

AGREEMENT

BY AND AMONG

**STATE UNIVERSITY OF NEW YORK AT BUFFALO,
SCHOOL OF MEDICINE AND BIOMEDICAL SCIENCES**

OF THE

STATE UNIVERSITY OF NEW YORK AT BUFFALO,

UB ASSOCIATES, INC.,

THE GOVERNING BOARD OF THE PRACTICE PLAN

AND

THE CORPORATIONS IDENTIFIED HEREIN

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UB ASSOCIATES, INC.,
THE GOVERNING BOARD OF THE PRACTICE PLAN
AND
THE CORPORATIONS IDENTIFIED HEREIN

ARTICLE 1 PREAMBLE

This Agreement is made as of this 14th day of September, 2000, by and among the **State University of New York at Buffalo** (the "University"), a university center under the State University of New York established pursuant to Section 352 of the New York Education Law, the **School of Medicine and Biomedical Sciences** of the University (the "Medical School"), **UB Associates, Inc.**, a New York not-for-profit corporation ("UBA"), the **Governing Board of the Faculty Practice Management Plan** (the "Governing Board"), and the following **faculty practice corporations**, each established pursuant to Section 1412 of the New York Not-For-Profit Corporation Law:

06/14/2000

Academic Medicine Services, Inc.
University at Buffalo Anesthesiology, Inc.
University Dermatology, Inc.
University Emergency Medical Services, Inc.
Family Medicine Faculty Associates, Inc.
University Gynecologists & Obstetricians, Inc.
University Neurology, Inc.
Neurosurgery Services, P.C.*
University Nuclear Medicine, Inc.
University Ophthalmology Services, Inc.
University Orthopaedic Services, Inc.
University Head & Neck Surgery, Inc.
University at Buffalo Pathologists, Inc.
University at Buffalo Pediatric Associates, Inc.
University Psychiatric Practice, Inc.
University Radiology at Buffalo, Inc.
University Radiation Oncology, Inc.
University Physical Medicine and Rehabilitation Associates, Inc.
University Surgical Associates, P.C.*
University Urology, Inc.

(*Anticipate conversion to Section 1412 Corporations)

(individually, a "Department Corporation" and collectively the "Department Corporations"). Each of the above named parties, and any additional party who agrees to be bound by the terms of this Agreement and executes this Agreement after the date hereof pursuant to the provisions of Section 8.1, below, shall hereinafter be individually referred to as a "Party" and collectively as the "Parties."

WHEREAS, the Medical School is a major biomedical research institution within the University and the State University of New York offering clinical training and medical education at affiliated teaching hospitals in the Western New York community to resident physicians in approximately twenty specialty and subspecialty programs, whose faculty members regularly render professional medical services in clinical practice settings as a necessary part of their duties and responsibilities of providing clinical research, clinical training and medical education for medical students of the Medical

School, and the fellows, residents and interns in the graduate medical education program of the Medical School; and

WHEREAS, the regulations promulgated pursuant to Section 355 of the New York Education Law (8 N.Y.C.R.R. 340, *et seq.*) and as set forth in Article XVI of the Policies of the Board of Trustees of the State University of New York (collectively and as further defined in Section 2.11 hereof, the "Regulations") require that each school of medicine within the State University of New York establish and maintain a plan for the management of clinical practice income that shall govern, among other things, the accounting for, distribution of, and use of all income from professional medical services rendered in connection with the clinical practice of the faculty of such school of medicine; and

WHEREAS, on or about September 29, 1983 the Buffalo School of Medicine Clinical Practice Management Plan was approved by the Chancellor of the State University of New York as being consistent with the Regulations, and pursuant thereto various departments of the Medical School (individually a "Department" and collectively the "Departments") have adopted plans for the management of clinical practice income (collectively, and as further defined in Section 2.10 hereof, the "Practice Plan"); and

WHEREAS, the Parties believe that significant operating efficiencies and improvements in providing education for students, fellows, residents and interns in clinical practice settings and high quality patient oriented health care services can be achieved by implementing procedures for the management of clinical practice income to centralize administrative and certain operational functions to facilitate and promote

comprehensive and fiscally sound medical education, research and patient care delivery;
and

WHEREAS, pursuant to the terms of this Agreement and as part of a strategy for the management of clinical practice income consistent with the Regulations, UBA shall provide administrative services that support the clinical practices of participants in the Practice Plan and the operations of the Department Corporations in connection with such clinical practices and the Practice Plan, including, without limitation, billing, accounting, planning, marketing, and other business functions, to ensure that the clinical practice program of the Medical School continues to support the needs of the Medical School's academic program; and

WHEREAS, in accordance with the authority granted to the Governing Board by the Regulations (specifically including 8 N.Y.C.R.R. 340.4(c)), and pursuant to the resolutions of the Governing Board dated November 9, 1998, the Governing Board is authorized to execute and deliver this Agreement; and

WHEREAS, pursuant to the terms hereof UBA, the University, the Medical School, the Vice President for Health Affairs, the Governing Board and the Department Corporations shall have such rights, duties and responsibilities as described in this Agreement with respect to the Practice Plan; and

WHEREAS, the Practice Plan shall at all times be operated in compliance with the Regulations; and

WHEREAS, each Party has examined the terms and provisions of this Agreement, has made such inquiries and investigation into factual matters as it deemed appropriate, has received such information and documentation as it deemed satisfactory

with respect to the subject matter hereof, has taken all actions necessary to authorize the execution and delivery hereof, and confirms and ratifies such Party's acceptance hereof as evidenced by its execution below.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained herein, the Parties hereby agree as follows:

ARTICLE 2 DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings as provided below:

2.1 "Agreement"

This Agreement, including all Schedules hereto, as each may be amended or restated pursuant to the terms hereof.

2.2 "Annual Budget"; "Annual Budgets"

Individually and collectively, each annual operating and capital budget of a Department and its corresponding Department Corporation's annual operating and capital budget which has been approved by the Vice President for Health Affairs, as provided in Section 5.2 hereof.

2.3 "Annuity Purchase Payment"

A payment used to purchase an annuity for an employee of a Department Corporation, as described in Subsection 4.1(b)(2)(d), below.

2.4 “Clinical Practice”

The act of providing all forms of medical and/or health care, including patient consultations, and the act of performing clinical investigation involving patients, for which acts a fee for professional service is customarily charged, as defined and interpreted under the Regulations (as such term is defined below, and specifically including 8 N.Y.C.R.R. 340.4(a)(2)).

2.5 “Clinical Practice Income”

All clinical practice income, as defined and interpreted under the Regulations, and specifically including 8 N.Y.C.R.R. 340.4(a)(3).

2.6 “Covered Revenues”

All revenues described in this Agreement and relating to the operations of any Department Corporation or UBA, including, but not limited to, amounts payable to UBA or any Department Corporation under any agreement, contract, license or lease entered into or maintained in connection with the Practice Plan or the Clinical Practice of any director, officer, member, employee or agent of a Department Corporation. For the purposes of this Agreement, “Covered Revenues” shall specifically include all Clinical Practice Income of (a) each Department Corporation, (b) each director, officer, member, employee and agent of each Department Corporation, (c) each faculty member of a Department of the Medical School, and (d) each voluntary participant in the Practice Plan.

2.7 “Fiscal Year”

Each Fiscal year of the Practice Plan shall consist of the consecutive twelve (12) month period beginning on January 1 and ending on December 31 of each year.

