

"NEW"

\* WILL BE EXECUTED SOON \*

DRAFT EFL 8-13-14

AFFILIATION AGREEMENT BETWEEN  
FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES  
AND M.T. HEALTH CENTER, LLC

This agreement (the "Agreement") is entered into by Florida Atlantic University Board of Trustees (hereinafter referred to as the "University" or "FAU"), a public body corporate of the State of Florida, located at 777 Glades Road, Boca Raton, Florida 33431, and M.T. Health Center, LLC, a Florida limited liability company (hereinafter referred to as the "Company"), located at 2979 PGA Blvd., Suite 201, Palm Beach Gardens, FL 33410, as the license holder and operator of a post-acute healthcare facility known as "Institute for Healthy Living" located in the Abacoa development in Jupiter, Florida (hereinafter referred to as the "Facility"), which will be the location for the provision of the services and activities as described hereunder. Each of the University and the Company may be referred to herein individually as a "party" and collectively as the "parties". The purpose of this agreement is to (I) provide clinical education at the Facility for students enrolled in the medical program at the University; (II) create opportunities for joint collaborative research between the parties; and (III) describe educational, administrative and clinical services to be provided to the Facility by the Company utilizing University employees.

WITNESSETH:

WHEREAS, the parties agree that the primary purposes of this Agreement are to further research, medical innovations and educational advancement in the area of geriatrics;

WHEREAS, University is a duly accredited institution that has received preliminary accreditation status from the Liaison Committee on Medical Education ("LCME") for its medical education program within the Charles E. Schmidt College of Medicine (the "College of Medicine" or the "College"), which will lead to a doctorate degree in the field of medicine;

WHEREAS, University conducts approved professional training programs for medical students enrolled or seeking a degree in the College of Medicine (hereinafter referred to as the "medical students" or as the "students"), and University desires access to additional facilities in which these students can obtain experience as a part of their course of study;

WHEREAS, the Company is the sole and exclusive operational manager and administrator of the Facility;

WHEREAS, University desires for the Company and the Facility to provide its students who enroll in its medical programs with the opportunity to obtain clinical experience and instruction at the Facility that is pertinent to their studies;

WHEREAS, the Company has the professional expertise and contracts with the Facility for furnishing observational and clinical experience at the Facility and is willing to do so for the students on the terms and conditions set forth herein;

WHEREAS, the parties contemplate that this Agreement may be expanded by mutual amendment to provide for clinical education experiences for students enrolled in other programs at the University (e.g., nursing, social work, exercise science, public health administration, etc.);

WHEREAS, the University intends to sponsor graduate medical education (“GME”) programs accredited by the Accreditation Council for Graduate Medical Education (“ACGME”) and/or pertinent specialty/subspecialty boards for University postgraduate residents and clinical fellows (the “Residents”);

WHEREAS, the University desires to affiliate with certain health care institutions pursuant to Florida Statutes Section 1012.965, in order to provide access to clinical settings for health care education, research, and patient care services to support and enhance the College’s clinical training programs for Residents and provide opportunities for University physicians to maintain and improve their skills as educators and practitioners;

WHEREAS, the University may desire to create a GME program for its Residents at the Facility; however, before any Residents participate in any clinical education program at the Facility, the parties must mutually agree and execute an amendment to this Agreement or a separate agreement addressing such potential GME program at the Facility; such amendment or agreement will contain terms customarily found in a GME master affiliation agreement and other terms as mutually agreed upon by the parties and/or required by the ACGME; the provisions of this Agreement shall apply to Residents only where specified;

WHEREAS, the parties may in the future engage the services of certain other University employees for educational, administrative and clinical activities at the Facility, pursuant to an amendment to this Agreement;

WHEREAS, the parties desire for mutual collaborative research opportunities to develop as a result of this affiliation; and

WHEREAS, University and the Company agree that this Agreement will be to their mutual benefit.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein as covenants, the mutual promises herein made and exchanged and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**I. CLINICAL EDUCATION FOR STUDENTS**

This section shall describe the clinical and educational activities for the University medical students. This section shall not apply to University Residents except where explicitly mentioned.

