

SEXUAL ASSAULT NURSE EXAMINER PROGRAM AGREEMENT

THIS SEXUAL ASSAULT NURSE EXAMINER PROGRAM AGREEMENT (hereinafter “Agreement”), is made and entered into on this _____ day of _____ 2024, by and between **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government pursuant to KRS Chapter 67A, and located at 200 East Main Street, Lexington, Kentucky 40504 (hereinafter referred to as “Government”), and the **SAINT JOSEPH HEALTH SYSTEM, INC.**, a not-for-profit corporation, whose primary place of business is 1 St. Joseph Drive Street, Lexington, Kentucky 40504 (hereinafter referred to as “Hospital” and together with the Government, the “Parties”).

RECITALS

WHEREAS, it is the intent of the Parties to mutually cooperate in providing skilled clinical personnel for medical forensic services that complies with Chapter 314 of the Kentucky Revised Statutes and all administrative regulations related thereto;

WHEREAS, the Government has applied for and received federal funds (“Funds”) from the Commonwealth of Kentucky Justice Cabinet for implementation of a Sexual Assault Nurse Examiner Program (“SANE Program”) to support local hospitals treating victims of sexual assault;

WHEREAS, the Hospital has agreed to provide a clinical area for the Government to implement its SANE Program in exchange for receipt of a portion of these Funds to support a community need to provide such an Examination Program;

NOW THEREFORE, in consideration of the foregoing and mutually agreed upon promises, conditions and covenants hereinafter set forth, the parties hereto agree as follows:

SECTION I

SCOPE OF AGREEMENT

- A. This Agreement shall have a term of one (1) year, beginning **January 1, 2024**, through **January 1, 2025**. Either party may terminate this Agreement prior to the end of a one (1) year term without cause, by providing thirty (30) days’ advanced written notice to the other party.
- B. The Government, through its SANE Program, shall provide Sexual Assault Nurse Examiner (s), as that term is defined in Chapter 314 of the Kentucky Revised Statutes (hereinafter referred to as “SANE Nurses”), on an as available basis to the Hospital, in order to perform the following services, as appropriate, at an acute care facility provided by the Hospital:
 1. Performance of medical forensic evaluations;
 2. Interviewing of patients who make a complaint of sexual assault;
 3. Explanations of medical forensic care to patients and collection of patient consent forms from patient before providing any medical forensic care;

4. Identification, packaging and preservation of forensic evidence;
5. Creation of records of the medical forensic examination and the maintenance of confidentiality for all such records, within the parameters specified in this Agreement and in the patient's consent form; and
6. Communication with law enforcement officers and other agencies, as needed.

The Parties mutually understand and agree that no other services, clinical or otherwise, are authorized by this Agreement, other than those services listed herein.

- C. The Hospital shall designate a clinical practice area in the emergency room at CHI Saint Joseph Health - Saint Joseph Hospital, and at a later time and date as agreed upon by the parties, CHI Saint Joseph Health - Saint Joseph East, for exclusive use by the Government, through its SANE Program, to perform the services specified in Section I of this Agreement. The Hospital shall also maintain security to the designated space and shall limit access to the space to the Government's employees and contractors.
- D. In order to further the Hospital's mission of providing quality health care to all segments of the community, Government agrees to abide by SJE policies to accept all patients and to treat all medically indigent patients without regard to ability to pay and without regard to race, color, national origin, citizenship, sex, age, sexual orientation, disability, religion, or other factors unrelated to the patient's need for services, so long as the patient is capable of giving informed consent and has actually given informed consent, which shall be documented on any form(s) required by the Government, prior to the receipt of services. The Parties understand that the utilization of the SANE Program is for purposes of examination and not for the decision by the patient to report the alleged criminal offense for law enforcement purposes.

SECTION II

RIGHTS AND OBLIGATIONS OF THE GOVERNMENT

- A. The Government shall pay an amount of the Funds for each location, not to exceed Three Thousand and No/100th Dollars (\$3,000.00) during the term of this Agreement, directly to Hospital in the form of lump sums, in exchange for the Hospital providing the services described in Section I of this Agreement so that all specialized equipment to fulfill the Grant requirements is readily available for such services. Each lump sum paid to Hospital shall equal Two Hundred and Fifty and No/100th Dollars (\$250.00), which shall be paid on the first day of each month during the term of this Agreement.
- B. The Government shall provide and maintain any and all equipment and supplies necessary for identifying, obtaining, packaging and preserving forensic evidence that the SANE Program conducts.
- C. The Government shall ensure that all SANE Nurses it provides the Hospital are appropriately licensed and trained to perform the service specified in Section I of this Agreement, and shall adequately train and supervise the SANE Nurses to ensure that all services the SANE Nurses provide comply with the Kentucky Nurse Practice Act and the standards of clinical nursing

practice, as well as the policies and procedures, regulations and guidelines (“Policies”) of the Hospital, which shall all be in writing and provided to the Government on or before the effective date of this Agreement. Government shall ensure that the SANE Nurses have complied with all Hospital health requirements identified in these Policies and provide any requested proof before such SANE Nurse begins services. Government shall also ensure and provide any requested proof that the SANE Nurse has complied with all Hospital Human Resources background and verification checks, which shall be listed in the Policies.

