

RIGHT OF USE, POSSESSION AND OCCUPANCY AGREEMENT

BE IT KNOWN, that on this 29th day of May, 2013, before the undersigned Notaries Public, duly commissioned and qualified and in the presence of the undersigned competent witnesses, personally came and appeared:

BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY AND AGRICULTURAL AND MECHANICAL COLLEGE, a public constitutional corporation of the State of Louisiana, represented herein by William L. Jenkins, Interim President of the Louisiana State University System, duly authorized by virtue of a resolution of the Board of Supervisors, adopted April 17, 2013, a copy of which is on file and of record, with a mailing address of 3810 West Lakeshore Drive, Louisiana State University, Baton Rouge, Louisiana 70808 (Federal I.D. No. XX-XXX0848) (hereinafter referred to as "**LSU**");

THE STATE OF LOUISIANA, THROUGH THE DIVISION OF ADMINISTRATION (the "**State**"), herein represented and appearing through Kristy H. Nichols, Commissioner of Administration, Division of Administration, Office of the Governor, State of Louisiana, under the authority granted pursuant to La. R.S. 39:11 and other applicable law, whose mailing address is Post Office Box 94095, Baton Rouge, Louisiana 70804-9095, (with the State and LSU collectively, "**Grantor**");

and

UNIVERSITY MEDICAL CENTER MANAGEMENT CORPORATION, a Louisiana nonprofit corporation represented herein by Robert V. "Bobby" Yarborough, Chair, duly authorized by virtue of a joint unanimous consent of its Members and Board of Directors, dated effective as of April 23, 2013, a copy of which is on file and of record, with a mailing address of 200 Henry Clay Avenue, New Orleans, Louisiana 70118 (Federal I.D. No. XX-XXX5187) (hereinafter referred to as "**UMCMC**" or "**Grantee**"), whose sole member, as of this date, is Louisiana Children's Medical Center, a Louisiana nonprofit corporation represented herein by Steve Worley, duly authorized by virtue of resolution of its Board of Directors adopted March 28, 2013, a copy of which is on file and of record, with a mailing address of 200 Henry Clay Avenue, New Orleans, Louisiana 70118 (hereinafter referred to as "**LCMC**"),

who declare and agree as follows:

THIS RIGHT OF USE, POSSESSION AND OCCUPANCY AGREEMENT (the "**Agreement**") is entered into as of the 29th day of May, 2013 by and among LSU and the State, as grantor, and UMCMC as grantee.

WHEREAS, Grantor is in possession of those certain parcels of land, located in New Orleans, Louisiana, as more fully described on **Exhibit A**, attached hereto, and made a part hereof, hereinafter referred to as the “**Land**”;

WHEREAS, Grantor has certain rights in and to the Land;

WHEREAS, Grantor has granted a lease of the new hospital buildings, an utility building, an ambulatory care building, and a parking garage building being constructed on the Land to UMCMC as set forth and described in that certain Master Hospital Lease by and among LSU, the State and UMCMC dated as of May 29, 2013 (the “**Hospital Lease**”), all as provided in that Cooperative Endeavor Agreement (the “**CEA**”) dated as of May 29, 2013 by and among the above parties and others;

WHEREAS, the buildings being leased to UMCMC pursuant to the Hospital Lease (other than the buildings comprising the “**Interim Facility**” as defined in the CEA) (collectively, the “**Leased Buildings**”) are located on portions of the Land;

WHEREAS, the Hospital Lease does not include the Land;

WHEREAS, the Leased Buildings and certain surface improvements (the “**Surface Improvements**”) are being constructed by the Division of Administration, Office of Facility Planning and Control (“**OFFP**”); and

WHEREAS, the parties hereto now desire to enter into this Agreement to provide UMCMC with the right of use, possession and occupancy of the Land, the Surface Improvements and other improvements now or hereafter located on the Land useful in connection with the operations of Grantee and others in the Leased Buildings as permitted by the Hospital Lease, in order to provide access to the Leased Buildings, allow the Leased Buildings to be located on the Land and as further described below.

NOW THEREFORE, in consideration of the above, the mutual covenants and promises contained herein, in the Hospital Lease and in the CEA, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of the Right of Use, Possession and Occupancy; Construction of Improvements. Grantor hereby grants to Grantee, and Grantee hereby accepts from Grantor, a right of use and the right of possession and occupancy (collectively, the “**Right of Use**”) of the Land and the Surface Improvements for the purposes of allowing the Leased Buildings and future buildings and other improvements to be located on the Land, vehicular and pedestrian ingress and egress to and from the Leased Buildings and future improvements, parking and related uses. This grant of the Right of Use includes real rights in favor of Grantee. In connection with its exercise of the Right of Use, Grantee shall be entitled to permit its employees, contractors, agents, tenants, subtenants, assigns, invitees, licensees and/or permittees to use the Right of Use. The Right of Use includes, but is not limited to, a personal servitude of right of use under Civil Code Articles 639, et seq., and, as an additional independent right hereunder, a usufruct under Civil Code Articles 535, et seq. (which usufruct shall be for the maximum term allowed by law unless this Agreement is earlier terminated pursuant to the terms hereof), all subject to the terms of this

