

# ASSET PURCHASE AGREEMENT

by and among

**EASTERN CONNECTICUT HEALTH NETWORK, INC.**

SELLER

and

**PROSPECT CT MEDICAL FOUNDATION, INC.  
PROSPECT CT MANAGEMENT SERVICES, INC.  
PROSPECT ECHN, INC.**

**PROSPECT MANCHESTER HOSPITAL, INC.  
PROSPECT ROCKVILLE HOSPITAL, INC.  
PROSPECT ECHN ELDERCARE SERVICES, INC.  
PROSPECT ECHN HOME HEALTH, INC.  
PROSPECT CARING HAND, INC.**

**PROSPECT HAYNES STREET PROPERTY MANAGEMENT, INC.**

BUYER

and

**PROSPECT MEDICAL HOLDINGS, INC.**

Dated as of August 24, 2016

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this “**Agreement**”), dated August 24, 2016, is by and between Eastern Connecticut Health Network, Inc., a Connecticut non-stock corporation (“**Seller**”), on its behalf and on behalf of its Subsidiaries, on the one hand, and Prospect CT Medical Foundation, Inc., a Connecticut nonstock corporation, Prospect CT Management Services, Inc., a Connecticut corporation, Prospect ECHN, Inc., a Connecticut corporation, Prospect Manchester Hospital, Inc., a Connecticut corporation, Prospect Rockville Hospital, Inc., a Connecticut corporation, Prospect ECHN Eldercare Services, Inc., a Connecticut corporation, Prospect ECHN Home Health, Inc., a Connecticut corporation, Prospect Caring Hand, Inc., a Connecticut corporation, and Prospect Haynes Street Property Management, Inc., a Connecticut corporation (each, a “**Buyer Entity**” and, collectively, “**Buyer Entities**”), with Prospect Medical Holdings, Inc. (“**PMH**”), a Delaware corporation and the indirect owner of the Buyer Entities, joining for the limited purposes described herein, on the other hand. For the purposes of this Agreement, the term “**Buyer**” shall refer to the Buyer Entities, collectively, and to one or more of the individual Buyer Entities, as applicable.

**RECITALS:**

**WHEREAS**, Seller desires to sell substantially all of its assets, real, personal and mixed, tangible and intangible, and operations to Buyer, including the properties, assets, and businesses of The Manchester Memorial Hospital and The Rockville General Hospital, Incorporated (collectively, the “**Hospitals**”), ECHN Eldercare Services, Inc., Visiting Nurse and Health Services of Connecticut, Inc. including its wholly owned subsidiary A Caring Hand, LLC, Clinically Integrated Network of Eastern Connecticut, LLC, Connecticut Healthcare Insurance Company, ECHN Corporate Services, Inc. including its wholly owned subsidiary Medical Practice Partners, LLC, and ECHN Enterprises, Inc., including its wholly owned subsidiary Haynes Street Property Management, LLC, and Eastern Connecticut Medical Professionals Foundation, Inc. (the entities and businesses operated by the foregoing entities, including the Hospitals, are collectively referred to as the “**Hospital Businesses**”), together with Seller’s joint venture interests in Evergreen Endoscopy Center, LLC, WBC Connecticut East, LLC, Aetna Ambulance Service, Inc., Metro Wheelchair Service, Inc., Ambulance Service of Manchester, LLC, Connecticut Occupational Medicine Partners, LLC, and Seller’s Affiliates’ joint venture interests in Northeast Regional Radiation Oncology Network, LLC (as successor to the business operations of Northeast Regional Radiation Oncology Network, Inc.), TIC, LLC (as successor to the business operations of Tolland Imaging Center, LLC), Haynes Street Medical Associates, LLC, Haynes Street Medical Associates II, LLC, Evergreen Medical Associates, LLC and Evergreen Medical Associates II LLC (the foregoing entities are collectively referred to herein as the “**Joint Ventures**”);

**WHEREAS**, Buyer desires to purchase substantially all of the assets, real, personal and mixed, tangible and intangible, of Seller, including the Hospital Businesses and the equity interests in the Joint Ventures; and

**WHEREAS**, Seller has concluded that the transactions contemplated by this Agreement are in its best interests and consistent with its charitable mission of the promotion of health care in the communities served by the Hospital Businesses.