- D. Hospital reserves the right to revise or issue new health and background requirements at any time during the term of this Agreement. Should new requirements be issued or existing requirements revised, written notice shall be sent to LFUCG at the notice address designated below. Any SANE Nurses already onsite at Hospital shall be given thirty (30) days from the date notice is sent to come into compliance with any new or revised health or background requirements.
- E. The Government shall schedule “on-call” SANE Nurses and shall be responsible for prioritizing the availability of SANE Nurses to perform the services specified herein. But the Parties understand and agree that nothing in this Agreement shall be interpreted as to require the Government to ensure that it shall have SANE Nurses available to perform any and all services referenced in this Agreement twenty-four (24) hours of each day of the calendar year. Further, nothing in this Agreement shall be interpreted as to remove any obligation of the Hospital to perform sexual assault nurse examinations in compliance with all applicable state law, where and when applicable.
- F. The Government shall require its SANE Nurses to maintain medical liability insurance, throughout the term of the Agreement, in the principal amount of not less than One Million and No/100th (\$1,000,000) Dollars per occurrence and Three Million and No/100th (\$3,000,000) Dollars aggregate, per policy year, for any act or omission in the furnishing of professional medical services. Said policy of insurance shall name the Hospital as 'additional insured' thereunder. The policy of insurance shall provide that such insurance shall not be cancelled, modified or permitted to lapse without (30) days prior written notice to Hospital.
- G. The Government shall inform Hospital of any lawsuit that is threatened when it receives knowledge of said threat, and shall inform the Hospital of any patient care event of which it becomes aware, if that event causes or contributes to injury or death, and could foreseeably result in a lawsuit.
- H. The SANE Program will maintain acceptable standards and procedures for selection, training, assignment and evaluation of SANE Nurses.

SECTION III

RIGHTS AND OBLIGATIONS OF THE HOSPITAL

- A. The Hospital, through its emergency department staff, shall perform a medical screening examination, in accordance with federal and state law and with the Hospital’s policy. As soon as Hospital’s emergency department staff determines that the patient is medically ready to have

the medical forensic examination, they shall then refer the patient to the SANE Program by calling Lexington Police Department dispatch at: 859-258-3600, only if the patient so requests the examination, should the patient be able to properly consent to such an examination request. The examination shall only be undertaken upon the consent of the patient.

- B. The Hospital shall provide Key/Card access to the emergency department for the SANE Nurse contracting with the SANE Program.
- C. The Hospital shall be responsible for maintenance of the walls, floor, ceiling, attachments thereon and all mechanical functions of the space the Hospital provides, as referenced in Section I of this Agreement.
- D. The Hospital understands and acknowledges that it remains obligated to perform sexual assault nurse examinations in compliance with all applicable state law, notwithstanding this Agreement. Further, nothing in this Agreement shall be interpreted as removing the Hospital's obligation imposed by state statute or otherwise shifting that obligation of compliance to Government.
- E. The Hospital agrees that in the event Government is unable to provide a SANE Nurse for a forensic evaluation, the Hospital shall timely perform a forensic examination that complies with Chapter 314 of the Kentucky Revised Statutes and with any regulations related thereto. The Hospital agrees that it will not refuse to provide or otherwise delay providing any patient with a sexual assault nurse examination due to the Government's inability to provide a SANE Nurse, within its control.

SECTION IV

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

- A. The Parties agree to abide by the rules and regulations regarding the confidentiality of personal medical records and information as mandated by the Health Insurance Portability Act (42 USC 1320d) and set forth in federal regulations at 45 CFT Parts 160 and 164.
- B. The Parties agree that any and all forensic evidence collected by any SANE Nurse while providing services specified in this Agreement does not qualify as protected health information, defined below, and therefore is not subject to the rules of confidentiality specified in this Agreement or in Exhibit A, attached hereto. Further, all forensic evidence collected in the performance of services specified in this Agreement is and shall remain the property of the Government.
- C. The Hospital will direct its physicians and clinical staff to hold all individually identifiable patient health information ("Protected Health Information") that may be shared, transferred, transmitted, or otherwise obtained pursuant to the Agreement strictly confidential, and to comply with Government policies and procedures including those governing the use and disclosure of protected health information afforded by applicable federal, state, and local laws

and/or regulations regarding the security and the confidentiality of patient health care information including, but not limited to, any regulations, standards, or rules promulgated pursuant to the authority of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). It is expressly understood and agreed to by the parties that the physicians as such are not and shall not be considered to be employees of the Government for any other purposes.

- D. Both parties to abide by the attached Business Associate Agreement, attached as Exhibit A.