Agreement. The State shall cause OFP to complete the construction of the Leased Buildings and the Surface Improvements in accordance with the plans and specifications for such Leased Buildings and improvements as have heretofore been reviewed by and are acceptable to UCMCMC (the "**Plans and Specifications**"), pursuant to the Construction Management Agreement, as amended to the date hereof (the "**Construction Contract**" and together with the Plans and Specifications, the "**Construction Contract Documents**") between OFP and Skanska MAPP, a Joint Venture (the "**Construction Manager**"), subject to any future change orders/amendments as may be approved by OFP and subject to further approval of Grantee, such approval by Grantee not to be unreasonably withheld, unreasonably conditioned or unreasonably delayed. Grantee may, at its election, construct and install (i) additional surface parking, sidewalks, drives, lighting, signage, utilities, landscaping and non-building related improvements in, on or under the Land, and (ii) a second parking garage building on Tulane Avenue reasonably comparable in size and configuration to the parking garage being constructed under the Construction Contract Documents, in each case as may be required by Grantee, all subject to the prior written approval of Grantor, which approval shall not be unreasonably withheld, unreasonably conditioned or unreasonably delayed. Subject to the terms hereof, this Right of Use shall be exclusive except as to (i) rights of the public to use the park area in Block 519, (ii) access rights of the public over any open segments of the original street grid locations as they may exist from time to time, (iii) rights of Grantor to exercise reasonable access necessary to exercise Grantor's rights and obligations under the CEA and the Hospital Lease, including completing the construction of the Leased Buildings and inspecting the Leased Buildings and the Land, and (iv) such future rights to which Grantee may hereafter approve. It is expressly agreed that neither LSU, nor the State, has any obligation to monitor the exclusivity of the Right of Use, provided, however, each of LSU and the State warrants Grantee's peaceful possession as hereinafter described and agrees to defend the same. Any future construction of improvements including buildings on the Land by Grantor or Grantee after completion of the work under the Construction Contract Documents will require the written approval and consent of Grantor and Grantee, which consent shall not be unreasonably withheld, unreasonably conditioned or unreasonably delayed. Any improvements constructed by Grantee or Grantor will be used for reasonable and customary purposes consistent with and related to Grantee's operation of a hospital and medical offices and ambulatory care services in the Leased Buildings (as provided in the Hospital Lease). The construction of any improvements shall be subject to design and construction oversight and approval by OFP, to the extent required under applicable law, which shall not be unreasonably withheld or unreasonably delayed, but may be conditioned upon OFP building and safety code requirements. Any building improvements constructed by Grantee hereunder shall be owned by Grantee during the term of this Agreement and may not be transferred, assigned, leased or encumbered by Grantee without the prior written consent of LSU which approval shall not be unreasonably withheld, unreasonably conditioned or unreasonably delayed; provided further that no such consent of LSU will be required to lease portions of such buildings to the extent such lease would constitute a permitted sublease under the terms of the Hospital Lease if the space was in the Leased Buildings and such lease would prohibit any subleases; and provided further that LSU may condition its approval on the proposed assignee, transferee, lessee or mortgagee agreeing to the provisions contained in the Hospital Lease as to restrictions and limitations on any subleases of the Leased Buildings.

2. Term. This Agreement shall commence upon the New Facility Commencement Date (as defined in the Hospital Lease) and shall only terminate and expire when the Hospital Lease terminates, whether by the expiration of its term (as it may be extended) or otherwise, and at that time all of the improvements, including buildings, landscaping, and any other permanent installations constructed on the Land, if not previously fully owned by LSU, shall vest in LSU in accordance with the CEA in full ownership, with no liability or responsibility for payment by Grantor, other than and only to the extent of Grantor's liability, as provided in the CEA or the Hospital Lease, if any, and with no liability or responsibility of Grantee for removal, if such improvements were constructed in accordance with this Agreement or the Hospital Lease with Grantor's consent. If the Hospital Lease terminates, and UMCMC continues to operate the hospital during any Termination Wind Down Period (as defined in the CEA), even though this Agreement has terminated, the rights of use, possession, occupancy and the right of ingress and egress over the Land granted hereunder shall continue during such period.

3. Grantee's Work. Grantee and its agents and contractors shall perform any necessary maintenance and repairs to any improvements to be located on the Land under the Right of Use in a workmanlike manner (the "Work"), and in compliance with applicable codes, laws, ordinances and regulations, including without limitation, the applicable building code, fire code, and handicap accessibility requirements. Grantee, at its sole cost and expense, will, with respect to the Work, acquire (or cause to be acquired) all permits, licenses and approvals required by all applicable law, ordinance or regulation.

