

LEASE

THIS LEASE made and entered into this 8th day of December, 1981 by and between Commonwealth of Kentucky, for the use and benefit of the University of Louisville, an agency of the Commonwealth of Kentucky (hereinafter called "Lessor"), the post office and mailing address of which is Belknap Campus, Louisville, Kentucky 40292; and NKC, Inc., a Kentucky nonstock, nonprofit corporation (hereinafter called "Lessee"), the post office and mailing address of which is 200 East Chestnut Street, Louisville, Kentucky 40202.

W I T N E S S E T H :

WHEREAS, Lessee intends to construct a new pediatric facility on the north side of Chestnut Street in Louisville, Kentucky, to be operated by Lessee as part of the existing Kosair-Children's Hospital division of Lessee; and

WHEREAS, the University of Louisville, an agency of the Commonwealth of Kentucky, and Lessee have entered into an Agreement dated August 12, 1981, providing for a long term lease to Lessee of the property needed for such new pediatric facility, which facility will serve the interests of and will be to the benefit of the Lessor by the availability of said new pediatric facility for the programs and use of the University of Louisville's School of Medicine, and which Agreement, which is incorporated herein by reference, provides among other things for the communication between the University of Louisville School of Medicine staff and its Board of Trustees with the Board of Directors and Executive Committee of Lessee, the making available of

parking facilities to the University of Louisville in the new facility to be constructed by Lessee, the review and updating of an Affiliation Agreement between the University of Louisville and Lessee, and a grant by Lessee to the University of Louisville Foundation, Inc. for use for pediatric health care, pediatric education or pediatric research in the Louisville Medical Center which will benefit the University of Louisville and the citizens of the Commonwealth of Kentucky; and

WHEREAS, Lessor is willing to make a long term lease of approximately 2.2 acres of land north of Chestnut Street to the Lessee.

NOW, THEREFORE, for and in consideration of the mutual covenants of the parties hereto, as set forth in the preambles hereto, and as hereinafter set forth, the parties hereto agree as follows:

1. Lessor does hereby lease unto Lessee a tract of land in Louisville, Jefferson County, Kentucky (hereinafter called the "demised premises"), more particularly described as follows:

Beginning at a point in the North line of Chestnut Street, said point being North 82 degrees 17 minutes 48 seconds West 589.51 feet from the West line of Preston Street; thence with the Chestnut Street line, North 82 degrees 17 minutes 48 seconds West 290.14 feet; thence leaving said Chestnut Street line, North 7 degrees 56 minutes 12 seconds East 182.00 feet, South 82 degrees 17 minutes 48 seconds East 16.60 feet, and North 7 degrees 56 minutes 12 seconds East 162.39 feet to the South line of Abraham Flexner Way; thence with said Abraham Flexner Way line, South 82 degrees 24 minutes 48 seconds East 272.65 feet; thence leaving said Abraham Flexner Way line, South 7 degrees

47 minutes 18 seconds West 344.94 feet to the point of beginning, containing 2.230 acres; said tract being shown on the attached plat as Tract #2.

BEING a part of the property conveyed to Lessor by Deed dated June 30, 1979, recorded in Deed Book 5101, Page 590, in the Office of the Clerk of the County Court of Jefferson County, Kentucky.

2. The term of said Lease shall be ninety-nine (99) years commencing on the date Lessor notifies Lessee in writing that the demised premises have been vacated by Lessor and are available to Lessee for its use and occupancy, which date shall, however, be no later than January 1, 1983; provided, however, that if on or before July 1, 1982 Lessor notifies Lessee in writing that for reasons beyond Lessor's control it can not vacate the demised premises by January 1, 1983, the time in which Lessor shall have to give Lessee possession of the demised premises shall be extended for such additional time as required by Lessor to vacate the demised premises after January 1, 1983, but in no event to exceed an additional six (6) months. Lessee shall have the right to extend said Lease term for an additional fifty (50) years under the same terms and conditions as provided for the initial ninety-nine (99) year term, upon written notice to Lessor of Lessee's intent to extend the Lease term given in the last year of the initial Lease term.

3. Lessee hereby covenants and agrees to pay Lessor as rent for the Demised Premises the sum of ONE DOLLAR (\$1.00) per year, payable in advance on the commencement of the Lease term, and Lessor acknowledges receipt of the sum of NINETY-NINE DOLLARS (\$99.00) as said rent for the initial Lease term.

