

ACADEMIC AFFILIATION AGREEMENT

This ACADEMIC AFFILIATION AGREEMENT (this “**Agreement**”) is entered into as of November 13, 2012, by and among (i) the COMMONWEALTH OF KENTUCKY, acting through its Secretary of the Finance and Administration Cabinet (“**Commonwealth**”), (ii) the UNIVERSITY OF LOUISVILLE, an instrumentality of the Commonwealth acting through its Board of Trustees (“**University**”), (iii) UNIVERSITY MEDICAL CENTER, INC., a Kentucky nonprofit corporation (“**UMC**”), and (iv) KENTUCKYONE HEALTH, INC., a Kentucky nonprofit corporation (“**KentuckyOne**”). Commonwealth, University, UMC, and KentuckyOne may be referred to in this Agreement individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

The Commonwealth, the University and UMC are parties to that certain Academic Affiliation Agreement dated February 6, 1996, as amended (“**Original Affiliation Agreement**”).

The University and UMC jointly issued a Request for Proposals No. RP-57-12: **Investing in and Delivering Health Care Services, Education and Research in Conjunction with University of Louisville and University Medical Center**, and KentuckyOne submitted a timely response.

The University and UMC joint RFP review committee evaluated the proposals in response to the RFP. The Board of Directors of UMC and the Board of Trustees of the University determined that it was in the best interest of UMC to execute this Agreement.

The Commonwealth, the University and UMC desire to amend and restate the Original Affiliation Agreement in its entirety with the terms of this Agreement and to add KentuckyOne as a party.

Concurrent with this Agreement, KentuckyOne and UMC are entering into that certain Joint Operating Agreement (the “**Joint Operating Agreement**”), and UMC, University and Commonwealth are entering that certain lease (“**Lease**”). Pursuant to the Joint Operating Agreement, KentuckyOne will manage and operate the University of Louisville Hospital and James Graham Brown Cancer Center, other than NICU, obstetrical and male or female reproductive services (including contraceptive services), as well as any other services that could not otherwise be performed within the rest of the University Facilities as reasonably determined by KentuckyOne, UMC and University (the “**Maintained Procedures**”). The Maintained Procedures will be operated in a separate and distinct unit of the University of Louisville Hospital and UMC will be solely responsible for their operation and management. The portions of the University of Louisville Hospital and James Graham Brown Cancer Center other than the separate and distinct unit set aside for the Maintained Procedures are referred to herein as the “**University Facilities**”.

It is in the best interests of the Parties to enter into this Agreement in connection with operation and management of the University Facilities by KentuckyOne.

University is authorized to enter into contracts for financial and management services pursuant to KRS 164A.560 and 740 KAR 1.

In consideration of the mutual covenants contained herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties set forth above hereby agree that the terms of the Original Affiliation Agreement are hereby amended, restated and replaced in their entirety with the following:

1. SCOPE AND PURPOSES OF AFFILIATION

Among the purposes of this Agreement, are to advance the following purposes:

- (i) To sustain and enhance University's education and research in medicine, dentistry, nursing and public health;
- (ii) To provide a stable mechanism for providing quality patient care to patients in Louisville Metro, regardless of ability to pay;
- (iii) To create and maintain an environment in which full time Faculty of the School of Medicine will work collaboratively with community physicians who are not full time Faculty of the School of Medicine to provide quality, affordable healthcare to the public in the Louisville Metro; and
- (iv) To provide resources and support so that the University Facilities can be sustained and enhanced as state-of-the-art facilities providing high-quality healthcare to patients.

2. DEFINITIONS

For purposes of this Agreement, the following terms shall have the meaning indicated:

"Academic Support Agreement" means any professional service or academic support agreement or other agreement between University, School of Medicine, or any School of Medicine clinical faculty or clinical practice plan and any health care professional or healthcare facility in the Commonwealth of Kentucky (whether UMC, KentuckyOne or another entity), including without limitation any clinical service agreement, employment agreement, medical director agreement, resident and fellow training agreement, or Department support agreement, including without limitation those agreements listed on **Exhibit A** (each, an "**Academic Support Agreement**").

"Academic Support Payment" has the meaning set forth in Section 5.5(a).

"ACGME" shall mean the Accreditation Council for Graduate Medical Education and, with respect to accreditation of a specific program, the applicable common specialty/subspecialty specific program requirements and institutional requirements.

"Agreement" has the meaning set forth in the introductory paragraph.

"Anesthesiology" shall mean the clinical activities performed by the University School of Medicine's Department of Anesthesiology and Perioperative Medicine.

“Best Efforts” shall mean, as to a Party hereto, an undertaking to perform or satisfy an obligation or duty or otherwise act in a manner reasonably calculated to obtain the intended result by action or expenditure not disproportionate or unduly burdensome in the circumstances. Best Efforts does not mean a Party will institute litigation or arbitration to perform or satisfy an obligation.

“Claim” has the meaning set forth in Section 18.

“Clinical Department Chair” shall mean the University professor with administrative responsibility for one of the academic Clinical Departments at the University School of Medicine.

“Clinical Department” shall mean (a) any one of the following sixteen academic clinical departments operated by the University School of Medicine: Anesthesiology and Perioperative Medicine; Radiology; Emergency Medicine; Family and Geriatric Medicine; Medicine; Neurology; Neurological Surgery; Obstetrics, Gynecology and Women’s Health; Ophthalmology & Visual Sciences; Orthopedic Surgery; Pathology and Laboratory Medicine; Pediatrics; Psychiatry and Behavioral Sciences; Radiation Oncology; Surgery; and Urology; and (b) the academic clinical department associated with the University School of Dentistry.

“Commonwealth” has the meaning set forth in the introductory paragraph.

“Continuing Medical Education” shall mean a Program offered at the University Facilities with the intent of retaining or increasing the competence of the individuals practicing at the University Facilities who are licensed to by the Commonwealth to practice medicine.

“Dean” shall mean the chief academic officer of the University’s School of Medicine.

“Department” shall mean a recognized academic department of the School of Medicine within either the Basic Sciences or Clinical Services departments and administered by a chair, recommended by the Dean, and appointed by the University Board of Trustees.

“Extended Negotiation” has the meaning set forth in Section 18.1.

“Extended Negotiation Period” has the meaning set forth in Section 18.1.

“Faculty” shall mean all part-time and full-time clinical physicians who hold an academic appointment in the School of Medicine, other than Gratis Faculty.

“Franklin County Courts” has the meaning set forth in Section 17.2(f).

“Graduate Medical Education” shall mean the graduate medical education Programs conducted by the School of Medicine which is accredited by the Accreditation Council on Graduate Medical Education (ACGME) or a similarly recognized national accrediting body.

“Gratis Faculty” shall mean those individuals who hold non-tenured, uncompensated appointments in the School of Medicine.

“Hospital Based Services” shall mean the following hospital based physician specialties: Anesthesiology, Radiology, Pathology, and Emergency Medicine.

“Hospital Trauma Center” shall mean the American College of Surgeons certified Level I Trauma Center in which Emergency Medicine, Trauma, and other related services are delivered.

“Initial Negotiation” has the meaning set forth in Section 18.1.

“Initial Negotiation Period” has the meaning set forth in Section 18.1.

“Initial Term” shall mean the period of time commencing on the date of this Agreement and continuing through midnight on the twentieth anniversary of this Agreement.

“Integration Date” shall mean the date on which the operations of the University Facilities will be integrated with KentuckyOne which date shall be on or before March 1, 2013.

“Investment Fund” has the meaning set forth in Section 10.1.

“Investment Plan” has the meaning set forth in Section 10.1.

“IRB” shall mean the University’s Institutional Review Board

“Jewish Hospital” shall mean Jewish Hospital and St. Mary’s Healthcare, Inc., a Kentucky not for profit corporation.

“Joint Operating Agreement” has the meaning set forth in the recitals.

“KentuckyOne” has the meaning set forth in the introductory paragraph.

“KentuckyOne Facilities” shall mean, collectively, all of the healthcare facilities that are owned or controlled by KentuckyOne and does not include University Facilities.

