LETTER OF INTENT
BETWEEN THE UNIVERSITY OF KENTUCKY
AND CINCINNATI CHILDREN’S HOSPITAL MEDICAL CENTER

This Letter of Intent (“LOI”) is made effective as of August 21, 2015, between the University of Kentucky, an agency and instrumentality of the Commonwealth of Kentucky (hereinafter referred to as “University” or “UK HealthCare”) and Cincinnati Children’s Hospital Medical Center, an Ohio non-profit corporation (hereinafter referred to as “CCHMC”). UK and CCHMC each may be referred to as a “Party,” and collectively as the “Parties.”

BACKGROUND

WHEREAS, University is a public agency of the Commonwealth of Kentucky, and serves as the flagship land grant public research institution charged with asking and addressing the most penetrating health questions and providing high quality health care services through its Colleges of Medicine, Dentistry, Nursing, Health Sciences and Public Health, as well as its UK Albert B. Chandler Hospital, UK HealthCare Good Samaritan Hospital, Kentucky Children’s Hospital, Markey Cancer Center, its management of Eastern State Hospital, and other ambulatory services and physician practices which provide a broad continuum of care to residents in the Commonwealth of Kentucky under the “UK HealthCare” name;

WHEREAS, CCHMC is a nonprofit academic medical center established in 1883, and is one of the oldest and most distinguished pediatric hospitals in the United States;

WHEREAS, the University is authorized to provide open heart surgical services to pediatric and adult patients; and

WHEREAS, the University voluntarily and temporarily suspended pediatric cardiothoracic surgical services in 2012 and now desires to resume pediatric cardiothoracic surgical services in order to provide care, education and research to benefit pediatric patients of Kentucky and their families, through an arrangement that will enable the Parties to treat pediatric patients with medical conditions close to home in the appropriate venue, as well as provide a full portfolio of tertiary and quaternary treatment options, create potential research synergies and enhance the Parties’ educational venues and opportunities in pediatric and adult congenital heart care (“Pediatric Heart Care Program” or “Program”).

NOW THEREFORE, the Parties hereby set forth the following overview and understandings in principle with respect to the contemplated relationship and Pediatric Heart Care Program below.
OVERVIEW OF THE RELATIONSHIP

1. **Guiding Principles.** The Parties have worked together to establish the following Guiding Principles to serve as a guide throughout the relationship, irrespective of changes in its goals, strategies, type of work, services or management changes:

   - Enhance the overall mission of both Parties with a shared commitment to research, education and access to high quality and affordable care.
   - Commitment to shared oversight of proposed joint clinical programs.
   - Keeping patient care local, when clinically appropriate.
   - A commitment to ensuring excellence in pediatric care within the Commonwealth of Kentucky:
     - Scope of this commitment may include various pediatric quaternary services.
     - The initial focus will be an aligned vision of a “Two Site, One Program” partnership for pediatric heart care and adult congenital heart disease.

2. **Focus.**

   a. Parties agree that they will initially focus on pediatric and adult congenital heart care in the spirit of “one program, two sites” in order to maximize the program’s overall effectiveness within the Commonwealth of Kentucky and beyond.

   b. Parties agree to explore other pediatric quaternary service(s) that either party may need and cannot provide within their institution, and which may or may not include third parties.

   c. Potential expansion opportunities of such service(s) and/or additional third parties would be reviewed by the Executive Steering Committee.

3. **Sustainability.** The Parties agree that the best programs are those that are sustainable and have mutual gains. Key measures of sustainability for any program will be clinical outcomes, patient and family experience, staffing, program investments (i.e. educational and financial) and fiscal health.