As further consideration for this Lease, the University of Louisville, an agency of the Commonwealth of

Kentucky, and Lessee have entered into said Agreement dated August 12, 1981, which provides for their mutual benefit and cooperation in the development of the new pediatric facility by Lessee, which Agreement, incorporated herein by reference, shall survive the execution of this Lease.

4. Lessee shall construct on the demised premises a pediatric facility to be operated by the Kosair-Children's Hospital Division of Lessee, and parking facilities and other facilities incident thereto, which improvements shall be constructed at the sole expense of Lessee and shall at all times during the term of this Lease, and any renewal or extension thereof, remain and be the sole property of Lessee. All such improvements, additions, alterations and major repairs thereto, shall be in accordance with all applicable laws and regulations, and Lessee will indemnify and save Lessor harmless from and against all liens, claims or damages by reason of such improvements, additions, alterations and major repairs. Lessor agrees, when requested by Lessee, to execute and deliver any applications, consents or other instruments required to permit Lessee to make such initial improvements and such additions, and alterations and major repairs thereto, as required by Lessee to obtain permits therefor, or otherwise. Lessee shall take the demised premises in their "as is" condition, and Lessor agrees that Lessee may at Lessee's expense demolish any or all improvements on the demised premises as of the date Lessee takes possession.

5. Lessee shall not at any time permit any mechanics', laborers' or materialmen's liens to stand against the demised premises for any labor or material furnished to Lessee, or claimed to have been furnished to Lessee or

Lessee's contractors, in connection with work of any character performed or claimed to have been performed on the demised premises by or at the discretion or sufferance of Lessee; provided, however, that Lessee shall have the right to contest the validity or amount of any such lien or claimed lien so long as title to the demised premises is not lost as a result of the enforcement of any such lien or claimed lien.

6. Lessee agrees to indemnify and save harmless Lessor from and against any and all claims, demands and causes of action of any nature whatsoever, and any expense incident to the defense of and by Lessor thereof, for injury to or death of persons or loss of or damage to property occurring on or about the demised premises and the adjoining sidewalks, which grow out of or are connected with Lessee's construction, repair, alteration, use and occupancy of the demised premises or of the adjoining sidewalks, or the condition thereof during the term of this Lease. Lessee further agrees to procure and maintain public liability insurance from a responsible insurance company or companies, with Lessee and Lessor as named insureds, to protect such insureds from liability, up to an amount of \$1,000,000 for each occurrence, and \$5,000,000 for any claims, demands, or causes of action of any person or persons arising out of accidents occurring on or about the demised premises during the term of this Lease or arising out of Lessee's use thereof, and if requested will deliver a copy of each policy of such insurance to Lessor.

7. Lessee at its sole expense shall comply with all laws, orders or regulations of Federal, State, County and municipal authorities and any direction of any public officer or officers, pursuant to law, which shall impose any

liability, order or duty upon Lessor or Lessee with respect to Lessee's use or occupancy of the demised premises.

8. Lessee shall pay to the public authorities charged with the collection thereof, on or before the last day on which payment may be made without penalty or interest, any taxes, permit, inspection and license fees, and other public charges, whether of a like or different nature, levied upon or assessed against the demised premises, buildings, or contents thereof, or arising in respect to the occupancy, use or possession of the demised premises, subsequent to the commencement of the term of this Lease; provided, however, Lessee shall have the right to contest the validity and amount of any such taxes, fees or charges.

9. Lessee during the term of this Lease, shall pay, all charges or assessments for telephone, water, sewer, gas, heat, electricity, power, refrigerations, garbage disposal, trash disposal, and any and all other utilities and services of whatever kind or nature which may be used in or upon the demised premises.

10. The Lessee agrees that in the event of the substantial destruction of any buildings or improvements on the demised premises by fire or otherwise, it will elect either, (a) at its own cost and expense, but utilizing the insurance proceeds to the extent available, to repair, restore or reconstruct said damaged or destroyed improvements, or (b) to cancel and terminate this Lease by giving to the Lessor notice in writing to such effect.

11. If any voluntary or involuntary petition or similar pleading under any act of Congress relating to bankruptcy shall be filed by or against Lessee or if any

voluntary or involuntary proceedings in any court or tribunal shall be instituted by or against Lessee to declare Lessee insolvent or unable to pay Lessee's debts or for reorganization or for an arrangement or for a composition or for the appointment of a receiver or a trustee of all or a part of Lessee's property, then and in any such event Lessor may, unless such proceeding is dismissed within thirty (30) days of its commencement, if Lessor so elects, with or without notice of such election and with or without entry or other action by Lessor, forthwith terminate this Lease, and neither Lessee nor any person claiming through or under Lessee or by virtue of any statute or order of any court shall be entitled to possession of the demised premises but shall forthwith quit and surrender the demised premises to Lessor.

