CLINICAL FACILITY
AFFILIATION AGREEMENT

This agreement (“Agreement”) is by and between TEXAS A&M UNIVERSITY-CORPUS CHRISTI (hereafter referred to as “University”), a component of The Texas A&M University System, an agency of the State of Texas and GULF COAST HEALTH CENTER (hereafter referred to as “Clinical Facility”), a licensed health care facility.

University, through its College of Nursing and Health Sciences (hereafter referred to as “Nursing Program”), offers a course of study for nursing. A critical component of the Nursing Program is providing students with an opportunity to directly apply knowledge and skills gained in the classroom in a clinical setting.

University and Clinical Facility share a mutual interest in providing students in the Nursing Program with experience in clinical care and agree to cooperate in the conduct of educational activities (hereafter referred to as “Clinical Placement” or “Clinical Placement Program”) as described below:

I. PURPOSE OF AGREEMENT

This Agreement sets forth the terms under which Clinical Facility will provide University faculty, staff, and student access to its facilities consistent with the purpose of this Agreement. This Agreement also establishes the manner in which University will access the Clinical Facility so that the well being of the Clinical Facility, its staff and patients will not be jeopardized.

II. TERM OF AGREEMENT

This Agreement shall become effective when executed by both parties and shall remain in effect from 09 June 2009 through 08 June 2013 unless sooner terminated as provided in this Agreement. Either party may terminate this Agreement without cause by giving thirty (30) days written notice to the other. University students scheduled to participate in the Clinical Placement at the time of any such termination shall be allowed to complete their assigned rotations.
III. SCOPE OF THE CLINICAL PLACEMENT

Neither University nor Clinical Facility will incur any financial obligation to the other as a result of this Agreement. University and Clinical Facility acknowledge that the ultimate responsibility for all patient care remains with Clinical Facility and students will not provide services apart from its educational value.

IV. RESPONSIBILITIES OF UNIVERSITY

University agrees to:

1. Select students for the participation in Clinical Placement, selecting only those students with a satisfactory record in the Nursing Program and who have met University requirements;

2. The decision to exclude or remove students from the Clinical Placement Program will be the sole decision of University and will be adhered to by Clinical Facility;

3. Provide Clinical Facility with copies of the course outline and course objectives, evaluation criteria as requested and a tentative list of course instructors and their qualifications before the beginning of each Clinical rotation;

4. Maintain full responsibility and control for planning and execution of the Nursing Program, including curriculum, evaluation of students, administration, instructor appointments, and other matters which are normally reserved as University functions, such as granting degrees and advising students;

5. Make representatives of University available to Clinical Facility for assistance and consultation as the need arises and when possible;

6. Appoint in writing one or more representatives of University to communicate with the Clinical Facility representative(s) during the course of planning for student placement at Clinical Facility;

7. Provide Clinical Facility instructors and/or preceptors during times that students are at Clinical Facility. University will provide proof of licensure in Texas as registered nurses for all University faculty;

8. Advise students of their responsibilities regarding participation in the Clinical Placement, including the responsibility to exhibit professional conduct and to follow all rules and standards set by Clinical Facility and University;

9. Ensure students attend Clinical Placement orientation, if required by Clinical Facility;
10. Provide Clinical Facility with written Clinical Program objectives for each level of student assigned to Clinical Facility; and

11. Prepare Clinical Program rotation schedules; ensure that Clinical Facility receives the student schedule before their assignment.

12. Provide to Clinical Facility, when requested, the following information regarding students:

   a. proof of personal liability insurance coverage to be carried by each student;
   b. proof of each student’s current immunizations as required;
   c. proof of current basic life support (b/s) for health care providers; and
   d. confidentiality statements executed by each student in a form attached as Exhibit “A.”

13. Educate students on communicable disease reporting guidelines.

14. Notify student, staff and faculty that Clinical Facility requires a criminal history background check on each and every student, staff and faculty member as a condition for participation in the Clinical Placement Program. The student, staff or faculty member will be required to personally obtain the criminal background check. Clearance information will be provided to Clinical Facility by University. Should the background check disclose adverse information, the student, staff or faculty member shall immediately be removed from participation in the Clinical Placement Program at Clinical Facility.

