



MEMORANDUM

Agenda Item No. 11(A)(37)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: November 3, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution approving the 2011
Basic Affiliation Agreement
between the Public Health Trust
of Miami-Dade County, Florida
and the University of Miami

The accompanying resolution was prepared and placed on the agenda at the request of Co-Prime Sponsors Chairman Joe A. Martinez and Commissioner Jose "Pepe" Diaz, and Co-Sponsors Commissioner Esteban L. Bovo, Jr., Commissioner Sally A. Heyman, Commissioner Barbara J. Jordan and Senator Javier D. Souto.

R. A. Cuevas, Jr.
County Attorney

RAC/up



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: November 3, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 11(A)(37)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised**
- 6 weeks required between first reading and public hearing**
- 4 weeks notification to municipal officials required prior to public hearing**
- Decreases revenues or increases expenditures without balancing budget**
- Budget required**
- Statement of fiscal impact required**
- Ordinance creating a new board requires detailed County Manager's report for public hearing**
- No committee review**
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous____) to approve**
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

2

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(37)
11-3-11

RESOLUTION NO. _____

RESOLUTION APPROVING THE 2011 BASIC AFFILIATION AGREEMENT BETWEEN THE PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY, FLORIDA AND THE UNIVERSITY OF MIAMI

WHEREAS, the Financial Recovery Board of the Public Health Trust at its September 26, 2011 meeting passed and adopted Resolution No. PHT 09/11-039; and

WHEREAS, the Public Health Trust of Miami-Dade County, Florida and the University of Miami desire to enter into the 2011 Basic Affiliation and to therefore supersede and replace the 2004 Basic Affiliation Agreement; and

WHEREAS, the Public Health Trust is currently governed by the Financial Recovery Board of the Public Health Trust pursuant to Chapter 25A-9 of the Code of Miami-Dade County and Board of County Commissioners Resolution No. 392-11; and

WHEREAS, Section 25A-4(c)(2) of the Code of Miami-Dade County requires the approval of the Board of County Commissioners prior to the Public Health Trust and the University of Miami entering into this 2011 Basic Affiliation Agreement,

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA that this Board hereby approves the 2011 Basic Affiliation agreement between the Public Health Trust of Miami-Dade County, Florida and the University of Miami in accordance with the requirements of Chapter 25A of the Code of Miami-Dade County, Florida.

The Co-Prime Sponsors of the foregoing resolution are Chairman Joe A. Martinez and Commissioner Jose "Pepe" Diaz, and the Co-Sponsors are Commissioner Esteban L. Bovo, Jr., Commissioner Sally A. Heyman, Commissioner Barbara J. Jordan and Senator Javier D. Souto. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of November, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

EG

Karon M. Coleman



Carlos A. Migoya
President & Chief Executive Officer

TO: Hon. Chairman Joe A. Martinez
and Members, Board of County Commissioners

FROM: Carlos A. Migoya
President & Chief Executive Officer

DATE: September 29, 2011

RE: 2011 Basic Affiliation Agreement with University of Miami

At its September 26th meeting, the Financial Recovery Board of the Public Health Trust adopted Resolution No. 9/11-039 (copy attached) approving the 2011 Basic Affiliation Agreement between the Trust and the University of Miami and recommends that the Board of County Commissioners approves the 2011 Basic Affiliation Agreement.

Background Comments:

Dating back to 1952, the Public Health Trust has a vital, powerful and long-standing relationship with the University of Miami (UM). The Basic Affiliation Agreement (BAA) is the foundation upon which our overall partnership is built. It provides that the Trust is responsible for the provision of healthcare to patients at Jackson Health System (JHS) and that UM is exclusively responsible for the education of UM students. The BAA has not been updated since 2004 and needs to be modified to reflect developments such as sovereign immunity legislation, the emergence of a medical college at Florida International University and the expanding competitive nature of Jackson's relationship with UM.

The Trust is responsible for implementing the instructions of the Miami-Dade Board of County Commissioners, operating and improving the quality of medical care at Trust hospitals, remaining accredited by the Joint Commission and other oversight bodies, appointing all chiefs of service, credentialing the Trust medical staff, and enforcing the necessary bylaws, rules and regulations to govern these activities. It stipulates that the residency program is the sole responsibility of the Trust.

The BAA also charges UM to govern the Miller School of Medicine, operate healthcare facilities owned by UM and admit students to UM's programs. Professional fees from services billed on behalf of UM's medical staff are excluded from the BAA.