SECTION V

RELATIONSHIP OF THE PARTIES

- A. The parties hereto agree that the SANE Program is and throughout the term of this Agreement will remain an independent entity performing certain duties and obligations under this Agreement and that the relationship created by this Agreement is not intended, nor shall it be construed, to create a joint venture, a partnership, or any other employer-employee relationship between the Hospital and the SANE Program. Further, the Nurses will neither be, nor be deemed to be, employees of the Hospital for any purposes.
- B. The Hospital shall not be required to provide the Government or the SANE Nurse and SANE Program with access to its Electronic Medical / Health Record system. All necessary medical documentation for the purposes of this SANE Program are the responsibility of the Government. All proceedings, files, records, patient medical records and related information of Hospital, the Medical Staff and committees thereof pertaining to the evaluation and improvement of the quality of patient care in Hospital, shall be maintained by and are the property of Hospital, and shall be kept strictly confidential by Government. Government shall not voluntarily disclose such confidential information, either orally or in writing, except as expressly required by law, court order, or permitted release pursuant to the prior written authorization of Hospital. This covenant shall survive the termination of this Agreement.
- C. The Hospital is not responsible for payment to the SANE Nurses of any and all wages, salaries, federal, state and municipal withholding taxes and Social Security taxes if indicated. The parties mutually understand and agree that SANE Nurses are not entitled to any benefits provided by the Hospital to its employees, including but not limited to, group health insurance, dental insurance, unemployment insurance benefits, workers compensation and disability insurance.
- D. Hospital certifies upon execution of this Agreement that it complies with the federal and state constitutions and all applicable federal and state laws regarding nondiscrimination. Hospital provides equal opportunities for qualified persons in all aspects of Hospital operations, and does not discriminate on the basis of race, color, national origin, ethnic origin, religion, creed, age, physical or mental disability, veteran status, uniformed service, political belief, sex, sexual orientation, gender-identity, gender- expression, pregnancy, marital status, genetic information, social or economic status, or whether the person is a smoker or a nonsmoker, as long as the person complies with Hospital policy concerning smoking.

- E. Additionally, Government affirms that it is aware that Hospital operates in accordance with a corporate compliance program, employs a Corporate Compliance Officer and operates a 24 hour, seven day a week compliance hotline. Government has been informed that a copy of the compliance plan is on file or can be viewed online, and is encouraged to review the plan from time to time during the term of this agreement. It is understood that should Government be found to have violated the compliance plan, the Hospital can, at its sole discretion, terminate this Agreement upon written notice. Government recognizes that it is under an affirmative obligation to immediately report to the Hospital's corporate compliance officer through the compliance hotline of any actions by an agent or employee of the Hospital, which Government believes, in good faith, violates an ethical, professional or legal standards to the SJHS Corporate Responsibility Officer, either directly at 859-313-4718, or through the compliance hotline at 1-800-845-4310 or <https://compliancehotline.commonspirit.org>.
- F. Government also affirms that it is not excluded from participation, and is not otherwise ineligible to participate in a "Federal health care program" as defined in 42 U.S.C. section 1320a-7b(f) or in any other state or federal government payment program. In the event that Government is excluded from participation, or becomes otherwise ineligible to participate in any such program, during the term of this agreement, Government will send written notice to the Hospital at the address provided in this Agreement, by certified mail, within forty-eight (48) hours after said event. Hospital has the right to immediately terminate this Agreement upon receipt of any notice that the Government is excluded from participation in a Federal health care program, whether or not notice is given in conformity with this Agreement.
- G. Government warrants that all of the SANE Services to be provided hereunder, whether by it directly or by approved subcontractors, contractors or employees of Government, shall comply with all applicable federal, state and local statutes, rules and regulations, and that it shall be deemed a material breach of this Agreement by Government if it shall fail to observe this requirement. If such a breach is not cured in accordance with this Agreement, Hospital may terminate this Agreement without penalty and without limiting any other rights and remedies set forth in this Agreement. Specifically, but not by way of limitation, Government warrants that the Services to be provided hereunder shall comply with all applicable rules, regulations and accreditation standards or requirements of: (a) Medicare or Medicaid or other federal or state health programs; (b) The Joint Commission; (c) the Health Insurance Portability and Accountability Act of 1996 and the implementing regulations thereunder ("HIPAA"); (d) Hospital and Medical Staff Bylaws, Hospital policies and procedures, and all other rules and regulations established by Hospital; (e) nationally accepted professional standards of practice; and (f) any updates or amendments to such laws, rules, regulations, requirements and standards. With respect to the Services, the parties shall execute a Business Associate Agreement in the form approved by Hospital which shall comply with the provisions set forth in such Business Associate Agreement, if applicable.
- H. Hospital warrants that it shall comply with all applicable federal, state, and local statutes, rules and regulations, and that it shall be deemed a material breach of this Agreement by Hospital if

it shall fail to observe this requirement. If such breach is not cured in accordance with this Agreement, Government may terminate this Agreement without penalty and without limiting any other rights and remedies set forth in this Agreement. Specifically, but not by way of limitation, Hospital warrants it shall comply with all applicable rules, regulations and accreditation standards or requirements of: (a) Medicare or Medicaid or other federal or state health programs; (b) The Joint Commission; (c) the Health Insurance Portability and Accountability Act of 1996 and the implementing regulations thereunder (“HIPAA”); (d) Hospital and Medical Staff Bylaws, Hospital policies and procedures, and all other rules and regulations established by Hospital; (e) nationally accepted professional standards of practice; and (f) any updates or amendments to such laws, rules, regulations, requirements and standards.