A. University Responsibilities.

1. University faculty will be responsible for planning and implementing the educational program for its students at the Facility, and determining adequate preparation in theoretical knowledge, basic skills, professional ethics, attitude, and behavior. Such educational program shall be approved by the Company and acceptable to the Company prior to implementation at the Facility. The Company will be informed of curriculum and sequence and be given access to all written policies, rules and curriculum of the educational program.
2. University agrees to provide its policy regarding student absences during clinical experiences to the Company.
3. University will inform students of screening requirements of the Company, which may include immunizations, a criminal background check, or other health screenings. It shall be the students' responsibility to comply promptly with the Company's requirements and to contact the Company's occupational health department to determine such requirements. The Company retains the right to exclude students from the premises of the Facility for failure to comply with such requirements, or for failure to abide by other rules, regulations or policies of the Company, as may be promulgated from time to time and provided to the students.
4. University will require its medical students have health insurance coverage during their period of assignment at the Facility. University shall immediately inform the Company of a termination or lapse of such coverage, to the extent it has knowledge of such termination or lapse.
5. As determined by the parties, the parties shall participate with designees of the Facility in the planning, implementing, coordinating and evaluating of the clinical experience programs for the students at the Facility.
6. University will require that students arrange for their own transportation and living accommodations when not provided by the Company.
7. All students shall be regularly matriculated in the University and shall receive no compensation for any activity performed hereunder, regardless of the nature and extent of the acts performed by them.
8. The University shall have ultimate authority over the academic affairs and the education and evaluation of its students, faculty and staff. The Company shall at all times retain the right to exclude any student from participating in the educational program offered at the Facility.

9. The University and the Company shall mutually agree by way of joint appointment letters as to the assignment of additional faculty members responsible for student teaching at the Facility.

B. Company Responsibilities.

1. Except as otherwise set forth herein, the Company agrees to accept qualified students for clinical experiences in geriatrics at the Facility. The Company will provide an orientation for students at the beginning of their assignments. Students who are acceptable to the Company shall have access to the clinical and related facilities in the Facility for appropriate clinical education in medicine. The clinical facilities of the Facility will be utilized for observations, instruction, and for supervised patient care educational experiences consistent with the needs of the curriculum designed by University faculty in conjunction with the Facility. The Company, at its sole discretion, shall have the right to refuse any student for clinical training at its premises.
2. Only qualified University and Facility faculty and staff with University appointments shall engage in the teaching of students. With respect to the Facility's faculty and staff who may be involved in the teaching of students, such faculty and staff shall first be approved jointly by University and the Company through joint appointment letters. Students will be directly responsible to and supervised by designated clinical supervisor(s) during each assignment. The Facility shall have no responsibility for supervising University staff, faculty or students. Clinical supervisor(s) shall be licensed physicians who may delegate specific responsibilities for some of the clinical teaching to other qualified faculty and staff without waiving her/his responsibilities for the students. Any and all faculty and staff responsible for teaching, controlling and/or supervising University students and Residents must have faculty appointments with the University (i.e., such faculty must be employed or appointed by the College of Medicine with assigned responsibility for training, instruction, supervision, and control of students and Residents). All students and Residents shall report to and be solely responsible to University faculty members.
3. The faculty of the Facility shall designate a member of the Facility staff to participate with the University in planning, implementing, coordinating and evaluating the program of clinical experience.
4. It is understood that the University teaching program in medicine will not interfere with the primary mission of the care and treatment of the patient/residents of the Facility, which shall remain the responsibility of the Company and the Facility. Any direct contact between a student and a patient/resident of the Facility must be supervised by a University faculty member. Such University faculty member must be approved in advance by the Company. The Company and the Facility shall at all times retain ultimate control of the respective facilities and responsibilities for patient care therein.