The agreement also defines the rights and duties of the Trust and UM. For example, the Trust is charged with admitting patients, providing all services to patients, and appointing and assigning responsibilities to the Trust's chiefs and medical staff. UM is charged with providing faculty and admitting physicians, as well as with educational responsibilities.

Historically the BAA acknowledged that either party might need to enter affiliations with other organizations or programs, but shall do so "... only after consultation with and consent of the other, which consent shall not be unreasonably withheld."

Leaders at both UM and Jackson have recommitted to following this timeline of discussion, notice and formal consent.

The BAA can be terminated at any time if both parties agree, but a unilateral withdrawal by either party requires a four-year written notice. The rights and obligations of the Trust would be inherited if the governance of Jackson becomes the responsibility of any other entity.

Proposed Changes to the Basic Affiliation Agreement with the University of Miami

The purpose of the proposed amendments to the 2004 Basic Affiliation Agreement between the Public Trust and the University of Miami is to accomplish the following: add the requirements of the sovereign immunity statute (SB 1676); revise the terminology to reflect the language used in the sovereign immunity statute (SB 1676); and update the relationship between the Public Health Trust and the University of Miami to acknowledge the recent developments such as the expansion of Jackson Memorial Hospital into a health system.

Requirements of the Sovereign Immunity Statute. The newly enacted sovereign immunity statute (SB 1676) creates a waiver of sovereign immunity for a nonprofit independent college or university located and chartered in Florida which owns or operates an accredited medical school and has entered into an affiliation agreement with a teaching hospital (defined as a teaching hospital owned or operated by the state, a county or municipality, a public health trust, a special taxing district, etc) for the provision of patient services as agents of that teaching hospital. The limited waiver of sovereign immunity includes the college or university's employees or agents.

The statute requires that the affiliation agreement include an indemnification clause and an acknowledgement of the applicability of the public records act to those portions of the college or university providing services to the teaching hospital. In addition, the teaching hospital and medical school must provide notice to all patients that the exclusive remedy for injury or damage suffered as a result of any act or omission of the teaching hospital, college or university or any of their employees or agents is through an action under the limited waiver of sovereign immunity statute (s. 768.28, F.S.).

The proposed Basic Affiliation Agreement provides for an indemnification clause (Article VI) and an acknowledgement of the Public Records Act (Article V, Section A(5)).

Terminology. The sovereign immunity statute (SB 1676) uses some very specific terminology. The Basic Affiliation Agreement is proposed to be modified to use these specific terms as well as to update some old language.

1. Patient replaces Hospital Patient. The 2004 Basic Affiliation Agreement used the term "Hospital Patient" to designate the category of patients seen by University of Miami faculty as agents of the Trust. Under the sovereign immunity statute, the University of Miami, its faculty, employees or agents will be agents of the Trust when providing patient services to any patient within the Jackson Health System.

2. Jackson Health System replaces Hospital(s). The term "Hospital(s)" was changed to "Jackson Health System" throughout the Basic Affiliation Agreement to reflect Jackson Memorial Hospital's growth into a health system with multiple hospitals and varying levels of care.

3. Patient Services. The term “Patient Services” is the term used in the sovereign immunity statute to define the types of services to be provided to patients by the University of Miami, its faculty, employees and agents as agents of the Public Health Trust and includes the following services:

- a. Comprehensive health care services, including related administrative services;
- b. Training and supervision of interns, residents, and fellows providing patient services; and
- c. Training and supervision of medical students.

4. Allied health providers. The 2004 Basic Affiliation Agreement reflected provision of care by the medical faculty as agents of the Trust. The proposed Basic Affiliation Agreement recognizes that care is also provided by allied health providers (nutritionists, advance registered nurse practitioners, etc.).

5. Clinical supervision or training of medical students. Clinical supervision and training of medical students is considered one of three Patient Services activities under the sovereign immunity statute. It is proposed to be added as another activity for which University of Miami faculty will be considered agents of the Trust.

Whereas Clauses. The “Whereas” clauses reflect the new terminology and the expanded understanding of when the University and its employees will serve as agents of the Trust. The last “Whereas” clause provides a particularly detailed explanation of the proposed relationship between the University of Miami and the Trust.

Article I, Autonomous Nature of the Trust. The revisions to this section merely reflected the change in terminology such as “Jackson Health System” and other minor revisions.

Article II, Autonomous Nature of the University. Minor revisions.

Article III, Definitions. This Article underwent major revisions, removing the definitions for “Hospital Patient” and “Private Patient” and adding definitions for “Patients,” “Patient Services” and “Employees and Agents.”

