

SECOND LEASE AGREEMENT AMENDMENT

THIS SECOND AMENDMENT (the "Second Amendment"), entered into this 1st day of October, 2003 to be effective as of October 1, 2003, by and between **THE LOWER FLORIDA KEYS HOSPITAL DISTRICT**, a body politic and corporate organized under the law of the State of Florida ("Lessor"), acting through its Board of Commissioners, and **KEY WEST HMA, INC.**, a Florida for-profit corporation ("Lessee").

RECITALS

WHEREAS, the parties hereto have previously entered into that certain Lease Agreement dated as of May 1, 1999, as amended by that certain Lease Agreement Amendment dated April 15, 2002, (collectively, the "Lease Agreement"); and

WHEREAS, pursuant to Section 15.6 of the Lease Agreement, the Lease Agreement may not be modified or amended except by an agreement in writing signed by both parties; and

WHEREAS, the parties hereto desire to amend and clarify certain aspects of the Lease Agreement as regards the operations of the Clinic (as described in Section 4.1(i) of the Lease Agreement) and the funding obligations of the Lessor thereon;

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

1. Section 2.1(h) of the Lease Agreement shall be deleted, and the following Section 2.1(h) placed in its stead:

"Provided that the Lessor has Three Million Dollars (\$3,000,000) in cash or investment assets, or by virtue of the payment set forth herein does not cause its cash or investment assets balance to fall below said \$3,000,000, amount, the Lessor agrees that during each year of the thirty (30) year Lease term, the Lessor shall fund

an amount up to Five Hundred Thousand Dollars (\$500,000) per year to pay participating physicians, as such term is defined in Section 4.1(i) hereinbelow, practicing in the Lower Florida Keys Hospital District, and who maintain adequate professional liability insurance as determined by Lessee, for either (x) services provided to indigent patients of the Clinic (as described in Section 4.1(i) hereof), including Clinic visits, surgeries and outpatient procedures scheduled as a result of such visits to the Clinic, or (y) services provided to indigent patients seeking medical care and treatment at the Emergency Room of the Hospitals and as a result thereof are referred to a participating physician as an emergent inpatient, or (z) services provided to indigent patients who are admitted by virtue of the Baker Act and are transported directly to the dePoo Hospital facility. For purposes of this Section, the term "investment assets" is not intended to include either unrealized gain, or accrued but unpaid interest, or earned interest in the Escrow Account not swept to the Custodial Account. In the event that the space for the Clinic and administrative support is terminated by the Lessee, then, effective upon termination, all physician services provided after termination shall not be eligible for payment, whether for services provided as a result of referral from the Clinic or the Emergency Room. All payments made pursuant to this covenant, which covenant is a material and significant representation and covenant of the Lessor to Lessee and a material inducement for the Lessee to enter into this Lease Agreement, shall be made in four (4) equal quarterly installments of One Hundred Twenty Five Thousand Dollars (\$125,000) per quarter, during each year of the term of the Lease. Lessee agrees to provide Lessor with administrative accounting and billing services

(at Lessee's cost) for the payments to participating physicians for so long as Lessor continues such funding. Such accounting and billing services shall include but not be limited to providing, on a quarterly basis, a listing of all services provided to indigent patients by patient number, date(s) of service, identity of participating physician and amount paid, as well as a Certification in the form as set forth in Exhibit E attached hereto and made a part hereof, from the physician staffing the Clinic certifying that all participating physicians have accepted all indigent patients referred to him/her; providing on an annual basis a Certification, in the form as set forth in Exhibit F, attached hereto and made a part hereof, from each participating physician, attesting that (i) the medical care needs of the indigent patients being referred to the attesting physician are being met; and (ii) no other governmental program, third party payor or the patient himself/herself has been billed for services on indigent patients for which Lessor has been billed; and providing on an annual basis, a Certification in the form as set forth in Exhibit G, attached hereto and made a part hereof, from Lessee, attesting that the patients receiving services qualify as indigents as defined in Exhibit B. Lessee further agrees to provide Lessor with copies of Lessee's audit testing of such indigent care services which Lessor's auditors can rely upon. Notwithstanding the foregoing, the District shall be credited the amount of \$25,000/year, until the earlier of ten (10) years from October 1, 2001 or the date the District's cash or investment assets reach the three million dollars (\$3,000,000) floor, as reimbursement for disputed reimbursement from the inception of the Lease Agreement through the date hereof, such that the District's obligation hereunder shall not exceed Four Hundred Seventy Five Thousand Dollars