5. The Company shall provide information to all students regarding the location and use of their emergency care services. In the event of an onset of illness or injury, including exposure to infectious or environmental hazards, of a student during assignment to the Facility, emergency care will, if applicable, be provided by the Facility to the student and billed to the student's insurance. Follow-up care for exposures may be provided at the Facility and billed to the student's insurance, or provided by the University's Student Health Service.
6. The Company shall provide its standard security and personal safety measures to students, Residents, University faculty and staff and shall, whenever reasonably possible, provide facilities to students for a conference room, office and storage space and access to a general medical library at the Facility.
7. The Company shall permit the inspection of the Facility's clinical and related facilities by agencies charged with the responsibility for accreditation of the University's programs.
8. The Company shall provide sufficient space, utilities, equipment in good and safe working order and supplies reasonably necessary for the provision of the educational program to be conducted at the Facility.
9. The Company shall maintain the Facility and support personnel as it deems reasonable and necessary, in its sole discretion, for the provision of services to patients and residents of the Facility.
10. The Company represents and warrants that, at the time of the implementation of the education program hereunder, the Facility and Company (to the extent applicable) shall be in good standing and fully licensed in the State of Florida by all applicable agencies, and that the Facility and Company (to the extent applicable) will be fully and currently accredited by and in good standing with the Agency for Healthcare Administration ("AHCA").

C. Joint Responsibilities.

1. The numbers of students to be assigned, the dates of their assignments, schedules and specific experience to be provided shall be mutually agreed upon by the parties, consistent with curriculum requirements. Placement of students will depend on the Facility staff and space availability. In the event this Agreement is not renewed for a subsequent term, or is terminated, students who are participating in the clinical learning experiences at the time of termination shall be allowed, to the greatest extent possible, to complete such assignment under the terms and conditions herein set forth.
2. Conferences, as necessary, will be held to review and evaluate the clinical education program, review this Agreement, and resolve specific problems which may interfere with

the achievement of the objectives of the program. The meetings for discussions shall be between appropriate University faculty and representatives of the Company.

3. The Company will provide notice to the University as soon as possible of any situation or problem involving a student which may threaten a student's successful completion of his/her clinical experience. Notwithstanding the forgoing, the University shall retain control over any student discipline or other action that could affect the student's standing at the University. The Company reserves the right, with notification to the University, to exclude from the premises any student who threatens the patient care environment, or whom the Company determines is not performing satisfactorily, or who fails or refuses to follow either the Company's and/or the Facility's administrative rules and patient care policies, procedures, rules and regulations.
4. This Agreement does not contemplate the payment of any fee or remuneration by any party for services provided by the students but is intended to jointly benefit the parties by improving education, professional preparation, and methods of patient care. No billing of any private or public third party payer shall take place for services rendered by students. Furthermore, no payments will be made for the recommending or arranging for the referral of business or the ordering of items or service or for inducing illegal referrals of business or other illegal conduct.
5. University faculty, in cooperation with the Company appointed staff of the Facility, will evaluate student clinical experience and performance. The University shall determine a grade for the clinical experience.
6. Each party shall inform the other in a reasonable time of changes in the academic curricula or changes in the availability and content of clinical experiences.
7. The Company shall inform students of the website that sets forth its policies, rules and regulations and of the Facility. All students will be informed by University that they are expected to abide by all such policies, rules, and regulations of the Company and the Facility and participate in any such training and orientation programs as required by the Company and/or the Facility. The Company reserves the right, with notification to the University to exclude from the premises any student who violates such policies, rules and regulations. All students shall sign a written acknowledgment, attached as Exhibit B hereto, that they have reviewed and read the policies, rules and regulations of the Company and the Facility.
8. University students will have the status of learners at the Facility. They are not to replace the staff of the Facility, and are not to render patient care and/or service except as such are identified for educational value as a part of the faculty-planned educational program and unless such patient care and/or service are under the direct supervision of a clinical supervisor.

9. The parties shall collaborate to assure that that the highest professional standards and professional conduct are maintained by all students, faculty and staff involved in the delivery of the clinical education experience.
10. The clinical experience shall comply with the LCME requirements and other relevant accrediting organizations' requirements (including, with respect to GME, ACGME requirements).
11. University faculty may provide on-site supervision to students at the Facility or make periodic visits to the Facility to review the educational program. In that event, such faculty will be required to abide by Facility's requirements, medical staff bylaws and policies and procedures. Company agrees that during such visits, which shall be pre-arranged at a mutually convenient time, persons involved in the program at the Facility will be available for consultation and discussion.