“KentuckyOne Medical Staff” shall mean, individually and collectively, the medical staff(s) at each of the KentuckyOne Facilities.

“Law(s)” shall mean all federal, state and local statutes, law, ordinances, regulations, rules, resolutions, orders, determinations, writs, injunctions, awards (including awards of an arbitrator), judgments and decrees applicable to the relevant entity and to the businesses and assets thereof.

“LCME” means the Liaison Committee on Medical Education

“Lease” shall mean the amended and restated real estate lease entered into between Commonwealth (for the use and benefit of the University) and UMC and effective as of November __, 2012.

“Louisville Metro” shall mean the unit of local government resulting from the consolidation of the governments of the City of Louisville and Jefferson County, Kentucky.

“Maintained Procedures” has the meaning set forth in the recitals.

“Materially Affect” shall mean any actions that would materially (i) affect the size of, or jeopardize the accreditation of, any University teaching, clinical or Research Program, or (ii) prevent or unreasonably restrain the University’s hospital-based clinical and/or research activities at the University Facilities.

“Oncology” shall mean the medical and surgical treatment of cancer.

“Original Affiliation Agreement” has the meaning set forth in the recitals.

“Original Term” has the meaning set forth in Section 17.1(a).

“Pathology” shall mean the clinical activities performed by the University School of Medicine’s Department of Pathology and Laboratory Medicine.

“PLC” has the meaning set forth in Section 4.1.

“Principal Adult Teaching Hospital” shall mean the hospital most commonly used by the University School of Medicine for all ACGME approved residency and fellowship programs, other than pediatric programs.

“Program” shall mean a clinically related group of services which are part of the teaching or research program of University.

“Proprietary and Confidential Information” shall mean all information that relates to or is used in connection with the business and affairs of any Party to this Agreement (that does not constitute Proprietary and Confidential Information of another Party to this Agreement) including computer programs, and all operating manuals or similar materials, policies and procedures, administrative, advertising and marketing material and other information used by a Party in the performance of its obligations under this Agreement. No Party shall have any obligation to identify specifically its Proprietary and Confidential Information, but KentuckyOne may so designate its information pursuant to Section 20.5(b). Proprietary and Confidential Information shall exclude any information (i) which is already known by the disclosing Party from a source unrelated to this Agreement, (ii) which is a matter of public knowledge, (iii) which has heretofore been or is hereafter published in any publication available for public distribution, or (iv) which was filed as public information with any governmental authority, except to the extent such information was made public as a result of the act or omission of any Party, including any breach of an agreement of confidentiality by such Party.

“QCCT Agreement” has the meaning set forth in Section 11.

“Radiology” shall mean any services offered at the University Facilities which involve any diagnostic and/or interventional radiologic procedure. For these purposes, Radiology shall not be applied in a manner that excludes other specialties (e.g., cardiology) from exercising privileges that commonly overlap with radiology services.

“Renewal Term” has the meaning set forth in Section 17.1(b).

“Required Service Lines” has the meaning set forth in Section 5.7.

“Research” shall mean the activity of University School of Medicine Faculty and other clinical researchers aligned with KentuckyOne and working within the University Facilities or those who are otherwise supported by KentuckyOne.

“School of Medicine” shall refer to University’s School of Medicine.

“Support Agreement” has the meaning set forth in Section 5.5(d).

“Term” has the meaning set forth in Section 17.1(b).

“Termination Notice” has the meaning set forth in Section 17.2(c).

“UMC” has the meaning set forth in the introductory paragraph.

“University” has the meaning set forth in the introductory paragraph.

“University Facilities” has the meaning set forth in the recitals.

3. OPERATION OF FACILITIES

3.1 Operation of University Facilities. KentuckyOne will operate and manage the University Facilities pursuant to the terms and conditions of the Joint Operating Agreement and consistent with the terms of the Lease.

4. KENTUCKYONE PHYSICIAN LEADERSHIP COUNCIL

4.1 Purpose of KentuckyOne Physician Leadership Council. KentuckyOne has established a Physician Leadership Council (the “PLC”) to provide input on policies and strategic direction of KentuckyOne. The PLC will assist KentuckyOne in identifying strategic and programmatic capital and operational investments.

4.2 Faculty Participation on Physician Leadership Council. KentuckyOne will include Faculty in the PLC to have input on policies and strategic direction of KentuckyOne. Strategic and programmatic capital and operational investments will be identified with the input of the PLC. Faculty will be invited for membership on the PLC by the KentuckyOne Chief Executive Officer subject to the approval of the University Executive Vice President for Health Affairs. If they cannot agree, they will follow the dispute resolution process set forth in Article 18.

5. ACADEMIC AND OTHER PROGRAMS

5.1 Roles of KentuckyOne and University.

(a) The Parties agree that the University Facilities shall serve as the University’s Principal Adult Teaching Hospital, and shall be available for teaching, research and

clinical care Programs of the University Schools of Medicine, Dentistry, Nursing, and Public Health and Information Sciences. KentuckyOne and University shall cooperate to assure that the University Facilities and each of the undergraduate medical, graduate medical, continuing medical, professional, undergraduate, and all other educational Programs contemplated herein remain fully licensed and accredited as needed to effectively conduct its business and such Programs.

(b) KentuckyOne shall not interfere with any training Programs or rotations located at the University Facilities without the prior written consent of University; provided that KentuckyOne can move or relocate clinical programs within the Louisville Metro. Without the prior written consent of KentuckyOne, University will not eliminate or relocate any existing academic training Program primarily located at the University Facilities. Notwithstanding the foregoing, subject to the dispute resolution process in Section 18, the following will require the approval of the University Executive Vice President for Health Affairs, which approval shall not be unreasonably withheld: (i) any changes to UMC clinical policies and procedures that will objectively jeopardize ACGME or LCME accreditation; (ii) relocation of programs or services into or out of University Facilities that would prevent University or KentuckyOne from objectively meeting ACGME or LCME accreditation; and (iii) discontinuation of any current or future clinical academic program that would objectively jeopardize ACGME or LCME accreditation and could not be reasonably accommodated elsewhere in the Louisville Metro area. To the extent there is a reallocation of funded residency slots between UMC and KentuckyOne during the Term, such reallocated slots will be repatriated to UMC upon termination of this Agreement.

(c) Matters affecting University teaching, training, research, and clinical Programs are reserved solely to the University. All Faculty, residency, fellowship and student related issues shall be solely under the jurisdiction of the University Health Sciences Center. The University shall be solely responsible for defining the size, work assignment, curriculum, and geographic distribution of all residency Programs, as well as the content, delivery, and geographic location of delivery of the curriculum. Without limiting the foregoing, this provision requires that University will solely be responsible for selection, academic evaluation, and dismissal of all students enrolled in University. Residents shall be employees of the University, and the University will be responsible for payment of resident salaries, benefits, and malpractice insurance, as well as resident disciplinary matters. Furthermore, the University shall exclusively set the criteria for awarding all academic appointments (including gratis appointments) for any individual associated with the University, and the University shall have the exclusive right to determine promotion, tenure, salary, and work assignments of all University Faculty members, interns, residents, and fellows. In exercising its authority, University shall require its Faculty, residents, fellows and students to abide by all of the University Facilities' policies and procedures while conducting activities on the University Facilities' premises or otherwise within its programs.

5.2 Integration with KentuckyOne Facilities. Each of KentuckyOne and University will use their Best Efforts to expand the University's teaching, research and clinical involvement with each of the KentuckyOne Facilities. KentuckyOne will also evaluate where it might expand the direct presence of University teaching Programs in the Louisville Metro and other geographic areas served by the KentuckyOne Facilities. KentuckyOne will work with University to meet the

then current ACGME Common, specialty/subspecialty specific program, and Institutional Requirements (ACGME) and the LCME Clinical Teaching Facilities requirements for any teaching programs that occur in KentuckyOne Facilities. The details of such relationships may be determined in separate agreements between KentuckyOne and University.