(\$475,000) per year, thereby resulting in quarterly payment of One Hundred Eighteen Thousand Seven Hundred Fifty Dollars (\$118,750) each. Further notwithstanding the foregoing, in the event the total annual amount of indigent care provided by participating physicians does not exceed the maximum annual amount set forth herein, such unused funds shall be returned by Lessee to Lessor within thirty (30) days of such determination."

2. Section 4.1(i) of the Lease Agreement shall be deleted, and the following Section 4.1(i) placed in its stead:

"(i) Primary Care Clinic. For a minimum of one (1) year following the Commencement Date and thereafter so long as adequate physician coverage is readily available, Lessee shall maintain space for a primary care clinic ("Clinic") at the District Hospital or dePoo Hospital, or such other location as Lessee shall designate from time to time. The Clinic shall provide a broad range of primary care health services with an expanded operating schedule to all Residents regardless of the Resident's ability to pay. The policies and procedures for the parameters of the operation of the Clinic shall be as set forth in Exhibit "H", attached hereto and made a part hereof. All administrative and non-physician allied health professional staff will be provided by Lessee. The physician coverage for the Clinic will be provided by participating physicians (at no cost to Lessee) practicing in the Lower Florida Keys Hospital District and who maintain adequate professional liability insurance as determined by Lessee, and who enter into a written agreement with Lessee in the form as set forth in Exhibit H, attached hereto

and made a part hereof. Initially, it is the intent of Lessee to delegate to the Physician/Hospital Alliance of the Keys (the "PHA"), the duties and responsibilities of coordinating and encouraging the availability of participating physician services. Notwithstanding the foregoing, a physician does not need to be a member of the PHA in order to be deemed a participating physician eligible for District reimbursement provided that said physician meets the adequate professional liability insurance as determined by Lessee and otherwise enters into a written agreement as set forth in Exhibit I. Lessee shall be obligated to maintain the space for the Clinic for the Lease Term and may only discontinue providing such space and administrative support prior to expiration of the Lease Term with the approval of the Lessor, which approval shall not be unreasonably withheld. However, if the services provided for by the Clinic are replaced by other programs and/or if the Clinic becomes economically impractical to operate as determined by the Lessee, then the Lessor shall approve the request for closure of the Clinic made by Lessee. Lessee agrees to provide Lessor with at least a sixty (60) day notice of its intention to discontinue support for the Clinic."

3. Exhibit E to the Lease Agreement shall be deleted, and a new exhibit, re-lettered as Exhibit H, and identified as Clinic Policies and Procedures, be placed in its stead, in exactly the form as appended hereto.
4. All the remainder of the terms of the Lease Agreement not otherwise modified herein shall remain in full force and effect.

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 15th day of October, 2003, by Timothy R. Parry, as Senior Vice President, of KEY WEST HMA, INC., Florida corporation, on behalf of the corporation, who is personally known to me or who has produced Florida Driver's License No. _____ as identification.

My Commission Expires:

(Affix Notary Seal)



Jeanne E. Trent
Notary Public (Signature)

Jeanne E. Trent
(Printed Name)

(Title or Rank)

(Serial Number, if any)

EXHIBIT "E"

CERTIFICATION OF CLINIC PHYSICIAN

(See attached)

CERTIFICATION OF CLINIC PHYSICIAN

I, Ian Garriques, M.D., primary care physician staffing the Primary Care Clinic of Lower Keys Medical Center, hereby certify that _____
has accepted for treatment and/or has offered to accept for treatment any and all indigent patients referred to him/her by myself and/or the Clinic and/or the Emergency Department of Lower Keys Medical Center, for the year period October 1, 200__ through September 30, 200__.

Dated this _____ day of _____, 200__.

Ian Garriques, M.D.