**NOW, THEREFORE**, for and in consideration of the premises, and the agreements, covenants, representations and warranties hereinafter set forth, and other good and valuable consideration, the receipt and adequacy of which are forever acknowledged, the parties, intending to be legally bound, agree as follows:

**AGREEMENT:**

1. DEFINITIONS AND REFERENCES

1.01. Definitions. For purposes of this Agreement, the following definitions apply:

- (1) **45-Day Period** is defined in Section 2.05(i);
- (2) **Accountants' Determination** is defined in Section 2.05(i);
- (3) **Accounts Receivable** means all accounts receivable of the Hospital Businesses, accrued and unaccrued, including Government Payment Program receivables and accounts that have been written off, but excluding all Cost Report settlement amounts;
- (4) **Accumulated Benefit Obligation** means the accumulated benefit obligation of Seller's defined benefit pension plan, determined by an actuarial firm chosen by Seller using GAAP (i) reflecting the assumptions used for purposes of Note 10 of Seller's Audited Financial Statements as of September 30, 2015 (as updated for the MRP-2007 mortality tables as developed by Mercer, which are derived from the Society of Actuaries mortality study) and (ii) assuming continuation of the Seller's defined benefit pension plan and no change in its provisions after September 30, 2015 (other than the freeze of such plan to new participation);
- (5) **Additional Liabilities** is defined in Section 2.05(d);
- (6) **Affiliate** means any Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another Person where "control" means the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of securities, election or appointment of directors, by contract or otherwise. For purposes of this Agreement, any reference to Affiliates of Seller shall only mean those persons listed on Schedule 1.01(6) attached hereto;
- (7) **Affiliated Group** means any affiliated group within the meaning of section 1504 of the Code or any similar group defined under a similar provision of state, local or foreign law;
- (8) **Agreement** is defined in the preamble;
- (9) **AOCs** is defined in Section 7.09
- (10) **Arbitrating Accountants** is defined in Section 2.05(i);



(11) **Assets** means all assets, real property, personal and mixed property of every kind, character or description, known or unknown, tangible or intangible, owned or leased by Seller wherever located and whether or not reflected in the Financial Statements or referenced or scheduled herein, (i) including those assets owned by a Subsidiary of Seller and held or used in connection with the operation of the Hospital Businesses, but (ii) excluding the Excluded Assets;

(12) **Assumed Contracts** is defined in Section 2.01(f);

(13) **Assumed Liabilities** means (i) the current liabilities included in Net Working Capital, but only to the extent accrued on the Closing Balance Sheets, (ii) all obligations of Seller and its Affiliates arising under the Assumed Contracts with respect to periods (or portions thereof) following the Closing Date, (iii) all participating provider agreements and provider numbers with third party payors, including contracts and provider numbers of Government Payment Programs, to the extent the same are assignable to Buyer, (iv) the Extended Illness Bank Obligations, (v) Permitted Encumbrances, (vi) the Unfunded Pension Liabilities, (vii) the Post-Retiree Health Plan Liability and other retirement obligations described on Schedule 2.03, (viii) the Captive Insurer Liability, (ix) the ED Loan, and (x) the other liabilities and obligations agreed to be assumed by Buyer, if any, described on Schedule 2.03;

(14) **Attorney General** means the Office of the Attorney General of the State of Connecticut;

(15) **Audited Financial Statements** means the audited consolidated balance sheets of Seller and its Subsidiaries for the three most recently ended fiscal years, and the related consolidated statements of operations, of changes in net assets, and of cash flows for the fiscal years then ended, and the notes thereto and the report thereon of Saslow Lufkin & Buggy, LLP, independent certified public accountants;

