

AMENDED AND RESTATED AFFILIATION AGREEMENT

THIS AMENDED AND RESTATED AFFILIATION AGREEMENT (this “**Affiliation Agreement**”) is made and entered into as of the ____ day of _____ 2022 (the “**Effective Date**”), by and between East Carolina University, a constituent institution of the University of North Carolina (“UNC”), on behalf of its operating division, The Brody School of Medicine (“**BSOM**”) and Pitt County Memorial Hospital, Incorporated, f/k/a Vidant Medical Center (“**VMC**”). It is acknowledged that the current assumed name for VMC is ECU Health Medical Center. For ease of reference, historical context and consistency with the language of Joint Operating Agreement, further defined herein, the former assumed name of Pitt County Memorial Hospital, Inc., will be referenced throughout. BSOM and VMC are each referred to as a “party” and, collectively, as the “parties.”

WHEREAS the parties, on December 17, 1975, entered into that original affiliation agreement which expired in December 1995; and

WHEREAS the parties, on October 14, 1994, agreed to amend the original affiliation agreement and renew it with changes effective January 1, 1995; and

WHEREAS the parties, on August 8, 2013, agreed and entered into that certain new Affiliation Agreement, as amended in 2019 by that certain Exhibit A to the Affiliation Agreement dated October 8, 2019 (the “**2013 Affiliation Agreement**”); and

WHEREAS this Affiliation Agreement between the parties continues to provide for the utilization of VMC as the primary teaching hospital of BSOM, and will thereby render unnecessary the construction and operation of a separate State-owned teaching hospital with attendant duplication of facilities and services; and

WHEREAS VMC and BSOM each recognize that VMC benefits from an affiliation with BSOM through the enrichment of its medical education, research, and other related programs and the care of certain of its patients; and BSOM and VMC each recognize that East Carolina University and its BSOM benefit from an affiliation with VMC by having available for their faculty and medical students opportunities for clinical education, research, patient care, and other related activities afforded by VMC, its medical education programs, and facilities; and

WHEREAS the majority of the physicians on VMC’s medical staff consist of physicians who have faculty appointments from BSOM and a majority of all VMC admissions are made by physicians who are faculty members; and

WHEREAS an affiliation between BSOM and VMC continues to most advantageously utilize their combined facilities, professional staff and other resources to effect their common concern for excellence in community service, patient care, medical education and research for the residents of Pitt County, other counties in eastern North Carolina and the State of North Carolina; and

WHEREAS the principles of the longstanding affiliation between VMC and BSOM have in the past been jointly developed and approved by representatives of the Parties, as well as the Board of Governors of the University of North Carolina (“**BOG**”) and the Pitt County Board of Commissioners (“**Pitt County Commissioners**”); and

WHEREAS expanded facilities which, from time to time, may be necessitated by this Affiliation Agreement will permit continuation of the present VMC policy of providing for the hospital health care needs of Pitt County residents while expanding the availability of services to the regions to be served by VMC; and

WHEREAS it is the objective of VMC and BSOM that this Affiliation Agreement be so constructed as to comply with the standards and regulations of the reviewing and accrediting agencies involved; and

WHEREAS the parties to this Affiliation Agreement from time to time have entered or may in the future enter into leases, contracts and/or agreements outside this Affiliation Agreement which are consistent with the spirit of this Affiliation Agreement; and

WHEREAS East Carolina University on behalf of itself and BSOM (“**ECU Parties**”) and University Health Systems of Eastern Carolina, Inc, f/k/a Vidant Health (“**Vidant Health**”), on behalf itself, VMC and its other controlled affiliates (collectively, the “**Vidant Parties**”), entered into that certain Joint Operating Agreement dated January 1, 2022 (the “**JOA**”) with the intent of furthering and enhancing their longstanding affiliation by the formation of “**ECU Health**,” a contractual entity created pursuant to the JOA, as further described and defined in section I of the JOA, for the purpose of codifying and continuing certain Coordinated Operations among the ECU Parties and the Vidant Parties and

WHEREAS section V.J of the JOA requires that the 2013 Affiliation Agreement be amended and restated to ensure any conflicting provisions with the JOA are resolved and that this Affiliation Agreement and the JOA are on the same term; and

WHEREAS any capitalized terms not defined herein shall have the same meaning as given to such capitalized term in the JOA.