2.8 “Plan for the Management of Clinical Practice Income”

A plan for the management of clinical practice income as described in the Regulations.

2.9 “Practice of Medicine”

Diagnosing, treating, operating or prescribing for any human disease, pain, injury, deformity or physical condition, as such term is defined and interpreted under Section 6521 of the New York Education Law (as amended or modified after the date hereof).

2.10 “Practice Plan”

Collectively, the Buffalo School of Medicine Clinical Faculty Practice Management Plan approved by the Chancellor of the State University of New York as being consistent with the Regulations on or about September 29, 1983, all procedures, policies and guidelines properly adopted in accordance therewith, and each Plan for the Management of Clinical Practice Income adopted by a Department and approved by the Governing Board.

2.11 “Regulations”

Collectively, (i) the regulations promulgated pursuant to Section 355 of the New York Education Law as described in the Official Compilation of Codes, Rules and Regulations of the State of New York, Volume 8 entitled "Education", Part 340 *et seq.*, as modified or amended after the date hereof, and as set forth in Article XVI of the Policies of the Board of Trustees of the State University of New York; and (ii) during periods of time where there is in effect an agreement between the State of New York and United University Professions, the State-UUP Memorandum of Understanding (“M.O.U.”) on

Clinical Practice Matters at the State University at Buffalo, dated July 13, 1999, as amended.

2.12 “UBA Budget”

The annual operating and capital budget of UBA approved by the Board of Directors of UBA, as provided for in Section 5.3 hereof.

2.13 “Vice President for Health Affairs”

The Vice President for Health Affairs of the University, or such other officer of the University as determined by the President of the University, in his or her sole discretion.

ARTICLE 3 GENERAL PROVISIONS

3.1 Formation; Exclusivity.

Each Party hereby agrees that this Agreement is intended to and does establish procedures for administration and certain operational functions of the Practice Plan and, to the extent applicable, for each Plan for the Management of Clinical Practice Income adopted by each Department. The Practice Plan shall be the exclusive Plan for the Management of Clinical Practice Income governing Covered Revenues and the Clinical Practice Income of faculty members of the Medical School (and of voluntary participants in the Practice Plan), and each such Party shall comply with and shall be bound by the terms and provisions of the Practice Plan. Each Party hereto hereby acknowledges and agrees that the terms and conditions of this Agreement are consistent with the terms and provisions of the Practice Plan and with the Regulations. Notwithstanding anything to the contrary contained herein, neither this Agreement nor the terms and conditions hereof

shall be deemed to grant to UBA, or any of its officers, directors or employees, any right, power or authority to take any action that would constitute the Practice of Medicine.

3.2 Binding Effect.

Each Party hereby agrees that the terms and conditions of this Agreement represent a binding commitment by such Party that shall, to the extent consistent with the Regulations, be enforceable against such Party by its terms.

3.3 Term.

This Agreement shall commence as of the day and year first written above and shall remain in effect until terminated pursuant to ARTICLE 9 hereof.

ARTICLE 4 RIGHTS, DUTIES AND RESPONSIBILITIES OF THE PARTIES

Each Party hereby agrees that it shall have the rights, duties and responsibilities with respect to the Practice Plan as set forth in this ARTICLE 4.

4.1 UBA

UBA shall have the rights, duties and responsibilities with respect to the Practice Plan as provided for herein; *provided, however*, that notwithstanding anything to the contrary contained in this Agreement, UBA shall not be permitted, nor shall it be authorized pursuant to this Agreement, to take any action that constitutes the Practice of Medicine.

(a) Appointment as Agent. Each Party hereby appoints UBA as such Party's agent and authorizes UBA to act on such Party's behalf in carrying out UBA's rights, duties and responsibilities as provided for herein.

(b) Rights, Duties and Responsibilities. UBA's rights, duties and responsibilities under this Agreement shall include, but not be limited to, the following:

(1) Cash Management. UBA shall be the depository of all Covered Revenues, and shall have the sole authority to collect, invest, manage, retain and disburse all Covered Revenues pursuant to the terms hereof. UBA shall account for all receipts and disbursements of Covered Revenues and shall maintain accurate records thereof as provided for in this Agreement.

(2) Disbursement of Covered Revenues. To the extent that Covered Revenues received by UBA are available and pursuant to the terms of this Agreement (including, but not limited to, the requirements that costs and expenses be provided for in each Department Corporation's Annual Budget and that reductions or other periodic adjustments be made to Department Corporation Annual Budgets, as set forth in Sections 5.2, 5.3, and 5.4 of this Agreement), UBA shall retain or disburse amounts of Covered Revenues received by UBA in the following order of priority:

- a. Pursuant to the Regulations, UBA shall retain five percent (5%) of all Covered Revenues for the benefit of the Medical School, which funds shall be invested, managed, retained and/or disbursed by the Vice President for Health Affairs for the benefit of the Medical School as provided for in the Regulations; *provided, however*, that pursuant to the Regulations, to the extent the amount of Covered Revenues retained by UBA pursuant to this Section 4.1(b)(2)(a) are available, UBA shall make Sixty Thousand Dollars (\$60,000) of such amount available for University-wide health sciences

purposes and shall apportion said Sixty Thousand Dollars (\$60,000) to each Department Corporation on the basis of gross Clinical Practice Income generated by the Department Corporation; then

- b. Pursuant to the Regulations, in accordance with a formula to be established by the Vice President for Health Affairs (as the designee of the President of the University pursuant to Section 4.4(a) of this Agreement) in consultation with the Governing Board and approved by the Chancellor in consultation with the Governor's Office of Employee Relations, UBA shall reimburse the State of New York for the costs of Clinical Practice experienced by the State of New York as a consequence of the Clinical Practice of the Department Corporations and of the directors, officers, members, employees and agents of such Department Corporations; *provided, however*, any such costs must be regular and customary costs of a practitioner, not a hospital, including, but not limited to, use of facilities, personnel, supplies and equipment, which costs shall be allocated as provided in Schedule 4.1(b)(2)(b) hereof; *provided further, however*, affiliate institutions may be reimbursed with the approval of the Chancellor or designee for appropriately documented costs of Clinical Practice experienced by them as a consequence of Clinical Practice by directors, officers, members, employees and agents of Department

Corporations, but any such costs must be regular and customary costs of a practitioner, not a hospital, including but not limited to, use of facilities, personnel, supplies and equipment; then

- c. (i) Pursuant to the Regulations, UBA shall pay each Department Corporation amounts necessary to reimburse the Department Corporation for costs and expenses incurred by such Department Corporation in connection with the Clinical Practice of its directors, officers, members, employees and agents, determined in accordance with generally accepted accounting principles and allowable to a practitioner as a deductible cost or expense under then-current federal Internal Revenue Service guidelines.
- (ii) Notwithstanding anything to the contrary in this Agreement, each Party hereby agrees that: (A) UBA's costs and expenses of providing administrative and operating services for and on behalf of the Department Corporations and participants in the Practice Plan, pursuant to this Agreement, shall be a cost and expense incurred by Department Corporations within the meaning of this Section 4.1(b)(2)(c); (B) in accordance of the provisions of Schedule 4.1(b)(2)(c), attached hereto and made a part hereof, each Fiscal Year (and as part of the UBA Budget), UBA shall allocate to the Department Corporations UBA's costs and expenses; and (C) all amounts payable by a Department Corporation to UBA pursuant to this Section 4.1(b)(2)(c) shall be deducted by UBA

from the amount otherwise payable to such Department Corporation pursuant to this Section 4.1(b)(2)(c) and shall be retained by UBA; then