- I. Nothing in this Agreement, whether written or oral, nor any consideration in connection herewith contemplates or requires the referral of any patient. The parties specifically acknowledge and agree that any benefits which Government receives under this Agreement constitute reasonable payment for the Services hereunder. Such benefits in no way require, are in no way contingent upon, and are in no way intended to induce the admission or referral of any patients to Hospital, and this Agreement is not intended to influence the judgment of Government in choosing the medical facility appropriate for the proper treatment and care of his or her patients. There is no requirement that Government make referrals to, or be in a position to make or influence referrals to, or otherwise generate business for Hospital as a condition for receiving such benefits. The parties specifically intend to comply with the federal Anti-Fraud and Abuse provisions (42 U.S.C. § 1320a-7b(b)) and any analogous state law.
- J. The Parties also agree to the terms and conditions as set forth in Exhibit B.

SECTION VI

MISCELLANEOUS TERMS AND CONDITIONS

- A. Any written notice required or permitted under this Agreement, except where otherwise specified, shall be delivered by hand or by certified mail, return receipt requested, and directed to the representative party at the address listed below:

For Hospital:

Saint Joseph Health System, Inc.
System Administration
1 St. Joseph Drive
Lexington, Ky. 40504
Attn: Market CEO

For Government:

LFUCG Division of Police, Special Victims Unit
150 East Main Street
Lexington, KY 40507

Attn: Angela Wallace, SANE Coordinator

- B. This Agreement cannot be changed or modified except through a separate written amendment, executed by both parties.
- C. This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance to the laws of the Commonwealth of Kentucky.
- D. This Agreement constitutes the entire understanding between the parties hereto and supersedes all prior agreements, arrangements and understandings between the parties with respect to its subject matter.
- E. In the event any provision of the Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable with its terms.
- F. The Parties agree that the relationship created by this Agreement is not intended, nor shall it be construed, to create a joint venture, a partnership, or any other employer-employee relationship between the Hospital and the Government and/or the Government's SANE Program. Further, the SANE Nurses will neither be, nor be deemed to be, employees of the Hospital for any purposes.
- G. Unless otherwise expressly provided in this Agreement, each party to this Agreement shall bear sole responsibility for all expenses incurred by such party in connection with this Agreement, including legal fees, whether or not the transactions contemplated by this Agreement are consummated.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on this the day and year first set out above.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

Linda Gorton, Mayor

ATTEST:

Clerk, Urban County Council

SAINT JOSEPH HEALTH SYSTEM, INC.

COMMONWEALTH OF KENTUCKY)

)

COUNTY OF FAYETTE)

)

Subscribed, sworn to and acknowledged before me this _____ day of _____ 2024, by _____, by and on behalf of Saint Joseph Health System, Inc., a not-for-profit corporation.

My commission expires: _____

Notary Public

Exhibit A
HIPAA BUSINESS ASSOCIATE

The parties agree that, under this HIPAA Business Associate Exhibit, Lexington-Fayette Urban County Government (“**Business Associate**”) shall have all the rights and obligations of a “Business Associate” as defined in HIPAA (defined below), and Saint Joseph Health System, Inc., a member of the CommonSpirit Health Organized Health Care Arrangement (OHCA) (“**Covered Entity**”) shall have all the rights and obligations of a “Covered Entity,” as defined in HIPAA. This Exhibit will apply to all services Business Associate provides now or in the future to Covered Entity and to CommonSpirit Health OHCA members. The OHCA members are listed at <https://commonspirit.org/app/uploads/2019/01/1093849.pdf>

1. General Provisions, Including Definitions. This Exhibit is intended to apply to all services provided to Covered Entity by Business Associate, as of the last date signed below, whether or not such engagement has been reduced to writing, and this Exhibit supersedes any form of business associate agreement or provision that the parties may have heretofore entered into with respect to the subject matter herein. The provisions of this Exhibit shall remain effective as long as Business Associate creates, receives, maintains or transmits PHI on behalf of Covered Entity, no matter whether the Agreement (as defined below) remains effective or not. All capitalized terms not defined in this Exhibit shall have the meaning ascribed to them by HIPAA, including Business Associate, Covered Entity, Data Aggregation, and Designated Record Set.

(a) “**Agreement**” shall mean the agreement to which this Exhibit is attached or incorporated within by reference.

(b) “**Breach**” shall mean the acquisition, access, Use, or Disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

(c) “**California Breach**” shall mean, with respect solely to information created, received, maintained, or transmitted by Business Associate from or on behalf of any California facilities, the unlawful or unauthorized access to, and use or disclosure of, Individuals’ medical information, as the term “medical information” is defined at California Civil Code Section 56.05.

(d) “**HIPAA**” shall mean the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), Title XIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-005), and the rules, guidance and regulations promulgated thereunder, as amended from time to time, including 45 Code of Federal Regulations, Parts 160 and 164.

(e) “**Individual**” shall have the meaning given to such term under HIPAA and shall include a person who qualifies as a personal representative.

(f) “**Protected Health Information**” (“**PHI**”) shall have the meaning given to such term under HIPAA, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity. PHI includes, without limitation, electronic PHI (“**ePHI**”). PHI does not include evidence collected during a forensic evaluation, including but not limited to: witness testimony, forensic reports, imagery (including photographs,

video recordings, and images, but only when created during a forensic evaluation), and/or any form of physical evidence collected during the forensic evaluation.

(g) **“Secretary”** shall mean the Secretary of the U.S. Department of Health and Human Services or her/his designee.