(16) **Available Cash** means all cash available to Seller as of the Closing, including cash resulting from the payment of the Purchase Price by Buyer at the Closing or pursuant to any adjustments to the Purchase Price pursuant to Section 2.05, other than cash which is determined by the Attorney General to be restricted as to use and not available to satisfy Seller's liabilities;

(17) **Bond Liabilities** means those certain long-term bond liabilities and tax-exempt leases of Seller to be defeased at Closing;

(18) **Buyer** is defined in the preamble;

(19) **Buyer Deductible** is defined in Section 9.04;

(20) **Buyer Entity(ies)** is defined in the preamble;

(21) **Buyer's Indemnified Persons** means Buyer and its respective stockholders, members, partners, Affiliates, directors, trustees, officers, employees, agents, representatives, successors and assigns;

(22) **Buyer's Plan** means a retirement plan qualified under section 401(a) of the Code that is sponsored by Buyer or one of its controlled group or affiliated service group members, as defined in section 414 of the Code;

(23) **Captive Insurer Liability** means all liabilities relating to Seller's captive insurer, the Connecticut Healthcare Insurance Company ("**CHIC**"), regardless of when incurred and including all tail liability and measured by an actuarial firm chosen by Seller reflecting the assumptions used in determining the book value of the Captive Insurer Liability used for purposes of Seller's Audited Financial Statements as of September 30, 2015, subject to the provisions of Section 2.05(h)(iii);

(24) **CHIC** is defined in Section 1.01(23);

(25) **Claim Notice** means written notification of a Third Party Claim by an Indemnitee to an Indemnifying Party under Article 9, including a Third Party Claim set forth in a "Revenue Agent's Report," "Statutory Notice of Deficiency," "Notice of Proposed Assessment," or any other official written notice from a taxing authority that Taxes are due or that a Tax audit will be conducted;

(26) **Closing** is defined in Section 8.01(a);

(27) **Closing Balance Sheets** means the unaudited individual and/or combined balance sheets of Seller and its Subsidiaries as of the close of business on the Closing Date, as finally determined in accordance with Section 2.05 following the resolution of all disputes with respect thereto;

(28) **Closing Date** means the date upon which the Closing occurs;

(29) **Closing Document** means each instrument, agreement, certificate or other document executed or delivered, or required to be executed or delivered, by a party at Closing;

(30) **Closing Estimates** is defined in Section 2.05(f)(i);

(31) **CMS** is defined in Section 2.04(k);

(32) **COBRA** means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended;

(33) **Code** means the Internal Revenue Code of 1986, as amended;

(34) **Commitment Amount** is defined in Section 5.18(a);

(35) **CON** is defined in Section 8.04(b);

(36) **CON Preparation Period** is defined in Section 8.04(b);

(37) **Contracts** means all commitments, contracts, leases, licenses, agreements and understandings, written or oral, relating to the Assets or the operation of the Hospital Businesses to which Seller or any Subsidiary of Seller is a party or by which it or any of the Assets are bound, including agreements with payers, physicians and other providers, agreements with health maintenance organizations, independent practice associations, preferred provider organizations and other managed care plans and alternative delivery systems, joint venture and partnership agreements, management, employment, retirement, retention and severance agreements, vendor agreements, real and personal property leases and schedules, maintenance agreements and schedules, agreements with municipalities and labor organizations, and bonds, mortgages and other loan agreements;

(38) **Controlled Group** means with respect to a party, a group consisting of each trade or business (whether or not incorporated) that, together with such party, would be deemed a “*single employer*” within the meaning of section 4001(a) of ERISA;

(39) **Cost Reports** means all cost and other reports filed pursuant to the requirements of the Government Payment Programs for payment or reimbursement of amounts due from them;

(40) **CTDEEP** is defined in Section 5.08;

(41) **Current Seller Plan** is defined in Section 3.22(a);

(42) **Disability Obligations** mean liabilities for long-term or short-term disability benefits to employees of the Hospital Businesses (the Disability Obligations include liabilities of the Hospital Businesses for long-term or short-term disability benefits that may have commenced being paid prior to Closing and that remain ongoing after the Closing);