EXHIBT "F"

CERTIFICATION OF PARTICIPATING PHYSICIAN

(See attached)

CERTIFICATION OF PARTICIPATING PHYSICIAN

I, _____, M.D., am a physician on the medical staff of Lower Keys Medical Center and have entered into a Key West Primary Care Clinic Outside Professional Services Agreement with the Medical Center to provide professional services to indigent residents of the Lower Florida Keys Hospital District.

In furtherance thereof, I hereby certify as follows:

1. The medical care needs of all indigent patients referred to me are being met, and I have accepted all such indigent patients referred to me by the Clinic and/or Emergency Department of the Medical Center; and
2. I have not billed, nor sought to bill, nor collected any monies from any other governmental program, third party payor or the patient himself/herself, for services rendered to indigent patients of the District for which the District has been billed.

This Certificate covers the time period October 1, 200__ through September 30, 200__.

Dated this _____ day of _____, 200__.

Physician Signature

EXHIBIT "G"

KEY WEST HMA CERTIFICATION

(See attached)

CERTIFICATION OF KEY WEST HMA

I, _____, the _____
(Title)

of Lower Florida Keys Medical Center hereby certify as follows:

1. All indigent patients receiving professional services at the Medical Center meet the requirements and qualify as an indigent resident of the District, as defined in the Lease Agreement between the District and Key West HMA, being a resident of the District whose family income for the twelve (12) month period proceeding the provision of services by myself does not exceed 125% of the current Federal Poverty Guidelines published by the U.S. Department of Health and Human Services (or such successor agency thereto).

This Certificate covers the time period October 1, 200__ through September 30, 200__.

Dated this _____ day of _____, 200__.

Signature

EXHIBIT "H"

CLINIC POLICIES AND PROCEDURES

Policy

The Lower Florida Keys Hospital District, as part of its mission, provides limited funding within its financial constraints, as set forth in Section 2.1(h) of the Lease Agreement, for physician services provided to indigent patients who are residents of the District. Key West HMA will use the guidelines set forth in the Policy and Procedure appended to the Agreement for Indigent Care, identified as Exhibit B to the Lease Agreement, to determine that indigent patients are properly qualified for District Indigent Care reimbursement for their physicians.

Procedures

- A. The PHA shall be responsible for encouraging the participation of participating physicians eligible for reimbursement by virtue of providing medical services to either indigent patients of the Clinic and/or to indigent patients referred from the Emergency Rooms at the Hospitals.
- B. A physician does not need to be a member of the PHA to be deemed a participating physician, provided that the participating physician meets all other requirements of this obligation.
- C. The PHA commits to encouraging participating physician coverage for the Clinic regardless of whether or not District funds are available for reimbursement to the physicians in any given quarter or year.
- D. Any indigent resident patient presenting to the Hospitals' Emergency Rooms who are in need of immediate medical care and treatment by other than the Emergency Room Physician, either by virtue of inpatient admission or physician consult in the Emergency Room, shall qualify said participating physicians for payment as if they were a Clinic patient.
- E. Any indigent resident patient presenting to the Hospitals' Emergency Rooms who, after being medically screened by the Emergency Room staff, is not deemed in need of emergent care or treatment, but who (consistent with COBRA and EMTALA laws) is appropriate for discharge and referral to a physician for subsequent follow-up, shall be referred to the Clinic during its normal operating hours. A participating physician shall not be eligible for reimbursement from the District for non-emergent patients referred to them directly from the Emergency Room.

Reimbursement

- A. The District will remit, on a quarterly basis, the amount set forth in Section 2.1(h) of the Lease Agreement.
- B. Participating physicians shall be reimbursed a quarterly flat fee to be determined by Lessee and based upon their respective specialty, the number of such specialists becoming participating physicians, and the historical percentage of indigent care reimbursement per specialty, all as set forth in their written agreement with Lessee.
- C. Lessee, on at least an annual basis and no more frequently than quarterly, may retrospectively adjust the percentage allocation per specialty based upon the most recent year's actual documented utilization.
- D. There shall be no carryover of unpaid reimbursable bills from year-to-year.

