

**MASTER GRADUATE MEDICAL EDUCATION  
AFFILIATION AGREEMENT**

**PROMEDICA HEALTH SYSTEM, INC.  
and  
THE UNIVERSITY OF TOLEDO**

This **Master Graduate Medical Education Affiliation Agreement** (this “**Agreement**”), effective July 1, 2016, is entered into by and between **The University of Toledo** (“**UT**”), an instrumentality of the state of Ohio created under Chapter 3364 of the Revised Code, **ProMedica Health System** (“**ProMedica**”), an Ohio not-for-profit corporation. UT and ProMedica are each a “**Party**” and collectively are the “**Parties.**”

**WHEREAS**, the education and training of healthcare professionals and the support of academic medicine are important components of the mission of the Parties;

**WHEREAS**, UT sponsors accredited graduate medical education programs (“**Program(s)**”) through the UT College of Medicine and Life Sciences (the “**COM&LS**”) and wishes to ensure that the Residents enrolled in its graduate medical education programs are properly trained with supervised access to direct patient care;

**WHEREAS**, the Parties desire to continue furnishing clinical educational experiences at designated ProMedica hospitals and associated provider-based and freestanding locations of affiliated ProMedica physicians (the “**Facility(ies)**”) for Residents enrolled in UT’s Programs and to set forth in writing their agreement regarding those Programs;

**WHEREAS**, ProMedica and UT previously entered into Master Graduate Medical Education Affiliation Agreement effective July 1, 2010, and the Parties wish to amend, replace and supersede that agreement with this Agreement, as well as all outstanding Program Letters of Agreement (each, a “**PLA**”); and

**WHEREAS**, ProMedica and UT entered into an Academic Affiliation Agreement for the UT College of Medicine and Life Sciences (the “**AAA**”) effective August 26, 2015, which, among other things, requires UT to significantly increase the amount of training occurring at the Facilities for each of the Programs and establishes an Academic Affiliation Operating Group (“**AAOG**”) to oversee matters relating to the operation of the AAA.

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual agreements set forth herein, the Parties agree as follows:

**1. CLINICAL EDUCATION PROGRAMS**

**A. Integration of Programs and Educational Experiences.** UT, in conjunction with ProMedica and the AAOG, will design, implement, and administer the clinical educational component of UT’s sponsored graduate medical education experiences that take place in the Facilities (“**Educational Experience(s)**”) with UT residents assigned to the Programs (“**Resident(s)**”). The AAOG will ensure that the Educational Experiences meet ACGME requirements and satisfy the requirements of all applicable laws, regulations, licensing or supervisory agencies, and accrediting bodies.

**B. Role of UT as Sponsoring Institution of Programs.** As the sponsoring institution of the Programs, UT will have final responsibility for the Educational Experiences, including the clinical educational components. The Dean of the COM&LS will be the overall administrator of the Programs and the Educational Experiences.

**C. Program Directors.** Each Program is administered by a Program Director, who is a UT faculty member responsible for Program compliance with ACGME standards, and who has the duties and responsibilities outlined in the applicable ACGME Program Requirements for Graduate Medical Education.

**D. Role of Program Faculty.** Physicians responsible for the supervision of Residents for the Programs and the Educational Experiences (the “**Program Faculty**”) may or may not be employed by ProMedica. The Program Faculty, for the Educational Experiences at the Facilities, will provide clinical education, training and experience, and supervised access to direct patient care. The Program Faculty, in coordination with the Local Director and the Program Director, shall ensure that Resident maximum duty hours are not exceeded. Program Faculty must each be a member of the medical staff and hold the appropriate privileges for the Facility.

**E. GME Lead.** ProMedica shall appoint a GME Lead who shall have general oversight of all graduate medical education training at the Facilities, which oversight shall be subject to the overall oversight of each Program’s respective Program Director and the UT Designated Institutional Official. ProMedica shall notify UT in writing of the appointment of the GME Lead and any changes to such appointment. The GME Lead, or his or her designee, shall participate in the Graduate Medical Education Committee.