V.
RESPONSIBILITIES OF CLINICAL FACILITY

Clinical Facility agrees to:

1. Provide an on-site educational experience which is pertinent and meaningful for students;

2. Designate and inform University of a liaison to schedule hours for students participating in the Clinical Placement Program;

3. Accept from University a number of students appropriate to the staff, space and operations of Clinical Facility;
4. Allow authorized representatives of University to participate in the Clinical Placement Program planning;

5. Make representatives of Clinical Facility available to University for assistance and consultation as the need arises and when possible;

6. Encourage and allow students to gain properly supervised clinical experience appropriate to each student’s level of knowledge and training;

7. Based on the availability of facilities, allow student access to departments appropriate to each student’s level of knowledge and training;

8. Immediately provide medical care in the event of acute injury or illness experienced by a student while participating in the Clinical Placement Program, the cost of such health care to be the sole responsibility of the student;

9. Initiate the documentation process for student exposures as well as notifying University for further follow up; draw and process baseline blood samples where appropriate for communicable disease exposures;

10. The decision to exclude students from individual patient care will be the sole decision of Clinical Facility and will be adhered to by University and students.

11. The decision to deny a student access to the health care facility will be the sole decision of Clinical Facility upon sending University written notice.

12. Provide adequate space for student-faculty conferences.

13. Provide training to students regarding the confidentiality requirements of Clinical Facility.

VI.

JOINT RESPONSIBILITIES

University and Clinical Facility agree to act jointly as follows:

1. In compliance with federal law, including provisions of Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, University and Clinical Facility will not discriminate on the basis of race, sex, religion, color, national or ethnic origin, age, disability or military service in their administration of policies, programs, or activities; admission policies; other programs or employment.

2. For determination of the number of students to be assigned to the Clinical Placement Program shall be a joint decision based on staff and space available at
Clinical Facility and eligible students enrolled in the Nursing Program who desire to be educated at Clinical Facility.

3. This Agreement does not prevent Clinical Facility from participation in any other program. Nor does this agreement prevent University from placing students with other licensed health care facilities.

4. University and Clinical Facility agree to assist each other in obtaining and maintaining approvals of regulatory agencies needed to conduct the Clinical Placements under this Agreement.

5. There will be on-going, open communication between University and Clinical Facility to promote understanding of the expectations and roles of both institutions in providing the Clinical Placement for students. University and Clinical Facility representatives will meet as needed at the convenience of both parties to coordinate and improve the Clinical Placement Program.

6. Either University or Clinical Facility may remove a student participating in the Clinical Placement Program if, in the opinion of either party, the student is not making satisfactory progress. Any student who does not satisfactorily complete the Clinical Placement Program or any portion of thereof may repeat the placement with Clinical Facility only with the written approval of both Clinical Facility and University.

7. At no time shall University students be considered representatives, employees or agents of University or Clinical Facility. University students are not eligible to receive payment for services rendered, replace or substitute for a University or Clinical Facility employee, or possess authority to enter into any form of agreement, binding or otherwise, on behalf of Clinical Facility or University.

8. Clinical Facility and University each acknowledge that neither party assumes liability for actions taken by nursing students during the time that they participate in the Clinical Placement Program with Clinical Facility.

9. University is not responsible for providing personal liability or medical insurance covering students.

10. Clinical Facility and University shall be responsible for training students regarding Blood borne Pathogens in accordance with the Occupational Safety and Health Administration’s (OSHA) Occupational Exposure to Blood borne Pathogens (29 CFR Part 1910.1030).

11. As an agency of the State of Texas, University may not agree to indemnify or hold any party harmless from any liability or expenses. Neither party to this agreement shall be required to indemnify or hold the other harmless unless and until ordered to do so by a court of competent jurisdiction.
To the extent permitted by the laws and constitution of the State of Texas, University and Clinical Facility agree to defend, indemnify and hold harmless the other party, and their respective agents, officers and employees from and against any and all liability or damages incurred in connection with claims for damages of any nature resulting from bodily injury, death, personal injury or property damage arising from the negligent or willful acts or omissions of the indemnifying party, its agents or employees. Neither party shall be liable for any negligent or wrongful act to the extent caused by the other party unless (and to the extent that) any such liability is imposed by a court of competent jurisdiction.