Article IV, Affiliation Activities. This Article was substantially rewritten, starting with its title. Article IV of the 2004 Basic Affiliation Agreement was entitled, “Medical Center.” It went on to describe a geographic region, encompassing the Jackson Memorial Hospital and University of Miami Medical School campuses and indicating that the activities of the affiliation agreement would occur within this geographic region. It also included a Medical Center Committee.

The reference to the Medical Center has been removed, reflecting that the relationship between the two institutions has expanded beyond this geographic region to include activities at Jackson South Community Hospital, Jackson North Medical Center and other parts of the Jackson Health System. The Medical Center Committee was also removed due to its lack of activity.

The only section that was retained was the section with regard to Medical Center Activities. It was renamed “Affiliation Activities” and was update to reflect Patient Services, supervision and training of residents and clinical supervision and training of medical students.

Article V, Cooperation. The changes to this section were mostly made to conform the Basic Affiliation Agreement to the requirements and new terminology of the sovereign immunity statute. Article V, Section A(5), in particular, addressed the applicability of the Public Records Act to those portions of the University of Miami providing services under the Basic Affiliation Agreement.

Article VI, Sovereign Immunity. This Article was amended to track the language of the sovereign immunity statute, requiring the University of Miami to indemnify the Trust for any liability incurred which is caused by the negligence of the UM or its employees or agents. Also, UM will continue to provide representation for its employees and agents and bear the cost of the legal expenses and the Trust will do the same for its employees and non-UM agents.

Article VII, Change of Governance, Term of Agreement, Termination, Notice. No significant changes to this Article.

Article VIII, General Provisions. No significant changes to this Article.

RESOLUTION NO. PHT 09/11 – 039

**RESOLUTION APPROVING BASIC AFFILIATION AGREEMENT
BETWEEN THE PUBLIC HEALTH TRUST AND THE UNIVERSITY
OF MIAMI – 2011**

(Carlos A. Migoya, President and Chief Executive Officer, Jackson Health System)

WHEREAS, the Public Health Trust and the University of Miami have cooperated since 1952; and

WHEREAS, the original cooperative relationship began with the operation of Jackson Memorial Hospital as a teaching hospital in order to improve the operation of the Medical School and Jackson Memorial Hospital, to train resident physicians and thereby increase the number of medical professionals in the community, and to improve the quality and standard of medical science and education; and

WHEREAS, the Public Health Trust currently operates not only Jackson Memorial Hospital but the entire Jackson Health System which also includes Jackson South Community Hospital, Jackson North Medical Center, nursing homes and primary care clinics; and

WHEREAS, the Florida Legislature recently passed SB 1676, which grants sovereign immunity to any private medical college or university with an affiliation with a teaching hospital operated by, amongst others, a public health trust; and

WHEREAS, the parties desire to update the Basic Affiliation Agreement to reflect that the cooperative relationship between the Public Health Trust and the University of Miami has also grown to include the entire Jackson Health System; and

WHEREAS, the parties desire to update the Basic Affiliation Agreement to include provisions that would enable the University of Miami, its physicians and other clinical employees to receive sovereign immunity pursuant to SB 1676; and

WHEREAS, the parties desire to supersede the 2004 Basic Affiliation Agreement and enter into this 2011 Basic Affiliation Agreement; and

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WHEREAS, the Public Health Trust is currently governed by the Financial Recovery Board of the Public Health Trust pursuant to Board of County Commissioner Resolution No. 392-11; and

WHEREAS, the Financial Recovery Board is authorized to act on behalf of the Public Health Trust,

NOW THEREFORE BE IT RESOLVED BY THE FINANCIAL RECOVERY BOARD OF THE PUBLIC HEALTH TRUST that this Board hereby approves the 2011 Basic Affiliation Agreement between the Public Health Trust and the University of Miami, a copy of which is attached hereto and incorporated by reference, which shall supersede the 2004 Basic Affiliation Agreement between the Public Health Trust and the University of Miami, and hereby authorizes the President to execute the 2011 Basic Affiliation Agreement.

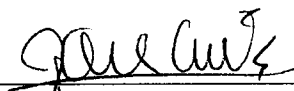
-Page 3-

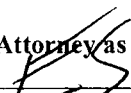
The foregoing resolution was offered by Mr. Nuell and the motion was seconded by Mr. Sharpton as follows:

Joe R. Arriola	Aye
Michael Bileca	Absent
Joaquin del Cueto	Aye
Marcos J. Lapciuc	Aye
Stephen S. Nuell	Aye
Darryl K. Sharpton	Aye

The Chairperson thereupon declared the resolution duly passed and adopted this 26th day of September 2011.

PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY, FLORIDA

BY: 
Joaquin del Cueto, Secretary

Approve by the County Attorney as to form
and legal sufficiency 

**BASIC AFFILIATION AGREEMENT
BETWEEN
PUBLIC HEALTH TRUST
AND
UNIVERSITY OF MIAMI
2011**

THIS AFFILIATION AGREEMENT (“Agreement) is made and entered into this _____ day of _____, 2011, by and between the Public Health Trust of Miami-Dade County, Florida (hereafter referred to as the “Trust”), and the University of Miami (hereafter referred to as the “University”).

WITNESSETH

WHEREAS, the Trust is a public body corporate and politic and an agency and instrumentality of Miami-Dade County, Florida, created and existing under the Laws of the State of Florida, which governs, operates, and maintains Jackson Health System, including Jackson Memorial Hospital (JMH), Jackson South Community Hospital (JSCH), Jackson North Medical Center (JNMC), other designated facilities identified in Section 25A-2(a) of the Miami-Dade County Code as well as other health care facilities (hereafter collectively referred to as “Jackson Health System”); and

WHEREAS, Jackson Health System provides essential healthcare services to the people of Miami-Dade County, as well as to non-residents of the County, through its Medical Staff and other agents and employees; and

WHEREAS, the University of Miami is a nonprofit independent university located and chartered in Florida which owns and operates an accredited medical school (hereafter referred to as the “Medical School”); and

WHEREAS, the Medical School, accredited by the American Medical Association and the Association of American Medical Colleges through the Liaison Committee on Medical Education (LCME), teaches and prepares students to become physicians to engage in the practice of medicine, and permits the members of its faculty

(“faculty”) to individually apply to the Trust for appointment as members of the Medical Staff and for clinical privileges with Jackson Health System; and further permits its employees or agents, which include faculty and other licensed health care providers (“allied health providers”), to provide Patient Services as agents of the Trust under the sole and exclusive control of the Trust; and

WHEREAS, the Trust and the Medical School have cooperated since 1952 in the operation of Jackson Health System as a teaching hospital in order to improve the operation of the Medical School and Jackson Health System, to train and thereby increase the number of medical professionals in the community, and to improve the quality and standard of medical science and education; and

WHEREAS, the parties desire to supersede the 2004 Basic Affiliation Agreement in order to define clearly the obligations of each party and to set forth the intent of the parties that: (i) the Trust is solely and exclusively responsible for providing Patient Services to patients; (ii) the Trust may provide Patient Services to patients through both employees and agents (who may also be University faculty members or University allied health providers); (iii) the University and any faculty member, allied health provider, or other employee or agent of the University while acting pursuant to this Agreement does so as an agent of the Trust under the sole direction of and under the full control of the Trust; (iv) the University through its Medical School is responsible for providing medical education to University students; (v) when employees or agents of the University provide clinical supervision or training to any medical students, including the medical students of other educational institutions, they are acting as agents of the Trust; and (vi) when the University provides or permits its employees or agents to provide Patient Services, including administering and supervising clinical supervision and residency training of interns, residents, and fellows, it does so as an agent of the Trust;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the sufficiency of said consideration being hereby acknowledged, the parties agree as follows:

I. AUTONOMOUS NATURE OF THE TRUST

The Trust, as provided by its enabling legislation, is the sole operator and manager of Jackson Health System. In that capacity, the Trust shall exclusively exercise all powers of governance, operation, management and control, including but not limited to:

- (1) Implementing all obligations, policies, privileges and rights established by the Trust and through ordinances or resolutions of the Miami-Dade Board of County Commissioners (hereafter referred to as the "County Commission") or other applicable laws.
- (2) Increasing operational efficiencies of Jackson Health System.
- (3) Improving the availability and quality of healthcare services in Jackson Health System; providing a single standard of medical care; and meeting the licensure and accreditation standards of the Joint Commission, Resident Review Committees, Centers for Medicare and Medicaid Services, and the Florida Agency for Health Care Administration.
- (4) Determining the financial status of patients in accordance with its policies,
- (5) Establishing rates and charges, including fees for professional services for certain identified financial classes of patients but excluding professional fees charged by the University; rates, charges and fees determined by governmental agencies; or rates, charges and fees determined by contract; and to bill and collect all monies due pursuant to such rates and charges.
- (6) Appointing Chiefs of Service and physicians for Jackson Health System and determining the extent of their clinical privileges to practice as members of the Trust's Medical Staff and other assignments subject to its Medical Staff Bylaws, Rules and Regulations and policies and procedures, as they may be amended by the Trust from time to time.
- (7) Establishing and maintaining accredited residency programs for training and supervision of interns, resident physicians, and fellows ('Residents or

Resident Physicians”) in cooperation with the University and its employees or agents.