**F. Local Director.** A Local Director shall be the assigned physician who holds overall clinical, operational, administrative, and supervisory responsibility for Resident training at a Facility, which responsibility shall be subject to the overall oversight of each Program’s respective Program Director and the UT Designated Institutional Official. Each Local Director will be recommended by the GME Lead or his or her designee to the Program Director. The Program Director shall approve of any Local Director selected by the GME Lead or his or her designee, unless the Program Director chooses to reject the recommendation in his or her reasonable discretion. In the event of such rejection, the GME Lead or his or her designee shall recommend a different Local Director. All Local Directors shall be appointed to the respective Clinical Competency Committees and Program Evaluation Committees pertaining to the Programs under each such Local Director’s oversight.

**G. Provision of Patient Care by Residents.** Residents will be permitted to provide direct medical care and related services to patients within the Educational Experience at the Facility under the supervision of the Program Faculty, to the extent such provision is consistent with this Agreement, the applicable PLA, their training, experience and credentialing, and all laws, regulations, and accreditation requirements.

## **2. PROGRAM LETTERS OF AGREEMENT (“PLA”)**

Each individual Program that entails training at a ProMedica Hospital shall be governed by a separate Program Letter of Agreement, sometimes referred to as a Hospital Participation Agreement (collectively referred to as the “PLA”). Each PLA must be signed by the GME Lead

or his or her designee, the Local Director for ProMedica, and the Program Director for UT before the PLA shall be binding on the Parties. To the extent a PLA has terms that are inconsistent with this Agreement or the Academic Affiliation Agreement, the terms of the Academic Affiliation Agreement and (to the extent not inconsistent with the Academic Affiliation Agreement) this Agreement shall govern.

### **3. PLACEMENT, SELECTION, AND EMPLOYMENT OF RESIDENTS**

**A. Appointment of Residents.** Soon after the time of execution of this Agreement, and no later than June 1<sup>st</sup> of each subsequent year of this Agreement, and subject to the oversight of the AAOG, each respective Program's Program Director and Local Director shall conduct an annual planning meeting to discuss and reach mutual agreement on the assignment of Residents in the Programs to specified rotations within the Facilities, as well as the duration of such assignments. The Program Director shall report his or her recommendations to the UT Designated Institutional Official, and the Local Director shall report his or her recommendations to the GME Lead or his or her designee. The GME Lead or his or her designee and the UT Designated Institutional Official shall jointly review, and, if appropriate, revise the recommendations, prior to approving a final plan. Based upon this discussion and agreement, UT shall prepare and submit to ProMedica a master schedule which lists each Resident, the Resident's targeted Program assignment, and the anticipated start and end date of the assignment. UT shall not assign Residents to any Facility until the Parties have agreed on the assignments and the duration of such assignments. Any modifications to the master schedule during an academic year shall require the review and approval of both the Program Director and Local Director, who shall make recommendations to the UT Designated Institutional Official and GME Lead, respectively. The GME Lead and the UT Designated Institutional Official shall jointly review, and, if appropriate, revise the recommendations, prior to approving the modifications. UT will ensure that Residents participating in the Educational Experiences at Facilities be duly licensed or have a valid training certificate issued by the Ohio State Medical Board to practice medicine under the supervision of the Program Faculty at the Facility and meet all requirements of the applicable Program and PLA, including the health requirements of the Facility. The GME Lead shall have the right to determine what documentation UT shall furnish pertaining to each Resident prior to the commencement of the Residents' training onsite at a Facility in an academic year.

**B. Right to Remove and Deny Access to Residents.** Any member of the Program Faculty or the Local Director has the right to request the removal of any Resident from the Educational Experience at the Facility and to deny access of any Resident to any Facility service(s) or clinical or patient care activities for cause; in each case accompanied by written notification to UT setting forth in detail the basis for the removal or denial of access. Any member of the Program Faculty, the Local Director, or the GME Lead or his or her designee can also on a temporary basis deny a Resident access to any Facility or clinical or patient care activities if such Program Faculty or Local Director deems, in accordance with ProMedica policies, the Resident unfit for duty or otherwise a danger to patients or staff. ProMedica shall notify the Program Director immediately following such temporary removal of a Resident. Upon receiving such notification, the Clinical Competency Committee will conduct a review and make such determination as it deems appropriate. If the Resident contests the findings of the Clinical Competency Committee and requests a due process hearing, such hearing shall include at least one ProMedica member, as chosen by GME Lead or his or her designee. ProMedica will take

into consideration the findings and conclusions of the Clinical Competency Committee and, if applicable, the due process hearing, in determining whether to permit a Resident to return to the Educational Experience at the Facility. If ProMedica disagrees with such findings and conclusions, the Parties shall present the matter to the AAOG.