EXHIBIT "I"

PARTICIPATING PHYSICIAN AGREEMENT

**KEY WEST PRIMARY CARE CLINIC
OUTSIDE PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is entered into as of the ____ day of September 2003, and effective as of October 1, 2003, by and between Key West HMA, Inc. d/b/a Lower Keys Medical Center (hereinafter referred to as "HOSPITAL"), and _____, (hereinafter referred to as "DOCTOR"):

WHEREAS, pursuant to the terms of that certain Lease Agreement between the HOSPITAL and the Lower Florida Keys Hospital District (the "DISTRICT") dated as of May 1, 1999, as amended by that certain Lease Agreement Amendment dated as of April 15 2003, and as amended by that certain Second Lease Agreement Amendment dated as of October 1, 2003 (collectively, the "Lease Agreement"), HOSPITAL has agreed to provide medical care for all the indigent residents of the DISTRICT, and further has obligated itself, subject to the limitations set forth in the Lease Agreement, to assist a Primary Care Clinic ("Clinic") being established for residents of the DISTRICT; and

WHEREAS, HOSPITAL provides an Emergency Department ("ED"), which provides care to indigent residents of the Lower Keys; and

WHEREAS, HOSPITAL desires to arrange for the availability of specialty physician healthcare services to indigent patients of the Clinic and ED; and

WHEREAS, DOCTOR is a member of the Medical Staff of the HOSPITAL, in good standing; and

WHEREAS, DOCTOR possesses the education, training, and skills required to provide specialty healthcare services to indigent patients of the Clinic and ED; and

WHEREAS, HOSPITAL and DOCTOR desire to provide a full statement of their respective rights, obligations, and duties in connection with the delivery of services hereunder;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises described below in this Agreement, the sufficiency of which is hereby irrevocably acknowledged, the parties agree as follows:

SECTION 1. PROFESSIONAL SERVICES

1.01 During the term of this Agreement, DOCTOR agrees to provide _____ [insert specialty] _____ healthcare services to all indigent patients referred to DOCTOR by the Clinic and/or the ED during DOCTOR's regular ED on-call schedule.

1.02 Staffing of Clinic. HOSPITAL or its affiliate will provide the necessary administrative and non-physician allied health staff as it shall in its discretion determine appropriate, and will arrange physician coverage for the Clinic and ED. DOCTOR agrees to comply with all policies and procedures of the Clinic as they may be adopted from time to time.

1.03 Medical Records. DOCTOR shall complete all medical records on all patients in a timely manner consistent with the by-laws and regulations of the Medical Staff of HOSPITAL, and with regulatory and accreditation agency guidelines. It is understood and agreed that HOSPITAL shall function as the custodian of all Clinic and ED patient records and that such records shall not be removed from the Clinic or ED without prior approval of HOSPITAL. DOCTOR will prepare and submit related statistical, medical, or other reports related to treated indigent patients that may be reasonably required by the HOSPITAL ED or Clinic.

1.04 Compliance with Standards. DOCTOR shall at all times be in compliance with the applicable standards of care.

1.05 Physician/Patient Relationship. Nothing in this Agreement shall be deemed to modify the physician-patient relationship or the confidential relationship between a physician and his patient specified by law. DOCTOR shall exercise independent professional judgment in the treatment and care of patients, including referrals to other specialists when appropriate, and in this regard shall have exclusive control over decisions requiring professional medical judgment and be solely responsible for the medical care of patients.

1.06 Nothing herein shall be construed as requiring HOSPITAL or Clinic to use DOCTOR's services exclusively. DOCTOR is licensed to practice medicine in the State of Florida. A copy of said licenses shall be provided to the HOSPITAL Administrator prior to the commencement of services under this Agreement.

