

CLINICAL/NON-CLINICAL AFFILIATION AGREEMENT

THIS CLINICAL/NON-CLINICAL AFFILIATION AGREEMENT ("Agreement") is hereby made and entered into as of September 1, 2021, by and between Lipscomb University, a Tennessee nonprofit corporation ("Lipscomb"), and Ashland City Fire Department ("Facility").

WITNESSETH:

WHEREAS, Lipscomb desires to provide students enrolled in the Department of Nutrition and Kinesiology of Lipscomb's College of Pharmacy and Health Sciences (the "Students") with the opportunity to experience quality training and education in Exercise Science at the Facility (the "Program"); and

WHEREAS, Facility has the expertise and facilities necessary to provide clinical/non-clinical training and education for the Students;

NOW, THEREFORE, in consideration of the mutual covenants, promises and conditions contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, Lipscomb and Facility hereby agree as follows:

1. **Obligations and Rights of Facility.**

(a) Facility shall provide for the Program appropriate personnel who are qualified to provide suitable clinical/non-clinical learning experience and supervision consistent with the Program's curriculum and objectives in accordance with Lipscomb's academic calendar. Facility shall also furnish the premises, services and all other items necessary for the Program.

(b) Facility shall designate the appropriate personnel to coordinate the Students' clinical/non-clinical training and education experience in the Program, and provide Lipscomb with the names, qualifications and contact information of such personnel or any replacement or substitution thereof; provided, however, that such personnel must be reasonably acceptable to Lipscomb. Facility shall cause its personnel to work with Lipscomb faculty and staff to assign Students to specific clinical/non-clinical experiences, and include the Students in selected conferences, clinics, courses and programs conducted under the direction of Facility. The parties acknowledge and agree that in no case shall any Student in a learning situation replace Facility's personnel.

(c) Prior to the commencement of the Program, Facility shall submit to Lipscomb the name and professional and academic credentials of the individual that Facility proposes to serve as the coordinator for the Students' education/experience in the Program and to serve as Facility's liaison with Lipscomb with respect to the Program. Lipscomb shall promptly notify Facility of Lipscomb's approval or disapproval of such person. Facility acknowledges and agrees that no person shall serve as Facility's coordinator and liaison for the Program without prior approval of Lipscomb. In the event that any such coordinator and liaison becomes unacceptable and Lipscomb notifies Facility of such disapproval, Facility will appoint another person in accordance with the terms of this paragraph.

(d) Facility shall submit to Lipscomb a confidential evaluation of each Student's progress based upon his or her performance in the Program. Lipscomb shall provide or approve in advance the format for any such evaluation.

(e) Facility shall assign each Student to one or more supervisors who shall be responsible for such Student's clinical/non-clinical education and provide appropriate instruction.

(f) Facility shall provide each Student with any necessary or appropriate instruction regarding procedures that may involve specialty areas of Facility and use of any necessary or appropriate equipment.

(g) During the term of this Agreement, Facility shall permit, upon reasonable advance notice, the inspection of Facility and the Program by Lipscomb's personnel and/or any agencies charged with accreditation of Lipscomb; provided, however, that no such inspection shall unreasonably interfere with Facility's business.

(h) Facility shall have the right to recommend to Lipscomb the withdrawal or dismissal of a Student from participation in the Program if: (i) the achievement, progress, performance or health of the Student does not warrant continuation at Facility; or (ii) the behavior of the Student fails to conform to the applicable rules and requirements of Facility. Facility shall send to Lipscomb written notification of such recommendation, including the reason of the recommendation, and will assist Lipscomb, if necessary, in implementing any such recommendation.

(i) Facility shall maintain, at its own cost and expense, professional liability insurance covering each of its employees providing clinical/non-clinical training or education in the Program in the minimum amount of \$1,000,000 per occurrence and \$3,000,000 in the aggregate. Facility shall provide proof of such insurance to Lipscomb upon request.

(j) Facility shall provide all equipment and supplies needed for clinical/non-clinical instruction in the Program at Facility.

(k) Facility shall provide emergency care in case of illness or accident to any Student; provided, however, that the parties acknowledge and agree that any such Student will be financially responsible for any emergency treatment provided by the Facility.