4. Utilities and Services. Grantee shall promptly pay (or cause to be paid) all fees, costs and charges for all services used or consumed by or on behalf of Grantee, or its permitted tenants, subtenants, or assigns, if any, during the term of this Agreement, including without limitation, electricity, gas, water systems, septic systems, sewer systems, telephone, refuse, cable, communications, janitorial, and other services used by any of them in relation to their activities conducted under this Agreement on or in the Land.

5. Limited Waiver of Warranty; Indemnity; Defense of Peaceful Possession. Except as otherwise provided in this Agreement, Grantor makes no warranty of title, and makes no warranty of fitness or condition of the Land, including the subsoil, and/or any underground conditions, and/or any environmental matters (and Grantee waives and renounces any and all such warranties, including warranties against latent or redhibitory defects), other than the warranty of peaceful possession against eviction from, or disturbance in fact caused by a person who successfully asserts ownership or a right to possession pursuant to a final definitive judgment of, the Land or the Surface Improvements, in whole or in material part, which adversely and materially affects the operations of the hospital in the Leased Buildings. Notwithstanding the foregoing, the State and LSU hereby agree that the State and LSU, at their sole cost, shall defend and indemnify UMCMC against any and all claims and lawsuits challenging the right of UMCMC to use and occupy, or otherwise disturbing materially UMCMC's actual physical possession of, all or part of the Land or improvements which adversely affects the operations of the hospital in the Leased Buildings. Subject to the State's completion of the improvements in accordance with the Construction Contract Documents and the State's obligation to correct any construction defects as hereinbelow described, Grantee hereby accepts the Land in its present AS IS condition and agrees to indemnify and hold Grantor harmless from and against any claims, demands, or causes of action caused by the use of the

Land by Grantee or its employees, contractors, agents, tenants, subtenants, assigns, invitees and/or permittees.

6. Maintenance, Repairs and Replacement.

A. With respect to the activities that are contemplated to occur on and in the Land by or on Grantee's behalf under this Agreement, Grantee hereby agrees that Grantor shall have no responsibility for conducting any repair, replacement, or maintenance on or in the Land or any improvements located or to be located thereon, except that the State agrees to pursue vigorously all claims related to its construction of the improvements made by it under the Construction Contract Documents within a period of five (5) years from the date of substantial completion thereof and will consult with UMCMC with respect to such pursuit. At the conclusion of such five (5) year period, the State shall assign to UMCMC all of its respective warranty claims, if any, against the Construction Manager and any contractor, subcontractor and/or equipment suppliers/manufacturers under the Construction Contract Documents arising from the failure of the Leased Buildings and Surface Improvements to be constructed and delivered in accordance with the Construction Contract Documents, other than those relating to pending claims the State is then pursuing. If any claims or manufacturer warranties are not assignable, the State or LSU shall pursue vigorously all such claims and shall consult with UMCMC with respect to such pursuit.

B. In addition, except as provided in this Paragraph 6, Grantee shall perform any and all maintenance, repairs and replacements necessary to maintain the improvements on the Land in a good, workmanlike and safe condition, all at Grantee's sole cost and expense; provided however this obligation shall not apply to any improvements, if any, to be built by LSU or the State on the Land after the commencement of the term of this Agreement, unless and until Grantee is given a right of use and occupancy of said improvements or Grantee leases said improvements.

7. Taxes and Insurance. Grantee shall be responsible for paying all real property taxes (if any) assessed against the Land, and any improvements thereon during the term of the Hospital Lease. Grantee shall be responsible for all insurance, as required in the Hospital Lease, which insurance will also cover all of the Land and any additional improvements, if any, to be constructed by Grantee on the Land, and all insurance shall name Grantor as loss payee and as additional insured.

8. Attorneys' Fees and Expenses. In the event of any legal proceeding arising out of a dispute among the parties with regard to enforcement of any provision of this Agreement, the prevailing party will be entitled to an award for its reasonable attorney fees, to the same extent as provided in the Master Lease.

9. Amendment; Waiver. This Agreement may not be amended or modified except in a writing signed by Grantor and Grantee, nor may any party's respective rights hereunder be waived except by a writing signed by the party waiving such rights.

10. Grantor Not Liable. Grantor shall not be liable or responsible to Grantee, its employees, contractors, agents, invitees, licensees and/or permittees, or other party, for any liability, loss, damage, claim, penalty, cost, including bodily injury or death, demands, judgments, or inconvenience to any property or person that may arise by reason of any use of the Land by Grantee, and/or any of its employees, contractors, agents, invitees, licensees and/or permittees, except to the extent caused by the gross negligence or willful misconduct of Grantor or any of its employees or by its agents to the extent, if any, Grantor is liable for the gross negligence or willful misconduct of its agents.

