

## AGREEMENT

**THIS AGREEMENT**, made and entered into on this 15<sup>TH</sup> day of FEBRUARY 2012, 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 40507 (hereinafter referred to as "Government"), and the **UNIVERSITY OF KENTUCKY** whose address is 800 Rose Street, Lexington, Kentucky 40536 (hereinafter referred to as "Hospital").

## RECITALS

**WHEREAS**, the Government has applied for and received federal funds from the Commonwealth of Kentucky Justice Cabinet for implementation of a Sexual Assault Nurse Examiner Program;

**WHEREAS**, the Hospital has agreed to provide a clinical area for the Sexual Assault Nurse Examiner 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

### OBLIGATIONS OF THE GOVERNMENT

1. The Government and its employees and contractors shall comply with the policies and procedures of the Hospital in the operation of the Sexual Assault Nurse Examiner program.
2. The Government shall be responsible for the supervision of its employees and contractors. The Government shall be responsible for scheduling of "on-call" Sexual Assault Nurse Examiners and shall be responsible for ensuring that Sexual Assault Nurse Examiners are available to perform forensic examinations, collect and preserve physical evidence in compliance with the written policies, procedures, and protocols of the Sexual Assault Nurse Examiner program as well as the policies, procedures, and protocols of the Hospital.
3. Government shall maintain commercial general liability insurance for itself, agents, officers, employees in the amount of not less than One Million (\$1,000,000) Dollars per occurrence and Two Million (\$2,000,000) Dollars aggregate per policy year naming Hospital as 'additional insured' thereunder. The policy of insurance shall provide that such insurance shall not be cancelled, modified or permitted to lapse without thirty (30) days prior written notice to Hospital and be written through a company with an A.M. Best Rating of "A" or better.

Government agrees to be responsible (in the manner and to the extent permitted by law) for all lawfully proven claims, losses, actions and expenses (including legal expenses) including claims against Hospital, arising from the proven negligent performance of Government of the terms of this agreement but excepting any such claims, losses, causes of action and expenses arising as a result of fault on the part of Hospital, its officers, agents, and employees. Government is not responsible for negligent acts of Hospital, its officers, agents, and employees. In no event shall Government's indemnification act as a waiver of any defense, immunity or damage limitations Government may otherwise have available as to third parties.

4. The Government shall require its contractors to maintain medical liability insurance, throughout the term of the Agreement, in the principal amount of not less than One Million (\$1,000,000) Dollars per occurrence and Three Million (\$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. The Government shall promptly, following request by Hospital, provide evidence of such insurance to Hospital.
  5. The Government shall provide the Hospital's Committee for Clinical Privileges the opportunity to review and approve the credentials of all Government's contractors.
  6. The Government shall operate Sexual Assault Nurse Examiner program in compliance with the Kentucky Nurse Practice Act and the standards of clinical nursing practice.
  7. The Government shall inform Hospital of any lawsuit that is threatened, or any patient care event that causes or contributes to injury or death, and could result in a lawsuit.
  8. The Government agrees to pay Hospital the sum of \$250 each month for exclusive use of designated clinical practice area. Payment of \$250 shall be due on the first day of each month.
  9. Government 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 notify the University of Kentucky Chandler Medical Center, hereinafter "UKCMC", Office of Compliance, 2333 Alumni Park Plaza, Lexington, Kentucky 40517 in writing, by certified mail within 48 hours after said event, and upon the occurrence of any such event, whether or not appropriate notice is given, the University of Kentucky, shall immediately terminate this Agreement upon written notice.
- Additionally, Government affirms that it is aware that UKCMC operates in accordance with a corporate compliance program, employs a Corporate Compliance Officer and operates a 24 hour, seven day a week compliance Comply-line. Government has been informed that a copy of the UKCMC compliance plan is on file in the purchasing office or can be viewed online at <http://www.ukhealthcare.uky.edu/forstaff/compliance/about.htm> 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 UKCMC compliance plan, UKCMC can, at its sole discretion, terminate this Agreement upon written notice. Government recognizes that it is under an affirmative obligation to immediately report to UKCMC's corporate compliance officer through the comply-line 1-887-898-6072, in writing, or directly (859) 323-6044 any actions by an agent or employee of UKCMC which Government believes, in good faith, violates an ethical, professional or legal standard.
- Nothing in this Agreement contemplates or requires that any party act in violation of federal or state law. Nonetheless, should any term or condition set forth in this Agreement later be credibly alleged, suspected or determined to be illegal, the parties agree to immediately cease the questioned activity and negotiate modification to the effected portion of the Agreement for a thirty (30) day period. If at the end of this period, no compromise can be reached, the Agreement will terminate.

## SECTION II

### OBLIGATIONS OF THE HOSPITAL

1. The Hospital shall designate clinical practice area in the emergency room for exclusive use by the Government's Division of Police in the operation of its Sexual Assault Nurse Examiner program. The Hospital shall maintain security to the designated space and shall limit access to the space to the Government's employees and contractors.
2. The Hospital shall be responsible for maintenance of the walls, floor, ceiling, attachments thereon and all mechanical functions of the space.
3. The University of Kentucky is an agency and instrumentality of the Commonwealth of Kentucky, is vested with sovereign immunity and is subject to the provisions of the Kentucky Board of Claims, KRS 44.070 et seq for the recovery of tort claims made against the University, its agents, officers or employees. The University of Kentucky is against the University, its agents, officers or employees. The University of Kentucky is self insured pursuant to the provisions of KRS 164.939 et seq which provides for the paying of claims or judgments resulting from any tort or breach of duty based on health care services rendered or which should have been rendered by the University or its agents. Agents of the University include members of the Board of Trustees, faculty, staff, nurses, volunteer workers, employees, students, physicians and dentists providing care within the scope of their duties or courses of study. In addition, University maintains commercial excess general and medical malpractice liability insurance for itself, its agents, officers, employees and students.

## SECTION III

### HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

The University of Kentucky Hospital and the Lexington-Fayette County Urban County Government 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

Hospital will direct its physicians 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 the Lexington Fayette Urban County 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 Lexington-Fayette County Urban Government for any other purposes.

## SECTION IV

### GENERAL TERMS

1. This agreement shall be effective from January 1, 2012, through December 31, 2012.
2. The Government may terminate this Agreement by providing advanced written notice to the Hospital of at least thirty (30) days, if at any time, the Government, in its sole discretion, determines insufficient funding exists.

3. This Agreement, or any part hereof, may be amended from time to time hereafter only in writing executed by the Government and Hospital.

**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

BY: \_\_\_\_\_  
Jim Gray, Mayor

ATTEST:

\_\_\_\_\_  
Clerk of the Urban County Council

UNIVERSITY OF KENTUCKY

BY: \_\_\_\_\_  
Sr. Vice-President for Health Affairs  
Printed Name SERGEIO MELGAR