- (8) Determining and monitoring any and all activities and the manner of their performance and operation which shall take place in the Jackson Health System, including determining who shall provide Patient Services to patients and who shall supervise and train Residents of the Trust.
- (9) Prescribing and enforcing all policies, Bylaws, Rules and Regulations necessary to govern such activities.

II. AUTONOMOUS NATURE OF THE UNIVERSITY OF MIAMI MEDICAL SCHOOL

The Medical School is governed by the Board of Trustees of the University (the “University Board”). The University Board exercises all powers of governance of the Medical School, including but not limited to the following:

- (1) Setting policy.
- (2) Establishing and approving the budget.
- (3) Appointing the Dean and faculty of the Medical School.
- (4) Creating, managing and dissolving departments and/or divisions.
- (5) Complying with the requirements necessary to maintain accreditation by the American Medical Association’s and the Association of American Medical Colleges’ Liaison Committee on Medical Education (LCME).
- (6) Appointing duly constituted officers of the University to act on behalf of the Medical School to implement the policies of the University Board and to comply with the University Board’s contractual obligations.
- (7) Providing for the operation of healthcare facilities that the University owns and operates.
- (8) Obtaining funds from public and private sources to support programs and services.
- (9) Admitting students, conferring academic degrees, and conducting medical and scientific research.

III. DEFINITIONS

For purposes of this Agreement, the following definitions shall apply:

- (1) “employees or agents” of the University shall have the same meaning as set out in F.S. 768.28 10(f)(1).
- (2) “patients” are all persons receiving Patient Services within the Jackson Health System regardless of whether they are identified as inpatients, outpatients, long term care resident-patients, emergency or trauma patients, or otherwise.
- (3) “Patient Services” shall have the same meaning as set out in F.S. 768.28(10)(f), as may be amended from time to time, and includes: comprehensive health care services, including any related administrative service, provided to patients within the Jackson Health System; training and supervision of interns, residents, and fellows providing Patient Services within the Jackson Health System; and training and supervision of medical students within the Jackson Health System.
- (4) “Trust Guidelines” shall mean all Public Health Trust/Jackson Health System policies and procedures including but not limited to Public Health Trust Bylaws, Jackson Health System policies and procedures, medical staff bylaws, medical staff rules and regulations, medical staff policies and procedures, clinical guidelines, residency and graduate medical education policies and procedures and all other policies, procedures, rules, regulations and guidelines regarding Patient Services.

IV. AFFILIATION ACTIVITIES

Trust Medical Staff, including agents, servants, and employees of the Trust, shall be responsible for delivering Patient Services to all patients. The Medical School shall permit its faculty members and other University employees or agents to provide Patient Services as agents of the Trust pursuant to this Agreement and pursuant to Trust

Guidelines under the Trust's direction and control as necessary to fulfill the Trust's mission and responsibilities. All employees or agents of the University are acting as agents of the Trust when providing Patient Services within the Jackson Health System or at other locations pursuant to written agreements with the University or written agreements with third parties.

The Trust operates accredited Residency training programs within Jackson Health System. The Trust shall be solely responsible for supervising, training and preparing Residents to engage in the practice of medicine.

Trust Medical Staff who are Faculty members of the Medical School will comply with all Trust Guidelines when providing Patient Services within the Jackson Health System.

V. COOPERATION

A. AGREEMENT TO COOPERATE

The parties agree to cooperate as follows:

(1) Each party will utilize professional services and resources of the other party whenever necessary and feasible, provided that the provision of Patient Services, supervision and training of Resident Physicians, and the clinical supervision and training of medical students shall be solely the responsibility of the Trust in coordination with the University and its employees or agents while acting as agents of the Trust pursuant to this agreement.

(2) The parties shall make a good faith effort to resolve all disputes between them through discussion and cooperation.

(3) Either party, acting through a designated representative may make recommendations, if any, to the Trust's Annual Operating Agreement Negotiating Committee as established in Chapter 25A of the Miami-Dade County Code as amended.