11. Force Majeure. If any party shall be unable to carry out any of its obligations under this Agreement due to strike, lockout, earthquake, hurricane, flood, fire, or other acts of God or nature, war, rebellion, terror, civil disorders, laws, regulations, acts of civil or military authorities (including the denial or cancellation of any export or other necessary license), unavailability of materials, carriers or communications facilities, and any other causes beyond the reasonable control of the party whose performance is affected, this Agreement shall remain in effect, but the affected party's obligation shall be suspended for the period during which the affected party is unable to perform because of the event of force majeure. The parties shall use all reasonable efforts to minimize the consequences of force majeure.

12. Default. If any party defaults in any of its obligations hereunder, then any other party may provide written notice to the party in default. In addition, the non-defaulting party may, sue for and, to the extent allowed by law, obtain a money judgment against the defaulting party and any guarantor of that defaulting party's obligations hereunder for any loss or damages, including attorney fees and all costs, all of which will be paid by the defaulting party and any guarantor of the defaulting party. As set forth in paragraph 2, this Agreement shall only terminate when the Hospital Lease terminates.

13. Compliance with Environmental Laws.

(a) Subject to the terms of subsection (k), UMCMC shall comply with all laws relating to the use or occupation of the Land, including, but not limited to the Asbestos Hazardous Emergency Response Act (AHERA, 15 USC § 2641, et seq.).

(b) UMCMC shall not allow, cause or permit any Hazardous Materials (as defined below) to be generated, maintained, processed, produced, manufactured, used, treated, released, stored, or disposed of in or about the Land by UMCMC or its officers, directors, employees, agents, invitees or sub-lessees, other than those Hazardous Materials usually and customarily generated, maintained, processed, produced, manufactured, used, treated, released, stored or disposed of in a hospital, medical office or clinic, as long as such materials are properly, safely, and lawfully stored and used by UMCMC and the quantity of such materials does not equal or exceed a "reportable quantity" as defined in 40 CFR §§ 302 and 305, and as may be amended, and so long as such Hazardous Materials are generated, maintained, processed, produced, manufactured, used, treated, released, stored or disposed of in compliance with all Laws applicable thereto. In no event shall UMCMC cause or permit the deposit, release, or discharge of any Hazardous Materials to the soil or groundwater of the Land.

(c) LSU shall have the right to require that UMCMC engage, at its own expense, a contractor to remediate or dispose of all Hazardous Materials used, stored, generated or disposed of by UMCMC or its agents, contractors or subcontractors on the Land in accordance with law. For purposes of this Agreement, “**Hazardous Material**” means and includes any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, any so-called “**Superfund**” or “**Superlien**” law, the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., or any other law regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as may now or at any time in the future be in effect, or any other hazardous, toxic or dangerous, waste, substance or material.

(d) UMCMC shall promptly notify LSU in writing, if UMCMC has or acquires notice or actual knowledge that any Hazardous Material has been or is threatened to be released, discharged, disposed of, transported, or stored on, in, under, or from the Land during the term of this Agreement except as allowed by law. UMCMC shall immediately notify LSU, and provide copies upon receipt of, all complaints, claims, citations, demands, inquiries, reports, or notices relating to the condition of the Land or the failure of the Land to comply with all environmental laws during the term of this Agreement. UMCMC shall promptly deliver to LSU copies of all notices, reports, correspondence and submissions made by UMCMC to the United States Environmental Protection Agency (EPA), the United States Occupational Safety and Health Administration (OSHA), the Louisiana Department of Environmental Quality (DEQ), DHH, or any other governmental authority that requires submission of any information concerning environmental matters or hazardous waste or substances pursuant to all laws.

(e) UMCMC agrees to indemnify, defend (with counsel reasonably acceptable to LSU at UMCMC’s sole cost) and hold LSU, its board members, officers and employees harmless from and against all environmental liabilities and costs, liabilities and obligations, penalties, claims, litigation, demands, defenses, costs, judgments, suits, proceedings, damages (including consequential damages), disbursements or expenses of any kind (including attorneys’ and experts’ fees and fees and expenses incurred in investigating, defending, or prosecuting any litigation, claim, or proceeding) that may at any time be imposed upon, incurred by or asserted or awarded against LSU or any of them in connection with or arising from or out of:

(i) any misrepresentation, inaccuracy or breach of any warranty, covenant or agreement of UMCMC contained or referenced to in this Section;

(ii) any violation by UMCMC of any law that is the subject of this Section; or

(iii) any negligence, gross negligence, or intentional acts or omissions by UMCMC relating to the handling, transportation, storage, or use of any Hazardous Materials.

(f) Nothing herein shall require UMCMC to indemnify, defend and hold harmless LSU, its board members, officers and employees for any environmental liability arising from any Hazardous Materials which were present on, in or under the Land prior to the commencement of the term of this Agreement.