## **II. RESEARCH**

The parties intend to pursue collaborative interdisciplinary research projects, including, but not limited to, participation by patients/residents of the Facility in the Florida Atlantic University Healthy Aging research initiative. If joint research is to be pursued, such proposals shall be carefully reviewed by both parties to evaluate the qualifications of the proposed participating faculty members and students (when appropriate) and the location of the research activity. Once the scope of work, budget and funding of the project has been agreed upon, the parties will reduce the agreement to writing and have it executed by the appropriate officers of each party. Any such agreement must include a provision for ownership and commercialization of any intellectual property resulting from the joint research. All research involving FAU or its personnel or students must be reviewed by the FAU human subject research institutional review board.

The Facility will provide financial support in the amount of \$100,000.00 per year during the Term of this Agreement for aging and geriatrics related research conducted by FAU faculty, students and/or Residents through funding paid to the FAU Office of Sponsored Programs. The first payment shall be made upon the commencement of the Term as set forth in Section IV.C. below, and shall thereafter be made on each anniversary of the Term. .

## **III. REPORTING OBLIGATIONS**

As a condition of the Town of Jupiter's approval of the development and construction of the IHL Facility, the Company is required to submit an annual report to the Town of Jupiter documenting any and all research, education collaboration, and identifying the individual or entity managing the clinical research organization, from the previous year. The report shall provide the following information:

- a) The total number of research clinicians that worked at the facility.
- b) The total number of students and their respective disciplines educated at the facility.
- c) The total number of patients who participated in the academic and research programs.
- d) The academic colleges that collaborated with the facility.
- e) The academic degrees that collaborated with the facility.
- f) The estimated number of professors and their perspective disciplines that taught at the facility.
- g) A statement of the clinical research trials that were conducted in the reporting year in collaboration with the facility, including the number, type and who the trials served (companies).

In order for the Company to comply with its reporting obligations as set forth above, the University agrees to supply the Company with the information and data set forth in a – g above no later than December 31<sup>st</sup> for each year of the Term of this Agreement.

#### **IV. MISCELLANEOUS**

A. Use of Name. Neither party shall use the name, logo, likeness, trademarks, image or other intellectual property of the other party for any advertising, marketing, endorsement or any other purposes without the specific prior written consent of an authorized representative of the other party as to each such use. University may refer to the affiliation with the Company or the Facility in the University catalog and in other public information materials regarding the medical program at University. The Company and the Facility may refer to the affiliation with the University in its brochures and other public information materials having to do with clinical education programs.

B. Non-Discrimination. Discrimination against any individual involved in this Agreement, because of race, color, religion, sex, national origin, age, handicap, veteran's status, marital status, or sexual orientation is prohibited by the University and the Company, and if practiced by either party or the Facility shall be cause for terminating this Agreement.

C. Term of Agreement.

1. The Agreement will be deemed effective on the later of: (i) the date the Facility receives a certificate of occupancy from the applicable municipal and county government building authorities; or (ii) three (3) month's prior to the effective date of federal licensure and accreditation of the Facility as declared by the Centers for Medicare & Medicaid Services, and this Agreement will continue in effect until December 31, 2020, at which time it will be automatically renewed for three additional five (5) year periods, unless otherwise terminated pursuant to the terms herein. Either party may terminate this

Agreement at any time with or without cause upon providing ninety (90) days' prior written notice to the other party. The parties may also terminate specific services contemplated under this Agreement without terminating the entire Agreement, as determined in the mutual agreement of the parties. Additionally, either party may terminate this Agreement upon the breach by the other party of any material provision of this Agreement, provided such breach continues for fifteen (15) days after receipt by the breaching party of written notice of such breach from the non-breaching party. The parties will use their best efforts to ensure that any students then participating in the clinical experience at the Facility are permitted to complete such experience.