5.3 Strategic Plan. KentuckyOne will work to implement and include the University Facilities in KentuckyOne's strategic plan that includes, but is not limited to, physician workforce planning, program development, and other strategic initiatives that are designed to achieve, among other things, timely implementation of the programs and achievement of the objectives described in this Agreement. It is not the intent of this Agreement to define all of the components or the boundaries of the strategic plan or how the University Facilities will be included in the plan. The strategic planning process and the implementation of plans will continue throughout the Term.

5.4 Enhancement and Strengthening of Programs.

(a) KentuckyOne and University will work to strengthen and enhance distinctive programs offered at the University Facilities and KentuckyOne Facilities which shall include, but not be limited to, neurosciences, trauma services, transplantation services, cardiac services, oncology services, women's services, neonatal services, and the adult burn center, and market them through public awareness and outreach.

(b) The achievement of the following National Cancer Institute designations are strategic priorities of the Parties: (i) Comprehensive Cancer Center designation for the University, or (ii) Community Cancer Centers Program designation for the University Facilities and/or other KentuckyOne hospitals. Notwithstanding anything in the foregoing to the contrary, the failure to obtain such designation or status alone shall not be a breach of this Agreement.

(c) KentuckyOne and University acknowledge and agree that the attainment of the "magnet status" designation for the University Facilities from the American Nurses' Credentialing Center is a strategic priority of KentuckyOne and University. Notwithstanding anything in the foregoing to the contrary, the failure to obtain such designation or status alone shall not be a breach of this Agreement.

5.5 Academic Support Agreements and Lease Payments.

(a) KentuckyOne and University shall enter into Academic Support Agreements pursuant to which KentuckyOne will agree to provide (or, as applicable, will cause UMC to provide), in the aggregate, \$75,000,000 (as adjusted by Section 5.5(c)) per annum in academic support to the Programs (the "**Academic Support Payment**"), which will include, among other expenditures:

(i) Complete funding (i.e. salary, benefits, malpractice coverage, and a pro-rata portion of the University's cost for the GME program director) for 290 full-time equivalent resident positions for the first full year of the University Facilities' and Jewish Hospital facilities' operations after the Integration Date. Thereafter, funding for resident will be subject to the University Facilities' and Jewish Hospital facilities' internal budget process taking into account (a) staffing at comparable academic medical centers, (b) the services provided at the

University Facilities and Jewish Hospital facilities, and (c) clinical volume at the University Facilities and Jewish Hospital facilities; provided, however, that the funding shall not be less than 290 full-time equivalent resident positions for any given year without the prior written consent of the University. All such funding shall be determined in accordance with the University's historical practice for establishing salary and benefits for residents and administering the GME program at the University Facilities and the Jewish Hospital facilities.

(ii) Funding for all the current Academic Support Agreements in existence as of the Integration Date, except Academic Support Agreements (1) with parties other than UMC or KentuckyOne or its subsidiaries, or (2) related to the Maintained Procedures.

(b) The current Academic Support Agreements of KentuckyOne relating to cardiovascular, transplant, and physical medicine and rehabilitation will be deemed to be included within the Academic Support Payment.

(c) The Academic Support Payment will be subject to an annual adjustment during the Term pursuant to which the Academic Support Payment may be increased or decreased, as applicable, based on the annual changes in the net Medicare Inpatient Base Rate.

(d) Beginning in the fifth year after the Integration Date, and on each five-year anniversary of the Integration Date thereafter, the Academic Support Payment shall be reviewed by KentuckyOne and University to determine the sustainability for both KentuckyOne and University. In the event that KentuckyOne and University cannot agree on an adjustment to the Academic Support Payment, the manner in which the Academic Support Payment is to be spent, or any other dispute with respect to the Academic Support Payment, such dispute will be subject to Section 18.1 of this Agreement; provided, however, that in no event during years six through twenty of the Term will the Academic Support Payment exceed \$95,000,000 or be less than \$55,000,000.

(e) Any Academic Support Agreement (including, without limitation, an Academic Support Agreement with a party other than UMC or KentuckyOne (or one of its subsidiaries)), which comes up for renewal during the Term, or any new such Academic Support Agreement entered into during the Term, will be first offered by University, School of Medicine, or the School of Medicine clinical faculty or clinical practice plan, as applicable, to KentuckyOne to enter into such an agreement. University shall inform KentuckyOne at least ninety (90) days prior to the renewal of any such Academic Support Agreement or the entry into a new Academic Support Agreement. Subject to the dispute resolution process in Section 18.1 any new KentuckyOne Academic Support Agreements must provide comparable total economic value to University and not jeopardize the objective ACGME and LCME accreditation requirements. The right of first refusal described in this Section 5.5(e) does not apply to the renewal of the Pediatric Academic Affiliation Agreement between University and Norton Healthcare that is anticipated to be signed between the signing date of this Agreement and the Integration Date, but the right of first refusal will apply to the renewal of that Pediatric Academic Affiliation Agreement at the end of its first term. University represents that the Pediatric Academic Affiliation Agreement has a term of five years with an automatic renewal with such subsequent term terminable on two-years' notice without cause.

(f) Any Academic Support Agreement with KentuckyOne shall include provisions to include, as applicable, but not be limited to, (1) performance standards, including, but not limited to, quality, patient satisfaction, and reasonable access; (2) reasonable remedies, including termination for material breaches which termination shall not be deemed a breach of this Agreement; (3) standard and customary non-compete provisions and restrictive covenants; and (4) requiring all Faculty to participate in all of KentuckyOne's payor contracts and payor networks.

(g) In addition to the Academic Support Payment, KentuckyOne will pay, on UMC's behalf, (or, as applicable, will cause UMC to pay) all necessary payments to University required under the Lease which, as of the Integration Date, is \$6.5 million per year of which amount \$5 million is paid by University to the Commonwealth for QCCT funding.

5.6 New Programs. KentuckyOne and University will each use their collective Best Efforts to develop and implement new academic, clinical and research Programs at the KentuckyOne Facilities and pursuant to the strategic plan described in Section 5.3 of this Agreement. The development of new Programs may include provisions for appropriate academic program support by KentuckyOne through the Academic Support Payment. Faculty participation in this strategic planning process will include both Clinical Department Chairs and other Faculty, with appropriate consultative processes for Faculty and community physicians active at the KentuckyOne Facilities. KentuckyOne shall integrate such Programs into the KentuckyOne Facilities to the maximum extent feasible, consistent with the mission of the KentuckyOne.

5.7 Maintenance of Academic Programs. During the Term, KentuckyOne will maintain the following service lines within Jefferson County, Kentucky as necessary for the School of Medicine to maintain all accreditations with the LCME and ACGME: anesthesiology and perioperative medicine, radiology, emergency medicine, family and geriatric medicine, medicine, neurology, neurological surgery, gynecology and women's health, ophthalmology and visual sciences, orthopedic surgery, pathology and laboratory medicine, pediatrics, psychiatry and behavioral sciences, radiation oncology, surgery, urology, and oral and maxillofacial surgery (the "**Required Service Lines**"). In addition to any other remedies the University may have available under this Agreement, if KentuckyOne fails to provide material financial support for, or otherwise ceases to support, any of the Required Service Lines that is either necessary for the School of Medicine to maintain accreditation with the LCME and ACGME or support a complete and competitive School of Medicine, the University will have the right to locate or relocate such Required Service Lines to facilities other than any hospitals or facilities owned or operated by KentuckyOne in order to provide teaching and education opportunities within such Required Service Line. Notwithstanding the foregoing, KentuckyOne will not take any action which would objectively jeopardize the continued ACGME or LCME accreditation of programs which have funded GME residency or fellowship slots at the Business without UofL's consent.

5.8 Restrictive Covenants.

(a) During the Term, University will have a right of first refusal for any academic affiliation agreement entered into by KentuckyOne in the Commonwealth of Kentucky (excluding the counties of Boone, Kenton and Campbell), provided, however, that this Section

5.8 will not prohibit or otherwise restrict KentuckyOne from merging with or acquiring any entities, facilities or businesses that have existing academic affiliation agreements.

(b) For six (6) months after the expiration of this Agreement, no KentuckyOne Facility will become the Principal Adult Teaching Hospital (as defined by ACGME) for any school of medicine.

