

## CLINICAL SERVICES AGREEMENT

**Section 1. Introduction.** This Clinical Services Agreement (“Agreement”) is hereby made and entered into as of the “Beginning Date” (as defined below) by and between “UNIVERSITY” (as defined below) and “CONTRACTING PARTY” (as defined below).

**Section 2. Purpose.** This Agreement relates to the provision of certain services by the UNIVERSITY.

**Section 3. Definitions.** Unless the context otherwise requires, the following terms shall have the following meanings for all purposes of this Agreement:

- (a) “Agreed Fees” means the charges specified in part B of Exhibit “A” hereto.
- (b) “Beginning Date” means the date specified in part A of Exhibit “A” hereto.
- (c) “CONTRACTING PARTY” means each person or entity that signs this Agreement as “CONTRACTING PARTY”.
- (d) “CONTRACTING PARTY Duties” has the meaning specified in part D of Exhibit “A” hereto.
- (e) “Fair Market Value” has the meaning contemplated by 42 USC § 1395nn, taking into account any definition in 42 CFR 411.351 or other applicable regulation or legal requirement.
- (f) “KMSF” means Kentucky Medical Services Foundation, Inc., a Kentucky nonstock, nonprofit corporation, which has been organized and is operated to support certain aspects of UNIVERSITY.
- (g) “UNIVERSITY” means the University of Kentucky.
- (h) “UNIVERSITY Responsibilities” has the meaning provided in part E of Exhibit “A”.

**Section 4. UNIVERSITY Responsibilities.** UNIVERSITY shall perform or cause to be performed the UNIVERSITY Responsibilities. Except to the extent specified in the definition of UNIVERSITY Responsibilities, (i) the dates, times and places of the performance of the UNIVERSITY Responsibilities will be as reasonably determined by the UNIVERSITY and (ii) this Agreement shall not be construed to create or require any obligation to perform call or EMTALA coverage obligations. Notwithstanding anything in this Agreement to the contrary, (i) the UNIVERSITY or its designee shall not be obligated to perform a quantity of services hereunder which would result in the Agreed Fees being less than Fair Market Value and (ii) the quantity of services performed by the UNIVERSITY or its designee is expected to be sufficient so that the Agreed Fees will not exceed Fair Market Value.

**Section 5. CONTRACTING PARTY Responsibilities.** CONTRACTING PARTY shall (a) pay the Agreed Fees to KMSF as hereafter provided and (b) perform or cause to be

performed any CONTRACTING PARTY Duties. UNIVERSITY has contracted with KMSF for fiduciary management of professional fees. Accordingly, CONTRACTING PARTY agrees to pay the Agreed Fees to KMSF by mailing same to the following address: Kentucky Medical Services Foundation, Inc., P.O. Box 587, Lexington, KY 40588-0587.

**Section 6. Consents and Releases.** Both parties acknowledge that the UNIVERSITY's ability and obligation to perform under this Agreement require the receipt of appropriate consents to treatment and appropriate consents and releases related to disclosure, use, and transmission of medical information and CONTRACTING PARTY will timely take such action as may be necessary to properly obtain such consents and releases.

**Section 7. Representations or Warranties.** CONTRACTING PARTY represents, warrants and agrees as follows:

(a) That it and any of its employees and agents acting under, or in connection with, this Agreement shall at all times comply with any and all applicable federal and state statutes, regulations, standards, guidelines, memorandums, and other requirements, including, but not limited to, those related to billing, reporting, and reimbursement;

(b) That the terms of this Agreement are commercially reasonable and the payments provided are consistent with Fair Market Value for general commercial purposes without regard, directly or indirectly, to the volume or value of any referrals or other business generated or which could in the future be generated between the parties and that CONTRACTING PARTY has made such representation based upon sufficient documentation (which documentation will be maintained by CONTRACTING PARTY in its records until five years after the expiration of this Agreement) of appropriate (as to quantity, quality, and otherwise) independent transactions known to CONTRACTING PARTY and/or reliable information received from one or more independent, knowledgeable and qualified experts.

**Section 8. No Agreement to Refer.** Notwithstanding anything contained herein to the contrary, the parties agree that neither party nor any other person has agreed to make any referral (and neither party nor any other person shall hereafter have any obligation to make any referral). Nor will either party or any other person receive or be entitled to receive any compensation from the other for any referral and the services provided shall at no time be subject to any unlawful agreement, whatsoever arising, express or implied, with respect to the referral of any patient or patients to any person or entity for the provision of health care services.