**C. Employment of Residents.** UT will enter into a formal employment contract with each Resident in accordance with ACGME requirements and will provide compensation and fringe benefits to the Resident. UT warrants that all Residents are employed in full compliance with laws and regulations relating to United States citizenship and immigration. UT understands and agrees, and shall cause the Residents to understand and agree, that the Residents will not be deemed or considered to be employees of ProMedica, the Facility, or their corporate affiliates for any purposes as a result of their participation in the Educational Experiences at the Facility, and they will remain at all times employees of UT. Residents will have no claim under or as a result of this Agreement against ProMedica or any Facility for vacation pay, sick leave, retirement benefits, social security, workers' compensation, disability, health insurance benefits, unemployment insurance benefits, professional liability coverage, or employee benefits of any kind. Residents will not be treated as employees of ProMedica or any Facility for tax purposes and neither ProMedica nor any Facility will withhold on behalf of Residents or other UT employees any sums for income tax, unemployment insurance, or social security, or pursuant to any law or requirements of any governmental body. Any such payments, withholdings, and benefits will be the sole responsibility of UT, and ProMedica and any Facility will not be responsible for any loss or liability arising from UT's failure to make or provide any such payment, withholding, or benefit. UT shall indemnify ProMedica for any assessments any governmental authority may impose upon it relating to any such payments.

#### **4. RESIDENT SUPERVISION AND EVALUATIONS**

**A. Orientation to the Program and Educational Experiences.** UT will provide all Residents with a general orientation to the Programs. Orientation to the Educational Experiences at the Facility will be the responsibility of the applicable Facility.

**B. Compliance with Policies and Procedures.** The Facility may ask Residents to agree in writing to comply with all applicable policies and procedures of the Facility or ProMedica, including the bylaws, rules and regulations, and related manuals of the medical staffs of the Facility, quality management activities, compliance requirements, and policies governing documentation and medical records. The Facilities will ask Residents to participate in training related to Facility policies and procedures and will wear identification or insignia as designated by the Facility. Notwithstanding the foregoing, Residents will not be covered by the employment or employee benefit policies of ProMedica or any Facility, and Residents will not be members of the medical staff of any Facility.

**C. Evaluation of Residents.** The Local Director agrees to coordinate with the Program Director and the Program Faculty in evaluating the quality of the Educational Experiences and the clinical performance of the Residents at the Facility in the Programs in accordance with ACGME requirements and the applicable PLA.

**D. Disciplinary Proceedings.** Disciplinary proceedings involving Residents will be conducted by UT in accordance with ACGME requirements and with UT's policies, procedures, and due process, which will provide an opportunity for input from ProMedica and

representatives of the Facility with knowledge of relevant facts. Nothing in this Agreement or in any process conducted pursuant to this Agreement will prevent ProMedica or the Facility from reporting, pursuing, or participating in the prosecution of any alleged violation of law by a Resident.

**E. Accidental Exposure.** In the event that a Resident is accidentally exposed to an environmental hazard or infectious disease at a Facility, Resident will immediately report the exposure to the Facility, which such emergency care as is provided to its employees, including, where applicable: examination and evaluation by ProMedica's emergency department or other appropriate facility as soon as possible after the injury; emergency medical care immediately following the injury as necessary; initiation of the HBV, Hepatitis C (HCV), and/or HIV protocol as necessary; and HIV counseling and appropriate testing as necessary. Follow-up treatment will be at the discretion of the Resident's regular healthcare provider under Resident's applicable benefit policy.