(c) During the Term and for a period of six (6) months after the expiration of this Agreement, UMC agrees not to enter into a joint operating agreement, management agreement, affiliation agreement or any partnership or similar arrangement relating to the operation of the Hospital or the Cancer Center; provided, however, (i) after the expiration or termination of this Agreement, UMC shall not be prohibited from entering into a management agreement with a health care system or provider that is not a competitor of KentuckyOne or UMC, (ii) University shall not be limited in any manner from moving any clinical or academic program to any another health care facility if required to maintain ACGME or LCME accreditation, and (iii) UMC shall not be limited in any manner from entering into a joint operating agreement, management agreement, affiliation agreement or any partnership or similar arrangement with any party that is not a competitor of KentuckyOne or UMC with respect to the provision of Maintained Procedures at the Hospital.

(d) During the Term and for a period of six (6) months after the expiration of this Agreement, University (i) will not change the Principal Adult Teaching Hospital designation under ACGME for the University Facilities, and (ii) will not (directly or indirectly, either alone or with others) build, own, manage or operate a hospital that competes with any KentuckyOne Facility.

5.9 Payor Contracts and Networks. The University shall cause all Faculty to participate in all of KentuckyOne's payor contracts and payor networks.

6. MEDICAL AND DENTAL STAFF

6.1 Generally. During the Term, University (i) will not unreasonably withhold Gratis Faculty appointments to any member of the KentuckyOne Medical Staff who applies for such appointment, and (ii) will not grant Gratis Faculty appointments to anyone other than members of the KentuckyOne Medical Staff (except for physicians who have such Gratis Faculty appointments on the Integration Date). KentuckyOne will use its Best Efforts to commit administrative and financial resources to support a long-term recruitment of physicians to the Louisville Metro. University will use its Best Efforts to recruit qualified physicians to become members of its Faculty and will cooperate with KentuckyOne to process applications for Faculty status based upon submission of documentation by the University Facilities Medical Staff to the appropriate University department. KentuckyOne and University shall cooperate in developing a comprehensive physician workforce development plan.

6.2 Recruitment of Providers. University of Louisville Physicians, an affiliate of the University, will have the right of first refusal to employ any full-time Faculty physicians whose primary and majority place of clinical practice will be at the University Facilities. Primary and majority is defined as 5/8th full-time equivalent clinical practice at the University Facilities. If

University of Louisville Physicians does not hire such a provider, then KentuckyOne or one of its affiliates will have the right to hire such provider. During the Term, no Party will actively solicit or recruit the employed physicians of any other Party (or the University of Louisville Physicians, Jewish Physician Group, St. Joseph Medical Foundation, collectively the "Physician Affiliates"). To the extent employed physicians of one Party (or the Physician Affiliates) approach another Party (or the Physician Affiliates), the Parties will give notice to the other of any discussions and use good faith efforts to keep the employment of such physicians within either KentuckyOne or the University or their affiliates. In the event there is a transition of physician employment from one Party to another (or the Physician Affiliates), the Parties will use good faith efforts to work on a transition plan to make sure there is no gap in coverage or service availability at any of the KentuckyOne Facilities or University Facilities, and that there is continued ACGME and LCME accreditation for the Programs affected by the relocating physicians.

6.3 Medical Staff Matters.

(a) Notwithstanding any provision in this Agreement, the medical staff bylaws of any of the KentuckyOne Facilities or the University Facilities, or the Joint Operating Agreement, all physicians holding privileges at the University Facilities or the KentuckyOne Facilities shall have comparable access to all University Facilities and KentuckyOne Facilities and their respective services, as all other physicians in the same classification regardless of whether they have Faculty appointments, gratis or otherwise, including, without limitation, each of the following areas:

(i) Access to the University Facilities' and KentuckyOne Facilities' operating rooms, catheterization and procedure rooms, and technical devices, except that any facilities or equipment that are dedicated to research will only be available to those eligible for such access under the appropriate research protocol;

(ii) Clinical support through access to specialist physicians.

(iii) Participation in respective medical staff governance.

(iv) Participation in undergraduate medical education and Graduate Medical Education activities if they have an appropriate Faculty appointment, including a gratis appointment.

(v) Access to Continuing Medical Education.

(vi) Collaboration with Faculty to improve policies and procedures at the University Facilities for better patient outcomes.

(vii) The opportunity to join in the creation or operation of specialty centers of excellence.

(b) The Parties will work so that both academic and non-academic physicians will be able to effectively practice at the University Facilities. Patient referrals shall be made in the best interest of the patient. Non-academic physicians will have the opportunity, but not the

obligation, to serve as attendings engaged in student and residency education through application for membership on the Gratis Faculty, consistent with all University and Departmental policies concerning Gratis Faculty appointments.

6.4 Clinical Departments of Medical Staff. Consistent with the current UMC organized medical staff, the UMC medical staff will be organized into clinical departments which track the departments of the University School of Medicine. A chief of service will oversee each clinical department at the University Facilities. The chiefs of service for each clinical department will be the applicable department chair of the University School of Medicine (or his/her respective designee).

6.5 Exclusivity for Hospital-Based Programs at University Facilities. During the Term, University of Louisville Physicians will be the exclusive provider of services at the University Facilities for pathology, anesthesiology, radiology, and Level I Trauma services.

7. PATIENT POLICIES

All patients admitted to the University Facilities shall be considered medical teaching patients, unless the patient affirmatively states his/her unwillingness to become a teaching patient.

8. PARTICIPATION IN CLINICALLY INTEGRATED ORGANIZATION

8.1 Generally. During the Term, the University shall cause all the Faculty to participate in the KentuckyOne Clinically Integrated Organization a provider organization with well-defined structures around (i) clinical management based on information sharing and evidence based clinical protocols, (ii) rewards and penalties for jointly developed attainable goals, (iii) joint contracting for facilities and physicians, and (iv) physician governance construct built to support hospital physician decision making, flow of information and quality initiatives.

9. RESEARCH

9.1 Generally. The University Facilities will be the principal adult clinical research affiliate of the University. All aspects related to Research in the University Facilities shall be managed through the offices of the University Executive Vice President for Health Affairs, the University Vice President of Research and Innovation, the Vice Deans for Research at the respective Health Science Center Schools of the University, and the Associate Vice President for Health Affairs/Research. All grant applications for research at the University Facilities, whether to governmental, private foundation, or industry affiliated grantors, shall be submitted through University, in accordance with the University's policies.

9.2 Research Support. KentuckyOne will support the research mission of University and KentuckyOne in the following manner:

(a) In consultation with the PLC and with Catholic Health Initiatives Institute for Research and Innovation, KentuckyOne shall annually budget at least \$3,000,000 for Research and/or research infrastructure and architecture throughout the University Facilities and

KentuckyOne Facilities. Research funding pursuant to such budget shall be developed in consultation with the PLC.

(b) In addition to direct financial support, KentuckyOne will allocate sufficient space and equipment at the University Facilities so that individuals involved in supporting clinical research, such as research coordinators, may effectively carry out their responsibilities.

(c) KentuckyOne shall use University's IRB and grants/contract office, and shall equitably reimburse University for expenses of these entities related to research at the University Facilities.

9.3 Continuation of Certain Research Programs. Notwithstanding anything in this Agreement or the Joint Operating Agreement to the contrary, the University will be permitted to continue its autologous stem cell research program (currently headed by Dr. Bolli) throughout the Initial Term and all Renewal Terms of this Agreement.