(h) **“Unsuccessful Security Incident”** shall mean any attempted but unsuccessful access of system operations in an information system by a Packer Internet Groper (PING) program or other broadcast attacks on Business Associate’s firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, so long as no such incident results in unauthorized access, acquisition, Use, or Disclosure of PHI.

(i) **“State”** shall mean the state in which Covered Entity is located. If this Exhibit applies to more than one Covered Entity, as indicated in the opening paragraph, in more than one state, “State” shall mean the state in which each Covered Entity is located, respectively.

(j) **“Subpart E”** shall mean 45 Code of Federal Regulations, Part 164, Subpart E, which consists of Sections 164.500 et seq., as amended from time to time.

2. Permitted Uses and Disclosures by Business Associate

(a) **For Covered Entities.** Except as otherwise limited in the Agreement and this Exhibit, Business Associate (i) shall create, receive, maintain, transmit, access, Use or Disclose PHI for the benefit of Covered Entity and to perform functions, activities, or services as specified herein and any other agreements between the parties involving PHI, and (ii) shall not Use or Disclose PHI in a manner that would violate HIPAA if done by Covered Entity. To the extent Business Associate is to carry out one or more of Covered Entity’s obligations under Subpart E, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligations.

(b) **Minimum Necessary.** Business Associate shall request, Use, or Disclose only the minimum amount of PHI necessary to perform the specified functions, activities or services, in accordance with HIPAA’s minimum necessary requirements. In the event of inadvertent access by Business Associate to more than the minimum necessary amount of Covered Entity’s PHI, Business Associate will: (i) treat all such PHI in accordance with the Agreement and this Exhibit; (ii) promptly notify Covered Entity, in accordance with Section 3(d) below, of such access; (iii) erase, delete, or return such PHI as quickly as possible; and (iv) take all necessary actions to prevent further unauthorized access to PHI beyond the minimum necessary amount.

(c) **Management of Business Associate.** Except as otherwise limited in the Agreement and this Exhibit, Business Associate may Use or Disclose PHI for its proper management and administration or to carry out its legal responsibilities, provided that (i) the Disclosure is required by law, or (ii) Business Associate obtains reasonable assurances from the person to whom the PHI is Disclosed that such information shall remain confidential and be Used or further Disclosed solely as required by law or for the purpose of assisting Business Associate to meet Business Associate’s obligations under the Agreement. Business Associate shall require any person to whom PHI is Disclosed under this Subsection to notify Business Associate of any

instance of which it is aware in which the confidentiality or security of the PHI has been breached or its integrity compromised.

(d) **Data Aggregation.** Business Associate may Use PHI to provide Data Aggregation services solely for Covered Entity, consistent with HIPAA.

(e) **Compliance with State Laws.** Business Associate may Use, Disclose and access PHI only as permitted by State law, unless such State law is contrary to HIPAA and is preempted by HIPAA in accordance with 45 Code of Federal Regulations Sections 160.201 et seq.

3. **Obligations of Business Associate**

(a) **Use and Disclosure.** Business Associate shall not Use or Disclose PHI other than as permitted or required by the Agreement, this Exhibit, or as required by law.

(b) **Safeguards.** Business Associate shall use appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this Exhibit. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity. If Business Associate conducts credit card transactions (i) such safeguards shall consist of or include the recommendations of the Payment Card Industry Data Security Standards, found at <https://www.pcisecuritystandards.org> and (ii) Business Associate shall not store security code (i.e., CVC) information or credit card information in any form. Also, if Business Associate regularly extends, renews, or continues credit to individuals, or regularly allows individuals to defer payment for services, including setting up payment plans in connection with one or more covered accounts, as the term is defined by the Federal Trade Commission's Red Flag Rules, Business Associate warrants that it shall comply with the Red Flag Rules and, specifically, have in place and implement a written identity theft prevention program designed to identify, detect, mitigate, and respond to suspicious activities that could indicate that identity theft has occurred in Business Associate's business practice.

(c) **Mitigation.** Business Associate shall promptly mitigate, at Business Associate's expense and to the extent practicable, any harmful effect of a Use or Disclosure of PHI by Business Associate in violation of this Exhibit. Such mitigation shall be done with the advice and close cooperation of Covered Entity.

(d) **Notify Covered Entity.** Business Associate shall promptly notify Covered Entity by telephone **and** by email of any Security Incident, Breach, or California Breach in writing in the most expedient time possible, and not to exceed five (5) calendar days in the event of a Security Incident, Breach or California Breach, following Business Associate's initial awareness of such Security Incident, Breach, or California Breach. Notwithstanding any notice provisions in the Agreement, such notice shall be made to CommonSpirit Health's Chief Privacy Officer, at both the phone number and email below. Without limitation, Security Incidents shall include ransomware attacks and Business Associate's knowledge of other types of infectious malware on Business Associate's computer systems. However, this Section constitutes advance and ongoing notice of Unsuccessful Security Incidents, for which no further notice is necessary. Business Associate shall cooperate in good faith with Covered Entity in the investigation of any Breach, California Breach, or Security Incident.