**Section 9. Equal Opportunity.** CONTRACTING PARTY agrees that it will not discriminate against any employee or applicant for employment because of race, color, ethnic origin, national origin, creed, religion, political belief, sex, sexual orientation, marital status, handicap or disability. CONTRACTING PARTY does not discriminate because of uniform service, veteran status, or physical or mental disability when an individual otherwise meets the minimum qualifications for employment. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training. CONTRACTING PARTY agrees that it will, in all solicitations or advertisements for employees, state that all qualified applicants will receive consideration for employment without regard to race, color, ethnic origin, national origin, creed, religion, political belief, sex, sexual orientation,

marital status, handicap or disability. CONTRACTING PARTY agrees that it will indemnify and save harmless KMSF, UNIVERSITY, the Board of Trustees of UNIVERSITY, including the individual members thereof, and the directors, officers, agents and employees of KMSF and UNIVERSITY by reason of any action by law or equity or by reason of any administrative proceeding initiated by any person arising out of any such employment action or practice of CONTRACTING PARTY. The provisions of this section, or any other part of this Agreement, are not intended to be, and shall not be, a waiver of any defense, including that of sovereign immunity, that Contracting Party may have as to any third party

**Section 10. Risk Management.** CONTRACTING PARTY will inform UNIVERSITY of any lawsuit which is threatened, or any patient care event which causes or contributes to injury or death, and could result in a lawsuit, if a UNIVERSITY student, resident, or faculty member is involved with said patient's care.

**Section 11. Liability.** UNIVERSITY 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 UNIVERSITY, its agents, officers or employees. UNIVERSITY 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 UNIVERSITY or its agents. Agents of UNIVERSITY include members of its Board of Trustees and its 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 and its agents, officers, employees and students.

CONTRACTING PARTY is vested with sovereign immunity and is self-insured, but will maintain appropriate levels of commercial excess general liability insurance for its agents, officers, and employees, as may be required from time to time by UNIVERSITY. The policy of insurance shall provide that such insurance shall not be canceled, modified or permitted to lapse without thirty (30) days prior written notice to UNIVERSITY. CONTRACTING PARTY shall promptly, following request by UNIVERSITY from time to time, provide UNIVERSITY with evidence of such insurance acceptable to UNIVERSITY. CONTRACTING PARTY shall be solely responsible for insuring its properties and assets.

**Section 12. Independent Contractor Status.** In the performance of this Agreement, it is mutually understood and agreed that each party is at all times acting and performing as an independent contractor with, and not an employee, agent, or joint venturer of, the other party.

**Section 13. Corporate Compliance.** CONTRACTING PARTY 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 CONTRACTING PARTY is excluded from participation, or becomes otherwise ineligible to participate in any such program, during the term of this Agreement, CONTRACTING PARTY will notify the Office of Compliance, University of Kentucky, 2333 Alumni Park Plaza, Suite 200, 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, UNIVERSITY shall immediately terminate this Agreement upon written notice.

Additionally, CONTRACTING PARTY affirms that it is aware that UNIVERSITY 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. CONTRACTING PARTY has been informed that a copy of the UNIVERSITY compliance plan is on file in the UNIVERSITY's Purchasing Office or can be viewed online at <http://www.mccs.uky.edu/compliance> and is encouraged to review the plan from time to time during the term of this Agreement. It is understood that should CONTRACTING PARTY be found to have violated the UNIVERSITY compliance plan, UNIVERSITY may, at its sole discretion, terminate this Agreement upon written notice. CONTRACTING PARTY recognizes that it is under an affirmative obligation to immediately report to UNIVERSITY's Corporate Compliance Officer through the comply-line 1-877-898-6072, in writing, or directly (859) 323-6044 any actions by an agent or employee of UNIVERSITY or KMSF which CONTRACTING PARTY 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 creditably 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 14. Term of the Agreement.** The term of this Agreement shall be for May 1, 2013 until June 30, 2014. Not less than 90 days before the end of the then current term the parties shall review the terms of this Agreement, including but not limited to a review to assure that all payments set forth herein are based on the current fair market value. Subject to such revisions as are mutually agreeable at the time of the review, submitted as written amendments to modify this Agreement, then this Agreement shall automatically be renewed in one-year increments. Alternately, either party may advise that it elects not to renew the Agreement at the end of the then current term, by providing written notice at least 30 days in advance.

Either party may terminate at any time for cause, with 30 days' notice. Cause shall include, but may not be limited to, any material breach of any provision of this Agreement by either party, the destruction of or damage to the Premises, Common Areas or Equipment, if any, so that the Premises, Common Areas or Equipment, if any, are not reasonably available for the intended purposes or other good cause.