10. PROGRAM INVESTMENTS

10.1 Strategic Programmatic Investment Fund and Plan.

(a) Investment Fund. KentuckyOne will invest \$95 million ("**Investment Fund**") over the five (5) years following the Integration Date for strategic programmatic investment in key service lines and departments subject to an investment plan ("**Investment Plan**") (detailing investments by category) that will be provided by University and will be mutually agreed upon by the University Health Sciences Center and KentuckyOne prior to the Integration Date; provided, however, that the parties will agree to the aggregate expenditures within three years of the Integration Date, even if all expenditures will not be made until the fifth year. The Investment Plan will be consistent with the overall KentuckyOne vision and strategy, will exclude routine maintenance and depreciation capital investment, and will be endorsed by the Physician Leadership Council prior to Integration Date. If the University Health Sciences Center, KentuckyOne and the Physician Leadership Council have not agreed to the Investment Plan by the Integration Date, they will follow the dispute resolution process described in Section 18. After the Integration Date, the detailed investment initiatives that implement the Investment Plan will be approved by the KentuckyOne CEO and the University Executive Vice President for Health Affairs. If they cannot agree, they will follow the dispute resolution process described in Section 18. The Investment Plan will include \$15-\$20 million of investment with the University Health Sciences Center in the areas of future care delivery models focused around accountable care and clinical integration, potential areas of focus include nursing magnet status, hospitalist training, informatics, patient centered medical home, intensivists, and electronic intensive care units (eICU/virtual ICU).

(b) Implementation of Investment Plan. KentuckyOne will establish a line item operating account for the Investment Fund, but notwithstanding anything in this Section 10 to the contrary, the Parties intend that this Section 10 be interpreted so that KentuckyOne will treat the Investment Fund as unrestricted funds (rather than board designated or temporarily or permanently restricted funds) for purposes of GAAP financial reporting on KentuckyOne's

balance sheet. The KentuckyOne Chief Executive Officer and the University Executive Vice President for Health Affairs will meet on a periodic basis to determine how the Investment Fund will be utilized and implemented. Any disagreements related to the utilization or implementation of the Investment Fund will be subject to Section 18 of this Agreement. Any revisions or changes to the Investment Plan must be approved in writing by the KentuckyOne Chief Executive Officer and the University Executive Vice President for Health Affairs, and any disagreements related to revisions or changes to the Investment Plan will be subject to Section 18 of this Agreement.

10.2 Investments in KentuckyOne Facilities. KentuckyOne will invest \$40 million over the five (5) years following the Integration Date in academic and programmatic investment in KentuckyOne cardiovascular, oncology, women's services, orthopedics, and neurosciences service lines consistent with the KentuckyOne strategic plan; provided, however, that the parties will agree to the aggregate expenditures within three years of the Integration Date, even if all expenditures will not be made until the fifth year. This \$40 million investment in the aforementioned service lines will be invested in the Jewish Hospital facilities and will exclude amounts previously committed as of the Integration Date.

10.3 Technology Investments. KentuckyOne will make capital investments for innovative and transformational technology at the University Facilities. The average annual capital investment will be \$7.5 million during the initial Term of the Agreement. These capital investments will be agreed upon by the KentuckyOne CEO and the University Executive Vice President for Health Affairs and be consistent with the KentuckyOne strategic plan. If they cannot agree, they will follow the dispute resolution process described in Section 18

10.4 Discretionary Funds. KentuckyOne will annually provide \$15,000,000 over a three (3) year period to University of Louisville's Health Sciences Center to support key statewide areas of focus and will be made available if KentuckyOne has met statewide performance metrics in the areas of growth, quality, teaching and research. At the conclusion of the initial three (3) years, KentuckyOne will reevaluate the continuation of this \$15 million annual amount. The metrics for the period from July 1, 2013 to June 30, 2014 are attached as **Exhibit C**. KentuckyOne will update **Exhibit C** for each year thereafter during the Term of the Agreement.

11. STATE TEACHING HOSPITAL

The Commonwealth agrees that for the Term of this Agreement, it will not take any action, unless compelled by law, by ordinance, by regulation, or by a change in the ownership or operation of the University Facilities or any documents relating thereto, that will result in the University Facilities no longer being designated as a "state university teaching hospital" and a "university hospital" as defined in KRS 205.639 (and any future or related statutory provisions and regulatory provisions implementing such statutes) for purposes of Medicaid disproportionate share payments or any similar future payment

12. STANDARDS OF PERFORMANCE

12.1 KentuckyOne Compliance with Law and Standards. In performing all services required by this Agreement and any other Agreements ancillary thereto, KentuckyOne represents and warrants it will (i) comply in all material respects with all applicable Laws; (ii) provide such services in accordance with generally recognized standards for the operation of a quaternary care hospital that is part of an academic medical center, which missions include teaching, research, clinical care and community service; and (iii) exercise reasonable care and prudence in managing and operating the University Facilities.

12.2 University Compliance with Law and Standards. University acknowledges that KentuckyOne's ability to provide certain services to the standard set forth above is, in part, dependent on the University's operation of a medical school, and University represents and warrants that it will (i) comply in all material respects with all applicable Laws; (ii) provide teaching, research and clinical care Programs at a level generally recognized as meeting the standard for a medical school affiliated with a quaternary care hospital that is part of an academic medical center; and (iii) exercise reasonable care and prudence in the services it, and its Faculty, provide at the University Facilities.

12.3 Licensure and Accreditation.

(a) KentuckyOne and University shall cooperate to keep all Programs at the University Facilities fully licensed and accredited by hospital licensing and accreditation agencies, obtain and maintain such accreditation such that the University Facilities and each of the undergraduate medical, graduate medical, continuing medical, professional, undergraduate, and all other educational programs conducted by the University therein remain fully licensed and accredited (e.g., by the ACGME and other similarly recognized accreditation bodies) as needed to effectively conduct its business and such academic, clinical and research Programs.

(b) KentuckyOne will use Best Efforts to (i) maintain the services necessary in order for the Hospital Trauma Center to maintain Level I trauma center status and (ii) not prevent the Maintained Procedures provided by UMC from being accredited by state licensing and accreditation agencies pursuant to applicable Laws.

12.4 Cooperation. In performing the services contemplated hereunder, KentuckyOne shall use its Best Efforts to establish and maintain good cooperative relationships with Faculty (both full time and gratis), community physicians, other health care services and facilities, and with the community generally.

13. TAX CONSIDERATIONS

The operation of the University Facilities by KentuckyOne upon the terms and conditions contained in this Agreement and the Joint Operating Agreement, and all other agreements to which the Parties, or any of them, have executed are intended to have no material adverse impact upon the tax exempt status of any Party to this Agreement. Upon the written request of any Party, the Parties agree to amend to terms of this Agreement, or any other agreement executed and delivered in connection hereto, from time to time on an economically neutral basis in order to comply with any tax law, rule or regulation applicable to any Party.

14. EDUCATIONAL COMMITMENTS

14.1 Seminars and Continuing Medical Education. KentuckyOne will regularly sponsor University Continuing Medical Education and other healthcare education programs within the University Facilities, featuring University Faculty and Programs, to the extent reasonable and consistent with past practice.

14.2 Patient and Community Education and Outreach. KentuckyOne will work with Faculty to develop, deliver, and market wellness and health prevention programs to the public.

15. FACULTY AGREEMENTS

University shall have the right of prior written approval, not to be unreasonably withheld, of all direct agreements between any full time member or members of the Faculty and KentuckyOne.

16. REPRESENTATIONS AND WARRANTIES

16.1 Representations and Warranties of KentuckyOne.

KentuckyOne represents and warrants to each of the other Parties as follows:

(a) KentuckyOne is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky, and has full and unrestricted corporate power and authority to carry on its business as currently conducted, to execute and deliver this Agreement.

(b) The execution, delivery and performance by KentuckyOne of this Agreement, the fulfillment of and the compliance with its terms and provisions, and the consummation by KentuckyOne of the transactions contemplated hereby have been duly authorized by its Board of Directors (which authorization has not been modified or rescinded and is in full force and effect) and will not: (a) conflict with, or violate any provision of the Articles of Incorporation or Bylaws of KentuckyOne or (b) conflict with, or result in any breach of, or constitute a default under, any agreement to which KentuckyOne is a Party or by which KentuckyOne is bound.

(c) This Agreement and all other documents to be executed by KentuckyOne will constitute valid and binding obligations of KentuckyOne enforceable in accordance their respective terms upon execution.