Any notice required under this BAA to be given to a party shall be made to:

If to Covered Entity:

Saint Joseph Health System, Inc.
1 St. Joseph Drive
Lexington, Ky 40504
Attn: Lori Lamb, Chief Privacy Officer
Telephone No.: 303-338-2743
Email: PrivacyOffice@commonspirit.org

If to Business Associate:

LFUCG Division of Police, SVU
150 E. Main Street
Lexington, Ky. 40507
Attn: Angela Wallace
Telephone No.: 859-258-3742
Email: awallace@lexingtonpolice.ky.gov

(e) **Risk Assessment and Breach Notification.** Following receipt of notification from Business Associate of a Breach or California Breach, Covered Entity shall ensure a Breach risk assessment is conducted to determine whether PHI has been compromised and notification to affected Individuals is required. Business Associate shall cooperate with Covered Entity in the investigation of the event, the conduct of a Breach risk assessment, and notification of Individuals as required by HIPAA. Covered Entity may delegate any or all aspects of the investigation, Breach risk assessment, and notification of Individuals to Business Associate. If Business Associate will provide any required notification(s), Business Associate shall provide such notification timely and provide Covered Entity with documentation of Business Associate's actions, including documentation of the names and addresses of those to whom the notifications were provided.

(f) **Cloud Services.** Business Associate may use a subcontractor for data hosting, where such subcontractor receives, has access to, creates, maintains, or transmits PHI (a "**Cloud Service Provider**"), only on the following conditions: (i) Use of the Cloud Service Provider is subject to prior approval by Covered Entity, which approval will require a cybersecurity risk assessment, in which Business Associate will co-operate in gathering information and documentation, and (ii) Use of a Cloud Service Provider is contingent on Business Associate committing contractually to be responsible for its own adherence to certain minimum security standards of Covered Entity and Business Associate's truthful representation that it has contractually obligated its Cloud Service Provider to adhere to the minimum security standards of Covered Entity.

(g) **Access.** If Business Associate holds PHI in Designated Record Sets as determined by Business Associate or Covered Entity, Business Associate shall provide prompt access to the PHI to Covered Entity whenever so requested by Covered Entity, or, if directed by Covered Entity, to an Individual in order to meet the requirements of HIPAA and State Law, as applicable. If requested, such access shall be in electronic format. If an Individual requests directly from Business Associate: (i) to inspect or copy his/her PHI, or (ii) Disclosure of PHI to a third party, Business Associate shall promptly notify Covered Entity's Chief Privacy Officer of such request in accordance with Section 3(d) above and await such officer's denial or approval of the request.

(h) **Amendments.** Business Associate shall promptly make amendment(s) to PHI requested by Covered Entity and shall do so in the time and manner requested by Covered Entity to enable it/them to comply with HIPAA and State Law, as applicable. If an Individual requests an amendment to his/her PHI directly by Business Associate, Business Associate shall promptly

notify Covered Entity's Chief Privacy Officer of such request in accordance with Section 3(d) above and await such officer's denial or approval of the request.

(i) Internal Records. Business Associate shall promptly make its internal practices, books, and records relating to the Use, Disclosure, or security of PHI that Business Associate received from, maintained or created for or on behalf of Covered Entity, available to the Secretary, in a time and manner designated by the Secretary, to enable the Secretary to determine compliance with HIPAA.

(j) Accountings. Business Associate shall document all Disclosures of PHI and information related to such Disclosures as required under HIPAA in order that it may provide an accounting of such Disclosures as Covered Entity directs. Business Associate shall: (i) Provide an accounting as required under HIPAA to those Individuals who direct their requests to Business Associate; or (ii) Provide the accounting information required under HIPAA to Covered Entity, if so requested, in the time and manner specified by Covered Entity.

(k) Destruction. If, during the term of the Agreement, Business Associate wishes to destroy the PHI, it shall notify Covered Entity in writing about its intent to destroy data at least ten (10) business days before such date of destruction and shall comply with the requirements for destruction of PHI found in Section 5(a) of this Exhibit. If Covered Entity requests the return of any PHI, Business Associate shall comply as requested.

(l) HIPAA Compliance. Business Associate shall comply with 45 Code of Federal Regulations Part 164, Subpart C with respect to ePHI. Business Associate shall maintain policies and procedures, conduct ongoing risk assessment and risk management of its security program, identify a security official, and train and discipline its work force in compliance with the relevant portions of the Privacy and Security Regulations. Covered Entity shall have the right to request written copies of Business Associate's policies, procedures, programs, and training materials no more often than once per calendar year and Business Associate shall provide all such requested information within fifteen (15) business days of any request by Covered Entity. Business Associate shall maintain all documentation required under HIPAA for a period of six (6) years.

(m) Business Associates. Business Associate shall ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of Business Associate, agrees in a written contract with Business Associate to the same restrictions and conditions that apply to Business Associate with respect to such information. In performing services under this Exhibit, Business Associate shall use agents, employees or subcontractors that are domiciled only within the United States of America and its territories. Notwithstanding anything to the contrary in the Agreement or this Exhibit, Business Associate shall not use any agent or subcontractor to perform any service requiring access to PHI under this Exhibit without the express written consent of an authorized representative of Covered Entity.

(n) Sale of PHI. Except as otherwise permitted by HIPAA, Business Associate shall not directly or indirectly sell or receive remuneration in exchange for any of Covered Entity's PHI unless Covered Entity or Business Associate, with Covered Entity's express written consent, obtains a valid, signed authorization from the Individual whose PHI is at issue that specifically allows that Individual's PHI to be further exchanged for remuneration by the entity receiving the PHI.