## **5. TEACHING AND SUPERVISING PHYSICIANS AS PROGRAM FACULTY**

**A. Program Faculty.** Facilities participating in the Educational Experiences will be expected to encourage Program Faculty to involve their patients in the Educational Experience(s). Program Faculty supervising Residents at the Facilities under the Educational Experiences will maintain in good standing a license to practice medicine, hold appropriate medical staff privileges at the Facility, and hold clinical privileges in the particular specialty required for the particular Educational Experience.

**B. University Faculty Appointments.** At the direction of the AAOG, UT shall grant clinical faculty appointments to Program Faculty.

**C. Evaluation of Program Faculty.** The Local Director will assist the Program Director in evaluating the performance of the Program Faculty in the Educational Experiences at the Facility in accordance with ACGME and other accreditation requirements.

**D. Resident Evaluation of Program Faculty.** ProMedica and UT will provide Residents with opportunities, not less than annually, to evaluate the performance of the Program Faculty in the Programs at the Facility.

## **6. PRIOR AGREEMENTS**

The Agreement replaces and supersedes any and all prior agreements setting forth the rights and obligations of the Parties with respect to the subject matter hereof, including, but not limited to the Master Graduate Medical Education Affiliation Agreement, effective July 1, 2010, by and among ProMedica, UT, and Academic Health Center Corporation (formerly known as the ProMedica Health, Education, and Research Corporation, "AHC") and the Hospital Participation Agreement for Residency Education in Obstetrics and Gynecology, effective July 1, 2009, by and among The Toledo Hospital, UT, and AHC.

## **7. RECORDS**

**A. Employment and Program Records.** UT shall retain sole responsibility for all employment and Program records relating to Residents, including all reports completed by

Residents or others relating to the Programs, in compliance with all applicable laws, ACGME, and other applicable accreditation requirements.

**B. Medical Records.** The Facilities will own and have custody and control of all medical records (whether tangible or electronic) relating to the diagnosis, care, and treatment of patients. Faculty of UT and Residents will not remove or copy such records except as permitted by Facility policy or as required by law.

**C. Access to Books and Records.** In the event that it is determined that Section 952 of the Omnibus Reconciliation Act of 1980 (P.L. 964-99), and regulations adopted pursuant thereto, apply to this Agreement, each Party agrees, for a period of four (4) years after performance of this Agreement, to make available to the Secretary of Health and Human Services or the Comptroller General of the United States, or any of their duly authorized representatives, upon written request for this Agreement and such Party's books, documents, and records necessary to certify the nature and extent of the costs thereof. If any portion of this Agreement is to be performed through a subcontract or a related organization at a cost in excess of Ten Thousand Dollars (\$10,000) over a twelve (12) month period, such subcontract will contain this requirement.

## **8. FACILITIES AND EQUIPMENT**

ProMedica will assure that the Facilities make available the physical space, facilities and such other office equipment, furniture, fixtures, medical equipment and expendable supplies as the Parties hereto deem reasonably necessary for the clinical training components of the Educational Experiences at the Facilities. The Facilities will keep and maintain all such space, facilities, equipment, and fixtures in good order and repair and provide utilities, housekeeping and other services as may be required. Use of the Facilities for the Educational Experiences will be subject to the general availability of such facilities, and UT will schedule the use of the facilities in advance whenever reasonably practicable. The Facilities will provide Residents with the use of adequate on call rooms or other accommodations during evenings when they are required to remain in the Facilities on call. The Facilities will provide Residents with dinner in the Facility cafeteria when a resident is required to remain in the Facilities after completing a full day-time shift. The Facilities will make available to the Residents its dressing or locker rooms, conference rooms, and medical library without cost, as required by ACGME guidelines. Decisions regarding the adequacy of the Facilities shall be made initially by the Local Director and Program Director, who shall report their findings to the GME Lead and the UT Designated Institutional Official, respectively. Upon their consideration of the issue, the GME Lead and the UT Designated Institutional Official shall report their findings to the Chief Integration Officer at ProMedica and the UT Senior Associate Dean for Clinical Affiliation, respectively. The Chief Integration Officer and the Senior Associate Dean for Clinical Affiliation shall jointly submit their findings and recommendations to the AAOG or an individual or subcommittee designated by the AAOG.