(g) To the extent authorized by law, LSU agrees to indemnify, defend (with counsel reasonably acceptable to UMCMC at LSU's sole cost) and hold UMCMC, its board members, officers and employees harmless from and against all environmental liabilities and costs, liabilities and obligations, penalties, claims, litigation, demands, defenses, costs, judgments, suits, proceedings, damages (including consequential damages), disbursements or expenses of any kind (including attorneys' and experts' fees and fees and expenses incurred in investigating, defending, or prosecuting any litigation, claim, or proceeding) that may at any time be imposed upon, incurred by or asserted or awarded against UMCMC or any of them in connection with or arising from or out of:

(i) any misrepresentation, inaccuracy or breach of any warranty, covenant or agreement of LSU contained or referenced to in this Section;

(ii) any violation by LSU of any law that is the subject of this Section; or

(iii) any negligence, gross negligence, or intentional acts or omissions by LSU relating to the handling, transportation, storage, or use of any Hazardous Materials.

(h) Nothing herein shall require UMCMC to indemnify, defend and hold harmless the State, its employees, contractors or agents for any environmental liability arising from any Hazardous Materials which were present on, in or under the Land prior to the execution of this Agreement.

(i) To the extent authorized by law, the State agrees to indemnify, defend (with counsel reasonably acceptable to UMCMC at the State's sole cost) and hold UMCMC, its board members, officers and employees harmless from and against all environmental liabilities and costs, liabilities and obligations, penalties, claims, litigation, demands, defenses, costs, judgments, suits, proceedings, damages (including consequential damages), disbursements or expenses of any kind (including attorneys' and experts' fees and fees and expenses incurred in investigating, defending, or prosecuting any litigation, claim, or proceeding) that may at any time be imposed upon, incurred by or asserted or awarded against UMCMC or any of them in connection with or arising from or out of:

(i) any misrepresentation, inaccuracy or breach of any warranty, covenant or agreement of the State contained or referenced to in this Section;

(ii) any violation by the State of any law that is the subject of this Section; or

(iii) any negligence, gross negligence, or intentional acts or omissions by the State relating to the handling, transportation, storage, or use of any Hazardous Materials.

(j) The provisions of this Section will be in addition to any and all obligations and liabilities UMCMC may have to LSU and/or the State, and/or LSU and/or the State, may have to UMCMC pursuant to the Hospital Lease, and will survive expiration or earlier termination of this Agreement.

(k) Notwithstanding the foregoing provisions of this Section, UMCMC's responsibility for Hazardous Materials with respect to the Land shall be limited to the time period following the commencement of the term of this Agreement.

14. Notices. Any and all notices required or appropriate under this Lease shall be in writing and shall be sent by (a) personal delivery; (b) recognized overnight delivery service with proof of delivery; or (c) registered or certified United States mail, postage prepared, receipt requested, to the following addresses:

LSU:

Board of Supervisors of Louisiana State
University and Agricultural and
Mechanical College
3810 West Lakeshore Drive
Baton Rouge, Louisiana 70808
Attn: President of LSU System

UMCMC:

University Medical Center
Management Corporation
c/o Louisiana Children's Medical
Center
200 Henry Clay Avenue
New Orleans, Louisiana 70118
Attn: Steve Worley
Ricardo Guevara

With a copy to:

LSU System Office
3810 West Lakeshore Drive
Baton Rouge, Louisiana 70808
Attn: Vice President of Health Affairs

With a copy to:

Louisiana Children's Medical Center
200 Henry Clay Avenue
New Orleans, Louisiana 70118
Attn: General Counsel

With a copy to:

Taylor, Porter, Brooks & Phillips, L.L.P.
Attn: LSU Health Care Partner
451 Florida St., 8th Floor
Baton Rouge, Louisiana 70801

With a copy to:

Foley & Lardner LLP
Attn: Mark Waxman
111 Huntington Avenue
Suite 2500
Boston, Massachusetts 02199

With a copy to:

Kantrow, Spaht, Weaver & Blitzer
(APLC)
Attn: Lee C. Kantrow, Esq.
445 North Blvd., Ste. 300
Baton Rouge, Louisiana 70802

THE STATE:

**The State of Louisiana, through the
Division of Administration**
Commissioner of Administration
Office of Facility Planning and Control
Division of Administration
Claiborne Building

1201 North Third Street
Baton Rouge, Louisiana 70801

Any such notice or communication shall be deemed to have been given either at the time of personal delivery, subject to verification of service or acknowledgement of receipt, one (1) Business Day after deposit with a nationally recognized overnight delivery service, or three (3) days after mailing via United States Certified Mail, return receipt requested. For purposes hereof, "Business Day" shall mean any day except a Saturday, Sunday or other day on which the LSU System office is closed.

Each party shall immediately inform all other parties, in writing and in accordance with this Section, of any changes in personnel or address for the purpose of sending required notices.