4. **Governance Structure.** The Parties have agreed to establish a governance structure that supports the overall relationship between both parties (e.g. Master
Agreement Joint Executive Steering Committee) through a governing master agreement, and for each program (e.g. Pediatric Heart Care Joint Program Steering Committee) that may be entered into by way of an amendment to the governing master agreement. Details of the contemplated governance structure are set forth in Exhibit A, which is attached and incorporated herein. At all times during the term of the relationship contemplated herein, however, University and CCHMC shall each continue to be autonomous and governed independently by their respective governing bodies and administrations. Before commencing operation of the Pediatric Heart Care Program, the Parties shall establish antitrust guidelines to be followed by all committees, employees, and other individuals involved in the operations and oversight of the Pediatric Heart Care Program.

5. **Antitrust Protocol.** In all communications, meetings, and activities undertaken to implement this LOI and establishment of the Pediatric Heart Care Program, the Parties agree to abide by the Antitrust Protocol For Information Sharing attached as Exhibit B (the “Antitrust Protocol”).

**OVERVIEW OF CONTEMPLATED PEDIATRIC HEART CARE PROGRAM**

6. **Mission.** The mission of the Pediatric Heart Care Program is to transform pediatric heart care and adult congenital heart care in Kentucky.

7. **Vision.** The Parties’ vision for the Program is to establish Kentucky Children’s Hospital as the premier pediatric heart care program in Kentucky.

8. **Objective.** The Parties’ objective is to establish a Program between Kentucky Children’s Hospital and the Heart Institute of Cincinnati Children's Hospital that will result in outstanding surgical and clinical care, education and research, and at the same time ensure clinically appropriate care close to the patients’ home.

9. **Keys to Success.** The Parties have identified the following “keys to success” in structuring and operating the Program activities:

- Establish sustainable and functioning partnerships with Cardiothoracic Surgery and cardiac subspecialties with increasing capacity for clinical and surgical services at UK Healthcare.

- Develop joint metrics for measuring and reporting quality and outcomes.

- Resource commitments from CCHMC and UK HealthCare for personnel and infrastructure needs.

- Provide both CCHMC and UK HealthCare access to a fully integrated multi-site program for related research and educational functions.

- Assist CCHMC in becoming a national center for the development of innovative technologies to advance pediatric heart care.
• Help establish regional and national collaborative pediatric heart care networks.

10. **Scope.** The Parties have initially defined the scope of the Program as follows:

• A congenital heart surgeon will be recruited jointly by CCHMC and the University. This individual will have a primary appointment at CCHMC, with a commitment to work and live in Lexington, Kentucky. Training, support, infrastructure development and reactivation of on-site surgery will be done in a manner to ensure sustained outstanding outcomes as measured by national registries and reporting mechanisms.

• Incorporate individual patient and family wishes, conveniences, and needs into all collaborations whenever possible.

• Partner with existing subspecialists within UK HealthCare.

• Partner and assist UK HealthCare with recruitment and training of cardiac subspecialists.

• Facilitate joint appointments and/or privileges for CCHMC and UK HealthCare cardiac subspecialists.

• Help develop and implement shared and common clinical standards for environment, design, equipment, operations, staffing and personnel, wherever feasible.

• Provide training and experience for UK HealthCare personnel at CCHMC initially and on an ongoing basis.

• Work toward UK HealthCare cardiac subspecialists performing diagnostics and therapeutic interventions in Lexington with the support of CCHMC subspecialists when necessary.

• Arrange for UK HealthCare cardiac subspecialists to perform more complex interventions jointly at CCHMC.

• Provide mechanisms for jointly monitoring outcomes, safety, quality and value.

• Participate in joint clinical and basic research endeavors.

11. **Core Components of Pediatric Heart Care Program.** The Parties have identified eleven (11) Core Components that will comprise the Program:
a. Pediatric Heart Care
b. Clinical Care Integration
c. Safety and Quality
d. Research
e. Education
f. Outreach
g. Financial Management
h. Risk Management
i. Compliance
j. Public Relations
k. Marketing/Cobranding

Specific activities the Parties intend to take in furtherance of the Core Components stated above are set forth in Exhibit C, attached hereto and incorporated herein.