(l) Facility shall provide to Lipscomb and all Students a copy of the current rules and policies of Facility to be followed by the Students and Lipscomb personnel in connection with the Program. Facility shall provide appropriate orientation to the Students and applicable Lipscomb faculty and staff members and advise them of all applicable policies, rules and regulations.

2. **Obligations and Rights of Lipscomb.**

(a) Lipscomb shall provide advance notice to the Facility if any Students participating in the Program have special needs.

(b) Upon Facility's request, Lipscomb shall provide, or cause each Student to provide, to Facility evidence of appropriate health insurance coverage of each Student.

(c) Lipscomb shall determine the eligibility of Students to participate in the Program, based on fulfilling the prerequisites therefor, and shall designate the Students to participate in the Program during each academic term. Lipscomb shall provide reasonable advance notice to Facility of the number of Students who will participate in the Program during each academic term. Notwithstanding the foregoing, Lipscomb shall ensure that each Student has completed all necessary prerequisites before beginning the Program.

(d) Lipscomb shall designate a member of Lipscomb's faculty or staff to coordinate scheduling with Students and Facility's appropriate personnel, visit the Facility, provide course information and objectives to Facility's appropriate personnel and assist in resolving problems and difficulties which may arise. Lipscomb shall provide Facility with the name and contact information for such designee.

(e) Lipscomb may make a copy of this agreement available to each Student participating in the Program.

(f) Lipscomb shall maintain, at its own cost and expense, professional liability insurance covering each Student in the minimum amount of \$1,000,000 per occurrence and \$3,000,000 in the aggregate. Lipscomb shall provide proof of such insurance to Facility upon request.

(g) Lipscomb shall ensure that, prior to participating in the Program, each Student has received proper education and training regarding the use, disclosure and confidentiality of Protected Health Information under applicable federal and state medical privacy and confidentiality laws, including, but not limited to, the federal regulations governing the Confidentiality of Alcohol and Drug Abuse Patient Records at 42 C.F.R. Part 2, the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d ("HIPAA"), the Health Information Technology Act of 2009 ("HITECH Act"), any current and future regulations promulgated under HIPAA or the HITECH Act (HIPAA, HITECH Act and any current and future regulations promulgated under either are referred to as the "HIPAA Rules"), and any applicable state or local laws. As used herein, "Protected Health Information" shall have the meaning ascribed to such term in the HIPAA Rules.

(h) Lipscomb shall inform Students that any material prepared for publication relating to their clinical/non-clinical experience must receive prior written approval by Lipscomb and Facility and must not include any Protected Health Information.

(i) Lipscomb shall withdraw and dismiss a Student from the Program if, after consultation with Facility, Lipscomb determines such action to be warranted, subject to and consistent with Lipscomb's policies and procedures. Notwithstanding the foregoing, Facility shall retain the right at all times and in its sole discretion to safeguard the health, safety and welfare of its patients and operations.

(j) In consultation with Facility, Lipscomb shall plan and oversee the educational program for Students' clinical/non-clinical experiences. Lipscomb shall have sole responsibility for the curriculum provided to the Students at the Facility.

(k) At least annually, Lipscomb shall provide Facility with a description of the Program, curriculum and objectives to be achieved at Facility, and the academic calendar of Lipscomb.

(l) Lipscomb shall cause all Students and appropriate Lipscomb personnel to abide by the rules and policies of Facility in connection with the Program and to conduct themselves in a professional manner such that their attire and appearance conform to the accepted standards of Facility.

3. **Mutual Obligations and Rights.**

(a) The parties shall mutually agree upon the Students who will participate in the Program, including the number of Students, their schedules, their responsibilities and the availability of the Facility; provided, however, that Lipscomb shall be responsible for developing and carrying out procedures for selecting Students for admission in the Program.

(b) The parties acknowledge and agree that the clinical/non-clinical education of the Students shall complement the service and educational activities of the Facility; provided, however, that no Students shall be used in lieu of Facility's clinical or administrative staff personnel and all Students shall be under the supervision of a clinical/non-clinical faculty acceptable to Lipscomb.

(c) The parties acknowledge and agree that it shall be the sole responsibility of each Student to provide housing and transportation to and from the Facility for the Student's participation in the Program.