SECTION 2. COMPENSATION

2.01 In exchange for DOCTOR's services, DOCTOR shall be paid the fixed sum of \$_____ per quarter commencing October 1, 2003, and continuing quarterly thereafter until this Agreement expires or is terminated. Payment of this sum shall constitute the sole payment to DOCTOR for services rendered to any indigent patients that are referred to DOCTOR as described herein, and DOCTOR agrees not to bill other payors, or other responsible parties, or the patients themselves, for the same services. DOCTOR acknowledges that the source of payments shall be paid by the District and that payment hereunder is (1) conditioned upon HOSPITAL's reimbursement from DISTRICT, and (2) is further conditioned upon changes in

utilization and/or referral patterns as more particularly described in Section 4.07 of this Agreement. DOCTOR acknowledges that HOSPITAL, by advancing monies to DOCTOR, is performing an administrative function only. If DISTRICT fails or refuses to reimburse HOSPITAL for DOCTOR'S compensation, HOSPITAL may refuse to advance any further monies to DOCTOR. Doctor shall hold HOSPITAL harmless for any claims or damages arising from the cessation of payments

2.02 DOCTOR agrees to submit uniform billing forms detailing the services provided and fees being charged for all patients treated within the scope of this Agreement to an authority designated by the HOSPITAL. Though not intended to be used for the purpose of payment to DOCTOR on a fee-for-service basis, the aggregation of values from DOCTOR'S billing forms may be used as the basis for adjustments to the compensation during the term of this Agreement pursuant to Section 4.07 herein.

2.03 The payments made by HOSPITAL to DOCTOR shall not be subject to any withholding, including federal or state income tax, Social Security, or any other obligations. DOCTOR shall be solely responsible for payment of such taxes.

SECTION 3. ACCESS TO BOOKS AND RECORDS

DOCTOR agrees that until expiration of four (4) years after the furnishing of services pursuant to this contract, it shall, upon written request, make available to the Secretary of the Department of Health and Human Services (the "Secretary") or the Secretary's duly authorized representatives, or upon request to the Comptroller General or the Comptroller General's duly authorized representatives, the contract and such books, documents and records that are necessary to certify the nature and extent of

cost under this contract. The availability of DOCTOR's books, documents and records shall be subject at all times to such criteria and procedures for seeking or obtaining access as may be promulgated by the Secretary in regulations and other applicable laws. DOCTOR's disclosure under this paragraph shall not be construed as a waiver of any other legal rights to which DOCTOR may be entitled under law or regulations. DOCTOR further agrees to cooperate with HOSPITAL or its affiliate in response to any audits of the Clinic, the ED, or DOCTOR's services under this Agreement as may be requested by the DISTRICT from time to time.

SECTION 4. TERM; TERMINATION; OTHER COVENANTS

4.01 This Agreement shall remain in effect for a term of one year, beginning October 1, 2003, and ending on September 30, 2004, unless otherwise terminated as provided herein. Assuming this Agreement has not otherwise been terminated, this Agreement shall automatically renew for successive one (1) year periods upon the same terms and conditions unless either party gives not less than thirty (30) days written notice prior to the end of any anniversary year of their intent not to renew.

4.02 This Agreement shall terminate immediately in the event DOCTOR fails to remedy any material default under this contract with ten (10) days after receiving written notice from HOSPITAL or Clinic (unless the same cannot be cured within said time despite diligent effort): or, in the event the DOCTOR providing services hereunder has his license to practice medicine in the State of Florida either suspended or revoked. In this event HOSPITAL (and its affiliate) may immediately and without notice terminate all future obligations and responsibilities under this Agreement.

4.03 This Agreement shall terminate immediately in the event DISTRICT fails to pay or refuses to reimburse HOSPITAL for all or any portion of DOCTOR's compensation.

4.04 Notwithstanding any other language in this Agreement, either party may terminate this Agreement upon 30 days' written notice to the other party. In the event this Agreement is so terminated during any quarter and if DOCTOR has already been paid in full for that quarter pursuant to Section 2.01 hereinabove, then in such event DOCTOR shall return to HOSPITAL such sums of money on a pro rata basis based upon the number of days of the quarter this Agreement has been in effect.

4.05 HOSPITAL agrees to provide DOCTOR with advance notice of any decision to terminate its assistance to the Clinic.

4.06 HOSPITAL further agrees to promptly notify DOCTOR of any notice received from DISTRICT that DISTRICT intends or plans to terminate compensation for DOCTOR's services.