- d. (i) Pursuant to the Regulations, UBA shall pay each Department Corporation amounts necessary to reimburse the Department Corporation for costs of such Department Corporation for payment of the Department Corporation's directors, officers, members, employees and agents required to participate in the Practice Plan either: (A) an aggregate amount which, with respect to each such individual, when aggregated with such individual's compensation from all other sources (exclusive of fringe benefits), does not exceed the maximum allowable compensation of such individual; or (B) pursuant to the Regulations, such excess amounts authorized by the Vice President for Health Affairs (as designee of the President of the University pursuant to Section 4.4(a) of this Agreement). Each Fiscal Year, the Vice President for Health Affairs shall determine for each participant in the Practice Plan, the "maximum allowable compensation" (as defined in the Regulations) that each such individual may earn for such Fiscal Year. Each Fiscal Year the Vice President for Health Affairs shall, pursuant to the provisions of Schedule 4.1(b)(2)(d)(i), attached hereto and made a part hereof, provide to each participant in the Practice Plan and to the respective Department Corporation that

employs such individual, a statement of the "maximum allowable compensation" that each such individual may earn for such Fiscal Year. Notwithstanding anything to the contrary contained in this Section or in this Agreement, nothing contained herein shall be construed or interpreted as providing any Department Corporation or participant in the Practice Plan any right to receive, or obligate the Practice Plan or UBA to provide, an amount of Covered Revenues (either individually or in the aggregate) equal to the maximum allowable compensation for such Department Corporation's employees or such participant in the Practice Plan, respectively; then

(ii) Pursuant to the Regulations, in the event UBA reimburses a Department Corporation in accordance with Section 4.1(b)(2)(d)(i) of this Agreement, such reimbursement may include an amount (not to exceed the rate the State University contributes for retirement to TIAA-CREF) used by the Department Corporation to purchase an annuity for each such individual (an "Annuity Purchase Payment"); *provided, however*, that any portion of the payment to a Department Corporation described in this Subsection 4.1(b)(2)(d)(ii) upon which retirement contributions have already been made for an individual shall be excluded from the calculation of any Annuity Purchase Payment to the individual; then

e. Pursuant to the Regulations, UBA shall retain the remaining Covered Revenues for the benefit of the Medical School and shall disburse such remaining Covered Revenues for the benefit of the Medical School as determined by the Vice President for Health Affairs after consultation with the Governing Board. In accordance with the Regulations (specifically including 8 N.Y.C.R.R. 340.4(g)(6)), the Vice President for Health Affairs and the Governing Board hereby confirm and agree that pursuant to the provisions of Section 5.4 hereof UBA shall pay to each Department Corporation all amounts of Covered Revenues attributable to such Department Corporation and remaining after the application of the provisions of Subsections 4.1(b)(2)(a) through (d), inclusive, and each Department Corporation hereby agrees that all amounts of Covered Revenues received from UBA pursuant to this Section 4.1(b)(2)(e) shall be used for the benefit of the Medical School.

(3) Transaction Representative. In order to: (a) achieve administrative and operating efficiencies with respect to the costs of Clinical Practice of participants in the Practice Plan and the operations of the various Department Corporations, and (b) take advantage of economies of scale afforded by centralized contracting, each Party hereby grants UBA the sole authority to represent and bind such Party to agreements entered into by UBA on behalf of the Parties to this Agreement in carrying out its rights, duties and responsibilities. The Parties hereby understand and agree, without limiting the foregoing,

that UBA shall have the authority to negotiate, execute and deliver agreements relating to its rights, duties and responsibilities as provided herein (including, without limitation, agreements with hospitals and clinics, insurance companies and health maintenance organizations, government health programs [federal, state and local], professional service providers, and providers of fringe benefits for directors, officers, members, employees and/or agents of Department Corporations). UBA is hereby authorized to lend, borrow or obtain financing on behalf of the Practice Plan or any Party hereto, and to otherwise execute such documents and instruments and take such actions as may be required to effect any such transaction. Notwithstanding anything to the contrary contained herein, each Party hereby agrees that UBA, or an affiliated corporation thereof (if incorporated as an independent practice association pursuant to 10 N.Y.C.R.R. §98.5(b)(6)(iv)) shall be authorized to represent and bind such Party to agreements entered into by UBA (or such affiliate) with any "health maintenance organization" (as defined in Section 4401.1 of the New York Public Health Law) on behalf of the Parties to this Agreement in carrying out UBA's rights, duties and responsibilities under this Agreement.

(4) Administration of Centralized Services. UBA shall provide administrative services with respect to the operation of the Practice Plan and shall provide administrative services for and on behalf of each Department Corporation as UBA deems advisable, in its sole discretion. In providing such administrative services, UBA shall develop such procedures, guidelines and practices as UBA in its sole discretion shall deem advisable; each such policy and procedure shall be consistent with all applicable provisions of the Regulations. Without limiting the foregoing, UBA shall provide the

following administrative services for the purposes of the Practice Plan and for and on behalf of the other Parties hereto:

- a. Accounting System. UBA shall establish and maintain a system of accounting for, and recording transactions respecting, the collection and disbursement of Covered Revenues; for monitoring the revenues (including Clinical Practice Income), costs and expenses of each Department Corporation in relation to such Department Corporation's then-current Annual Budget; for monitoring costs and expenses of UBA in relation to the then-current UBA Budget; and, for providing the reports as described in Subsection 4.1(b)(4)(f) hereof. The system of accounting developed by UBA shall be in accordance with generally accepted accounting principles. All accounts shall be available at reasonable times for inspection by the Chancellor of the State University of New York, or his or her designee, the Vice President for Health Affairs, and duly authorized representatives of the New York State Division of the Budget and the New York State Department of Audit and Control.
- b. Billing and Collection. UBA shall establish and maintain billing and collection practices and procedures for the forwarding of Covered Revenues to UBA, and shall conduct and/or, in UBA's sole discretion, direct (including entering into arrangements for the engagement of third parties) all billing and collection operations on behalf of each Department Corporation with respect to the Clinical Practice and

Clinical Practice Income of each Department Corporation's directors, officers, members, employees and agents;

- c. Purchasing. UBA shall purchase such equipment, supplies and materials for use in the administration and operation of UBA's rights and responsibilities as provided in this Agreement and in connection with the Practice Plan as provided for in the then-current UBA Budget. UBA shall also be authorized to purchase such equipment, supplies and materials for use by one or more Department Corporations as UBA, in its sole discretion, deems appropriate, in order to permit cost savings in the administration or operation of the Practice Plan (such as through volume price discounts or receipt of favorable terms for periodic purchases);
- d. Legal Services. UBA may, in UBA's sole discretion, provide or arrange for legal services for any one or more Department Corporation, or any one or more participants in the Practice Plan, in connection with statutory and/or regulatory issues relating to the operation and administration of the Practice Plan and (i) the operation and administration of such Department Corporation, (ii) the Clinical Practices of participants in the Practice Plan and/or (iii) the educational mission of the Medical School or the University. Any such legal services may be provided by and/or arranged with employees or affiliates of UBA or by third parties, as UBA deems appropriate. Each Party hereby authorizes and grants UBA the sole authority to provide

or arrange for on such Party's behalf all legal services necessary in connection with any issue relating to the generation, accounting for, billing, collection or disbursement of Covered Revenues;