NOW, THEREFORE, in consideration of the foregoing recitals which are expressly incorporated herein, the following terms and conditions, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. AREAS OF RESPONSIBILITY

- A. As provided for in section I.C and II of the JOA, the positions of Chief Executive Officer of Vidant Health (the “**CEO**”) and the Dean of BSOM (the “**Dean**”) shall be held by the same individual (the “**CEO/Dean**”), with such duties as specifically described throughout the JOA.
- B. The CEO/Dean shall be charged with the responsibility and authority to ensure that BSOM is operated as a reputable and accredited school of medicine as prescribed

by the laws of the State of North Carolina and the requirements of the Liaison Committee on Medical Education (LCME) of the American Association of Medical Colleges and the American Medical Association. Notwithstanding the foregoing, the BOG shall retain for its facilities all jurisdictional powers incident to separate ownership as set forth in the JOA. The operation of this Affiliation Agreement as it affects BSOM shall be consistent with the policies of the ECU Board of Trustees pursuant to its authority under the laws of North Carolina and the Code of UNC, and policies, regulations, and guidelines adopted by the BOG or the President of UNC pursuant to their authority under the Constitution and laws of the State of North Carolina.

- C. The CEO/Dean shall be similarly charged with the responsibility and authority to ensure VMC remains in compliance with applicable Health Care Laws, accreditation and regulatory standards and requirements for participation in Government Reimbursement Programs. Notwithstanding the foregoing, the VMC Board of Trustees (“**VMC Board**”) shall retain for its facilities all jurisdictional powers incident to separate ownership as set forth in the JOA.

II. RIGHTS AND PRIVILEGES OF PHYSICIANS AND DENTISTS

- A. The rights and privileges of all physicians and dentists on the VMC medical staff shall be maintained consistent with accreditation standards and requirements for VMC and BSOM and may not be withdrawn arbitrarily. The VMC Board shall maintain the authority to appoint the VMC medical staff and delineate privileges after consultation with the VMC medical staff.
- B. The following terminology shall apply when various physician groups are referred to in this Affiliation Agreement:
 - 1. The Medical Staff: All physicians and dentists who have been admitted to VMC medical staff membership according to the VMC medical staff bylaws.
 - 2. Medical School Based Faculty: Members of the BSOM faculty who are employed or contracted by BSOM either full or part-time.
 - 3. Community-Based Faculty: Members of the medical staff who are not employed by BSOM, who practice in the community, and who have appointments to the BSOM faculty.

III. GOVERNANCE

- A. The VMC Board shall provide oversight to VMC so as to meet accreditation standards for VMC and for BSOM’s educational programs.
- B. VMC will be governed by a 20-member Board of Trustees.
 - 1. The Pitt County Commissioners will appoint eleven (11) members (55%) of the VMC Board, at least one of whom shall be a Pitt County physician.

2. The BOG shall appoint nine (9) members (45%) of the VMC Board, subject to the following conditions:
 - i. The nine (9) seats to be filled by the BOG are seat numbers 1, 2, 4, 5, 7, 10, 11, 18 and 20.
 - ii. A Nominating Committee of the current VMC Board shall nominate candidates for the seats.
 - iii. The Nominating Committee shall be composed of four of the BOG's appointees, two of which shall be the ECU *ex officio* members on the VMC Board.
 - iv. Two of the BOG's appointees on the VMC Board shall be the ECU Chancellor *ex officio* (or designee) and the Dean of BSOM, *ex officio*. The ECU Chancellor (or designee) shall fill seat 5 and the Dean shall fill seat 2.
 - v. The ECU Chancellor's designee, if any, shall be an ECU employee serving in a senior leadership position at ECU during the duration of his or her membership on the VMC Board.
 - vi. Two of the BOG's appointees on the VMC Board shall reside outside Pitt County (and shall be different from the ECU *ex officio* members).
 - vii. An application for each nominee is required, with emphasis on key credentials—such as executive leadership in a community hospital; or executive leadership in an entity in the healthcare field.
 - viii. A copy of any completed application shall be circulated to the members of the Nominating Committee prior to a meeting of the Nominating Committee to vote on such applicant.
 - ix. The Nominating Committee shall propose one nominee for each open seat, which shall be presented to the BOG as a slate. The BOG shall vote to accept or reject all or any part of the slate. In the event that the BOG rejects any individuals within the slate, the Nominating Committee shall propose a new slate for any unfilled seat(s).
 - x. The BOG shall make reasonable efforts to reach a decision on the slate by the conclusion of the third regular meeting following the submission of the slate. If the BOG has not reached a decision on the slate by the third regular meeting following the submission of the slate, the nominees on the slate shall be deemed rejected, and the Chairperson of the BOG's Governance Committee shall confer with the Chairperson of the VMC Board about the nominations. Any board members whose terms have ended will hold over until reappointed or a nominee is appointed in their place in accordance with VMC's Articles of Incorporation.
 - xi. In the event of a rejection of any individuals within a slate, the Chairperson of the BOG's Governance Committee shall confer with the Chairperson of the Nominating Committee for the BOG appointees to the VMC Board to discuss the rejection.
 - xii. The CEO/Dean will serve as the VMC liaison to the ECU Board's Health Sciences Committee and will participate in said committee's

meetings, as appropriate, subject to the discretion of the committee chair and the ECU Chancellor.