(d) Upon Lipscomb's reasonable request and subject to Facility's rules and policies, Facility shall permit Lipscomb faculty to observe and/or videotape and record Students' clinical/non-clinical experience in the Program; provided, however, that Lipscomb shall keep strictly confidential all information in such experience in accordance with applicable rules and regulations.

(e) Each party shall perform, and cause its employees and agents to perform, its obligations hereunder in compliance with all applicable federal, state and local laws, rules and regulations, including, without limitation, HIPAA Rules, Title IX of the Education Amendments of 1972, Titles VI and VII of the Civil Rights Act of 1964, Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967 and the Age Discrimination Act of 1975. Each party covenants that it will not unlawfully discriminate against any individual including, but not limited to, employees or applicants for employment and/or students on the basis of race, religion, creed, color, sex, age, disability, veteran status or national origin.

(f) The parties acknowledge and agree that the Student's educational records are protected by the Family Educational Rights and Privacy Act ("FERPA"), and that a Student's permission generally must be obtained before releasing educational records to anyone other than Lipscomb. Lipscomb agrees to provide guidance to Facility with respect to complying with FERPA.

(g) Each party reserves the right to withhold the participation of any Students in the Program, depending upon the availability of their respective facilities and personnel to adequately provide an appropriate clinical/non-clinical experience.

4. **Term and Termination.**

(a) This Agreement shall be for a term of 3 years, beginning on September 1, 2021 and ending on August 31, 2024. This Agreement may be renewed upon written agreement of both parties.

(b) This Agreement may be terminated by either party for any reason upon 60 days' written notice, at which time this Agreement shall terminate without prejudice to the rights of the parties.

(c) Notwithstanding the foregoing, any Students currently enrolled in the Program at the Facility at the time of any notice of termination shall be permitted to complete their Program at Facility.

5. **Indemnification.**

(a) Facility shall indemnify, defend and hold harmless Lipscomb and its trustees, officers, employees, agents, successors and permitted assigns, from and against any and all liability, loss, damage, cause of action, suit, claim or judgment including, without limitation, reasonable attorneys' fees, as a result of or arising from the willful, fraudulent or grossly negligent acts or omissions of Facility or its employees or agents.

(b) Lipscomb shall indemnify, defend and hold harmless Facility and its directors, officers, employees, agents, successors and permitted assigns, from and against any and all liability, loss, damage, cause of action, suit, claim or judgment including, without limitation, reasonable attorneys' fees, as a result of or arising from the willful, fraudulent or grossly negligent acts or omissions of Lipscomb or its employees or agents.

6. **Students.** The parties acknowledge and agree that the Students shall not be deemed employees, agents or representatives of Facility, and are not entitled to monetary compensation or employee benefits, including worker's compensation benefits of Facility.

7. **Confidentiality.** Each party agrees to hold any and all Confidential Information (as hereinafter defined) in the strictest confidence, whether or not particular portions or aspects thereof may also be available from other sources, and not to disclose any Confidential Information to any third party without the prior written consent of the other party. Each party shall use Confidential Information solely for the purpose of performance under this Agreement and shall disseminate Confidential Information only to those of its employees and agents requiring access to Confidential Information for purposes of such performance and who are made aware of the confidentiality obligations set forth in this Agreement and agree to be bound thereby. For purposes of this Agreement, "Confidential Information" shall mean any and all confidential, proprietary, trade secret, or non-public information of or about either party, including its business practices, clients, know-how, business methods, financial data, and any other similar or analogous information.

8. **Use of Name or Likeness.** Each party agrees it will not use the other party's name, likeness, marks or logos in any advertising, promotional material, press release, publication, public announcement, or through other media written or oral without the prior written consent of such party.

9. **Miscellaneous.**

(a) **Authority; Binding Agreement.** Each party hereto represents that (i) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization; (ii) it has the power and authority to enter into this Agreement and to provide the services under this Agreement in a manner consistent with all applicable state and federal laws, rules and regulations; (iii) this Agreement constitutes the valid and legally binding obligation of such party, enforceable in accordance with its terms and conditions; and (iv) the individual executing this Agreement on behalf of or as a representative for such party is duly authorized to execute and deliver this Agreement on behalf of such party.