(o) **Law Firms.** Notwithstanding anything contained in this Exhibit, in no event shall Business Associate be required to act or omit to act in violation of the applicable Rules of Professional Conduct for attorneys.

4. Effect of Breach of Obligations. If Business Associate breaches any of its obligations, Covered Entity shall have the option to do the following:

(a) **Cure.** Provide Business Associate an opportunity to cure the breach, to the extent curable, and end the violation within a reasonable time specified by Covered Entity. If Business Associate does not cure the breach or end the violation as and within the time specified by Covered Entity, or if the breach is not curable, Covered Entity may terminate its obligations to Business Associate, including, but not limited to, its future payment obligations, if any, and obligations to provide information, materials, equipment or resources to Business Associate; or

(b) **Termination.** Immediately terminate the Agreement and any other agreements between Business Associate and Covered Entity involving PHI, if Covered Entity reasonably determines that Business Associate: (i) has acted with gross negligence in performing its obligations; (ii) is itself or causes Covered Entity to be in violation of the law; (iii) willfully has violated or is violating the privacy and security provisions of this Exhibit or HIPAA; or (iv) is unable to provide, if requested, written assurances to Covered Entity of its ability to protect the confidentiality and security of the PHI.

5. Effect of Termination

(a) **Disposition of PHI.** Upon termination of this Exhibit and subject to Section 5(b) below, Business Associate shall promptly return to Covered Entity a copy of all PHI, including derivatives thereof, and shall take all reasonable steps to promptly destroy all other PHI held by Business Associate by: (i) shredding; (ii) securely erasing, or (iii) otherwise modifying the information in those records to make it unreadable or undecipherable through any means. This provision shall apply to all PHI in the possession of Business Associate and agents of Business Associate. At Covered Entity's request, Business Associate shall certify in writing that it has complied with the requirements of this Section.

(b) **Infeasible; Survival.** If Business Associate believes the return or destruction of PHI is infeasible, Business Associate shall promptly notify Covered Entity of the conditions that make such return or destruction infeasible. Upon mutual determination by the parties that return or destruction of PHI is infeasible, the obligations of Business Associate under this Exhibit shall survive the termination of this Exhibit. Business Associate shall limit the further Use or Disclosure of all PHI to the purposes that make its return or destruction infeasible. If Business Associate subsequently wishes to destroy PHI, Business Associate shall notify Covered Entity in writing about its intent to destroy data at least ten (10) business days before such date of destruction and shall comply with Section 5(a) above. If Covered Entity requests the return of any PHI, Business Associate shall comply as requested.

6. Credit Monitoring. In the event that either Covered Entity or Business Associate is required by law to notify Individuals whose PHI was inappropriately accessed, Used, or Disclosed by Business Associate, its employees, subcontractors, or its agents, and the PHI contains: (i) the

Individual's first initial or first name, last name, and social security number; (ii) the Individual's first initial or first name, last name, and driver's license or state identification card; (iii) the Individual's first initial or first name, last name, account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an Individual's financial account; or (iv) the Individual's first initial or first name, last name, and PHI, then Business Associate and Covered Entity shall work together to structure a credit monitoring offering commensurate to the risk posed by the Breach and Business Associate shall pay the costs of credit monitoring for one year or a longer time period if required by law for such individuals and the costs and fees related to timely notification in accordance with law.

7. Amendment. The parties agree to promptly modify or amend this Exhibit to permit the parties to comply with any new laws, rules or regulations that may subsequently be enacted or issued.

8. General. The Agreement (and attachments thereto) and this Exhibit are intended to be construed in harmony with each other, but in the event that any provision in this Exhibit conflicts with the provisions of the Agreement, or its other attachments, the provisions in this Exhibit shall be deemed to control and such conflicting provision or part thereof shall be deemed removed and replaced with the governing provision herein to the extent necessary to reconcile the conflict. This Exhibit supersedes and replaces all previous oral or written business associate agreements or exhibits between Business Associate and Covered Entity pertaining to protection of PHI. This Exhibit may be signed in two or more counterparts, all of which taken together shall be deemed to be one Exhibit. Signatures submitted via facsimile or electronic methods (scanned) or means shall be deemed original signatures of the parties and shall be valid and binding upon the parties hereto.

9. No Third-Party Beneficiaries. There are no third-party beneficiaries of this Exhibit.

10. Independent Contractor. Business Associate and Covered Entity expressly acknowledge and agree that Business Associate is an independent contractor and shall not for any purpose be deemed to be an agent, employee, servant, partner, or joint venturer of Covered Entity.

Exhibit B
ADDITIONAL PROVISIONS

This Addendum is part of that certain Agreement, dated _____, by and between Saint Joseph Health System, Inc., (referred to in this Addendum as “Hospital”) and Lexington-Fayette Urban County Government (referred to in this Addendum as “Contractor”). In its performance under this Agreement, each party agrees to the following additional terms, incorporated by reference and made fully a part thereof. Any ambiguity or conflict shall be resolved in favor of these Additional Provisions.