16.2 Representations and Warranties of University and UMC. University and UMC represent and warrant to each of the other Parties as follows:

(a) University is an independent agency of the Commonwealth of Kentucky, which has the authority (subject to the consent of the Governor of the Commonwealth of Kentucky), acting through its Board of Trustees, to execute and deliver this Agreement and to carry out the transactions contemplated hereby, including all power and authority necessary or appropriate under the laws of the Commonwealth of Kentucky.

(b) UMC is a Kentucky nonprofit corporation which has the authority, acting through Board of Directors, to execute and deliver this Agreement and to carry out the transactions contemplated hereby, including all power and authority necessary or appropriate under the laws of the Commonwealth of Kentucky.

(c) The execution, delivery and performance by University and UMC of this Agreement, the fulfillment of and the compliance with its terms and provisions, and the consummation by University and UMC of the transactions contemplated hereby have been duly authorized by their respective Boards (which authorizations have not been modified or rescinded and are in full force and effect), and will not: (a) conflict with, or violate any provision of, any term or provision of the University's or UMC's organizational documents, or (b) conflict with, or result in any breach of, or constitute a default under, any agreement to which University or UMC is a Party or by which University or UMC is bound.

(d) This Agreement and all other documents to be executed by University and UMC will constitute valid and binding obligations of UMC, University and the Commonwealth of Kentucky enforceable in accordance with their respective terms upon execution.

(e) The University shall cause all the Faculty to participate in all of KentuckyOne's payor contracts and payor networks, and participate in KentuckyOne's Clinically Integrated Organization, all as set forth herein.

(f) As of the Integration Date, the list of Academic Support Agreements set forth on **Exhibit A** is true, correct, and complete.

17. **TERM AND TERMINATION**

17.1 Term.

(a) *Initial Term.* The Initial Term of this Agreement shall be for a period of twenty (20) years commencing on the Integration Date, and continuing through midnight on the twentieth anniversary of the Integration Date (the "**Original Term**").

(b) *Renewal Terms.* The term of this Agreement shall automatically renew for successive five (5) year renewal terms (each a "**Renewal Term**," and collectively with the Original Term, the "**Term**") unless (i) this Agreement shall have been previously terminated as provided in Section 17.2 of this Agreement, or (ii) KentuckyOne or the University shall have notified the other Parties in writing no later than 180 days prior to the end of the Initial Term, or any Renewal Term, as the case might be, of its intent not to renew, unless the other Parties agree to a shorter notice period.

17.2 Termination.

(a) *Term.* This Agreement shall terminate at the end of the Term.

(b) *Termination with Joint Operating Agreement.* This Agreement shall immediately terminate upon the termination of the Joint Operating Agreement or the Lease.

(c) *Immediate Termination by KentuckyOne upon certain Events.* Notwithstanding the provisions of Section 18 to the contrary, KentuckyOne may, at its option and without waiving its rights hereunder, terminate this Agreement by providing written notice of such termination (“**Termination Notice**”) to University upon the occurrence of a material breach of Section 5.1, Section 5.2, Section 5.5, Section 5.9, Section 6.1, or Section 10 (but only after the Negotiation Period described in Section 18.1 has expired with respect to such breach) of this Agreement;

(d) *Immediate Termination by University upon certain Events.* Notwithstanding the provisions of Section 18 to the contrary, the University may, at its option and without waiving its rights hereunder, terminate this Agreement by providing a Termination Notice to KentuckyOne upon the occurrence of any of the following events (but only after the Negotiation Period described in Section 18.1 has expired with respect to such breach):

(i) if KentuckyOne becomes insolvent or makes a general assignment for the benefit of creditors, or, unless otherwise prohibited by law, if a petition in bankruptcy is filed by KentuckyOne, or such a petition is filed against and consented to by KentuckyOne or not dismissed within thirty (30) days, or if a bill in equity or other proceeding for the appointment of a receiver of KentuckyOne or other custodian for KentuckyOne’s business or assets is filed and consented to by KentuckyOne, or if a receiver or other custodian (permanent or temporary) of KentuckyOne’s assets or property, or any part thereof, is appointed;

(ii) if KentuckyOne breaches Section 5.1, Section 5.2, Section 5.5, Section 5.7, or Section 10 of this Agreement in any material respect; or

(iii) if KentuckyOne fails to comply in all material respects with any arbitration award granted pursuant to Section 18.2.

(e) *Opportunity to Cure.* Each party will have an opportunity to cure any breach set forth in a Termination Notice in accordance with the provisions of this Section 17.2. For all breaches described in the Notice of Termination, the breaching party shall have thirty (30) days to cure such breaches; provided, however, if such breach is susceptible of cure but cannot reasonably be cured within such period and if curative action was promptly commenced and is being continuously and diligently pursued by the breaching party, the breaching party shall be given an additional period of time as is reasonably necessary for the breaching party in the exercise of due diligence to cure such breach for so long as such additional period of time does not exceed sixty (60) days, unless such breach is of a nature that can not be cured within such sixty (60) days, in which case, the breaching party shall have such additional time as is reasonably necessary to cure such breach. The Chief Executive Officer of KentuckyOne and the University Executive Vice President for Health Affairs will negotiate and otherwise work in good faith, including without limitation, one or more meetings, to discuss and attempt to design and implement any such cure.

(f) *Jurisdiction, Venue and Waiver of Jury Trial.* Notwithstanding the provisions of Section 18, each of the Parties irrevocably agrees that the provisions of this Section 17.2 shall not be subject to arbitration and any legal action or proceeding arising out of such Section shall be brought and determined in Franklin County Kentucky Circuit Court (“**Franklin**

County Courts”), and each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the aforesaid court for itself and with respect to its property, generally and unconditionally, with regard to any such action or proceeding arising out of or relating to this Agreement and the relationship contemplated hereby. Each of the Parties agrees not to commence any action, suit or proceeding relating to the matters described above except in the Franklin County Courts, other than actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by the Franklin County Courts. Each of the Parties further agrees that notice as provided herein shall constitute sufficient service of process and the Parties further waive any argument that such service is insufficient. Each of the Parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim or otherwise, in any action or proceeding arising out of or relating to this Agreement or the relationship contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the Franklin County Courts as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of the Franklin County Courts or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the suit, action or proceeding in any such court is brought in an inconvenient forum, (ii) the venue of such suit, action or proceeding is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PROVISIONS OF THIS SECTION 17.2.

(g) *Governor Right to Terminate.* In the event of (a) a breach of the Agreement; and (b) the expiration of any applicable cure periods described in Section 17.2(e); and (c) the failure of any applicable dispute resolution procedures described in Section 18 to resolve such breach to the satisfaction of University; and (d) University’s failure or refusal to exercise its rights, the Commonwealth will have the right, independent of the right of University, to exercise any and all rights of University to terminate or enforce the Agreement in accordance with the terms herein.

(h) *Termination for Convenience.* University or the Commonwealth will have the right to terminate the Agreement in accordance with Section 3 of 200 KAR 5:312, subject to a termination fee, payable by University or UMC, equal to four and one-half percent (4.5%) of the net revenue of the University Facilities as of most recent fiscal year end determined pursuant to GAAP plus the other fees described in Section 7.2 of the JOA.

17.3 Effect of Termination.

(a) *Transition Period.* Following any termination or expiration of this Agreement, KentuckyOne and University shall cooperate to develop a transition plan, reasonably acceptable to the Parties, to effectuate the orderly termination of this Agreement and KentuckyOne and University shall take all actions reasonably requested to facilitate the transition of the ownership, operation and management of the University Facilities from KentuckyOne to University or a University affiliate. In implementing the termination plan, each Party shall provide to the others a level of support and cooperation, reasonably necessary to complete the transition plan, and to satisfy each Party’s duties and obligations under the plan.

(b) *Return of Proprietary and Confidential Information.* Upon expiration or other termination of this Agreement, for any reason, each Party shall promptly return all Proprietary and Confidential Information to the owner of such Proprietary and Confidential Information.