Should termination for any reason occur, the parties agree that they will not enter into another agreement with each other for the services or items covered by this Agreement during the unexpired portion of the then current term of this Agreement.

**Section 15. Headings; Miscellaneous.** The headings used in this Agreement are inserted for convenience and are not to be considered in the construction of the provisions of this Agreement. The word "term" as used herein, shall be deemed to include, where applicable, any renewal term. All exhibits referred to herein are attached hereto and made a part hereof. This Agreement including the exhibits hereto contain the entire agreement of the parties with respect to the

UNIVERSITY Responsibilities and all prior understandings and agreements with respect thereto are superseded. This Agreement and all of the terms and conditions hereof shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns. This Agreement may not be amended except by an agreement in writing signed by the parties. In this Agreement, unless a clear contrary intention appears, the word "or" is used in the inclusive sense of "and/or" and the word "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term. Unless the context clearly indicates otherwise, the singular shall include the plural and vice versa, and reference to any gender includes each other gender. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of such Agreement and when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile or electronic transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or electronic transmission shall be deemed to be their original signatures for all purposes.

**Section 16. Medical Records.** Any and all patient medical records generated in connection with any services provided pursuant to this Agreement shall be maintained by the party specified in part C of Exhibit "A". The party who has the obligation to maintain such medical records shall maintain such medical records in compliance with and for all periods required by law. The party maintaining the medical records created pursuant to this Agreement, if any, will, on request from the other party, make such records reasonably available to the other party to the extent permitted by law.

**Section 17. Notices.** Any notices required or deemed appropriate under this Agreement shall be sent by certified mail, return receipt requested to the following addresses:

UNIVERSITY  
Jennifer Collins  
Director of Clinical Contracting  
University of Kentucky  
College of Medicine – Dean's Office  
Charles T. Wethington Building  
900 South Limestone, Room 309G  
Lexington, KY 40536-0200

CONTRACTING PARTY  
Lexington Fayette Urban County Government  
Mayor Jim Gray  
200 East Main Street  
Lexington, KY 40507

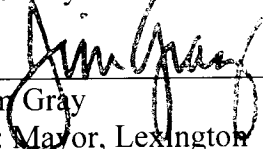
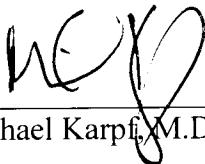
IN WITNESS WHEREOF the undersigned have executed this Agreement as of the Beginning Date.

UNIVERSITY:

CONTRACTING PARTY:

UNIVERSITY OF KENTUCKY

\_\_\_\_\_  
Lexington Fayette Urban County Government



\_\_\_\_\_  
Michael Karpf, M.D.

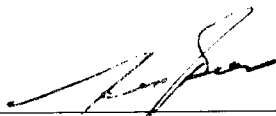
\_\_\_\_\_  
BY: Jim Gray  
TITLE: Mayor, Lexington

Executive Vice President for  
Health Affairs

Date Signed: 6-25-2013

Date Signed: \_\_\_\_\_

Recommended by:



\_\_\_\_\_  
Frederick C. de Beer, MD  
Dean, College of Medicine

\_\_\_\_\_  
Carmel Wallace, MD  
Chair of the Department of Pediatrics, College of Medicine

**Exhibit "A"**

**DEFINITIONS AND OTHER PROVISIONS**

- A. "Beginning Date" shall be May 1, 2013.
- B. "Agreed Fees" shall mean \$45.00 (check the one of the following two boxes which is applicable):

per month

per hour, not to exceed \$5,000 in any fiscal year

- C. Medical Records will be maintained as follows (check the one of the following two boxes which is applicable):

UNIVERSITY; or

CONTRACTING PARTY.

- D. "CONTRACTING PARTY's Duties" shall mean the following (which are in addition to the CONTRACTING PARTY's obligation to make payments to UNIVERSITY under Part V of the Agreement to which this is attached as Exhibit "A"):

LFUCG will provide a job description as prescribed by the Fayette County Public Schools. LFUCG will provide policies, procedures, and forms currently used for dispensing medications.

- E. "UNIVERSITY Responsibilities" shall mean the following:

Department of Pediatrics, Family Care Center will provide a qualified provider, RN or LPN, health educator, or other allied health professional.

Qualified provider will perform training of school personnel at the LFUCG's Lexington Day Treatment Center, Family Care Center Daycare, and Teen Parent Program once annually. (3 hour training)

Qualified provider will visit each site on a monthly basis to review storage and dispensing of medications and review of documentation of the same. (3 hours per month, 10 months of calendar year.)

Qualified provider will provide documentation of training to each individual receiving training, as well as a log of monthly reviews within each program.