2. University may immediately terminate this Agreement (i) if it fails to maintain accreditation status with the LCME; (ii) if the Company or either Facility loses its state licensure or accreditation with AHCA; or (iii) upon notice that the Company or the Facility is excluded or debarred from participation in any federal healthcare programs, federal or state procurement or non-procurement program or is designated a Specially Designated National or Blocked Person by the Practice Site of Foreign Asset Control of the U.S. Department of Treasury.
3. University may terminate this Agreement immediately upon notice that an application is made by the Company or the Facility for the appointment of a receiver, trustee or custodian for its assets; a petition under any section or chapter of the Federal Bankruptcy Code or any similar law or regulation is filed by or against the Company or the Facility; the Company or the Facility make an assignment for the benefit of its credits; or the Company or the Facility become insolvent or fail generally to pay its debts as they become due.
4. Notwithstanding anything herein to the contrary, if on the advice of legal counsel: (i) either party determines that this Agreement may be interpreted to violate any applicable laws; (ii) either party determines that a law precludes it (as a result of this Agreement) from billing Medicare or another public or private third party payor for its healthcare items and services; (iii) either party determines that as a result of this Agreement a law prohibits, limits or otherwise adversely affects its reimbursement for healthcare items or services; or (iv) University determines that this Agreement jeopardizes the tax-exempt status of University or its tax-exempt bonds; the party making such determination may terminate this Agreement upon thirty (30) days advance written notice of the intent to terminate and the basis for the determination to the other parties. The parties shall use good faith efforts during such thirty (30)-day period to avoid termination by amending this Agreement in such a manner so that it complies with applicable laws, does not preclude a party from billing a third party payor, does not adversely affect reimbursement for a party's services or does not jeopardize the tax-exempt status of University or its tax-exempt bonds, as applicable.
5. The performance by the University of its obligations under this Agreement shall be subject to and contingent upon the availability of funds appropriated by the state

legislature or the prime funding agency, or otherwise lawfully expendable for the purpose of this Agreement for the current and future periods. The University shall give notice to the Company of the non-availability of such funds when University has knowledge, at which point the University may terminate this Agreement in whole or in part.

6. The Company shall allow public access to all documents, papers, letters or other material that are within the scope and are the subject of the provisions of Chapter 119, Florida Statutes, and made or received by it in conjunction with this Agreement. Refusal by the Company or the Facility to allow such public access, and which results in a violation of Chapter 119, Florida Statutes, shall be grounds for immediate termination of this Agreement by the University.
7. In accordance with Section 112.3185, Florida Statutes, the Company certifies to the best of its knowledge and belief that no individual (i) employed by it or the Facility, (ii) subcontracted by it or the Facility, (iii) within the ownership structure of the Company or the Facility, has an immediate relation to any employee of the University who was directly or indirectly involved in the procurement of services under this Agreement. Violation of this section at any time during the term of this Agreement shall be grounds for immediate termination of this Agreement by the University.
8. The termination rights in this section are not exclusive, but rather are in addition to any other rights and remedies that a party may have at law or in equity.

D. Amendment and Assignment. Amendments and modifications to the terms and conditions of this Agreement shall be effective only upon the mutual written agreement of the parties hereto, signed by a person authorized to approve such amendments and/or modifications. Neither party may assign this Agreement or any rights hereunder without the prior written consent of the other party.

E. Notice. All notices required in this Agreement will be provided in writing by each party and forwarded by certified mail, addressed as follows:

If to University:

Florida Atlantic University  
[Michael L. Friedland, M.D.]  
Vice President for Medical Programs  
Dean, Charles E. Schmidt College of Medicine  
777 Glades Road, Bldg 71-Room 239  
Boca Raton, FL 33431

If to Company:

M.T. Health Center, LLC  
2979 PGA Blvd. Suite 201  
Palm Beach Gardens, FL 33410  
Attn: Paul M. Walczak, CEO

With a copy to:

Eavenson, Fraser & Lunsford, P.L.  
2000 PGA Boulevard  
Suite 3200  
Palm Beach Gardens, FL 33408  
Attn: Bradley B. Eavenson, Esquire

F. Confidentiality/ HIPAA. Students are considered “Trainees” according to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) Privacy Rules and are part of Facility’s workforce for purposes of HIPAA. As such, students must adhere to all protective measures regarding protected health information (“PHI”), in the same manner as the Facility’s staff and healthcare professionals. Students are viewed as part of the Facility’s workforce, for purposes of HIPAA and in accordance with HIPAA definitions, and as such will have identical expectations for protecting PHI as the Facility’s staff and healthcare professionals. The Company shall inform students as to what those expectations are and students shall sign a written acknowledgment of such expectations.