(4) The Trust shall be responsible for delivering all Patient Services to patients of the Jackson Health System. The Public Health Trust classifies each patient according to funding status in accordance with its policies and procedures. The Trust and

the University shall identify those patients for whom the University may charge a professional fee, and those patients for whom no professional fee shall be charged. The parties may establish additional protocols, as needed, for identifying patients for whom the University may charge a professional fee.

(5) The parties, by this Agreement and any provisions herein, do not intend to create any partnership, joint venture, or other legal relationship in the operation of the facilities within the Jackson Health System or University, except to the extent that the University and its employees or agents are deemed to be agents of the Trust pursuant to this agreement and Trust Guidelines in accordance with F.S. Section 768.28. Those limited portions of the University which are directly providing services pursuant to this Agreement and which are considered an agent of the Trust for purposes of F.S. 768.28 10 (f) are deemed to be acting on behalf of a public agency as defined in F.S. 119.011(2).

B. OTHER AFFILIATIONS

Both parties agree to enter into this Agreement notwithstanding any existing affiliations of either party with other institutions, organizations or programs. The parties understand that unforeseen future needs may make affiliations with other institutions, organizations or programs desirable. The parties agree that such additional affiliations by either party shall be entered into only after consultation with and consent of the other, which consent shall not be unreasonably withheld.

C. TEACHING FACILITIES AND STAFF

The Trust shall allow the University to utilize Jackson Health System to teach University students. In so doing, the University shall comply with Trust Guidelines. The parties agree that Residents in any of the Trust's accredited residency training programs are not students of the University or its Medical School. Residency training and supervision, as well as medical student clinical training and supervision which occur within the Jackson Health System are the functions and responsibilities of the Trust in cooperation with the University and its employees or agents. University employees or

agents who engage in any Residency or medical student training or supervision engage in such activity as an agent of the Trust.

The University and its employees or agents shall establish and maintain a level of medical education and teaching that supports and is consistent with the quality of Patient Services delivered to patients within the Jackson Health System. The Trust shall assure that its operation and support of the educational program meets LCME standards.

D. RIGHTS AND DUTIES OF THE TRUST

In addition to all other rights and duties set forth herein, the Trust:

(1) Shall have final authority and responsibility for admitting patients within the Jackson Health System in compliance with existing laws. The Trust shall have sole authority and responsibility to allocate resources within the Jackson Health System, including allocating beds to clinical services.

(2) Shall through its Chief Medical Officer have final and absolute authority over all care and treatment provided to patients, and can refuse to allow a course of treatment for any patient for medical, policy or budgetary reasons.

(3) Shall have absolute authority and responsibility in the provision of all Patient Services and for billing and collecting for medical care rendered to those persons, except as set forth in V. E. (5), below.

(4) Shall have responsibility for and authority to supervise, train, and assign Resident Physicians to provide care to patients under the direction and control of the attending Medical Staff and Chiefs of Service. The Trust shall compensate and provide benefits to its Resident Physicians consistent with the Collective Bargaining Agreement in effect at any given time.

(5) Shall reimburse the University for an agreed upon portion of the costs and expenses to the University of providing or permitting services, if any, to be rendered to the Trust in relevant functional areas as may be agreed upon in writing.

(6) Shall have final authority and responsibility to provide educational and training programs to its agents, servants and employees. Such educational programs, however, shall not conflict with those provided by the Medical School.

(7) Shall provide the resources and facilities needed for the adequate care of patients, and shall provide reasonable space and facilities to Chiefs of Service and other members of the Medical Staff of the Hospitals, as needed for their teaching and/or administrative duties and responsibilities as medical supervisors for the Trust; provided, however, that the Medical School shall pay the reasonable costs of space and facilities for offices, classrooms, and laboratories used to teach medical students, conduct research, and for services, facilities or clinics used to provide medical services to patients for whom the University may charge a professional fee, , but not for any facilities used by or for Resident Physicians. Reasonable costs as used in this paragraph means applying a reasonable rate of depreciation plus the cost to maintain and service the particular area.

(8) Shall have a Chief Executive Officer authorized to act for the Trust in matters relating to the administration and performance of this Agreement.

E. RIGHTS AND DUTIES OF UNIVERSITY OF MIAMI

In addition to all other rights and duties set forth herein, the University, through its Medical School:

(1) Shall permit its faculty to apply to the Trust for appointments as physicians of the Medical Staff and for privileges within the Jackson Health System, and shall permit its employees or agents to provide Patient Services to patients as agents of the Trust under Trust Guidelines. Such Trust agents, who may also be University employees or agents, shall act solely for the Trust and not for the University or the Medical School while providing Patient Services to patients.