- e. Audits of Practice Plan. Pursuant to the Regulations, UBA shall engage an independent public accountant to annually audit the finances and operations of UBA and each Department Corporation; provided, however, UBA, shall in its sole discretion, determine which independent public accountant is appropriate;
- f. Reporting. As of the end of each Fiscal Year, UBA shall provide to the Vice President for Health Affairs and to each individual participating in the Practice Plan who maintains a Clinical Practice in such Fiscal Year: (i) a copy of the annual audit of UBA and the consolidated annual audit of the Department Corporations as described in Subsection 4.1(b)(4)(e), above, and (ii) an accounting of the amounts of Clinical Practice Income billed and collected as a result of such individual's Clinical Practice, including a summary of accounts for which payment has not yet been received. As of the end of each Fiscal Year, UBA shall also provide to the Vice President for Health Affairs, the Governing Board and each Department Corporation an accounting of such Department Corporation's actual items of Covered Revenues and expenses for such Fiscal Year, comparing such actual Covered Revenues and expense items to such Department Corporation's Annual Budget on a line-item by line-item basis. UBA shall also

provide all other reports to each appropriate person as are required by the Regulations, this Agreement or the Schedules hereto.

(5) Approval of Annual UBA Budget. The Board of Directors of UBA shall review and approve, in whole or in part, and/or recommend revisions to, each proposed UBA Budget submitted by the Vice President for Health Affairs pursuant to Section 5.3 hereof.

4.2 Faculty Practice Management Plan Governing Board.

(a) Formation; Operation. The Governing Board shall be comprised of such members as are provided for in the Regulations. Each member of the Governing Board (other than *ex officio* members thereof as described in the Regulations) shall be elected, and the requirements regarding the operations and administration of the Governing Board (such as quorum, term of office and replacement of Governing Board Members) shall be provided for in Schedule 4.2 Governing Board, attached hereto and made a part hereof.

(b) Rights, Responsibilities and Duties. The Governing Board shall have the following rights, responsibilities and duties with respect to the Practice Plan:

(1) Oversight of Clinical Practice of Participants. The Governing Board shall develop procedures, guidelines and practices regarding the quality of medical care, medical record keeping, collecting and sharing of research and clinical practice information developed by participants in the Practice Plan, and for such other items as the Governing Board deems advisable as relating to the Practice of Medicine or the Clinical Practice of participants in the Practice Plan. Each procedure, guideline and practice adopted by the Governing Board shall be consistent with the terms of this Agreement, the Regulations, and each applicable affiliation agreement between UBA (or an affiliate

thereof as provided in Subsection 4.1(b)(3)) and a hospital or other health care facility covering a participant in the Practice Plan affected by such procedure, guideline or practice. Notwithstanding any other provision of this Agreement, the Governing Board shall be responsible for the oversight of the Practice Plan as described in this Agreement, and the Governing Board shall in all cases only take such actions as are not inconsistent with the terms and provisions of this Agreement, the Practice Plan and the Regulations;

(2) Compliance with Practice Plan.

- a. The Governing Board shall be responsible for monitoring the compliance by each Department Corporation and by each participant in the Practice Plan with the terms of the Practice Plan and this Agreement, and with the procedures, guidelines and practices promulgated by the Governing Board, and shall be responsible for promptly reporting to the Compliance Committee (as described in ARTICLE 7 hereof) the failure of any Department Corporation or participant in the Practice Plan to comply with the terms hereof or with the procedures, guidelines and practices promulgated by the Governing Board;
- b. The Governing Board shall also be responsible for monitoring the compliance by UBA with the terms of the Practice Plan and this Agreement. In the event the Governing Board determines that any action, policy or procedure taken or promulgated by UBA is inconsistent with the terms and provisions of the Practice Plan or this Agreement, the Governing Board shall so notify UBA in

writing, stating in reasonable detail the action, policy or procedure in question and the provision(s) of this Agreement and/or the Practice Plan which purports to prohibit such action, policy or procedure. UBA shall, within ten (10) business days of receipt of such notice, respond to the Governing Board in writing stating in reasonable detail the provisions of the Practice Plan and/or this Agreement that purport to permit the disputed action, policy or procedure, or otherwise provide the basis upon which the disputed action, policy or procedure is not prohibited by the provisions of the Practice Plan or this Agreement. The Governing Board and UBA shall attempt to resolve the disagreement, if any, then existing relating to a disputed action, policy or procedure of UBA, and in the event such dispute is not resolved within ten (10) business days of UBA's written response to the Governing Board described immediately above, the dispute shall be referred to the Compliance Committee for resolution.

(3) Voluntary Membership in Practice Plan. The Governing Board, in consultation with the Medical School, shall provide rules for permitting persons who are not geographic full time faculty members of the Medical School to voluntarily participate in the Practice Plan;

(4) Reports. The Governing Board shall provide the reports to other Parties and to participants in the Practice Plan as provided for in this Agreement or Schedules hereto.

4.3 Department Corporations.

(a) Formation; Operation. Each clinical department of the Medical School shall establish and maintain a single Department Corporation that is incorporated under Section 1412 of the New York Not-For-Profit Corporation Law. No Department Corporation shall amend or modify its Certificate of Incorporation or By-laws without the prior consent of the Governing Board and UBA. The Department Corporation shall act as the financial and fiscal agent for each member's Clinical Practice. Each Department Corporation hereby acknowledges and agrees that the terms and provisions of this Agreement shall apply to the operation and administration of the Practice Plan and to the Plan for the Management of Clinical Practice Income applicable to its members pursuant to the terms of its Certificate of Incorporation and Section 1412 of the New York Not-For-Profit Corporation Law.

(b) Rights, Responsibilities and Duties.

(1) Employment of Practice Plan Members. Each Department Corporation shall employ each participant in the Practice Plan who is a member of such Department Corporation's related Department, and each other participant in the Practice Plan who voluntarily participates in the Practice Plan as provided for by the Governing Board;

(2) Monitoring and Supervision of Employees. Each Department Corporation shall be responsible for supervising and monitoring the provision of medical services by its employees to patients in the Clinical Practice, and for promptly reporting to the Governing Board and the Compliance Committee the failure of any such employee to

comply with the terms of the Practice Plan or with the procedures, guidelines and practices promulgated by the Governing Board;

(3) Annual Budget. Each Department Corporation shall develop a preliminary Annual Budget for submission to the Vice President for Health Affairs as provided in Section 5.2 hereof; and

(4) Reporting. Each Department Corporation shall provide the reports to the other Parties and to its employees who are participants in the Practice Plan as provided for in this Agreement or the Schedules hereto.

4.4 University.

(a) Vice President for Health Affairs as Representative. For purposes of the Practice Plan and this Agreement, the Vice President for Health Affairs shall be the “designee” of the “Chief Administrative Officer” as such terms are described in the Regulations. Unless otherwise indicated by the President of the University in writing, the Vice President for Health Affairs shall act on behalf of the President of the University with respect to the Practice Plan and this Agreement.

(b) Approval of Annual Budgets. The Vice President for Health Affairs shall review and approve or reject, in whole or in part, each proposed Annual Budget delivered to the Vice President for Health Affairs by each Department pursuant to Section 5.2 hereof.