(b) **Relationship of Parties.** Each party hereto is an independent party. Nothing in this Agreement shall be construed to make any party hereto an agent, employee, franchisee, joint venturer, partner or legal representative of the other party.

(c) **No Third Party Beneficiaries.** This Agreement is entered into for the sole benefit of the parties hereto and nothing herein or in the parties' course of dealings shall be construed as conferring any third party beneficiary rights or status on any person or entity not a party to this Agreement.

(d) **Notice.** All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt or (i) personal delivery to the party to be notified; (ii) when sent, if sent by electronic mail during the recipient's normal business hours, and if not sent during normal business hours, then on the recipient's next business day; (iii) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one business day after the business day of deposit with a nationally recognized overnight courier, freight prepaid, specifying next-day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their addresses as follows:

LIPSCOMB: Lipscomb University
One University Park Drive
Nashville, TN 37204-3951
Attn: Angel Bebout
Email: angel.bebout@lipscomb.edu

with a copy to: Lipscomb University
One University Park Drive
Nashville, Tennessee 37204-3951
Attn: General Counsel
Email: david.wilson@lipscomb.edu

FACILITY: Ashland City Fire Department
200 Little Marrowbone Rd
Ashland City, 37015

Attn: Stephen Jenkins

Email: sjenkins@ashlandcitytn.gov

(e) **Entire Agreement.** With respect to the subject matter of this Agreement, this Agreement constitutes the entire agreement between the parties. Each party acknowledges that, in entering into and executing this Agreement, it relied solely upon the representations and agreements contained in this Agreement and no others.

(f) **Amendment.** Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party thereto.

(g) **Assignment.** Neither this Agreement nor any interest herein may be assigned or transferred in whole or in part by either party without obtaining the prior written consent of the other party. Subject to such restrictions against transfer or assignment, the provisions of this Agreement shall inure to the benefit of and shall be binding on the successors and assigns of each of the parties hereto.

(h) **Severability.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

(i) **Waiver.** Any waiver of any term and condition of this Agreement must be in writing and signed by the party against whom it is sought to be asserted. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to constitute, a waiver of any other provision hereof or of any subsequent or continuing breach of the same or another provision hereof. No failure, neglect or delay on the part of either party in exercising any right hereunder will be deemed a waiver thereof and shall not affect such party's right to enforce such right, nor will any single or partial exercise preclude any further or other exercise of such or any other right.

(j) **Governing Law and Jurisdiction.** This Agreement shall be governed in all respects by, and construed in accordance with, the laws of the State of Tennessee, without regard to the conflict of law provisions thereof to the extent such principles or rules would require or permit the application of the laws

of any jurisdiction other than those of the State of Tennessee. Each party hereby consents to the jurisdiction of all state and federal courts sitting in Davidson County, Tennessee, agrees that venue for any such action shall lie exclusively in such courts without regard to choice of law principles, and agrees that such courts shall be exclusive forum for any legal actions brought in connection with this Agreement or the relationships among the parties hereto.

(k) **Costs of Enforcement.** If any party to this Agreement seeks to enforce its rights under this Agreement by legal proceedings, the non-prevailing party shall pay all costs and expenses incurred by the prevailing party, including, without limitation, all reasonable attorneys' fees.

(l) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via electronic mail or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

(m) **Construction.** The section headings used in this Agreement have been prepared for the convenience of reference only and shall not control, affect the meaning or be taken as an interpretation of any provisions of this Agreement. Whenever the context of this Agreement requires, the gender of all words herein shall include the masculine, feminine and neuter, and the number of all words herein shall include the singular and plural. This Agreement has been prepared on the basis of mutual understanding of the parties and shall not be construed against either party by reason of such party's being the drafter hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the authorized representatives of the parties hereto have caused this Agreement to be duly executed as of the date set forth above.

LIPSCOMB UNIVERSITY

By: W. Bledsoe
Craig Bledsoe (Sep 10, 2021 15:47 CDT)
W. Craig Bledsoe, Provost

**ASHLAND CITY
FIRE DEPARTMENT**

By: _____
Name: Stephen Jenkins
Title: _____