15. Recordation. Either party may record this Agreement in the conveyance records of Orleans Parish at its expense.

16. Assignment; Encumbrance. Neither this Agreement nor Grantee's rights hereunder shall be transferred, assigned, mortgaged, pledged or encumbered in whole or in part by Grantee, without the prior written consent of LSU, which consent shall not be unreasonably withheld, unreasonably conditioned or unreasonably delayed, except no such consent shall be required to the extent any such transferee, assignee, mortgagee or pledgee would constitute a permitted assignee or mortgagee of all or part of Grantee's leasehold rights in the Leased Buildings under the Hospital Lease.

17. Waiver. The parties agree that a party's failure to insist on strict performance of any term or condition of this Agreement shall not constitute a waiver of that term or condition, even if the party accepting or acquiescing in the non-conforming performance knows of the nature of the performance and fails to object to it. No waiver or breach shall affect or alter this Agreement but each of the terms of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. No waiver of any default hereunder by a party shall be implied from any omission by such party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver for the time and to the extent therein stated. One or more waivers shall not be construed as a waiver of a subsequent breach of the same covenant, term, or condition.

18. Defense and Indemnification Procedures.

(a) Promptly after receipt by a party entitled to indemnity under this Agreement (an "**Indemnified Person**") of notice of the assertion of any claim by a third party (a "**Third-Party Claim**"), whether or not involving any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any governmental body or arbitrator (a "**Proceeding**"), such Indemnified Person shall give notice to the party obligated to indemnify pursuant hereto (an "**Indemnifying Person**") of the assertion of such Third-Party Claim, provided that the failure to notify the Indemnifying Person will not relieve the Indemnifying Person of any liability that it may have to

any Indemnified Person, except to the extent that the Indemnifying Person demonstrates that the defense of such Third-Party Claim is prejudiced by the Indemnified Person's failure to give such notice.

(b) If an Indemnified Person gives notice to the Indemnifying Person pursuant hereto of the assertion of a Third-Party Claim, the Indemnifying Person shall be entitled to participate in the defense of such Third-Party Claim and, to the extent that it wishes (unless (i) the Indemnifying Person is also a person against whom the Third-Party Claim is made and the Indemnified Person determines in good faith that joint representation would be inappropriate or (ii) the Indemnifying Person fails to provide reasonable assurance to the Indemnified Person of its financial capacity to defend such Third-Party Claim and provide indemnification with respect to such Third-Party Claim), to assume the defense of such Third-Party Claim with counsel satisfactory to the Indemnified Person. After notice from the Indemnifying Person to the Indemnified Person of its election to assume the defense of such Third-Party Claim, the Indemnifying Person shall not, so long as it diligently conducts such defense, be liable to the Indemnified Person under this section for any fees of other counsel or any other expenses with respect to the defense of such Third-Party Claim, in each case subsequently incurred by the Indemnified Person in connection with the defense of such Third-Party Claim, other than reasonable costs of investigation. If the Indemnifying Person assumes the defense of a Third-Party Claim, no compromise or settlement of such Third-Party Claim may be effected by the Indemnifying Person without the Indemnified Person's written consent unless (A) there is no finding or admission of any violation of any applicable law or any violation of the rights of any person; (B) the sole relief provided is monetary damages that are paid in full by the Indemnifying Person; and (C) the Indemnified Person shall have no liability with respect to any compromise or settlement of such Third-Party Claim effected without its written consent.

(c) Notwithstanding the foregoing, if an Indemnified Person determines in good faith that there is a reasonable probability that a Third-Party Claim may adversely affect it other than as a result of monetary damages for which it would be entitled to indemnification under this Agreement, the Indemnified Person may, by notice to the Indemnifying Person, assume the exclusive right to defend, compromise or settle such Third-Party Claim, but the Indemnifying person will not be bound by any determination of any Third-Party Claim so defended for the purposes of this Agreement or any compromise or settlement effected without its written consent (which may not be unreasonably withheld).

(d) With respect to any Third-Party Claim subject to indemnification under this section: (i) both the Indemnified Person and the Indemnifying Person, as the case may be, shall keep the other person fully informed of the status of such Third-Party Claim and any related Proceeding at all stages thereof where such person is not represented by its own counsel, and (ii) the parties agree (each at its own expense) to render to each other such assistance as they may reasonably require of each other and to cooperate in good faith with each other in order to ensure the proper and adequate defense of any Third-Party Claim.

(e) With respect to any Third-Party Claim subject to indemnification under this Article, the parties agree to cooperate in such a manner as to preserve in full (to the extent possible) the confidentiality of all Confidential Information (as defined in the CEA) and the attorney-client and work-product privileges. In connection therewith, each party agrees that, to

the extent allowed by law: (i) it will use its commercially reasonable efforts, in respect of any Third-Party Claim in which it has assumed or participated in the defense, to avoid production of Confidential Information (consistent with applicable Law and rules of procedure), and (ii) all communications between any party hereto and counsel responsible for or participating in the defense of any Third-Party Claim shall, to the extent possible, be made so as to preserve any applicable attorney-client or work-product privilege.