3. The Pitt County Commissioners will implement similar parameters for its appointments to the VMC Board.
4. Neither the Pitt County Commissioners nor the BOG shall remove any of their members appointed to the VMC Board except for cause.
5. In addition to its duties as set forth in the JOA, the Joint Operating Committee of ECU Health shall review annually the VMC Conflicts of Interest Policy to discuss any issues that may have arisen or which are reasonably foreseen in connection with the ECU Chancellor's (or designee's) or the Dean's service as voting members on the VMC Board, so as to ensure that there are no barriers to their full participation and to enable their continued ability to provide advice and input from the perspectives of ECU and the UNC System on matters relating to the relationship between VMC and ECU. In the event more immediate review is required as matters are brought before the VMC Board from time to time, the Chair of the VMC Board and the VMC President shall be notified and shall promptly meet with the Chancellor and/or the Dean (with VMC and ECU counsel as required) to resolve.

- C. The Executive Committee of the VMC Board shall consist of nine members including the Chairman, Vice Chairman, Secretary, and six members elected by the VMC Board from the at large membership in a manner such that a total of five members of the Executive Committee are members of the VMC Board appointed by the Pitt County Commissioners and a total of four members of the Executive Committee are members of the VMC Board appointed by the BOG.

IV. FINANCIAL RESPONSIBILITY

The Parties agree to and acknowledge that financial integration shall occur as permitted and required under section VI of the JOA. Further, nothing in this paragraph shall prohibit subsequent agreements, subject to the JOA and other applicable legal powers and limitations of VMC and BSOM for the joint employment of personnel and for the pro rata apportionment of salaries thereof or for the pro rata apportionment of other related costs and expenditures.

V. PATIENTS

Each patient admitted to a VMC service shall be available for teaching programs unless the attending physician or dentist, the patient, the guardian, or in the event of patient incapacity, the person authorized to consent to care specifies otherwise.

VI. MEDICAL SCHOOL-BASED FACULTY: APPOINTMENT, RECRUITMENT, PRIVILEGES

- A. Appointment to BSOM faculty shall be the responsibility of BSOM, including the CEO/Dean by virtue of his or her position, subject to the policies and regulations of ECU and of the BOG.
- B. The CEO/Dean shall be responsible for establishing each search committee for a chair of a clinical department at BSOM, which representation may include unrestricted representation from the VMC President or designee and Community-Based Faculty relevant to the department.

VII. CHIEF OF SERVICE

- A. Where applicable, the Chair of a clinical Department in BSOM, or such other person as the CEO/Dean may designate, shall be appointed as the Chief of the corresponding VMC Service. The CEO/Dean may also designate the Chief of Service to be the Service Line Chief for the corresponding clinical Service Line functioning across ECU Health. The CEO/Dean will define a process for the annual evaluation of each Department Chair, Chief of Service and Service Line Chief based on performance criteria developed and in accordance with the ECU Faculty Manual, BSOM Code, laws of North Carolina, the Code of UNC, and other applicable policies, regulations, and guidelines adopted by the BOG or the President of UNC.
- B. Each Chief of Service will be responsible for providing a mechanism for representation from all members of the VMC Service in developing patient care policies for the applicable VMC Service.
- C. Each Service Line Chief shall be responsible for providing a mechanism for representation from all members of the Service Line in developing patient care policies for the applicable ECU Health Service Line

VIII. MEDICAL STUDENT AND GRADUATE MEDICAL EDUCATION PROGRAMS

- A. Medical student educational programs within VMC shall conform to the requirements of the Liaison Committee for Medical Education (LCME). The Chair of an academic clinical department shall be responsible for medical education programs within that department within VMC. Medical student participation in patient care shall be supervised by members of the Medical School-Based Faculty and Community-Based Faculty as agreed to by VMC and BSOM. The medical education programs of BSOM and VMC will assure that the learning environment promotes the development of explicit and appropriate professional attributes in its medical students and residents. BSOM and VMC mutually recognize that the learning environment includes both formal learning activities, and the attitudes, values and informal lessons conveyed by individuals who interact with the medical students and residents. When a medical student is exposed to an infectious, environmental, or other occupational hazard during the course of his/her clinical

experience at VMC, initial evaluation and treatment will be provided by VMC's Occupational Health Office (and Emergency Department for after hours needs), with applicable follow-up care arranged by BSOM. Initial evaluation and treatment costs will be borne by VMC.

