any “d/b/a” designations

SCHOOL:  
THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON

BY:  
______________________________

NAME:  
______________________________

TITLE:  
______________________________

DATE:  
______________________________

DATE:  
______________________________