## **9. LIABILITY AND INSURANCE**

**A. Insurance Policies.** Each Party agrees to provide maintain in force, at that Party's sole expense, professional liability insurance in a commercial or self-insured fund covering acts and omissions of the facilities, physicians, and employees of that Party with such

coverage limits of one million (\$1,000,000) dollars per claim, three million (\$3,000,000) dollars aggregate. Each Party agrees to provide the other Party evidence of such professional liability insurance required hereunder to the other Party upon request. Each liability policy or self-insurance program maintained by both Parties will either (1) cover all occurrences during the policy period, or (2) if it covers "claims made" during the policy period, it will include a "reporting endorsement" allowing the insured Party to purchase "tail" coverage at the termination or expiration of the policy to cover occurrences during the term of this Agreement. The insured Party agrees to purchase such "tail" coverage at the termination or expiration of each such policy or to provide equivalent liability protection, such as the subsequent professional liability carrier maintaining the retroactive date from the prior policy.

**B. Cooperation.** Each Party agrees to notify the other Party regarding all actual, potential, alleged, or threatened claims regarding a Resident's participation in any Educational Experience, Resident claims, or claims involving a Program Faculty that involves a Resident. The Parties agree to collaborate and assist each other in management of such claims, including but not limited to risk identification, the prompt sharing of medical records, claims investigation, and litigation preparation. UT agrees to obtain a written commitment from each Resident assigned to the Facility that the Resident will fully and completely cooperate in the defense of all claims against the Facility in which the Resident's care or treatment of a patient is in any way involved.

**C. Other Insurance.** Each Party agrees to obtain and maintain workers' compensation coverage for its employees as required by law. In addition, each Facility agrees to maintain comprehensive general liability or commercial general liability insurance covering all incidents, occurrences and operations at the Facility, including bodily injury and property damage liability occurring at a Facility, and which coverage will include contractual liability insuring the obligations assumed by a Facility in this Agreement. The limits of comprehensive general liability or commercial general liability insurance will not be less than a combined single limit for bodily injury, property damage, and personal injury liability of one million (\$1,000,000) dollars each occurrence, three million (\$3,000,000) dollars in the aggregate.

**D. Program Faculty.** UT will ensure that Program Faculty employed by UT have and maintain in force, at UT's or the Program Faculty's expense, professional liability insurance in a commercial or self-insured fund covering acts and omissions of each Program Faculty with such coverage limits of one million (\$1,000,000) dollars per claim, three million (\$3,000,000) dollars aggregate. ProMedica will ensure that Program Faculty employed by ProMedica have and maintain in force, at ProMedica's or the Program Faculty's expense, professional liability insurance in a commercial or self-insured fund covering acts and omissions of each Program Faculty with such coverage limits of one million (\$1,000,000) dollars per claim, three million (\$3,000,000) dollars aggregate. The Facility will ensure that all Program Faculty not employed by UT or Program will maintain professional liability insurance in a commercial or self-insured fund covering acts and omissions in the amounts required to maintain membership on the Facility's medical staff.

## **10. CHANGE IN LAW**

In the event of a change in the law, regulation, or administrative or judicial procedures of the State of Ohio that would be likely to alter the legal status of, or the legal process available for

pursuit of claims in a manner that could be relevant to the relationship of the Parties hereto, the Parties will work together in good faith to amend this Agreement as promptly as practicable to reflect or incorporate such change within this Section 10 or otherwise to render this Agreement consistent with such change.

## 11. DISPUTE RESOLUTION

Any dispute, controversy or claim arising out of, or relating to, this Agreement or a PLA, or the breach of this Agreement or a PLA will be subject to the dispute resolution procedures established in Article 7 the AAA, which terms are incorporated herein by reference.

## 12. TERM AND TERMINATION

A. Term and Termination. This Agreement shall have the same Term as the Academic Affiliation Agreement and shall automatically be terminated upon any termination thereof.