18. **CONFLICT RESOLUTION.** To the fullest extent permitted by Kentucky law, any controversy or claim arising out of or relating to this Agreement (a “**Claim**”) shall be settled by negotiation and arbitration in accordance with the following provisions (provided, however, that any agreement referred to in this Agreement shall be subject to its own remedies section and disputes under such agreements will not be subject to resolution under this Section 18):

18.1 Negotiation. If a dispute arises between any of the Parties relating to this Agreement that cannot be resolved informally, each Party involved in such dispute shall, for a period of twenty (20) calendar days after the dispute first arises (“**Initial Negotiation Period**”), to negotiate in good faith a resolution of the dispute (“**Initial Negotiation**”). The Initial Negotiation will include no less than two in-person meetings between a University designee and a KentuckyOne designee. If the dispute is not resolved during the Initial Negotiation Period, the Parties shall, for an additional period of twenty (20) calendar days after the end of the Initial Negotiation Period (“**Extended Negotiation Period**,” and together with the Initial Negotiation Period, the “**Negotiation Period**”), continue to negotiate in good faith to negotiate a resolution of the dispute (“**Extended Negotiation**”). The Extended Negotiation will include no less than two in-person meetings between the CEO of CHI and the President of the University. Any Party may request the appointment of a mediator mutually acceptable to the Parties to participate in the Initial Negotiation and any Extended Negotiation. The place of the Initial Negotiation and any Extended Negotiation shall be in Louisville, Kentucky, or such other place as may be mutually agreed to by the Parties. The mediator may meet or communicate with the Parties together or with each of them separately.

18.2 Arbitration. If such controversy or claim is not resolved as contemplated by Section 18.1 during the Negotiation Period, any Party may elect to submit such Claim to arbitration upon the following terms:

(a) *Scope.* Except as provided in Section 17.2, the agreement of the Parties to arbitrate a Claim covers all disputes of every kind relating to or arising out of this Agreement, and any instrument, certificate or other document executed or delivered pursuant to the terms of this Agreement. Disputes include actions for breach of contract with respect to this Agreement or such related documents, as well as any Claim based upon tort or any other causes of action relating to the arrangement contemplated herein or therein, such as claims based upon an allegation of fraud or misrepresentation and claims based upon a federal or state statute. In addition, the arbitrators selected according to procedures set forth above shall determine the arbitrability of any matter brought to them.

(b) *Forum.* The forum for the arbitration shall be Louisville, Kentucky.

(c) *Law.* The governing law for the arbitration shall be the law of the Commonwealth of Kentucky, without reference to its conflicts of laws provisions. Notwithstanding the provision in the preceding paragraph with respect to applicable substantive

law, the Parties acknowledge and agree that this Agreement evidences a transaction involving interstate commerce and that any arbitration conducted pursuant to the terms of this Agreement shall be governed by the Federal Arbitration Act (9 U.S.C., Secs. 1-16). Nothing herein shall prohibit a Party from seeking provisional remedies in aid of arbitration from the Franklin County Courts in accordance with the provisions of Section 17.2(f).

(d) *Arbitrator(s)*. There shall be three arbitrators, unless the Parties are able to agree on a single arbitrator. In the absence of such agreement within ten (10) days after the initiation of an arbitration proceeding, University shall select one arbitrator and KentuckyOne shall select one arbitrator, and those two arbitrators shall then select, within ten (10) days, a third arbitrator who shall chair the arbitration panel. If those two arbitrators are unable to select a third arbitrator within such ten (10)-day period, a third arbitrator shall be appointed by JAMS in accordance with its rules. All such arbitrators shall be knowledgeable in the operation of academic medical centers and teaching hospitals and at least one arbitrator shall be a practicing lawyer or retired judge. The decision in writing of at least two of the three arbitrators shall be final.

(e) *Administration and Procedural Rules*. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules, as modified by any other instructions that the Parties may agree upon at the time. If there is any conflict between those rules and the provisions of this Section, the provisions of this Section shall prevail.

(f) *Substantive Law*. The arbitrators shall be bound by and shall strictly enforce the terms of this Agreement and may not limit, expand or otherwise modify its terms. The arbitrators shall make a good faith effort to apply substantive applicable law, but an arbitration decision shall not be subject to review because of errors of law. The arbitrators shall be bound to honor claims of privilege or work-product doctrine recognized at law, but the arbitrators shall have the discretion to determine whether any such claim of privilege or work product doctrine applies.

(g) *Decision*. The arbitrators' decision shall provide a reasoned basis for the resolution of each dispute and for any award.

(h) *Expenses*. Each Party shall bear its own fees and expenses with respect to the arbitration and any proceeding related thereto and the Parties shall share equally the fees and expenses of JAMS and the arbitrators; provided, however, that the arbitrators' award shall include payment of the non-breaching Party's reasonable attorney's fees and other costs associated with the arbitration.

(i) *Remedies and Awards*. The arbitrators shall have power and authority to award any remedy or judgment that could be awarded by a court of law in Commonwealth of Kentucky; provided, however, that except for breaches described in Section 17.2(c), the Parties acknowledge and agree that termination of this Agreement should be an extraordinary remedy granted only when other remedies will not adequately resolve the non-breaching Party's Claim(s).

19. INSURANCE

KentuckyOne shall maintain in full force and effect at all times during the Term of this Agreement commercial general liability insurance coverage with combined limits of not less than Twenty Million (\$20,000,000) Dollars per occurrence and in the aggregate, and other customary and reasonable insurance coverages or self insurance arrangements reasonably acceptable to University. Self insurance arrangements that meet the conditions of tax exempt, or similar self insurance arrangements are deemed to be reasonably acceptable to University. All insurance policies carried by KentuckyOne, and related to the University Facilities, shall be (i) issued by an insurance company reasonably acceptable to University, or through a self-insurance trust; (ii) in a form reasonably acceptable to University; (iii) designate University as an additional insured; and (iv) provide for thirty (30) days' prior written notice of any material change or cancellation or other expiration of such policy or any defaults thereunder to University. KentuckyOne shall promptly pay all premiums for insurance policies required under this Section 19. KentuckyOne shall provide evidence of current satisfaction of this condition to University upon request.

20. PROPRIETARY AND CONFIDENTIAL INFORMATION

KentuckyOne and University Proprietary and Confidential Information and all copies and modifications thereof are the property of KentuckyOne and University respectively. Each Party acknowledges that the Proprietary and Confidential Information of each other Party constitutes valuable assets and trade secrets of the owning Party. During the term of this Agreement, and at all times thereafter, each Party agrees that, except as required by Law or order of court:

20.1 It will hold the Proprietary and Confidential Information of either of the other Parties in strict confidence with at least the same degree of care as it uses for its own Proprietary and Confidential Information.

20.2 It will not, and will instruct its employees and agents not to, directly or indirectly, voluntarily or involuntarily, use, sell, lease, assign, transfer, disclose or otherwise make available any part of the Proprietary and Confidential Information of either of the other Parties to others, except with the express written consent of the Party owning such Proprietary and Confidential Information.

20.3 It will not copy or duplicate by any means, in whole or in part, any Proprietary and Confidential Information of either of the other Parties, except with the express written consent of the Party owning such Proprietary and Confidential Information.

20.4 Except with respect to third Parties approved in advance in writing by the owner of any Proprietary and Confidential Information (which approval shall not be unreasonably withheld or delayed), each Party will limit access to each of the other Parties' Proprietary and Confidential Information to only those of its employees and agents who need access to such Proprietary and Confidential Information, and, if requested by the owner of such Proprietary and Confidential Information, will require its employees, agents and other approved third Parties to execute reasonable nondisclosure agreements.

20.5 Kentucky Open Records Act.

(a) As applicable, all records in the custody of UMC or University which are currently subject to the Kentucky Open Records Act, KRS 61.870-61.882 or 200 KAR 5:314, or other applicable Kentucky law (for purposes of this Section 20.5, the "Act") will remain subject to the Act after the Integration Date.