(43) **EBITDA** means earnings before interest, income Taxes, depreciation and amortization, the components of which shall be determined in accordance with GAAP consistently applied;

(44) **ED Cash Collateral** is defined in Section 2.01(r);

(45) **ED Loan** means that certain loan from Berkshire Bank to Seller in the original principal amount of \$5,000,000, pursuant to the terms of that certain Loan Agreement, dated as of February 19, 2016, and evidenced by that certain Promissory Note, dated of even date therewith;

(46) **Employee Benefit Plan** means, with respect to any Person, (i) each plan, fund, program, agreement, arrangement or scheme, in each case, that is at any time sponsored or maintained, or required to be sponsored or maintained, by such Person or to which such Person makes or has made, or has or has had an obligation to make, contributions providing for employee benefits or for the remuneration, direct or indirect, of the employees, former employees, directors, officers, managers, consultants, independent contractors, contingent workers or leased employees of such Person or the dependents of any of them (whether written or oral), including each deferred

compensation, bonus, incentive compensation, pension, retirement, stock purchase, stock option and other equity compensation plan, or “*welfare*” plan (within the meaning of section 3(1) of ERISA, determined without regard to whether such plan is subject to ERISA), (ii) each “*pension*” plan (within the meaning of section 3(2) of ERISA, determined without regard to whether such plan is subject to ERISA), including each Multiemployer Plan, (iii) each severance, retention or change in control plan or agreement, each plan or agreement providing health, vacation or paid time off, summer hours, supplemental unemployment benefit, hospitalization insurance, medical, dental, or legal benefit and (iv) each other employee benefit plan, fund, program, agreement or arrangement, including any of the foregoing that provides cash or non-cash benefits or perquisites to current or former employees of such Person;

(47) **Employee Pension Benefit Plan** is defined in section 3(2) of ERISA;

(48) **Employee Welfare Benefit Plan** is defined in section 3(1) of ERISA;

(49) **Encumbrances** means liabilities, levies, claims, charges, assessments, mortgages, security interests, liens, pledges, conditional sales agreements, title retention contracts, easements, restrictions, rights of first refusal, options to purchase and other encumbrances (including limitations on pledging or mortgaging any of the Assets) and Contracts to create in the future any such Encumbrance or suffer any of the foregoing;

(50) **Environmental Claim** means any written notice (or oral notice reduced to writing by Seller) by a Person alleging potential liability (including potential liability for investigatory costs, cleanup costs, Governmental Authority response costs, natural resource damages, property damages, personal injuries, or penalties) of Seller or any Subsidiary of Seller arising out of, based on or resulting from (i) the presence, or release into the environment, of any Materials of Environmental Concern at any location, whether or not owned by Seller, or (ii) circumstances forming the basis of any violation, or alleged violation, of any Environmental Laws;

(51) **Environmental Laws** means any and all Legal Requirements relating to pollution or protection of human health or the environment (including ground water, land surface or subsurface strata), including Legal Requirements relating to emissions, discharges, releases or threatened releases of Materials of Environmental Concern, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, recycling, reporting or handling of Materials of Environmental Concern, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, *et seq.*, the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6901, *et seq.*, the Clean Air Act, 42 U.S.C. §7401, *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. §1251 *et seq.*, the Occupational Safety and Health Act, 29 U.S.C. §600, *et seq.*, and any similar state or local Legal Requirements;

(52) **ERISA** means the Employee Retirement Income Security Act of 1974, as amended;

(53) **ERISA Fiduciary** is defined in section 3(21) of ERISA;

(54) **Establishment Real Properties** is defined in Section 5.08;

(55) **Excluded Assets** is defined in Section 2.02;

(56) **Excluded Liabilities** means any and all liabilities of Seller other than the Assumed Liabilities, whether known or unknown, fixed or contingent, recorded or unrecorded, and whether arising before or after Closing, including any line of credit to which Seller is a party, the Bond Liabilities, tax-exempt leases, and any other indebtedness of Seller, any interest accrued on indebtedness of Seller, any settlements due as of Closing to third party payors;