G. Independent Contractors. It is expressly understood and agreed that this agreement is not intended and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association between University, Residents, and students, on one hand, and the Company or the Facility on the other hand. Rather, it is an agreement by and between independent contractors, these being University and the Company. This Agreement is strictly for the benefit of the parties hereto, and is not meant to create any rights in third parties or third party beneficiaries. The Residents and Students under this program are in attendance at the Facility for research and educational purposes, and are not considered to be employees of either the Company or the Facility for any purpose (except for the limited purposes as provided in Section IV, paragraph (F)), including, but not limited to, compensation for services, employee welfare and pension benefits, or workers’ compensation insurance. This Agreement is strictly for the benefit of the parties hereto, and is not meant to create any rights in third parties or third party beneficiaries.

H. FERPA. Each party acknowledges that information (if any) received from the University regarding students may be protected by the Family Educational Rights and Privacy Act (“FERPA”), and agrees to use such information only for the purpose for which it was disclosed and not to make it available to any third party without first obtaining the student's written consent.

I. Exclusivity. FAU, the Company and the Facility shall have the right to enter into similar agreements with other institutions or facilities.

J. Compliance with Law. The parties specifically intend to comply with all applicable laws, rules and regulations as they may be amended from time to time. If any part of this Agreement is determined to violate federal, state, or local laws, rules, or regulations, the parties agree to

negotiate in good faith revisions to any such provisions. If the parties fail to agree within a reasonable time to revisions required to bring the entire Agreement into compliance, either party may terminate this Agreement upon thirty (30) days prior written notice to the other party.

K. Severability. The provisions of this Agreement are severable, and if any provision of this Agreement is found to be invalid, void or unenforceable, the remaining provisions will remain in full force and effect.

L. Waiver. The waiver of any breach of any term of this Agreement does not waive any subsequent breach of that or another term of this Agreement.

M. Entire Agreement. This Agreement shall constitute the entire agreement and understanding between the Company and University as to the subject matter hereof and supersedes all prior discussions, agreements and undertakings of every kind and nature between them, whether written or oral, with respect to such subject matter. This Agreement may subsequently be modified only by a written document executed by each party. All schedules and exhibits referenced herein shall be incorporated herein by reference.

N. Compliance with Federal Programs. The Company hereby represents and warrants to University that neither it nor the Facility (i) is currently excluded, debarred or otherwise ineligible to participate in the Federal health care programs as defined in 42 U.S.C. § 1320a-7b(f) ("Federal health care programs"); (ii) is convicted of a criminal offense related to the provision of healthcare items or services, or is excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; or(iii) is under investigation or otherwise aware of any circumstances which may result in either the Company or the Facilitybeing excluded from participation in the Federal health care programs. The Company shall immediately notify University of any change in the status of the representation and warranty set forth in this section, at which point the University may elect to terminate the Agreement.

O. No Obligation to Make Referrals. The parties acknowledge that there is no requirement under this Agreement, or any other agreement between the parties or the Facility, that any party or Facility refer any patients to any healthcare provider or purchase any healthcare goods or services from any source. Additionally, no payment under this Agreement is (i) in return for the referral of patients, if any, or (ii) in return for purchasing, leasing, or ordering services from either party. Either party or Facility may refer, or not refer, patients to the other party or Facility and shall make such referrals, if any, based only on the professional medical judgment of the healthcare provider, and the needs and desires of the relevant patients.