(f) A claim for indemnification for any matter not involving a Third-Party Claim may be asserted by notice to the party from whom indemnification is sought and shall be paid promptly after such notice.

19. Severability. The provisions of this Agreement are severable. Any terms and/or conditions that are deemed illegal, invalid or unenforceable shall not affect any other term or condition of this Agreement or of the CEA.

20. Construction. All of the parties to this Agreement have participated freely in the negotiation and preparation hereof; accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

21. Successors and Assigns. This Agreement shall be binding on and will inure to the benefit of the parties hereto, and their respective successors and assigns, if any.

22. Survival. The expiration or termination of this Agreement, for any reason, shall not release any party from any obligation or liability to another party arising or accruing prior to expiration or termination.

23. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together will constitute only one agreement. For purposes hereof, facsimile and electronically scanned pdf copies hereof and facsimile and electronically scanned pdf signatures hereof shall be authorized and deemed effective.

24. Choice of Law. This Agreement is governed by the laws of the State of Louisiana, and in the event of a court proceeding, any such proceeding shall be filed in the Louisiana Nineteenth Judicial District Court.

25. Intervention. And now herein intervenes LCMC to consent to and approve the terms and conditions of this Agreement. LCMC also does hereby in solido with UMCMC guarantee the full and timely payment of all obligations of UMCMC under this Agreement, including particularly for any damages for which UMCMC may be liable (as provided in paragraph 12) of this Agreement, and for any defense, indemnity and hold harmless obligations of Grantee as provided in paragraph 13. Upon its withdrawal, pursuant to the CEA and the Member Substitution Agreement dated May 29, 2013, as the sole member of UMCMC pursuant to the Member Substitution Agreement by and among UMCMC, LCMC, LSU, and Administrators of the Tulane Educational Fund, LCMC's guarantee under this intervention for obligations of UMCMC accruing thereafter shall terminate.

Exhibits:

Exhibit "A" – Property Description and Exhibit "A-1" map are attached hereto.

Signature Page for Right of Use, Possession and Occupancy Agreement

THUS DONE AND SIGNED by the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, on the 29th day of May, 2013, in the presence of the following competent witnesses.

WITNESSES:

Vern S. Ausberry, II
Print Name: Vern S. Ausberry, II

Joseph Allewa
Print Name: JOE ALLEVA

BOARD OF SUPERVISORS OF
LOUISIANA STATE UNIVERSITY AND
AGRICULTURAL AND MECHANICAL
COLLEGE

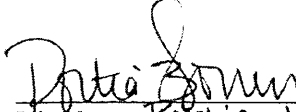
By: *William L. Jenkins*
Name: William L. Jenkins
Title: Interim President

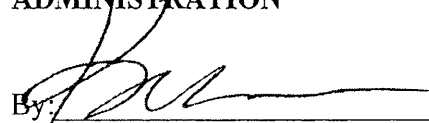
Signature Page for Right of Use, Possession and Occupancy Agreement

THUS DONE AND SIGNED by the State of Louisiana, Division of Administration, on the 29 day of May, 2013, in the presence of the following competent witnesses.


WITNESSES:

**STATE OF LOUISIANA, DIVISION OF
ADMINISTRATION**


Print Name: Portia Johnson

By: 

Name: Kristy H. Nichols
Title: Commissioner of Administration



Print Name: Sue Israel

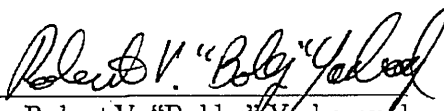
Signature Page for Right of-Use, Possession and Occupancy Agreement

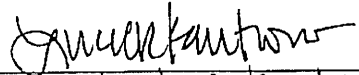
THIS DONE AND SIGNED by University Medical Center Management Corporation,
on the 29th day of May, 2013, in the presence of the following competent witnesses.

WITNESSES:

UNIVERSITY MEDICAL CENTER
MANAGEMENT CORPORATION


Print Name: Diane L. Crochet

By: 
Name: Robert V. "Bobby" Varborough
Title: Chair

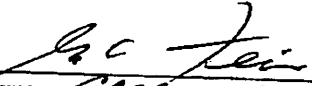

Print Name: Lucie R. Kantrow

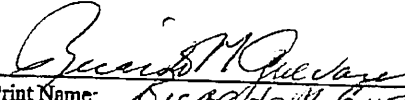
Signature Page for Right of Use, Possession and Occupancy Agreement

THUS DONE AND SIGNED by Louisiana Children's Medical Center, on the 29th day of May, 2013, in the presence of the following competent witnesses.