(57) **Extended Illness Bank Obligations** means the Hired Employees' accrued or allocated paid time off that is in the form of an "*extended illness bank*" (i.e., paid time off that may be used by a Hired Employee during the term of employment, but the value of the unused portion of which is not paid in cash to the Hired Employee upon termination of employment);

(58) **Final Closing Statement** is defined in Section 2.05(h);

(59) **Final Determination Date** means the earliest to occur of (i) the forty-sixth (46th) day following the receipt by Seller of the Final Closing Statement and Closing Balance Sheets if Seller shall have failed to deliver the Objection Notice to Buyer within the 45-Day Period, (ii) the date on which Seller gives Buyer written notice to the effect that Seller has no objection to Buyer's determination of the amount of the Subject Items as set forth on the Final Closing Statement, (iii) the date on which Buyer and Seller execute and deliver a Settlement Agreement, (iv) the date as of which Buyer and Seller shall have received the Accountants' Determination, and (v) Buyer's failure to deliver the information set forth in Section 2.05(h) within the ninety (90) day period described therein;

(60) **Financial Statements** means the Audited Financial Statements and the Unaudited Financial Statements;

(61) **GAAP** means United States generally accepted accounting principles;

(62) **Governmental Authority** means any executive, legislative or judicial agency, authority, board, body, commission, court, department, instrumentality or office of any federal, state, city, county, district, municipality, foreign or other government or quasi-government unit or political subdivision;

(63) **Government Payment Programs** means federal and state Medicare, Medicaid and TRICARE programs, and similar or successor programs with or for the benefit of Governmental Authorities;

(64) **Hill-Burton Act** means the Public Health Service Act, 42 U.S.C. §291, *et seq.*;

(65) **Hired Employees** means those employees of Seller or its Affiliates who accept Buyer's offer of employment as of the Closing Date, including those employees who are employed pursuant to an Assumed Contract;

(66) **Hospital Businesses** is defined in the recitals;

(67) **Hospitals** is defined in the recitals;

(68) **HQI Program** is defined in Section 3.17;

(69) **HSR Act** means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended;

(70) **Immaterial Contract** means any Contract to which Seller or any of its Subsidiaries is a party that requires either the payment by Seller or its Subsidiaries of \$50,000 or less or the provision of goods or the performance of services by Seller or any of its Subsidiaries having an annual value of \$50,000 or less, in either case during the period from the date of this Agreement until (i) if the Contract is terminable at any time by Seller or the respective Subsidiary without cause upon notice of 90 days or less, the date on which the Contract would terminate if Seller or the respective Subsidiary was to give notice of termination on the date of this Agreement, or (ii) if the Contract is not terminable at any time by Seller or the respective Subsidiary without cause upon notice of 90 days or less, the expiration of the term of the Contract, *provided* that an Immaterial Contract does not include any Contract described in Sections 3.18(a) through 3.18(m);

(71) **Immediate Family Member** means any individual described in the definition of "*Immediate Family Member*" found at 42 C.F.R. §411.351;

(72) **Indemnifying Party** means any Person obligated to indemnify another Person under Article 9;

(73) **Indemnitee** means any Person entitled to indemnification under Article 9;

(74) **Indemnity Notice** means written notification of a claim for indemnity under Article 9, other than a Third Party Claim, made by an Indemnitee to an Indemnifying Party pursuant to Section 9.05(b);

(75) **Indenture** is defined in Section 6.04;

(76) **Information Systems** means the software (including object and source codes as applicable), hardware, application programs and similar systems owned, licensed or leased by Seller and used in the ownership or operation of the Hospital Businesses, whether or not on a system-wide basis;

(77) **Intellectual Properties** means (i) all inventions (whether or not patentable or reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (ii) all trademarks, service marks, trade

dress, logos, trade names, corporate names, and domain names, including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (iii) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith, and (iv) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals) that are owned, licensed or leased by Seller and used in the ownership or operation of the Hospital Businesses, together with all rights to sue or make any claims for any past, present, or future infringement, misappropriation or unauthorized use of any of the foregoing rights, and the right to all income, royalties, damages and other payments that are now or may hereafter become due or payable with respect to any of the foregoing rights, including damages for past, present or future infringement, misappropriation or unauthorized use thereof;