12. **Staffing.** The Parties agree to work together on a staffing plan in order to meet the goals of the Program, including development of job descriptions, prioritization of hires, recruiting and placement, etc. Initial staffing efforts will consist of the Parties’ joint recruitment of a surgeon as noted in Section 10 above, as well as a Program Site Manager. Details regarding both positions are set forth in Exhibit D. The Parties will negotiate and execute Professional Services Agreements for professional services provided by one Party’s professional employees to the other Party in a manner that maximizes benefit to the collaboration and compliant with all applicable federal, state and local laws.

13. **Publicity and Usage of Name and Logos**

a. Any and all public announcements concerning the Program, other pediatric program activities, or the Parties’ relationship in general shall be jointly planned and coordinated by and between the Parties. No Party shall act unilaterally in this regard, without the prior written approval of the other Party.

b. The Parties agree to establish co-branding and brand identity guidelines and usage standards with the goal of maximizing brand enhancement and protection. Otherwise, no Party will (a) use any other Party’s proprietary indicia, trademarks, service marks, trade names, logos, symbols or brand names, or (b) otherwise refer to or identify any other Party in advertising, publicity releases or promotional or marketing publications, or correspondence to third parties without, in each case, securing the prior written consent of such other Party.

14. **Agreements: Other Agreements and Obligations.** The Parties will negotiate and execute the governing master agreement and program-specific agreements that are necessary or desirable to effectuate and implement the understandings set forth in this
LOI under terms and conditions mutually agreed to by the Parties ("Governing Agreements"). Nothing in this LOI or any agreement contemplated by it shall operate or be construed as obligating either party to violate any explicit or implied obligations or covenants under any other agreement to which it or one of its affiliates is a party.

15. **Charity Care; Nondiscrimination.** UK Healthcare and CCHMC will continue to operate consistent with their charitable missions of promoting the health of the communities they serve, including the provision of charity care for the indigent based on community need. All care will be provided on a nondiscriminatory basis regardless of insurance coverage or ability to pay.

16. **Required Approvals; Conditions to Close.** The Governing Agreements will be executed upon, or will contain customary conditions required for the Governing Agreements to become effective upon, the receipt of any required approvals, including without limitation, approvals of the Parties in accordance with each Party’s corporate or governing documents, and all required state or federal governmental and regulatory approvals and clearances. Each of the Parties shall cooperate in good faith to identify all governmental, contractual and other notices and consents necessary to effectuate the collaboration and to timely obtain all such notices and consents.

17. **Relationship of the Parties.** At all times during the term of the Program or activities contemplated herein, UK HealthCare and CCHMC shall each continue to be autonomous and governed independently by their respective governing bodies and administrations. University and CCHMC shall remain independent entities. The Parties’ hospitals shall continue to have separate medical staffs, medical staff by-laws and rules and regulations. The Parties’ respective endowments and all other funds shall remain separate and be managed separately. Except to the extent set forth in the Governing Agreements, the operations of each Party, including the supervision and care of patients, the budgets, and the operation of facilities and services shall be the sole responsibility of each Party, and its governing board and administration. Except as mutually agreed in the Governing Agreements or other writing, neither Party shall (i) have the authority to bind the other Party; (ii) be an agent or representative of the other Party; or (iii) incur any liability from a responsibility assumed by the other Party.

18. **Review and Access to Information; Confidentiality; HIPAA Compliance.**

   a. **Due Diligence; Confidentiality.** Completion of the Governing Agreements is subject to satisfactory completion of a due diligence review by University and CCHMC. Unless and until this LOI expires or is terminated, and subject to the terms and conditions of the separate Confidentiality and Non-Use Agreement between the Parties entered into as of April 14, 2015, each Party will permit the other party and its respective representatives, accountants, attorneys, consultants, and other mutually agreed upon representatives to evaluate, assess, and complete a due diligence review of the other Party’s clinical programs/activities, business operations and facilities on the other Party’s behalf with respect
to pediatric and adult congenital heart care and other pediatric health care programs that may be identified by the Parties in the future. Notwithstanding any other term in this Paragraph 18, due diligence shall be conducted in accordance with the Antitrust Protocol. The Parties shall direct their representatives, accountants, attorneys, consultants, and other mutually agreed upon representatives to abide by the Antitrust Protocol.