4.07 HOSPITAL reserves the right to adjust, not more frequently than quarterly, the amount of compensation to be paid to DOCTOR (i.e., increase or decrease) in response to changes in utilization and/or referral patterns of indigent patients to DOCTOR'S specialty or other medical specialty services inasmuch as the total amount of compensation to be paid to doctors providing specialty services to indigent patients by the DISTRICT is fixed annually. Such calculations shall be based upon the historical utilization by DISTRICT indigent residents, by percentage (%), of the particular specialty of medicine of the DOCTOR and further by the number of Doctors of that specialty entering into an agreement with HOSPITAL. Changes in quarterly

compensation to DOCTOR will not be made retroactively and must follow at least 30 days' prior notice to DOCTOR.

4.08 DOCTOR agrees to provide HOSPITAL and DISTRICT with a written annual certification that he/she has fully complied with all of the terms and conditions of this Agreement, including but not limited to attesting that (i) the medical care needs of the indigent DISTRICT patients referred to DOCTOR are being met; (ii) no other governmental program, third party payor or the patient himself/herself has been billed for services for which DOCTOR is being compensated hereunder; and (iii) that he/she has treated (or offered to treat) all indigent patients referred to him/her by the Clinic and/or the HOSPITAL'S ED, which certificate shall be in substantially the form attached hereto and labeled Exhibit F.

4.09 In the event of the termination of this Agreement for any reason, DOCTOR'S responsibility for providing ED coverage under the terms of their medical staff appointment at HOSPITAL and HOSPITAL'S Medical Staff By-Laws shall remain as set forth therein and DOCTOR will complete a certification required under Section 4.08 for the period of the term up to the effective date of termination.

SECTION 5. INDEPENDENT DOCTOR

DOCTOR is performing the services and duties required hereunder as an independent DOCTOR and not as an employee, agent, partner or, or joint venturer with HOSPITAL.

SECTION 6. INSURANCE AND INDEMNIFICATION

6.01 DOCTOR shall maintain, at his/her expense, malpractice insurance or other approved financial collateral security with limits of at least \$250,000 as required

by Florida law, or the amount required by HOSPITAL'S medical staff by-laws, whichever is greater. These minimum amounts may represent coverage in any combination of primary and excess amounts, and DOCTOR shall provide HOSPITAL with certificates of insurance, letters of credit, or escrow account balances evidencing that this collateral security has been obtained prior to commencement of services under this Agreement. In addition, such policy or collateral security shall provide for at least thirty (30) days written notice to HOSPITAL before any alteration of the policy or collateral security may take effect.

SECTION 7. NOTICES

Any notice required or permitted by this Agreement shall be in writing and shall be deemed given at the time it is deposited in the United States Mail, Postage Prepaid, Certified or Registered Mail, Return Receipt Requested, addressed to the party to whom it is given as follows:

TO DOCTOR:

TO HOSPITAL:

Attn: Administration
Lower Keys Medical Center
5900 College Road
Key West, Florida 33040-4342

SECTION 8. COMPLIANCE

DOCTOR hereby acknowledges receipt of a copy of HOSPITAL'S Corporate Compliance Manual and Standards or Conduct and agrees to fully observe all policies and procedures set forth in the manual during the term of this Agreement (and any renewals or extensions).

SECTION 9.

The Agreement represents the entire agreement between the parties and all negotiations, discussions, and prior communications are merged herein. This Agreement and any Amendment thereto, shall not be effective or legally binding until it has been reviewed and approved in writing by HOSPITAL'S Divisional Vice President and Chief Operating Officer and Legal Counsel, and DOCTOR.

SECTION 10. SEVERANCE

Should any part of this Agreement be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining portions.

SECTION 11. GOVERNING LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the State of Florida.

SECTION 12. THIRD PARTY BENEFICIARIES

This Agreement shall not be construed to create any third party beneficiaries, including without limitation, the DISTRICT.

IN WITNESS WHEREOF, HOSPITAL and DOCTOR have executed this Agreement on the first date written above.

Witness:

Witness:

DOCTOR:

By: _____

HOSPITAL:

By: _____

Title: _____

REQUIRED CORPORATE APPROVALS

Approved By:

Approved By:

Timothy R. Parry
Senior Vice President
and General Counsel

James A. Barber
Vice President