(78) **Interim Closing Balance Sheets** means the unaudited individual and/or combined balance sheets of Seller and its Subsidiaries as of the most recent month end available before the Closing;

(79) **Investments** means shares of capital stock of any corporation, equity interests in partnerships or limited liability companies, or other equity or debt instruments in any other Person, and proceeds from the sale thereof;

(80) **Joint Venture Promissory Note** is defined in Section 2.07;

(81) **Joint Ventures** is defined in the recitals;

(82) **Leased Real Property** means the real property described on Schedule 2.01(b), together with all buildings, improvements and fixtures thereon, leased by Seller or any Subsidiary of Seller;

(83) **Legal Requirements** means, with respect to any Person, all statutes, laws, ordinances, codes, rules, regulations, restrictions, orders, judgments, rulings, writs, injunctions, decrees, determinations or awards of any Governmental Authority having jurisdiction over such Person or any of such Person's assets or businesses;

(84) **Local Board** means the advisory board of each Hospital composed of community representatives, physicians on the respective Hospital's medical staff, and the Chief Executive Officer of each respective Hospital (for avoidance of doubt, each Hospital shall have its own Local Board). The initial members of the Local Board shall include at least five members of the Seller's Board of Trustees immediately prior to Closing and five other individuals identified by the Seller prior to Closing, two of whom shall be members of the community appointed in consultation with the mayor of the town in which the respective Hospital is located;

(85) **Losses** means any and all damages, costs, losses (including any diminution in value), liabilities, expenses or obligations (including Taxes, interest,

penalties, court costs, costs of preparation and investigation, and attorneys', accountants' and other professional advisors' fees and expenses);

(86) **Material Adverse Change** means a material adverse change, individually or in the aggregate, of the business, assets, liabilities, financial condition or results of operations of Seller and the Hospital Businesses, which taken as a whole (i) has or could reasonably be expected to have a material adverse effect upon the validity or enforceability of this Agreement or (ii) is or could reasonably be expected to be material and adverse to the Hospital Businesses or the Assets, but excluding the effect of (x) matters described in the Schedules, (y) changes in the economy of the United States in general, and (z) changes in Legal Requirements generally applicable to owners and operators of general acute care hospitals in the United States or in Connecticut if such change does not disproportionately affect Seller or the Hospital Businesses; provided, however, that a change resulting from the downward adjustment to the Medicare wage index or the failure of the Seller to meet its debt service coverage ratio, if waived by applicable lender(s), shall not constitute a Material Adverse Change;

(87) **Materials of Environmental Concern** means chemicals, pollutants, contaminants, wastes (including Medical Waste), toxic substances, petroleum and petroleum products listed or regulated under Environmental Laws, including hazardous wastes under the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6901, *et seq.*, hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, *et seq.*, asbestos, polychlorinated biphenyls and urea formaldehyde, and low-level nuclear materials, special nuclear materials or nuclear-byproduct materials, all within the meaning of the Atomic Energy Act of 1954, as amended, and any rules, regulations or policies promulgated thereunder;

(88) **Medical Waste** means any substance, pollutant, material or contaminant listed or regulated under any Medical Waste Law that is generated in the diagnosis, treatment or immunization of human beings, in research pertaining thereto, or in the production or testing of biologicals, including (i) pathological waste, (ii) blood, (iii) sharps, (iv) wastes from surgery or autopsy, (v) dialysis waste, including contaminated disposable equipment and supplies, (vi) cultures and stocks of infectious agents and associated biological agents, (vii) isolation wastes, (viii) contaminated equipment, (ix) laboratory waste, and (x) various other biological waste and discarded materials contaminated with or exposed to blood, excretion, or secretions from human beings;