WITNESSES:

LOUISIANA CHILDREN'S MEDICAL CENTER


Print Name: Gregory C. Fein


Print Name: Ricardo M. Guevara

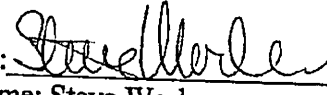
By: 
Name: Steve Worley
Title: President and Chief Executive Officer

Exhibit "A"
(Property Description)
Exhibit "A" to Right of Use Agreement

The Land consists of the following described immovable property:

Blocks 433 through 438, Block 466 through 471, Block 519 (the Park) and Blocks 520 through 522 (collectively the "BLOCKS"), of the City of New Orleans, located in Township 12 South, Range 11 East, Orleans Parish, Louisiana, as shown on Exhibit A-1, attached hereto, generally bounded on its northerly side by Canal Street, on its southerly side by Tulane Avenue, on its westerly side by S. Galvez Street, and on its easterly side by S. Claiborne Avenue, and any and all rights LSU and/or the State may have over portions of Cleveland Avenue, Palmyra Avenue, Banks Street, S. Derbigny Street, S. Roman Street, S. Prieur Street, and S. Johnson Street; located between the above BLOCKS; LESS AND EXCEPT any property located in Block 468 owned by Cox Communications, and LESS AND EXCEPT S. Derbigny Street and Cleveland Avenue adjacent to Block 435, and LESS AND EXCEPT the Orleans House and property appurtenant thereto located in Block 436, and LESS AND EXCEPT the McDonogh School property to be located in Block 434 on which site the Old McDonogh School will be located. Said Land, and this Right of Use, is subject to all servitudes, rights-of-way and easements of record.

It is agreed that neither LSU nor the State warrants title to the above immovable property.

APPROVED:

**STATE OF LOUISIANA, DIVISION OF
ADMINISTRATION**

By: _____


Kristy Nichols, Commissioner

**BOARD OF SUPERVISORS OF LOUISIANA
STATE UNIVERSITY AND AGRICULTURAL
AND MECHANICAL COLLEGE**

By: _____

Dr. William L. Jenkins, Interim President
Louisiana State University System

**UNIVERSITY MEDICAL CENTER
MANAGEMENT CORPORATION**

By: _____

Robert V. "Bobby" Yarborough
Chair

**LOUISIANA CHILDREN'S MEDICAL
CENTER**

By: _____

Steve Worley, President and Chief
Executive Officer

Exhibit "A"
(Property Description)
Exhibit "A" to Right of Use Agreement

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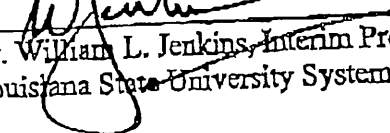
It is agreed that neither LSU nor the State warrants title to the above immovable property.

APPROVED:

**STATE OF LOUISIANA, DIVISION OF
ADMINISTRATION**

By: _____
Kristy Nichols, Commissioner

**BOARD OF SUPERVISORS OF LOUISIANA
STATE UNIVERSITY AND AGRICULTURAL
AND MECHANICAL COLLEGE**

By: 
Dr. William L. Jenkins, Interim President
Louisiana State University System

**UNIVERSITY MEDICAL CENTER
MANAGEMENT CORPORATION**

By: _____
Robert V. "Bobby" Yarborough
Chair

**LOUISIANA CHILDREN'S MEDICAL
CENTER**

By: _____
Steve Worley, President and Chief
Executive Officer

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(Property Description)
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It is agreed that neither LSU nor the State warrants title to the above immovable property.

APPROVED:

**STATE OF LOUISIANA, DIVISION OF
ADMINISTRATION**

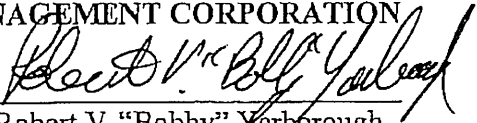
**BOARD OF SUPERVISORS OF LOUISIANA
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AND MECHANICAL COLLEGE**

By: _____
Kristy Nichols, Commissioner

By: _____
Dr. William L. Jenkins, Interim President
Louisiana State University System

**UNIVERSITY MEDICAL CENTER
MANAGEMENT CORPORATION**

**LOUISIANA CHILDREN'S MEDICAL
CENTER**

By: 
Robert V. "Bobby" Yarborough
Chair

By: _____
Steve Worley, President and Chief
Executive Officer

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(Property Description)
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APPROVED:

**STATE OF LOUISIANA, DIVISION OF
ADMINISTRATION**

**BOARD OF SUPERVISORS OF LOUISIANA
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By: _____
Kristy Nichols, Commissioner

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Dr. William L. Jenkins, Interim President
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**UNIVERSITY MEDICAL CENTER
MANAGEMENT CORPORATION**

**LOUISIANA CHILDREN'S MEDICAL
CENTER**

By: _____
Robert V. "Bobby" Yarborough
Chair

By: Steve Worley
Steve Worley, President and Chief
Executive Officer

EXHIBIT "A-1"
Map