b. Scope and Timing. The scope and timing for the evaluation and due diligence process will be mutually determined by the Parties, but shall be conducted as expeditiously as possible.

c. HIPAA Compliance. In conducting the evaluation and due diligence activities discussed above, the Parties agree to comply with any applicable provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended, or any of its regulations promulgated at 45 CFR Parts 160 and 164, and the Parties agree to timely enter into any appropriate business associate agreement(s) required by same.

19. Expenses. Unless otherwise agreed upon in a separate written document, each Party shall bear its own expenses including any due diligence costs in connection with the collaboration contemplated by this LOI regardless of whether any Governing Agreements are executed.

20. Binding/Non-binding Provisions. Except for Sections 5, 12, 17, and 18 (including the Confidentiality and Non-Use Agreement and any business associate agreement entered into thereunder), which shall be binding on the Parties and their respective successors and assigns ("Binding Provisions"), this LOI is not intended to be a binding agreement and shall not give rise to any obligations between the Parties. Except for the Binding Provisions, no binding contractual agreement shall exist between the Parties unless and until the Parties have executed and delivered the Governing Agreements. Nothing in this LOI shall obligate a Party to execute the Governing Agreements.

21. Entire Agreement. This LOI, the exhibits hereto, the Confidentiality and Non-Use Agreement, and any business associate agreements entered into by the Parties, contain the entire understanding and agreement among the Parties hereto with respect to the subject matter herein, and supersedes all prior discussions, understandings, and agreements (whether oral or written) between them with respect thereto.

22. Amendment; Waiver. The provisions of this LOI may not be amended, waived, or terminated except by an instrument in writing signed by each Party hereto.

23. Notices. Any notice which is required or permitted to be given under this LOI shall be given by personal delivery, certified mail (return receipt requested), email or facsimile, at the following addresses:
If to University:
University of Kentucky
317 Charles T. Wethington Bldg.
Lexington, Kentucky 40536-0200
Attn: Matthew Sanger, Director, Administration and Corporate Affairs

With copy to:
University of Kentucky
301 Main Building
Lexington, Kentucky 40506-0032
Attn: William E. Thro, General Counsel

If to CCHMC:
Cincinnati Children’s Hospital Medical Center
3333 Burnet Avenue
Cincinnati, Ohio 45229
Attn: Jennifer Dauer, SVP, Strategy & Growth

With copy to:
Cincinnati Children’s Hospital Medical Center
3333 Burnet Avenue
Cincinnati, Ohio 45229
Attn: Legal Department

24. **Termination.** This LOI will automatically terminate upon the execution of the Governing Agreements unless sooner terminated. Either Party may terminate this LOI without penalty or recourse upon written notice to the other Party. Upon termination of this Letter of Intent, the Parties will have no further obligations under this LOI except for the Binding Provisions.

25. **Counterparts.** This Letter of Intent may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[REST OF PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, the undersigned have executed this LOI as of the date first written above.

UNIVERSITY OF KENTUCKY

By: [Signature]
Michael Karpf, MD
Executive Vice President for Health Affairs

CINCINNATI CHILDREN’S HOSPITAL MEDICAL CENTER

By: [Signature]
Michael Fisher
President and CEO
Exhibit A

Governance Structure

Parties have agreed to a Governance Structure that supports the overall relationship between both parties (e.g. Master Affiliation Joint Executive Steering Committee) and for each program (e.g. Pediatric Heart Care Joint Program Steering Committee) that may be entered into by way of an amendment to the governing Agreement.
EXHIBIT B

Antitrust Protocol for Sharing of Information

The University of Kentucky (hereinafter referred to as “University”) and Cincinnati Children’s Hospital Medical Center (hereinafter referred to as “CCHMC”) are considering a possible collaboration related to a Pediatric Heart Care Program, as described in a Letter of Intent dated August 21, 2015 (the “Proposed Collaboration”). The University and CCHMC are referred to collectively as the “Parties.”