(2) Shall be responsible for and shall pay all the costs of operation of the Medical School including but not limited to the costs of research and educational programs of the Medical School and expenses incidental to its professional fee income.

(3) Shall have final authority and responsibility to educate students and conduct medical research in accordance with Institutional Review Board requirements in the Hospitals, subject to policies, Bylaws, Rules and Regulations of the Trust.

(4) Shall participate on Trust committees to annually evaluate programs relating to medical care and residency training.

(5) Shall bill and collect all professional fees related to the Patient Services that its faculty, its allied health providers and its other employees or agents provide to patients as agreed upon with the Trust.

F. MEDICAL STAFF

The Trust shall retain and exercise full and exclusive authority to credential, appoint, reappoint, revoke, modify, suspend, and terminate clinical privileges and membership on the PHT Medical Staff, all pursuant to its Bylaws, Rules, Regulations, policies and applicable laws. Faculty members who are also PHT medical staff members shall agree to abide by the Trust Guidelines.

The University shall retain and exercise full and exclusive authority to appoint, revoke, amend and suspend faculty of the Medical School and University department chairpersons. All such authority shall be exercised in accordance with established University procedures. The Trust may recommend appointments of clinical faculty positions and of clinical department chairs, which the University may consider before acting.

G. CHIEFS OF SERVICES

The Chiefs of Clinical Service of the Trust Medical Staff shall be appointed in the manner prescribed by the Trust and as set forth in its Medical Staff Bylaws, Rules and Regulations. The President of the Medical Staff and the Dean of the Medical School shall recommend Chiefs of Service to the Chief Executive Officer of the Trust who shall consider all recommendations and appoint the Chiefs. The parties believe cooperation between them will be more effective if the respective University clinical department chairperson serves as the Chief of the corresponding service on the Trust Medical Staff; nevertheless, the President of the Trust shall have final and exclusive authority to appoint all Chiefs of Service. The parties agree that each Chief of Service shall serve in that capacity solely within the Jackson Health System and shall not serve in a similar capacity in any other hospital, except the Veterans Administration Hospital, the Bascom Palmer

Eye Institute and Anne Bates Leach Eye Hospital, University of Miami Hospitals and Clinics, Sylvester Cancer Center as well as any other hospital the University may acquire regardless of location.

Each Chief of Service shall have the authority to direct all professional and administrative activities within his or her service. Each Chief of Service shall be accountable to the Trust, through its Chief Medical Officer and the President of the Medical Staff, for those responsibilities and duties established under this agreement and through the Trust Guidelines with respect to the Medical Staff and the operation of the Residency Training programs.

H. PHYSICIANS IN RESIDENCY TRAINING PROGRAMS

Physicians in residency training programs, including Residents of the Trust , shall be appointed in such quantities and disciplines as approved by the Trust in consideration of the guidelines set by the American Council on Graduate Medical Education. The Chief Executive Officer of the Trust shall make such appointments after considering recommendations of the respective Chiefs of Service. Any participation of the University or its employees or agents in any aspect of the Residency Training Program is solely in the capacity as agents of the Trust.

I. ANNUAL OPERATING AGREEMENT

The parties agree to annually enter into an operating agreement, through the Trust's Annual Operating Agreement Negotiating Committee, as established in Chapter 25A, Miami-Dade County Code, as amended. The annual operating agreement, which shall set forth financial and administrative provisions to carry out this Agreement from year to year, is an accounting and organizational instrument only. All operations with respect to patient care, resident supervision and training, and medical student clinical supervision and training are under the control of the Trust. All operations with respect to the content of the education of medical students of the Medical School are the

responsibility of the University. Either may give advice to the other through the Dean of the Medical School or Chief Executive Officer of the Trust.

The Annual Operating Agreement shall include but not be limited to the following:

(1) The names of all Chiefs of Service and the position categories of all other University employees or agents who are delivering Patient Services as agents of the Trust.

(2) The services to be provided in accordance with this Agreement and the compensation the Trust shall pay for such services.

(3) Designation of all Trust resources that the Medical School utilizes and the compensation that the Trust shall pay to the University for such resources.

(4) Designation of Medical School resources that the Trust may utilize and the compensation the Trust shall pay to the University for those resources.

(5) The procedures for determining, in accordance with Section VI of this Agreement, each party's responsibility for its respective activities resulting in liability or potential liability.