4.5 Medical School.

The Medical School shall monitor the activities of its faculty members for compliance with the terms of this Agreement and with the procedures, guidelines and practices promulgated by the Governing Board, and for reporting to the Governing Board the failure of any faculty member to so comply.

ARTICLE 5 OPERATIONS AND ADMINISTRATION

The Parties hereto agree that this ARTICLE 5, as supplemented by the Schedules attached hereto, shall govern the operations and activities carried on by each Department Corporation, the Clinical Practice of each participant in the Practice Plan, and the functions of UBA with respect to the determination, allocation, collection, disposition and distribution of Covered Revenues as described in this ARTICLE 5.

5.1 Determination of Practice Plan Costs and Expenses.

UBA shall, by applying the provisions of Section 4.1(b)(2)(b) through (d), inclusive, to each Department Corporation, in the order of priority stated in Section 4.1(b)(2), determine Practice Plan costs and expenses including, but not limited to costs of clinical practice reimbursable to the State, UBA's administrative and operating costs and expenses, and physician compensation, *provided however*, nothing in this Section 5.1 shall be construed or interpreted as permitting UBA or any Department Corporation from

disbursing or paying Covered Revenue in any manner except as set forth in the priority and requirements of Section 4.1(b)(2)(a) through (e).

5.2 Determination of Annual Budgets.

(a) Prior to the end of each Fiscal Year each Department Corporation shall develop an Annual Budget for the following Fiscal Year and shall submit such Annual Budget to the Chairperson of the corresponding Department. The Chairperson of the Department shall include the Department Corporation Annual Budget in the development of the Department's Annual Budget as provided in Section 5.2(b) below.

(b) Prior to the end of each Fiscal Year each Department shall develop a proposed Annual Budget for the following Fiscal Year and shall submit such proposed Annual Budget to the Vice President for Health Affairs for his or her review, recommendations and/or approval. The Vice President for Health Affairs shall review and approve or reject (in whole or in part) and/or make recommendations with respect to, each proposed Department Annual Budget, in accordance with the procedures described in Schedule 5.2, attached hereto and made a part hereof, as amended from time to time. During any Fiscal Year the Vice President for Health Affairs may revise any Department's Annual Budget as provided in Schedule 5.2 and/or pursuant to Section 5.4 below.

5.3 Determination of UBA Budget.

Prior to the end of each Fiscal Year the Vice President for Health Affairs shall develop a proposed UBA Budget in substantially the same form as Schedule 5.3, attached hereto and made a part hereof, for the following Fiscal Year and shall submit such proposed UBA Budget to the Board of Directors of UBA for its review,

recommendations and/or approval. The Vice President for Health Affairs shall submit and revise each proposed UBA Budget, and the Board of Directors of UBA shall review and approve or reject (in whole or in part) and/or make recommendations with respect to, each proposed UBA Budget. If at any time during a Fiscal Year:

(i) the actual amount of any cost or expense of UBA, either individually or when aggregated with the actual amounts of all other similar costs or expenses, are being incurred on a periodic basis at a rate that may cause such actual costs or expenses to exceed by more than five percent (5%) the amount of such costs or expenses described in the applicable line item of the UBA Budget for such Fiscal Year; or

(ii) the actual amount of any cost or expense of UBA, either individually or when aggregated with the actual amounts of all other costs and expenses of UBA, are being incurred on a periodic basis at a rate that may cause such actual costs or expenses to exceed by more than five percent (5%) the aggregate amount of line items of costs and expenses of UBA described in the UBA Budget for such Fiscal Year; or

(iii) the actual amount of any Covered Revenues, either individually or when aggregated with the actual amounts of all other similar Covered Revenues, are being generated on a periodic basis at a rate that may cause such actual Covered Revenues to be less than ninety five percent (95%) of the amount of Covered Revenues described in the applicable line item of the UBA Budget for such Fiscal Year; or

(vi) the actual amount of any Covered Revenues, when aggregated with the amounts of all other Covered Revenues, are being generated on a periodic basis at a rate that may cause such actual Covered Revenues to be less than ninety five percent (95%) of the aggregate amount of line items of Covered Revenues described in the UBA Budget for such Fiscal Year;

then the Board of Directors of UBA, in its sole discretion, shall make such changes and modifications to the UBA Budget as the Board of Directors of UBA deems reasonably necessary to reduce UBA's costs and expenses, and/or increase the Covered Revenues, as the case may be, to cause Covered Revenues to equal or exceed UBA's costs and expenses for such Fiscal Year.

5.4 Funding of Department Corporation Annual Budget.

Each Fiscal Year UBA shall, to the extent Covered Revenues are available as provided in Section 4.1(b)(2) hereof, reimburse each Department Corporation for its reimbursable costs and expenses as described in Subsections 4.1(b)(2)(c) hereof, and compensation and retirement as described in 4.1(b)(2)(d) hereof, and shall, pursuant to Subsection 4.1(b)(2)(e) hereof, pay to such Department Corporation all amounts of Covered Revenues attributable to such Department Corporation and remaining after the application of the provisions of Subsections 4.1(b)(2)(a) through 4.1(b)(2)(d), inclusive. If at any time during a Fiscal Year:

(i) the actual amount of any cost or expense of a Department Corporation, either individually or when aggregated with the actual amounts of all other similar costs or expenses, are being incurred on a periodic basis at a rate that may cause such actual costs or expenses to exceed by more than five percent (5%)

the amount of such costs or expenses described in the applicable line item of such Department Corporation's or the Department's Annual Budget for such Fiscal Year; or

(ii) the actual amount of any cost or expense of a Department Corporation, either individually or when aggregated with the actual amounts of all other costs and expenses of such Department Corporation, are being incurred on a periodic basis at a rate that may cause such actual costs or expenses to exceed by more than five percent (5%) the aggregate amount of line items of costs and expenses of such Department Corporation's or Department's Annual Budget for such Fiscal Year; or

(iii) the actual amount of any revenues of a Department Corporation, either individually or when aggregated with the actual amounts of all other similar revenues, are being generated on a periodic basis at a rate that may cause such actual Covered Revenues to be less than ninety five percent (95%) of the amount of revenues described in the applicable line item of such Department Corporation's or Department's Annual Budget for such Fiscal Year; or

(iv) the actual amount of any revenues of a Department Corporation, when aggregated with the amounts of all other revenues of such Department Corporation, are being generated on a periodic basis at a rate that may cause such actual Covered Revenues to be less than ninety five percent (95%) of the aggregate amount of line items of revenues of such Department Corporation's or Department's Annual Budget for such Fiscal Year;

then, upon the request of the Vice President for Health Affairs, in his or her sole discretion, the Department Corporation or Department, respectively, shall make such changes and modifications to such Department Corporation's or Department's Annual Budget as such Department Corporation or Department Chairperson, respectively, and the Vice President for Health Affairs shall mutually agree as reasonably necessary to reduce such Department Corporation's costs and expenses, and/or increase such Department Corporation's revenues, as the case may be, in order to cause such Department Corporation's revenues to equal or exceed its costs and expenses for such Fiscal Year. If within thirty (30) calendar days of the Vice President for Health Affairs' request for changes and modifications, the Vice President for Health Affairs and a Department Corporation or Department Chairperson, respectively, have not agreed upon changes and modifications to such Department Corporation's or Department's respective Annual Budget pursuant to the preceding sentence, the Vice President for Health Affairs shall, in his or her sole discretion, make such changes and modifications to the Department Corporation's or Department's respective Annual Budget that he or she deems reasonably necessary to reduce such Department Corporation's costs and expenses, and/or increase such Department Corporation's revenues, as the case may be, in order to cause such Department Corporation's revenues to equal or exceed its costs and expenses for such Fiscal Year.