- 1. Compliance with CSH Standards of Conduct.** Contractor shall comply with the CommonSpirit Health (“CSH”) *Standards of Conduct* as set forth in the *Our Values & Ethics at Work Reference Guide*, available at <http://www.catholichealthinitiatives.org/corporate-responsibility>.
- 2. Ethical and Religious Directives.** Contractor shall comply with the United States Conference of Catholic Bishops’ *Ethical and Religious Directives for Catholic Health Care Services*, available at <http://www.usccb.org/>.
- 3. Legal Compliance.** Contractor shall comply with all applicable laws, rules, and regulations.
- 4. Insurance.** Contractor is self-insured. Should Contractor’s status as a self-insured entity change during the Term of this Agreement, then and only then shall it purchase and maintain usual and customary insurance applicable to Contractor’s obligations under this Agreement, including minimum coverage amounts of: \$1,000,000 USD per occurrence and \$3,000,000 USD annual aggregate for commercial general liability; \$1,000,000 USD per occurrence for automobile liability; and applicable statutory limits for workers’ compensation. These coverage limits are not intended to limit Contractor’s liability. If any of Contractor’s insurance policies are “claims-made” policies, Contractor shall purchase “tail” coverage upon the termination of such policy. Such “tail” coverage shall provide for an indefinite reporting period. Upon reasonable request, Contractor shall provide proof of applicable insurance policies to Hospital.
- 5. Access to Records.** If required by 42 U.S.C. § 1395x(v)(1)(I), until the expiration of four (4) years after the termination of this Agreement, Contractor shall make available, upon written request by the Secretary of the Department of Health and Human Services, or upon request by the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of this Agreement and such books, documents, and records as are necessary to certify the nature and extent of the costs of the services provided by Contractor under this Agreement. If Contractor carries out any of its duties under this Agreement through a subcontract with a value or cost of \$10,000 or more over a twelve (12) month period, such subcontract shall contain the same requirements.
- 6. Breach of Additional Provisions.** If Hospital determines in good faith that Contractor has failed to comply with its obligations pursuant to Additional Provisions 1 through 5, Contractor shall be in material breach of this Agreement, and Hospital may terminate this Agreement without penalty, effective immediately upon notice.
- 7. No Exclusion/Debarment.** Contractor warrants that neither it nor its principals or employees are, or have been, excluded, debarred, suspended, proposed for debarment, or declared ineligible from

participation in any federally funded program (“Exclusion”). Contractor shall immediately notify Hospital of any threatened or actual Exclusion. If Contractor is so debarred, suspended, or excluded, this Agreement shall immediately and automatically terminate. Contractor shall indemnify and defend Hospital against all actions, claims, demands, liabilities, losses, damages, costs, and expenses, including reasonable attorneys’ fees, arising directly or indirectly out of any Exclusion.

- 8. Jeopardy.** If Hospital reasonably determines that the continued performance of this Agreement jeopardizes Hospital’s or any of its affiliated entities’ (i) licensure, (ii) participation in or recovery from any reimbursement or payment programs, (iii) accreditation status, or (iv) tax exempt or bond financing status, Hospital shall notify Contractor so the parties may resolve the issues. If no resolution is reached within fifteen (15) days, Hospital may terminate this Agreement immediately and without penalty.
- 9. Equal Employment Opportunity.** Hospital is an Equal Employment Opportunity and Affirmative Action employer. As such, 41 CFR 60-1.4(a), 41 CFR 60-300.5, 41 CFR 60-741.5 as well as 29 CFR Part 471, Appendix A to Subpart A are herein incorporated by reference. By acceptance of this contract, Contractor represents and warrants that unless exempted under the terms of these applicable laws, it will comply with the forgoing statutes, rules and regulations and all amendments thereto. To the extent applicable, Hospital and Contractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
- 10. Prohibition on Child Labor and Human Trafficking.** Each party warrants and represents that it shall comply with all federal and state labor and employment laws, and executive orders as applicable and specifically those regarding child labor, procuring commercial sex, using forced labor and human trafficking. This includes but is not limited to the Trafficking Protection Act of 2000, Executive Order – Strengthening Protections Against Trafficking in Persons in Federal Contracts, Federal Acquisition Regulations (FAR), the provisions of the International Labor Organization’s (“ILO”) Minimum Age Convention (No. 138), 1973, and any other laws or regulations that prohibit any form of human trafficking, commercial sex, forced labor, child labor or other exploitation of children in the manufacturing, delivery or provision of products/devices, items or services and as each may be amended from time to time. In addition, in connection with any International Organization for Standardization (“ISO”) certification, the parties represent and warrant that as applicable each complies with the Social Accountability Guidelines pursuant to which a party disqualifies any site that uses unacceptable manufacturing practices, such as child labor, forced labor or unsafe or unsanitary working conditions or trafficking of persons as defined by the Trafficking Protocol (United Nations General Assembly, Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, 15 November 2000, available at <http://www.unhcr.org/refworld/docid/4720706c0.html>). Contractor acknowledges CSH’s efforts on human trafficking found at <http://www.catholichealthinit.org/human-trafficking-how-you-can-help>.

Saint Joseph Health System, Inc.

By: _____

Name: _____

Title: _____

Lexington-Fayette Urban County Government

By: _____

Name: Linda Gorton

Title: Mayor