12. If [a] Lessee defaults in the payment of rent or any additional charge or cost to be paid by Lessee as provided in this Lease, or [b] Lessee defaults in the prompt and full performance and observance of any of the terms and conditions of this Lease to be performed or observed by Lessee, or [c] Lessee abandons the demised premises, or [d] any execution, attachment or other order of court shall be issued upon or against the interest of Lessee in this Lease, then and in any such event Lessor shall give Lessee notice of such default in writing by certified or registered mail, and if such default is not cured, or steps taken to cure such default if it be a nature that an immediate cure cannot be effected, within thirty (30) days after receipt of such notice, Lessor may forthwith terminate this Lease and Lessee's ownership and right to possession of the demised premises and improvements thereupon.

13. In the event that the improvements be constructed pursuant to this Lease is appropriated or otherwise taken under power of eminent domain, then this Lease shall terminate at the time of the vesting in the appropriating or taking authority of legal title to the land or building or part thereof so appropriated or taken. Any and all proceeds or payments relating to appropriation of Lessee's leasehold interest and the buildings or improvements on the demised premises, and any and all relocation payments, shall be the property of Lessee.

14. The Lessee shall, upon termination of this Lease for any reason whatsoever, surrender to the Lessor the building, structures, fixtures and building equipment upon the demised premises, together with all additions, alterations and replacement thereof (excluding movable trade fixtures, machinery, furnishings and equipment), and all such buildings and improvements upon the demised premises shall then become the property of the Lessor. During the term of this Lease all such buildings and improvements placed on the demised premises shall be the sole property of Lessee.

Trade fixtures, or any other movable machinery, furnishings and equipment on the demised premises shall always remain the property of Lessee and may be removed or replaced during the term of this Lease and at the expiration of the term of this Lease, or other termination thereof.

15. Lessee shall have the unrestricted right at any time, and from time to time, to mortgage or otherwise pledge or encumber its leasehold interest in the demised premises and its improvements thereon, by mortgage or other security instrument. In connection with the construction,

reconstruction, renovation, remodeling or addition to improvements on the demised premises, and/or other hospital property of Lessee used in connection therewith, Lessee may from time to time require financing, refinancing and extensions and renewals of financing which may require the giving of mortgage liens on the demised premises or parts thereof, in which event or events Lessee may from time to time require Lessor to, and if requested Lessor will, join with Lessee in the execution of any such mortgage encumbering the demised premises or parts thereof, and constituting a lien on Lessor's fee title thereto and fee interest therein; provided, however, that no such mortgage or lien instrument shall create or constitute any debt or obligation of the Commonwealth of Kentucky, or any agency thereof.

16. Lessor hereby covenants that so long as Lessee pays all rents herein reserved and performs each and every of the covenants, undertakings, agreements and conditions on the part of the Lessee to be performed hereunder, Lessee shall peaceably and quietly have, hold and enjoy the demised premises for the term aforesaid, and any renewal or extension thereof, free from molestation, eviction or disturbance by Lessor or any other person.

17. This Lease shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns.

18. Both parties agree, upon the request of the other, to execute, acknowledge and deliver a short form or memorandum of this Lease for recordation.

19. The provisions of this Lease, any short form or memorandum thereof, and said Agreement between the parties hereto dated August 12, 1981, constitute the entire

agreement between the parties, and no changes shall be made in any provisions unless in writing signed by the Lessor and Lessee.

IN WITNESS WHEREOF, the parties hereto have executed this Lease, by their duly authorized officers or agents, on the day and year first hereinabove written.

RECOMMENDED:

UNIVERSITY OF LOUISVILLE

Donald C. Swann
President

David H. Lee
Assistant Director for
Property Management,
Office of Facilities
Management

LESSOR

COMMONWEALTH OF KENTUCKY, FOR
THE USE AND BENEFIT OF THE
UNIVERSITY OF LOUISVILLE

By: George E. Fisher
Secretary, Department
of Finance

(When signed by the Secretary of Finance, this document also constitutes a finding of fact and order according to KRS Chapters 45 and 56, that this property is not currently needed for use by the Commonwealth of Kentucky.)

RECOMMENDED:

Tom C. Harper
Commissioner, Bureau of
Public Property

EXAMINED:

Charles W. Smith
Attorney, Department of
Finance

LESSEE

NKC, INC.

By: William J. [Signature]
Title: Pres.

Exhibit D