5.5 Determination of Practice Plan Participants.

Other than individuals exempted from participation in the Practice Plan pursuant to the applicable provisions of the Regulations, each individual required to be a member of a Plan for the Management of Clinical Practice Income pursuant to the applicable

provisions of the Regulations (specifically including 8 N.Y.C.R.R. §340.4(b)(1) and Section 4(b)(1) of Article XVI of the Policies of the Board of Trustees of the State University of New York) shall be a participant of the Practice Plan. The Practice Plan shall admit other individuals as participants as provided in Schedule 5.5, attached hereto and made a part hereof.

5.6 Operating Procedures, Guidelines and Practices.

Each policy, practice and procedure duly promulgated and/or adopted by either UBA or the Governing Board pursuant to and in accordance with the terms hereof and the Regulations: (i) shall bind all other Parties hereto with respect to the subject matter thereof, and (ii) shall be deemed to be incorporated into this Agreement by this reference, and (iii) shall be enforceable by the terms hereof.

5.7 Liability of Parties.

No Party shall be liable, responsible or accountable to any other Party hereto for costs, expenses or other damages (monetary or otherwise) incurred by any other Party on account of any act or omission performed or omitted by such Party in good faith pursuant to the terms of this Agreement and in the absence of such Party's negligence or willful misconduct with respect to such act or omission.

ARTICLE 6 COVENANTS

6.1 Enforceability; Binding Effect.

Each Party hereto agrees to abide by, and to refrain from taking (directly or indirectly) any action inconsistent with the terms and conditions of this Agreement, the

Regulations and applicable law, practices, policies and procedures (as each may be amended from time to time). All Parties hereto agree to bind themselves, and their successors in interest, to the terms and conditions of this Agreement and to the applicable covenants contained in this ARTICLE 6.

6.2 Further Actions; Cooperation.

In connection with the appointment of UBA as agent by each Party hereto pursuant to Subsection 4.1(a) hereof, each Party hereto agrees to take all reasonable measures necessary to legally appoint UBA as its agent or to delegate such authority to UBA. Each Party hereto agrees to cooperate in providing any additional information, in executing additional documents or instruments, or in otherwise taking additional actions as may be reasonably necessary or required by third parties, including governmental authorities, lenders, suppliers or other parties entering into a contract with the Practice Plan or any Party hereto.

6.3 Department Corporation Charter Documents.

Each Department Corporation hereby agrees that it shall not amend or modify its Certificate of Incorporation or By-Laws without the prior written consent of the Governing Board and UBA.

6.4 Notification of Claims and Disputes.

Each Party hereto agrees that it shall immediately notify the other Parties of the commencement of any, or the threat of commencement of any, legal action, suit, or proceeding against such Party relating to the Practice Plan or this Agreement.

6.5 No Assignment.

Each Party hereto agrees that it shall not, in whole or in part, sell, assign, transfer, mortgage, encumber or otherwise hypothecate any interest it has in this Agreement without the prior written consent of the Governing Board and UBA. Any attempted assignment, transfer, mortgage, encumbrance or other hypothecation of any Party's interest in this Agreement (or portion thereof) without the prior written consent of the Governing Board and UBA shall be void and without effect.

ARTICLE 7 COMPLIANCE AND ENFORCEMENT

7.1 Compliance Monitoring.

Each Party hereto shall be responsible for monitoring compliance with the Practice Plan and the terms of this Agreement as follows:

(a) Each Department Corporation shall be responsible for monitoring each of its employees' compliance with the Practice Plan and the terms of this Agreement, and shall promptly report any alleged instances or acts of noncompliance to the Governing Board, UBA, the Vice President for Health Affairs and the Compliance Committee (as described in Section 7.2, below).

(b) The Governing Board shall be responsible for monitoring compliance by each participant in the Practice Plan and each Department Corporation with the Practice Plan and the terms of this Agreement. The Governing Board shall promptly report any alleged instances or acts of noncompliance to UBA, the Vice President for Health Affairs and the Compliance Committee.

(c) UBA shall be responsible for monitoring compliance by each participant in the Practice Plan, and each Department Corporation, with the Practice Plan and the terms of this Agreement, and shall promptly report any alleged instances or acts of noncompliance to the Vice President for Health Affairs, the Governing Board and the Compliance Committee.

7.2 Compliance Committee.

The Compliance Committee shall consist of four (4) members, and the Vice President for Health Affairs, the Medical School, the Governing Board and UBA shall each have the right to appoint one (1) member of the Compliance Committee. The Compliance Committee shall have such powers and duties with respect to ensuring compliance with the Practice Plan and the terms of this Agreement, and shall have such remedies available to it, as described in Schedule 7.2, attached hereto and made a part hereof. The Compliance Committee shall be authorized to promulgate or adopt such policies, practices and procedures as the Compliance Committee deems reasonably necessary to carry out its functions. No action recommended or taken by the Compliance Committee with respect to a participant in the Practice Plan shall supersede or otherwise conflict with (to the extent applicable) the University's rights and duties to discipline its employees and/or the terms and provisions of the then-current collective bargaining agreement governing the terms and conditions of such participant's employment with the University.

ARTICLE 8 AMENDMENT

8.1 Addition of Parties.

Upon the written consent of the Governing Board and UBA, each Department Corporation formed after the date hereof shall be permitted to execute this Agreement and shall thereby be bound by the terms hereof. In such event this Agreement shall be deemed to be amended for the specific purpose of adding such Department Corporation as a Party to this Agreement.

8.2 Amendment of Agreement.

Other than as specifically provided in Section 8.1 hereof, this Agreement may only be amended as follows:

(a) a proposed amendment of this Agreement shall initially be forwarded by any Party to this Agreement and/or any participant in the Practice Plan in writing to UBA; then

(b) with the consent of the Board of Directors of UBA, in such Board of Directors' sole discretion, the proposed amendment shall be delivered to each Party hereto; and

(c) such proposed amendment shall be adopted upon the written consent of:

- (1) the Governing Board;
- (2) UBA;
- (3) the Medical School;
- (4) the University; and
- (5) not less than sixty six percent (66%) of the Department Corporations.