Exploration of the Proposed Collaboration may necessitate discussion and exchange of information pertaining to the Parties’ respective businesses. The Parties may currently be actual or potential competitors under the antitrust laws. Because discussions and information exchanges among actual or potential competitors can be misconstrued or lead to allegations of antitrust violations, the Parties and their respective representatives, accountants, attorneys, consultants, and other mutually agreed upon representatives (together, “Representatives”) wish to take precautions to comply with the antitrust laws. To that end, the Parties have adopted this Protocol to ensure that the discussion and exchange of information between the Parties does not result in actual or alleged anticompetitive conduct.

The Parties and their Representatives will observe the following protocols as they proceed with negotiations and planning for the Proposed Collaboration:

1. **Meetings.** The Parties and their Representatives may meet and discuss the Proposed Collaboration, but their discussions will be limited to that topic and shall not “spill over” into discussions about pricing of medical services or other competitively sensitive topics listed in Paragraph 2 of this Protocol. The Parties will limit the number of participants at any meeting to those whose attendance is necessary. Counsel need not be present at each meeting between the Parties. However, agendas for all meetings will be reviewed in advance by counsel, and any questions regarding the scope of permissible information exchanged will be brought to counsel's attention.

2. **Exchange of Information and Discussions.** In order to explore the desirability and feasibility of the Proposed Collaboration, the Parties may require information concerning the terms, structure, value, benefits, risks and other similar issues with respect to the Proposed Collaboration. The Parties will limit, to the extent commercially and reasonably possible, the exchange of competitively sensitive information (as described below) and related agreements (as set out in Paragraph 3 below) unless the advance approval of counsel has been obtained. Only after counsel has reviewed and approved the need for an exchange of competitively sensitive information will the Parties exchange sensitive information necessary to the consideration, negotiation or implementation of the Proposed Collaboration. Access to competitively sensitive information will be limited to persons who reasonably need to know such information to evaluate the Proposed Collaboration, and should not be provided to persons who could use such information for commercial purposes.
Unless otherwise approved by counsel, the Parties will limit the exchange of competitively sensitive information about their facilities and operations, including the following items:

a. information relating to current or future pricing of services, including existing payor contracts;

b. information relating to current or prospective bids or negotiations with payors or other purchasers;

c. information with respect to wages or salaries of professional or non-professional staff;

d. information relating to current or proposed contracts with any hospital or health care entity;

e. information relating to costs which is not otherwise available from public sources;

f. material marketing or strategic planning information;

g. information pertaining to market share which is not otherwise available from public sources; and

h. any plans to discontinue services or to offer new services.

3. Prior to Closing: No Anticompetitive Agreements. The Parties wish to structure the scope of discussions and the information exchanged in connection with the development of the Proposed Collaboration so as to avoid any suggestion that the Parties’ discussions of possible affiliation or merger are merely a “sham” attempt to exchange competitively sensitive information or engage in anticompetitive or collusive behavior.

Prior to closing, under no circumstances will the Parties enter into any anticompetitive agreements with respect to their facilities or operations in which they may be seen as actual or potential competitors. To avoid antitrust exposure, unless the Parties have obtained the approval of counsel in advance, they will not:

a. Agree not to compete in the sale of any products or services;

b. Agree on any prices or other competitive terms for any products or services;

c. Agree on bids to payors or providers for any products or services;

d. Agree not to deal with certain payors or providers;

e. Agree not to deal with certain hospitals, physicians or their organizations;

f. Agree to negotiate jointly with a hospital or hospitals, payors or providers;
g. Coordinate wages and salaries for their staffs;

h. Agree to discontinue any services;

i. Allocate existing or future services, markets or patients among them; or

j. Coordinate marketing or strategic planning, including pricing, expansion plans, plans to construct therapy facilities, or similar matters.