B. Post-Termination Commitment. In the event of the termination of this Agreement, ProMedica and UT hereby commit that they will work together to provide or arrange for appropriate transition opportunities for Residents whose Educational Experiences will not be completed by the effective date of termination. The Parties will consider any reasonable accommodations, including but not limited to temporary and limited extensions of this Agreement by mutual consent to permit Residents to complete their Educational Experiences. The Parties will take all steps to comply with the requirements of the ACGME, including those relating to obligations to Residents and termination of Educational Experiences.

## 13. MISCELLANEOUS

A. Nondiscrimination. The Parties agree that neither will discriminate against any employee or Resident on the basis of race, color, religion, sex, gender, sexual orientation, creed, national origin, disability, military or familial status, age, ancestry or political affiliation or protected activity.

B. Third-Party Rights. This Agreement is intended solely for the mutual benefit of the Parties, and there is no intention, express or implied, to create any rights, privileges, or interest for the benefit of any third party, including but not limited to any Resident, relative of a Resident, or prospective employer, and neither UT nor ProMedica will be under any obligation to any third party by reason of this Agreement.

C. Independent Contractor Relationship. Residents and other University employees are not and will not be deemed to be employees of ProMedica or a Facility. No relationship of employer-employee, partner-partnership, principal-agent, or joint venturers is created between the Parties by this Agreement. It is understood and agreed that the Residents are physicians in training participating in Educational Experiences at the Facility. The direct patient care and other medical services provided by Residents at the Facility are performed in fulfillment of certain academic requirements under the clinical supervision of physicians holding clinical faculty appointments from UT and medical staff privileges from the Facility.



**D. Notices.** Any notice required, permitted or desired to be given under this Agreement will be in writing and will be personally delivered or sent by certified mail, return receipt requested, addressed as follows:

As to ProMedica:

Chief Executive Officer & President  
ProMedica Health System  
1801 Richards Road  
Toledo, Ohio 43607

As to UT:

The University of Toledo  
Dean of the College of Medicine & Life Sciences  
2801 W. Bancroft  
Toledo, Ohio 43606

**E. Assignment.** This Agreement will not be assigned or assignable by either Party without the prior written consent of the other Party.

**F. Amendment.** This Agreement may be amended at any time upon the mutual written consent of the Parties.

**G. Waiver of Breach.** Waiver by either Party of a breach of any of the terms or provisions of this Agreement by the other Party at any time or times will not be deemed or construed to constitute a waiver of any subsequent breach or breaches of the Agreement at any subsequent time or times.

**H. Binding Effect.** This Agreement will be binding upon and the benefits inure to, the Parties and their respective successors and permitted assigns.

**I. Severance.** If any term of this Agreement will be deemed unenforceable, such term will not affect the enforceability of the other terms of this Agreement which can be given effect without the unenforceable provision.

**J. Construction.** This Agreement will be construed and enforced in accordance with the laws of the State of Ohio.

**K. Priority.** To the extent any provision herein is inconsistent with any provision of the AAA, the AAA shall take precedence. To the extent any provision of any PLA is inconsistent with any provision of this Agreement, this Agreement shall take precedence.

**L. Entire Agreement.** This Agreement and the PLAs as from time to time amended, together with the AAA constitute the entire agreement between the Parties with respect to the subject matter herein, and supersede any and all prior written or oral statements, understandings or agreements.

**M. Counterparts.** This Agreement may be executed simultaneously in one or more counterparts, each of which will be deemed an original, but all of which will constitute one instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their authorized representatives effective on the day and year first written above.

**PROMEDICA HEALTH SYSTEM, INC.**

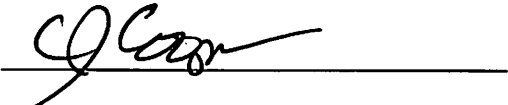
By: 

Name: Randy Oostra, DM, FACHE

Title: President and Chief Executive Officer

Date: 12/15/15

**THE UNIVERSITY OF TOLEDO**

By: 

Name: Christopher Cooper, MD

Title: Executive Vice President for Clinical Affairs and Dean of the College of Medicine and Life Sciences

Date: Dec 15, 2015