VII.
FERPA

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

VIII.
HIPAA

University and Clinical Facility agree that:

1. Clinical 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”);

2. to the extent that University students are participating in the Clinical Placement Program and University faculty are providing supervision at the Clinical Facility as part of the Clinical Placement Program, such students and faculty members shall:

   a. be considered part of Clinical Facility’s workforce for HIPAA compliance purposes in accordance with 45 CFR §164.103, but shall not be construed to be employees of Clinical Facility;

   b. receive training by Clinical Facility on, and subject to compliance with, all of Clinical Facility’s privacy policies adopted pursuant to the Regulations; and

   c. 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 Clinical Facility that has not first been de-identified as provided in 45 CFR §164.514(a);

3. University will not access or request to access any Protected Health Information held or collected by or on behalf of Clinical Facility, from a student or faculty member who is acting as a part of the Clinical Facility’s workforce as set forth in subsection 2.b., above, or any other source, that has not first been de-identified as provided in 45 CFR §164.514(a); and

4. no services are being provided to Clinical Facility by 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.

VIII. MISCELLANEOUS PROVISIONS

1. Execution and modification. This Agreement is binding only when signed by both parties. Any modifications or amendments must be in writing and signed by both parties.

2. Assignment. This Agreement, with the rights and privileges it creates, is assignable only with the written consent of both parties.

3. Force Majeure. Each party shall be excused from any breach of this Agreement which is proximately caused by government regulation, war, strike, act of God, or other similar circumstance normally deemed outside the control of well-managed businesses.

4. Entire Agreement. This Agreement contains the entire understanding of the parties with respect to the Clinical Placement Program and supersedes all other written and oral agreements between the parties with respect to the Clinical Placement Program. It is acknowledged that other contracts may be executed. Such other agreements are not intended to change or alter this Agreement unless expressly stated in writing.

5. Governing Law. This Agreement is construed under the laws of Texas. Venue is in Nueces County, Texas.

6. Independent Contractor Status. This Agreement will not be construed as creating an employer/employee relationship between University and Clinical Facility or the students.

7. Headings. Headings appear solely for convenience of reference. Such headings are not part of this Agreement and shall not be used to construe it.
8. **Provisions.** If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

9. **Notice.** Any notices required by this agreement shall be delivered to the following address:

   **University:** Texas A&M University-Corpus Christi  
   6300 Ocean Drive, Unit 5805  
   Corpus Christi, Texas 78412  
   Attention: Mary Jane Hamilton, Ph.D, RN  
   Dean and Professor, College of  
   Nursing and Health Sciences

   **Clinical Facility:** Gulf Coast Health Center  
   2548 Memorial Blvd.  
   Port Arthur, TX 77640  
   Attention: Dr A. Okpeki, MD, Medical Director

10. **Dispute Resolution Process**

   1. To the extent that Chapter 2260, Texas Government Code, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by University and the Clinical Facility to attempt to resolve any claim for breach of contract made by the Clinical Facility:

      a. Clinical Facility claim for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, the Clinical Facility shall submit written notice, as required by subchapter B, to Judy Harral, Director of Purchasing. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of University and the Clinical Facility otherwise entitled to notice under the parties’ contract. Compliance by the Clinical Facility with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Government Code.

      b. The contested case process provided in Chapter 2260, subchapter C, of the Government Code is the Clinical Facility’s sole and exclusive process for seeking a remedy for any and all alleged
breaches of contract by University if the parties are unable to resolve their disputes under subparagraph (A) of this paragraph.

c. Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by University nor any other conduct of any representative of University relating to the contract shall be considered a waiver of sovereign immunity to suit.

2. The submission, processing and resolution of the Clinical Facility’s claim is governed by the published rules adopted by the Office of the Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. These rules are found at 1T.A.C. chpt. 68.

3. Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the Clinical Facility, in whole or in part.

4. The designated individual responsible on behalf of University for examining any claim or counterclaim and conducting any negotiations related thereto as required under §2260.052 shall be Judy Harral, Director of Purchasing.
EXECUTED in multiple originals this 9th day of June, 2009 by University and Clinical Facility through their respective duly appointed officers.

TEXAS A&M UNIVERSITY-CORPUS CHRISTI

By: _____________________________       Date: ___________
   Judy Harral
   Purchasing Director

By: _____________________________       Date: ___________
   Mary Jane Hamilton, Ph.D, RN
   Dean and Professor
   College of Nursing and Health Sciences

By: ______________________________
   Anantha Babbili, Ph.D
   Provost and Vice President for Academic Affairs

Gulf Coast Health Center

By: _____________________________       Date: ___________

Dr. A. Okpeki, MD, Medical Director