VI. SOVEREIGN IMMUNITY

The parties intend that faculty members and other University employees or agents who provide Patient Services are agents of the Trust within the meaning of Florida Statutes, Section 768.28, while acting within the scope of and pursuant to this Agreement and Trust Guidelines. It is the further intent of the parties to that all actions that the University takes or permits its agents and employees to take pursuant to this agreement are in the capacity as agents of the Trust in accordance with F.S. Sections 768.28 (9) (a) and 768.28 (10) (f).

To the extent allowed by law pursuant to s. 768.28 (10) (f), Florida Statutes, the University shall indemnify the Trust and Miami-Dade County and their respective Trustees, Board Members, Commissioners, officers, employees, agents, agencies and instrumentalities as provided in Chapter 768, Florida Statutes for any liability incurred, which was caused by the negligence of the University or its employees or agents.

In this regard, the Trust shall be responsible for providing legal representation with respect to any injury caused or alleged to have been caused by the Trust or its employees or non-University agents and shall be responsible for all legal costs arising out of such representation. The University shall be responsible for providing legal representation with respect to any injury caused or alleged to have been caused by the University or its employees or agents and shall be responsible for all legal costs arising out of such representation. If one counsel is retained to represent both the Trust and University and /or their respective employees and/or agents, each party shall be responsible for its own proportional cost of defense.

**VII. CHANGE OF GOVERNANCE, TERM OF AGREEMENT,
TERMINATION, NOTICE**

If the governance of the Trust or Jackson Health System becomes the responsibility of the County Commission or any other entity designated by the Commission or established by applicable law, such entity shall succeed to all rights and obligations of the Trust pursuant to this Agreement.

The term of this Agreement shall continue in full force and effect unless terminated by either party in accordance with the provisions set forth below. This Agreement may be terminated by either party for any reason on not less than four year's written notice from one party to the other. On the basis of such notice, this Agreement may be terminated at no expense to either party, except that any obligations outstanding at the effective date of termination shall remain the responsibility of the obligated party. Both parties shall continue to fully perform under this Agreement during the period between the date a notice of termination is given and the effective date of that notice, except as the parties may otherwise mutually agree. This Agreement may be terminated at any time by mutual consent.

In the event the Medical School ceases to operate, or this Agreement is terminated, facilities and property owned by Miami-Dade County and operated by the Trust shall revert to the Trust. To avoid any interruption or curtailment of medical

services, all materials and equipment of such facilities and property owned by the University shall remain intact at the termination of the contract for a period of one hundred and twenty (120) days, at the end of which period the Trust shall have the right to purchase them at a fair market value for cash or in such other manner as the parties may mutually agree. Notwithstanding the above, in the event the Medical School ceases to operate or this Agreement is terminated, all facilities and property heretofore owned and/or operated by the University shall revert to the University of Miami.

All notices which may be given by one party to the other pursuant to this Agreement shall be in writing, directed, addressed and sent by Certified United States mail, return receipt requested, as follows: (1) to the President of the University, 230 Ashe Building, Coral Gables, Florida, and (2) to the President, Public Health Trust, 1611 N.W. 12th Avenue, Miami, Florida.

VIII. GENERAL PROVISIONS

The effective date of this Agreement is _____, 2011. The parties agree that as of the effective date of this Agreement, the previous agreement effective May 24, 2004, including all amendments thereto between the Trust and the University, is terminated. This Agreement including the recitals on the first and second page of the agreement and any other documents incorporated by reference contain all the terms and conditions that the parties have agreed upon.

Nothing contained in this Agreement is intended to or shall be construed to constitute a delegation of any of the authority or responsibility of the Trust or the University.

The various titles and headings in paragraphs of this Agreement are solely for the convenience of the parties and are not an aid in the interpretation of the instrument.

If any section, subsection, paragraph, sentence, clause, provision or other part of this Agreement is held invalid, the remainder of this Agreement shall not be affected by such invalidity, nor shall an invalid application of this Agreement to any circumstances affect the application of this Agreement to other circumstances.

The failure of the Trust or the University in any one or more instances to insist upon the strict performance of any of the covenants of this Agreement shall not be construed as a waiver or relinquishment of any covenant, condition, agreement or election, but the same shall continue and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the day and year first above written.

ATTEST:

Secretary, University of Miami

By: _____
President, University of Miami

ATTEST:

FOR THE PUBLIC HEALTH
TRUST OF MIAMI-DADE
COUNTY, FLORIDA

Joaquin del Cueto
Secretary, Financial Recovery Board of the
Public Health Trust

Carlos A. Migoya
President/Chief Executive Office
Public Health Trust

Approved for legal sufficiency and form by
Miami-Dade County Attorney's Office

Assistant County Attorney