(b) KentuckyOne books, documents, papers, records or other evidence that are directly pertinent (i) to the operation of the Business (as defined in the Joint Operating Agreement), or (ii) to the Commonwealth's or University's interests in this Agreement or the Lease, shall be made available to any governmental agency that requests the records for the purpose of audit, investigation, program review or any other formal inquiry. All disputes over whether a record is "directly pertinent" shall be submitted to the Secretary of the Finance and Administration Cabinet for resolution. All KentuckyOne records provided to government agencies pursuant to this paragraph shall not be subject to disclosure except as otherwise provided by the Act. KentuckyOne understands that it must designate information it has produced which it considers confidential, proprietary or otherwise exempt so that the agency may claim the proprietary information exemption pursuant to KRS 61.878(1)(c) if a request for such information is made.

21. MISCELLANEOUS PROVISIONS

21.1 Assignment; Change of Control. During the Term hereof no Party may sell, transfer, or assign (including by operation of Law) its interest in this Agreement to any third party without the consent of the other Parties; provided, however, this provision shall not prevent any Party from transferring its interest in this Agreement to another entity which the transferring entity wholly controls.

21.2 Entire Agreement; Amendment. This Agreement, including all Exhibits hereto which are incorporated herein by reference, contains the entire agreement between the Parties relating to the subject matter herein and all prior proposals, discussions and writings by and among the Parties and relating to the subject matter herein are superseded hereby. None of the terms of this Agreement may be amended, unless such amendment is in writing and signed by all Parties hereto, and recites specifically that it is an amendment to the terms of this Agreement.

21.3 Waiver. No delay or failure on the part of any Party hereto in exercising any right, power or privilege under this Agreement shall impair any such right, power or privilege or be construed as a waiver of any event of default hereunder or any acquiescence therein. No single or partial exercise of any such right, power or privilege shall preclude the further exercise of such right, power or privilege, or the exercise of any other right, power or privilege. No waiver shall be valid against any Party hereto unless made in writing and signed by the Party against whom enforcement of such waiver is sought and then only to the extent expressly specified therein.

21.4 Severability. If either (a) a court of competent jurisdiction holds that a particular provision or requirement of this Agreement is in violation of any applicable Law, or (b) the Parties are definitively advised by a government agency which has jurisdiction that a feature or provision of this Agreement violates Laws or regulations over which such department or agency has jurisdiction, then each such provision, feature or requirement shall be fully severable and (i)

this Agreement shall be construed and enforced as if such illegal, invalid, or otherwise unenforceable provision had never comprised a part hereof; (ii) the remaining provisions hereof shall remain in full force and effect, and shall not be affected by the severed provision; (iii) the Parties shall in good faith negotiate and substitute a provision similar in terms to such severed provision as may be possible and still be legal, valid and enforceable, unless the effect of the severance and substitution would be to deprive a Party substantially of the benefits contemplated under this Agreement, in which case any Party may terminate this Agreement upon thirty (30) days' (or such greater period as is acceptable to such court or governmental agency and is necessary to provide for an orderly transition in accordance with Section 19.3 of this Agreement) written notice to the other Parties.

21.5 Governing Law. This Agreement is deemed to have been entered into in the Commonwealth of Kentucky and its interpretation, construction, and the remedies for its enforcement or breach are to be applied pursuant to and in accordance with the laws of the Commonwealth of Kentucky (excluding the conflict of law principles thereof).

21.6 Notices and Consents. All notices, consents, demands, requests, or other communications desired or required to be given hereunder by one Party to any other Party or Parties shall be in writing, and shall be hand delivered (including delivery by courier or overnight delivery service), mailed by U. S certified mail, return receipt requested, postage prepaid, or by facsimile transmission with confirmation of receipt acknowledged, addressed as follows:

[i] if to Commonwealth:

with a copy to:

[ii] if to University or UMC: c/o University of Louisville
Abell Administration Center
323 East Chestnut, 3rd Floor
Louisville, Kentucky 40202
Fax: (502) 852-6849
Attn: Executive Vice President for Health Affairs

With a copy to: University of Louisville
Grawe Meyer Hall
2301 South Third Street
Louisville, Kentucky 40208
Fax: (502) 852-7226
Attn: President

And a copy to: Stites & Harbison PLLC
400 W. Market Street
Suite 1800
Louisville, Kentucky 40202
Fax: (502) 587-6391
Attn: Jennifer Elliott, Esq.

[iii] if to KentuckyOne: KentuckyOne Health, Inc.
200 Abraham Flexner Way
Louisville, KY 40202
Attention: Chief Executive Officer

with a copy to: Catholic Health Initiatives
198 Inverness Drive West
Englewood, CO 80112
Attn: Mitch H. Melfi, Esq.

Each Party may designate by notice in writing a new address to which any notice, consent, demand, request or communication may thereafter be so given, served or sent. Each notice, consent, demand, request, or communication which shall be mailed, delivered or transmitted in the manner described above shall be deemed sufficiently given, served, sent or received for all purposes at such time as it is delivered to the addressee with the return receipt, the delivery receipt, the affidavit of messenger being deemed conclusive, but not exclusive, evidenced of such delivery having been made, even if delivery is refused by the addressee upon presentation.

21.7 Additional Actions and Documents. Each of the Parties hereto hereby agrees to take or cause to be taken such further actions to execute, deliver and file or cause to be executed, delivered and filed such further documents, and to use Best Efforts to obtain such consents (including regulatory approvals), as may be necessary or as may be reasonably requested in order to fully effectuate the purposes, terms and conditions of this Agreement.

21.8 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors and assigns.

21.9 Survival. Neither the expiration nor other termination of this Agreement shall terminate those obligations and rights of the Parties that have arisen from performance during the period in which this Agreement was in effect, or that by their express terms are intended to survive, and except as specifically limited herein, such rights, obligations and provisions shall survive the expiration or other termination of this Agreement.

21.10 Benefit of Agreement. It is the explicit intention of the Parties hereto that no person or entity other than the Parties hereto is or shall be entitled to bring any action to enforce any provision of this Agreement against any of the Parties hereto as a third party beneficiary or otherwise, and that the covenants, undertakings, and agreements set forth in the Agreement shall

be solely for the benefit of, and shall be enforceable only by, the Parties hereto and their respective permitted successors and assigns.

21.11 Construction. Each Party hereto hereby acknowledges that it was represented by counsel and participated equally in the drafting and negotiation of this Agreement and that, accordingly, no court construing this Agreement shall construe it more stringently against one Party than against another Party.

21.12 Execution in Counterparts. To facilitate execution, this Agreement may be executed in as many counterparts as may be required. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the Parties hereto.

21.13 Intellectual Property. The University agrees that any of its intellectual property and technology transfer policies will only apply to Gratis Faculty members to the extent there is a research work plan in place assigned by the applicable Department chair to the Gratis Faculty member.

21.14 Covenants Regarding Lease. During the Term of this Agreement, the Commonwealth, University and UMC agree that they shall not cause or permit any material amendment, restatement, modification or supplement to the Lease without the prior written consent of KentuckyOne, which consent will not be unreasonably withheld. In addition, in the event of any breach by UMC of the Lease, the Commonwealth, University and UMC agree to notify, or cause notice to be given to, KentuckyOne of such breach no later than 30 days prior to taking any adverse action related to such breach and further that KentuckyOne shall have the right, but not the obligation, to cure such breach by and on behalf of UMC within 30 days of such notice or such longer cure period as may be set forth in the Lease in connection with such breach.

[Remainder of Page Blank, Signature Page Follows]

Each of the Parties has caused this Agreement to be duly executed in its name and on its behalf.

APPROVED AS TO FORM AND
LEGALITY

By: 

Jeff Mosley

General Counsel

Finance and Administration Cabinet

COMMONWEALTH OF KENTUCKY

By: 

Lori Hudson Flanery

Secretary of Finance and

Administration Cabinet

APPROVED AS TO FORM AND
LEGALITY:

By: 

M. Holliday Hopkins

General Counsel to the Governor

Approved:

By: 

Steven L. Beshear

Governor

UNIVERSITY OF LOUISVILLE

By: 

David L. Dunn

Executive Vice President for Health Affairs

UNIVERSITY MEDICAL CENTER, INC.

By: 

Jim Taylor

President

KENTUCKYONE HEALTH, INC.

By: 

Name: Ruth W. Brinkley

Title: President and CEO