P. Change of Law. If the governmental agencies (or their representatives) which administer Medicare, any other payor, or any other federal, state or local government or agency passes, issues or promulgates any law, rule, regulation, standard or interpretation, or if any court of competent jurisdiction renders any decision or issues any order, at any time while this Agreement is in effect, which prohibits, restricts, limits or in any way substantially changes the method or amount of reimbursement or payment for services rendered under this Agreement,

or which otherwise significantly affects either party's rights or obligations hereunder, such party may give the other notice of intent to amend this Agreement to the satisfaction of the parties, to compensate for such prohibition, restriction, limitation or change. If this Agreement is not amended in writing within ten (10) days after said notice is given, the Agreement shall terminate as of 12:00 a.m. on the 10th day after said notice is given.

Q. Indemnification & Assumption of Risk. The Company shall, and shall cause the Facility to, indemnify and hold free and harmless, and defend the State of Florida, the University, its Board of Trustees, and its officers, directors, employees, agents, contractors and volunteers (the "Indemnitees") from and against any actions, losses, damages, claims, demands, suits, costs, liabilities and expenses (including reasonable attorneys' fees and court costs) that arise from or as a result of: (i) the gross negligence or intentional acts of either the Company's or the Facility or their employees, agents or contractors; (ii) any and all injuries to Residents or the Indemnitees or their property which occur while they are providing services to or for the Facility; or (iii) the Company's material breach of this Agreement, subject to the cure provisions set forth herein. In addition, the foregoing shall not limit or prevent the Indemnitees from pursuing any other remedies available to them at law or in equity.

To the extent provided under Section 768.28 of the Florida Statutes, University assumes any and all risks of personal injury and property damage, deprivation, or infringement (including, but not limited to, intellectual property) attributable to the negligent acts or omissions of the University and its officers, employees, and agents while acting within the scope of their employment by University. Nothing contained herein shall be construed or interpreted as (1) denying to any party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the State of Florida or its officers, employees, servants, agents, agencies, or public bodies corporate to be sued; or (3) a waiver of sovereign immunity of the State of Florida beyond the waiver provided in section 768.28 of the Florida Statutes.

R. University Professional Liability. The University faculty and Residents are employees and/or agents of the Florida Atlantic University Board of Trustees, as provided by law, whose performance of the duties hereunder is an integral part of such employment or agency relationship. The Florida Atlantic University Board of Trustees, as provided by law, is vicariously responsible for acts of the University faculty and Residents assigned hereunder to the extent provided in Section 768.28, Florida Statutes. The Florida Atlantic University Board of Trustees, the University, the College, and the students are intended to be protected against professional liability claims by the Florida Atlantic University College of Medicine Self-Insurance Program, to the extent and in the amounts permitted by Section 768.28, Florida Statutes. A certificate describing such professional liability protection will be provided to the Company before the commencement of the clinical education program at the Facility.

University hereby acknowledges and agrees and shall stipulate in any action, suit, or proceeding involving the Company and/or the Facility that the University faculty and Residents are, with respect to acts and omissions while acting within the scope of their employment or function, including, without limitation, all duties performed at the Facility pursuant to this Agreement, employees and/or agents under the right of control and actual control of the Florida

Atlantic University Board of Trustees, as provided by law, and the University shall not in any such action, suit, or other proceeding assert that the University faculty or Residents should be deemed to be the agents of any person other than the Florida Atlantic University Board of Trustees, pursuant to the terms of Section 1012.965, Florida Statutes, provided that the other requirements of this statute are met, including the provision and acknowledgement of the notice (unless impractical by reason of emergency) which shall be in the form attached hereto as Exhibit A. The Company shall cause the Facility to provide such separate, conspicuous, written notice in the form attached hereto as Exhibit A to all patients/residents at the Facility stating that care and treatment, when provided by the University faculty or Residents will be provided by employees and agents of the Florida Atlantic University Board of Trustees and College, as provided by law, and liability, if any, that may arise from that care is limited as provided by law, and the receipt of such notice shall be acknowledged in writing, unless impractical by reason of an emergency, by the patient/resident either personally or through another person authorized to give consent for him or her.

S. Counterparts. This Agreement may be executed in one or more counterparts all of which together shall constitute only one (1) agreement.