4. **Media Matters.** Discussion of the Proposed Collaboration in the media by representatives of the Parties can have negative antitrust implications unless carefully structured. Statements attributed to the Parties might draw undue attention from antitrust regulators. Accordingly, counsel will review proposed materials developed for the media.

    *    *    *

Any questions concerning implementation of these protocols should be addressed to counsel.
Exhibit C

Core Components of Pediatric Heart Program

Parties have identified eleven (11) Core Components that will comprise the Pediatric Heart Care Program. These include: clinical care integration, safety and quality, compliance, pediatric heart care, outreach, risk management, public relations, research, financial planning, education and marketing. Specifically,

- Parties intent to jointly develop, implement, manage and engage in a pediatric heart care program ("Program") that includes, but is not limited to the following the subspecialties: cardiothoracic surgery, electrophysiology, interventional cardiology, cardiac imaging, adolescent and adult congenital heart disease, cardiac intensive care, cardiac anesthesia, pulmonary hypertension, mechanical circulatory support, heart failure and transplant.

- It is intended that the Program will include joint participation in program development, education, training, clinical care, recruitment, quality assurance, safety and value teams, and research.

- Parties agree to establish necessary agreements (e.g. Professional Services Agreement) to facilitate on-site clinical services as needed.

- The Program will be set up with clear goals, “must-accomplish” benchmarks and stage gates to enable short term success and a continuing, planned rollout. The Pediatric Heart Care Joint Program Steering Committee, in consultation with key service line leaders, will define the Program’s features and minutiae.

- The explicit intent of the Program is:
  - that pediatric congenital heart surgeries will be reactivated at UK, STAT I and II initially and over time, as the site program matures and the Executive Committee approves, more complex cases may be performed at UK,
  - to provide backup surgical support such that pediatric cardiac catheterizations can be reactivated at UK, and
  - to provide multi-site education and training for staff, faculty and fellows including developing on-site core curriculum and joint orientation program.

- Communications will be established to enable joint programs, including teleconference infrastructure.

- Parties agree that a core set of metrics will be defined to monitor the full spectrum of partnership performance.

- Parties agree to establish a data-driven, transparent and accountable quality and safety program.

- Parties agree to report outcomes data jointly to STS and other regional and national programs that monitor surgical and clinical outcomes.
• Parties agree to jointly establish a sustainable financial plan that supports the collaboration.

• Parties agree to explore the inclusion of a Community Advisory Board as part of the Program.

• Parties agree to jointly develop, if necessary, a common risk management and compliance plan.

• Parties agree to develop shared policies and procedures, clinical pathways/protocols and effective discharge process to ensure consistency across both programs.

• Parties intend to establish joint efforts in clinical research, translational research, outcome-based research and basic research.

• Parties agree to develop a joint marketing and branding plan based on business objectives and audience/landscape assessment.
Exhibit D

Staffing

- Cardiothoracic Surgeon
  - Parties agree to the following regarding the cardiothoracic surgeon and other key roles:
    - Employed by CCHMC with direct reporting relationship to the Heart Institute’s Co-Director and agreed reporting relationships within UK Healthcare
    - Commitment to work and live in Lexington
    - Expectation of limited surgical practice at CCHMC to maintain skills and enhance retention but understanding that the primary surgical responsibility is to the Lexington site
    - Commitment to site sustainability of service, at the most current state and level of surgical care, to ensure no coverage gaps in surgical coverage on a daily and ongoing basis
    - While both CCHMC and UK Healthcare will participate in the recruitment process (details to be defined), it will be led by CCHMC
  - Parties will agree on how risk coverage, billing, and reimbursement will be managed
  - Parties will establish Professional Services Agreement(s), or other instruments needed for services in manner that maximizes benefit to the partnership

- Program Site Manager
  - Parties shall agree to a role description with initial assumption being that there will be one person to oversee entire program, drive its development, be located in Lexington, and serve as program liaison at both sites.
  - The Program Site Manager will be employed by UK and have matrixed responsibilities to the Heart Institute Leadership Team.