ARTICLE 9 TERMINATION

9.1 Termination Events.

This Agreement shall terminate upon the occurrence of one or more of the following events:

(a) UBA, the Medical School or the University shall cease to qualify as a not-for-profit organization under Section 501(c)(3) of the United States Internal Revenue Code, or under any applicable tax statute of New York State; or

(b) UBA, the Governing Board, the Medical School and the University unanimously agree to terminate the Agreement; or

(c) UBA, the Governing Board, the Medical School or the University shall have materially defaulted in the performance of one or more of its respective obligations hereunder (in such case, such party shall be referred to as the “Defaulting Party”), and (i) upon the expiration of ninety (90) days from the Defaulting Party’s receipt of written notice of such material default from the other parties to this Agreement (the “Non-Defaulting Parties”), and the Defaulting Party shall not have either (A) cured such material default or defaults to the reasonable satisfaction of the Non-Defaulting Parties, or (B) with respect to any material default or defaults which cannot reasonably be cured within ninety (90) day period, provided to the Non-Defaulting Parties credible evidence that the Defaulting Party has commenced and has diligently prosecuted such actions as are necessary to cure such default or defaults as soon as practicable; and (ii) the majority of the Non-Defaulting Parties elect not to waive such default or defaults, or elect not to seek enforcement of the terms and provisions of this Agreement with respect to the

Defaulting Party's obligations hereunder (whether by specific performance or otherwise), and instead elect to terminate this Agreement upon further written notice to the Defaulting Party;

(d) Upon the expiration of one (1) calendar year from the receipt by UBA, the Medical School and the University of written notice of termination from the Governing Board; provided, however, that the Governing Board's decision to exercise said termination right is made by an affirmative vote of at least seventy-five (75) percent of its membership to terminate this Agreement and the Governing Board delivers its notice of termination to UBA, the Medical School and the University not later than March 31st of any calendar year; or

(e) Upon the expiration of ninety (90) days from the Governing Board's receipt of written notice of termination from UBA, the Medical School and the University.

9.2 Effect of Termination.

(a) Upon termination of this Agreement, all Covered Revenues held by any Party shall be immediately remitted to an account of the University designated by the President of the University.

(b) Upon termination of this Agreement, UBA and each Department Corporation shall only take such corporate actions as are consistent with its respective Certificate of Incorporation and By-Laws, and as are permitted by applicable federal and state law (including, without limitation, Section 501(c)(3) of the United States Internal Revenue Code and/or Section 1412 of the New York Not-For-Profit Corporation Law).

ARTICLE 10 MISCELLANEOUS

10.1 Notices.

Any notice required or desired to be given hereunder relating to this Agreement shall be effective if in writing and delivered personally or by certified mail, postage prepaid, return receipt requested to a party at the address for such Party as set forth below, or to such other address as a Party may specify by written notice to each other Party to this Agreement similarly given.

If to the **University**:

William R. Greiner
President
State University of New York at Buffalo
506 Capen Hall, Amherst Campus
Amherst, NY 14260

with a copy to:

If to **UBA**:

Michael E. Bernardino, M.D.
Vice President for Health Affairs
State University of New York at Buffalo
Biomedical Education Bldg., Room 155, South Campus
Buffalo, NY 14214

with a copy to:

If to the **Medical School**:

John R. Wright, M.D., Dean
School of Medicine and Biomedical Sciences
Biomedical Education Bldg., Room 130, South Campus
Buffalo, NY 14214

If to any **Department Corporation**:

As provided in Schedule 10.1, attached hereto and made a part hereof.

10.2 No Waiver.

No failure to exercise and no delay in exercising on the part of any Party hereto, any right, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

10.3 Partial Invalidity.

If a court of competent jurisdiction should declare invalid or unenforceable any provision of this Agreement, such declaration shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

10.4 Applicable Law; Consent to Jurisdiction.

This Agreement shall be construed and enforced in accordance with the laws of the State of New York without regard to its principles of conflicts of laws. Each Party hereby agrees that any action or proceeding to enforce or arising out of this Agreement shall be commenced in the Supreme Court of New York in Erie County, or in the District Court of the United States in the Western District of New York, and each party hereby waives personal service of process and agrees that a summons and complaint commencing an action or proceeding in any such court shall be properly served and shall confer personal jurisdiction if served by registered or certified mail to such Party, or as otherwise provided by the laws of the State of New York or the United States (as applicable).

10.5 Headings.

The headings contained in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

10.6 No Entity Formed.

Neither this Agreement, which represents terms and conditions applicable to the operation and administration of the Practice Plan, nor any provision hereof, shall be deemed to create a joint venture, partnership, unincorporated association or any other entity, or create an employment relationship, among or between any of the Parties hereto for any purpose whatsoever.

10.7 Modification.

No modification in the terms of this Agreement shall be binding on any Party unless in writing and executed by the duly authorized representative of each Party.

10.8 Entire Agreement.

This Agreement and the documents referenced herein constitute the entire agreement among the Parties in connection with the subject matter hereof and shall supersede all prior agreements, whether oral or written, whether explicit or implicit, which have been entered into prior to the execution hereof.

10.9 Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute but one instrument.

IN WITNESS WHEREOF, each Party hereto, having duly considered and after having the opportunity to consult with counsel regarding the terms and provisions of this Agreement, has authorized, ratified and confirmed the execution hereof as evidenced by the authorized signature of such Party below, and has duly executed this Agreement as of the day and year first above written.

STATE UNIVERSITY OF NEW YORK AT BUFFALO

By: _____

William R. Greiner,
Title: President

Dated: _____

By: _____

John R. Wright, M.D.
Title: Dean, School of Medicine and Biomedical Sciences

Dated: _____

UB ASSOCIATES, INC.

By: _____

Michael E. Bernardino, M.D.
Title: President

Dated: _____

FACULTY PRACTICE MANAGEMENT PLAN GOVERNING BOARD

By: _____

Robert Klocke, M.D.
Title: President

Dated: _____

ACADEMIC MEDICINE SERVICES, INC.

By: _____

Name: Robert Klocke, M.D.

Title: President

Dated: _____

UNIVERSITY AT BUFFALO ANESTHESIOLOGY, INC.

By: _____

Name: Mark Lema, M.D.

Title: President

Dated: _____

UNIVERSITY DERMATOLOGY, INC.

By: _____

Name: John R. Wright, M.D.

Title: President

Dated: _____

UNIVERSITY EMERGENCY MEDICAL SERVICES, INC.

By: _____

Name: G. Richard Braen, M.D.

Title: President

Dated: _____

FAMILY MEDICINE FACULTY ASSOCIATES, INC.

By: _____

Name: Thomas Rosenthal, M.D.

Title: President

Dated: _____

UNIVERSITY GYNECOLOGISTS & OBSTETRICIANS, INC.

By: _____

Name: John Yeh, M.D.

Title: President

Dated: _____

UNIVERSITY NEUROLOGY, INC.

By: _____

Name: Patricia Duffner, M.D.

Title: President

Dated: _____

NEUROSURGERY SERVICES, P.C.

By: _____

Name: L. Nelson Hopkins, M.D.

Title: President

Dated: _____

UNIVERSITY NUCLEAR MEDICINE, INC.

By: _____

Name: Hani Nabi, M.D.

Title: President

Dated: _____

UNIVERSITY OPHTHALMOLOGY SERVICES, INC.

By: _____

Name: James Reynolds, M.D.

Title: President

Dated: _____

UNIVERSITY ORTHOPAEDIC SERVICES, INC.

By: _____

Name: Robert Gillespie, M.D.

Title: President

Dated: _____

UNIVERSITY HEAD & NECK SURGERY, INC.

By: _____

Name: Charles Pruet, M.D.

Title: President

Dated: _____

UNIVERSITY AT BUFFALO PATHOLOGISTS, INC.

By: _____

Name: Reid Heffner, M.D.

Title: President

Dated: _____

UNIVERSITY AT BUFFALO PEDIATRIC ASSOCIATES, INC.

By: _____

Name: Frederick Morin, III, M.D.

Title: President

Dated: _____

UNIVERSITY PSYCHIATRIC PRACTICE, INC.

By: _____

Name: Susan McLeer, MD.