- B. VMC and BSOM accept the joint responsibility for developing and administering all residency and other graduate medical education (GME) programs accredited by the Accreditation Council for Graduate Medical Education (ACGME) or other national accrediting agencies, and unaccredited programs as approved by the CEO/Dean. GME programs shall be conducted in accordance with the requirements of the accrediting body and the GME Committee. The Chair of an academic clinical department sponsoring any GME program shall maintain management responsibility for the conduct of these programs unless otherwise directed by the CEO/Dean.
- C. A Graduate Medical Education Committee shall have the responsibility for advising on and monitoring all aspects of residency education. This committee is responsible to the Executive Committee of the Medical Staff of VMC for all medical staff issues related to these trainees. In all other issues, the GME Committee is responsible to the CEO/Dean or his or her designee.
- D. The CEO/Dean shall appoint a BSOM faculty member to be the Director of GME in VMC and the Associate Dean for GME in BSOM. This person shall be the Designated Institutional Official for the ACGME and chair the GME Committee. The CEO/Dean will define a process wherein the VMC President will provide input on the annual evaluation of the Director of GME/Associate Dean for GME based on performance criteria defined in a contractual agreement outlining the work of the Director of GME/Associate Dean for GME. Recognition for outstanding performance or failure to fulfill the performance criteria as specified in the contract will be addressed through specific actions in the contract.

IX. RESEARCH

- A. BSOM and VMC shall encourage the development of research programs to advance medical knowledge, to support the undergraduate and graduate educational programs, and to contribute to the recruiting of an outstanding faculty.
- B. Further, as provided in section V.C of the JOA, BSOM and VMC will commit to advancing a research infrastructure in a manner that aligns with the mission of ECU Health, leverages the capabilities of the ECU Parties and Vidant Parties, maximizes the research value and is financially sustainable.
- C. All proposed research projects shall conform to federal, state, and other governmental regulations, and be approved by the appropriate ECU Health process.

X. EXPANSION OF TEACHING FACILITIES AND SERVICES

The CEO/Dean shall be responsible for developing proposed expansion and/or renovation plans necessary in order to provide adequate facilities and services for academic and clinical functions and shall ensure the collaboration of VMC and BSOM in these plans on behalf of ECU Health.

XI. TERM & TERMINATION

- A. The parties of this Affiliation Agreement acknowledge that the success of the combined program of medical training and patient care can only be achieved through the fulfillment of the purposes and the achievement of the integration as set forth in the JOA. In light of the foregoing, in the event of a conflict between the provisions of the JOA and this Affiliation Agreement, the provisions of the JOA shall control.
- B. The initial term of this Affiliation Agreement shall be a period extending from the Effective Date until January 1, 2032 (the “**Initial Term**”) and shall renew automatically for additional, subsequent periods of ten (10) years each (each, as “**Renewal Term**”), unless earlier terminated in accordance with this Affiliation Agreement or by written notice delivered by December 31st one (1) year prior to the end of the existing Initial Term or Renewal Term.
- C. In the event of termination for any reason or non-renewal of this Affiliation Agreement, the parties agree to cooperate in good faith in the wind-up of the activities that are the subject of this Affiliation Agreement, including but not limited to the wind-up of student clinical education or training insofar as feasible. VMC and BSOM shall conduct the wind-up in a manner minimally disruptive to the parties’ programs and personnel and in compliance with accreditation requirements. In the event of such termination, this Affiliation Agreement shall be extended for two years beyond the Initial Term or any Renewal Term of this Affiliation Agreement or the JOA to allow for an orderly wind-up of the relationship of the parties unless a shorter or longer period is established by mutual consent of the Parties.
- D. This Affiliation Agreement may be terminated in accordance with the following:
 - 1. Prior to the conclusion the Initial Term or any Renewal Term only upon written mutual consent of the Parties; or
 - 2. As permitted under Section X.B.3 through Section X.B.5 in the JOA.

XII. AMENDMENT

It is understood that this Affiliation Agreement may be amended in writing at any time to include such provisions as are agreed upon by the parties and that are otherwise consistent with the JOA. Future provisions in this document required for accreditation purposes by either VMC or BSOM should be addressed by addendum to this Affiliation Agreement or

IN WITNESS WHEREOF, each party has caused a duly authorized representative to execute this Affiliation Agreement to be effective as of the date indicated hereinabove.

BOARD OF TRUSTEES OF EAST
CAROLINA UNIVERSITY

By: _____
Chairman

ATTEST:

Secretary

BOARD OF TRUSTEES OF PITT COUNTY
MEMORIAL HOSPITAL, INC.

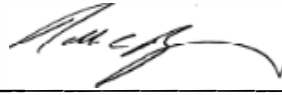
By: _____
Chairman

ATTEST:

Secretary

Approved by:

BOARD OF GOVERNORS OF THE
UNIVERSITY OF NORTH CAROLINA

By: 
Chairman

ATTEST:


Secretary

Approved by:

PITT COUNTY BOARD OF
COMMISSIONERS

By: _____
Chairman

ATTEST:

Secretary