T. Authorization. Each party represents and warrants that it is duly authorized to enter into this Agreement on behalf of itself and its affiliates, and that this Agreement shall not conflict with or cause it to be in breach of any other agreements or obligations such party might have. Company further represents and warrants that it is authorized and able to obligate the Facility to comply with the covenants, obligations and representations applicable to them in this Agreement, and Company agrees to so obligate the Facility.

U. Governing Law. This Agreement has been entered into in the State of Florida and shall be construed and interpreted in accordance with, and shall be governed by, the laws of the State of Florida, notwithstanding that State's choice of law provisions. Venue for any action will be in Palm Beach County, Florida.

**[Signatures Appear on Next Page.]**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives.

**M.T. HEALTH CENTER, LLC**

**FLORIDA ATLANTIC UNIVERSITY  
BOARD OF TRUSTEES**

By: \_\_\_\_\_

Name: Paul M. Walczak

Title: Chief Executive Officer Title:

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

By: \_\_\_\_\_

Name: [Michael L Friedland, M.D.]  
Vice President for Medical Programs  
and Dean, Charles E. Schmidt  
College of Medicine

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

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Associate Provost FAU

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

**Exhibit A**

Section IV (S) Notice

**NOTICE OF LIMITED LIABILITY PURSUANT TO SECTION 1012.965, FLORIDA STATUTES**

I, on behalf of myself, my child, and/or my ward, acknowledge that I have been notified that:

1. I, my child, and/or my ward, will receive care provided by employees of the Florida Atlantic University Board of Trustees(hereafter referred to as "FAU") at one or more of the following health care facilities where FAU employees provide patient care: \_\_\_\_\_  
\_\_\_\_\_
2. I, on behalf of myself, my child, and/or my ward, understand that the employees of FAU are not employees or agents of \_\_\_\_\_.
3. Additionally, I, on behalf of myself, my child, and/or my ward, understand that liability, if any, that may arise from the care provided by these FAU employees is limited as provided by law. The law provides that "neither the state nor its agencies or subdivisions shall be liable to pay a claim or judgment by any one person which exceeds the sum of \$100,000 or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of \$200,000" (Section 768.28(5), Florida Statutes). I also understand that these amounts are going to increase in October, 2014 to \$2000,000 per claim and \$300,000 in total.

\_\_\_\_\_  
**Printed name of Patient**

\_\_\_\_\_  
**Printed Name of Authorized Representative/Guardian**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature of Patient or Authorized Representative/Guardian**

**Exhibit B**

Section I(C)(7) Student Acknowledgment

Note: The parties to this Agreement agree that the below Student Acknowledgment may be revised and amended from time to time by M.T. Health Center, LLC in its reasonable discretion.

**Policy and Procedure Manual Acknowledgement**

I, \_\_\_\_\_, have read and understand the “\_\_\_\_\_ Policy and Procedure Manual”. I agree to abide by all of the policies and procedures stated therein during my student involvement and presence at “\_\_\_\_\_” (the “Facility”). I understand that this is a working document and policies and procedures are subject to change at any time. If I fail to adhere to the policies and procedures set forth in the “\_\_\_\_\_ Policy and Procedure Manual”, I am aware that I may be refused access to the Facility and my student involvement at the Facility may be terminated. I understand that while conducting student activities at the Facility, I may have access to confidential information, files and material, including confidential patient and health information. I agree to hold confidential all information to which I have access solely because of my student involvement at the Facility. I understand that maintaining the confidentiality of such information is an express condition of the privilege I have been granted by M.T. Health Center, LLC and/or the Facility to access the Facility and conduct student activities on or about the Facility. I agree that if there is any policy, procedure or provision of the “\_\_\_\_\_ Policy and Procedure Manual” that I do not understand, I will seek immediate clarification from my Florida Atlantic University Supervisor or appropriate Facility staff personnel. Except for the negligence or willfull misconduct of M.T. Health Center, LLC or the Facility, I agree to hold M.T. Health Center, LLC and the Facility harmless from any liability or damages each may suffer as a result of my presence and student involvement at the Facilities, or as a result of my failure to abide by all of the policies and procedures set forth in the “\_\_\_\_\_ Policy and Procedure Manual”.

\_\_\_\_\_  
Student Signature

\_\_\_\_\_  
Date