Title: President

Dated: _____

UNIVERSITY RADIOLOGY AT BUFFALO, INC.

By: _____

Name: Angelo DelBalso, M.D.

Title: President

Dated: _____

UNIVERSITY RADIATION ONCOLOGY, INC.

By: _____

Name: John R. Wright, M.D.

Title: Acting President

Dated: _____

**UNIVERSITY PHYSICAL MEDICINE AND
REHABILITATION ASSOCIATES, INC.**

By: _____

Name: Carl Granger, M.D.

Title: President

Dated: _____

UNIVERSITY SURGICAL ASSOCIATES, P.C.

By: _____

Name: Eddie Hoover, M.D.

Title: President

Dated: _____

UNIVERSITY UROLOGY, INC.

By: _____

Name: Gerald Sufrin, M.D.

Title: President

Dated: _____

SCHEDULE 4.1(b)(2)(b)

**ALLOCATION OF REIMBURSEMENT TO
THE STATE OF NEW YORK**

In the event a determination is made pursuant to the Regulations and this Agreement that the State of New York incurred any cost(s) of Clinical Practice: (i) such cost(s) shall be apportioned to the Department or Departments to which such costs are attributable; (ii) the Vice President for Health Affairs (as designee of the President of the University pursuant to Section 4.4(a) of this Agreement) shall in his/her sole discretion require that either each such Department shall reimburse UBA or UBA shall retain an amount equal to the amount of such apportionment; and (iii) UBA shall reimburse the State of New York in an amount equal to the amount of such apportionment.

Any change or modification to the above policy shall require the approval of the Vice President for Health Affairs (as the designee of the President of the University pursuant to Section 4.4(a) of this Agreement) in consultation with the Governing Board, and the approval by the Chancellor of SUNY, in consultation with the Governor's Office of Employee Relations, in accordance with the Regulations.

SCHEDULE 4.1(b)(2)(c)

ALLOCATION OF UBA COSTS AND EXPENSES

SCHEDULE 4.1(b)(2)(d)(i)

**ISSUANCE OF MAXIMUM ALLOWABLE
COMPENSATION LETTERS**

1. At least once annually the Dean of the Medical School shall issue a letter to the Chair of each Department directing that he/she issue a letter setting forth the Maximum Allowable Compensation (hereinafter "MAC Letter"), for each member of his/her Department, with a copy to the Dean and the Vice President for Health Affairs. Any individual physician whose MAC Letter exceeds 250% of the maximum State basic annual salary of a member's rank shall be submitted by the Department Chair to the Vice President for Health Affairs for approval prior to issuing such MAC Letter to the individual physician.

2. Where the Chancellor's approval is required for an individual physician's MAC Letter to exceed 275% of the maximum State basic annual salary for a member's rank, such MAC Letter shall be submitted by the Vice President for Health Affairs to the Chancellor or his/her designee for such approval.

SCHEDULE 4.2
GOVERNING BOARD

SCHEDULE 5.2

DETERMINATION OF ANNUAL BUDGETS

SCHEDULE 5.3

DETERMINATION OF UBA BUDGET

SCHEDULE 5.5

**ADMISSION OF OTHER INDIVIDUALS AS
PRACTICE PLAN PARTICIPANTS**

SCHEDULE 7.2

COMPLIANCE COMMITTEE POWERS AND DUTIES

Duties of the Compliance Committee:

- (a) Develop and oversee compliance plans in collaboration with the Audit Committee of the Governing Board of the Faculty Practice Plan, including training of faculty and staff to assure that billings and collections comply with local state and federal statutes, rules, regulations and guidelines.
- (b) Oversee the activities of the Compliance Auditor.
- (c) Review compliance reports and make appropriate recommendations to the UBA Board and the Governing Board of the Faculty Practice Plan.
- (d) Review findings of the Audit committee of the Governing board of the Faculty Practice Plan and make appropriate recommendations to the UBA Board and Governing Board of the Faculty Practice Plan.
- (e) Review Graduate Medical Education Guidelines for supervision of residents and documentation standards and make appropriate recommendations to the UBA Board or Governing Board of the Faculty Practice Plan.
- (f) Make recommendations to the Audit Committee of the Faculty Practice Plan Governing Board.
- (g) Develop and oversee ethics policies and compliance with such policies.
- (h) Other duties and responsibilities as shall be delegated by the UBA Board.

General Policies of the Compliance Committee:

1. The principles of medical ethics of the American Medical Association are accepted as the governing code of ethics of the physician members of the Practice Plan.
2. Should the principles of ethics described in Section 1 above be found to be in conflict with the laws, rules and regulations of the State of New York or the United States of America, they shall not apply to the extent of the conflict.
3. The UBA Board shall appoint a Compliance Officer and develop a Compliance Plan. The Compliance Plan shall provide a means to inform, educate and train members and personnel and staff employ by the Department Corporations regarding the applicable statutes, rules, regulations, policies and procedure. The Compliance Plan shall include a provision for the impositions of penalties when standards are not met by a Department Corporation.
4. Compliance with provision of local, state and federal laws, rules and regulations is the responsibility of each member of the Practice Plan.
5. No action recommended or taken by the compliance Committee with respect to an individual participant in the Practice Plan shall supersede or otherwise conflict with, to the extent applicable, the University's rights and duties to discipline its employers and/or the terms and provisions of the then current bargaining agreement governing the terms and conditions of such participant's employment with the University.

SCHEDULE 10.1

DEPARTMENT CORPORATION NOTICE

Academic Medicine Services, Inc.
462 Grider Street
Buffalo, New York 14215

University at Buffalo Anesthesiology, Inc.
Hamlin House
100 High Street
Buffalo, NY 14203

University Dermatology, Inc.
100 High Street
Buffalo, NY 14203

University Emergency Medical Services, Inc.
462 Grider Street
Buffalo, NY 14215

Family Medicine Faculty Associates, Inc.
462 Grider Street
Buffalo, NY 14215

University Gynecologists & Obstetricians, Inc.
219 Bryant Street
Buffalo, NY 14222

University Neurology, Inc.
219 Bryant Street
Buffalo, NY 14222

Neurosurgery Services, P.C.
3 Gates Circle
Buffalo, NY 14209

University Nuclear Medicine, Inc.
105 Parker Hall
3435 Main Street
Buffalo, NY 14214

University Ophthalmology Services, Inc.
219 Bryant Street
Buffalo, NY 14222

University Orthopaedic Services, Inc.
219 Bryant Street
Buffalo, NY 14222

University Head & Neck Surgery, Inc.
4949 Harlem Road
Amherst, New York 14226

University at Buffalo Pathologists, Inc.
204 Farber Hall
3435 Main Street
Buffalo, NY 14214

University at Buffalo Pediatric Associates, Inc.
239 Bryant Street, 2nd Floor
Buffalo, NY 14222

University Psychiatric Practice, Inc.
462 Grider Street
Buffalo, NY 14215

University Radiology at Buffalo, Inc.
3495 Bailey Avenue
Buffalo, NY 14215

University Radiation Oncology, Inc.
3435 Main Street, BEB 131
Buffalo, NY 14214

University Physical Medicine and Rehabilitation Associates, Inc.
232 Parker Hall
3435 Main Street
Buffalo, NY 14214

University Surgical Associates, P.C.
ECMC Miller Building
462 Grider Street
Buffalo, NY 14215

University Urology, Inc.
100 High Street
Buffalo, NY 14203