(89) **Medical Waste Law** means the Medical Waste Tracking Act of 1988, 42 U.S.C. §6992, *et seq.*, the U.S. Public Vessel Medical Waste Anti-Dumping Act of 1988, 33 U.S.C. §2501, *et seq.*, the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. §1401, *et seq.*, The Occupational Safety and Health Act, 29 U.S.C. §651, *et seq.*, the United States Department of Health and Human Services, National Institute for Occupational Self-Safety and Health Infectious Waste Disposal Guidelines, Publication No. 88-119, and any other federal, state, regional, county, municipal or other Legal Requirements insofar as they purport to regulate Medical Waste, or impose requirements relating to Medical Waste;



(90) **Multiemployer Plan** is defined in section 3(37) of ERISA or section 4001(a)(3) of ERISA;

(91) **Multiple Employer Plan** means an Employee Pension Benefit Plan that is not a Multiemployer Plan and for which a Person who is not a member of a Controlled Group that includes Seller or any Subsidiary is or has been a contributing sponsor;

(92) **Net Working Capital** means the amount by which (i) the value of all non-cash current assets of the Hospital Businesses acquired by Buyer, including inventory and supplies, Accounts Receivable, other receivables, prepaid expenses, and deposits (including security deposits made by Seller pursuant to Assumed Contracts), that Seller and Buyer agree will be usable after Closing, exceeds (ii) the value of all current liabilities assumed by Buyer, including trade accounts payable, accrued expenses (including payroll), advance payments on patient accounts and employee benefit accruals (as such terms are used in the Financial Statements) (for the purpose of clarity, employee benefit accruals include paid time off accruals for vacation and sick time but exclude Extended Illness Bank Obligations), and Net Working Capital shall be calculated in accordance with the methodology set forth on Annex A;

(93) **Notice Period** is defined in Section 9.05(a)(i);

(94) **Objection Notice** is defined in Section 2.05(i);

(95) **ORYX** is defined in Section 3.17;

(96) **Owned Real Property** means real property owned (legally or beneficially) by Seller or any Subsidiary of Seller, including the real property described on Schedule 2.01(a), together with all buildings, improvements and fixtures thereon owned by Seller or any Subsidiary of Seller and all appurtenances and rights thereto;

(97) **PBGC** means the Pension Benefit Guaranty Corporation;

(98) **Permit** means each license, permit, right, franchise, concession, certificate, authorization, consent, certificate of need or other approval of a Governmental Authority owned or held by Seller or relating to the ownership or operations of the Hospital Businesses and the Assets, including applications for, and pending, Permits;

(99) **Permitted Encumbrances** means the Permitted Personal Property Encumbrances and the Permitted Real Property Encumbrances;

(100) **Permitted Personal Property Encumbrances** means those Encumbrances described on Schedule 3.11 as being Permitted Personal Property Encumbrances;

(101) **Permitted Real Property Encumbrances** means those Encumbrances identified on Schedule 3.12(a) as being Permitted Real Property Encumbrances;

(102) **Person** means any individual, corporation (whether for-profit or not-for-profit), limited liability company, association, partnership, firm, joint venture, trust, trustee or other entity or organization, including a Governmental Authority;

(103) **Phase I Assessment(s)** is defined in Section 7.09;

(104) **Phase II Assessment(s)** is defined in Section 7.09;

(105) **PMH** is defined in the preamble;

(106) **PMH Medical Foundation** is defined in Section 7.11;

(107) **Post-Retiree Health Plan Liability** means the book value of the liability relating to Seller's post-retiree health benefit plan, determined by an actuarial firm chosen by Seller using GAAP (i) reflecting the assumptions used for purposes of Note 10 of Seller's Audited Financial Statements as of September 30, 2015 (as updated for the MRP-2007 mortality tables prepared by the Society of Actuaries) and (ii) assuming continuation of the Seller's post-retiree health benefit plan and no change in its provisions after September 30, 2015 (other than the freeze of such plan to new participation);

(108) **Prior Seller Plan** is defined in Section 3.22(b);

(109) **Proceeding** means any action, arbitration, audit, hearing, investigation, litigation, suit or other proceeding (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted, heard or held by, before, under the authority or at the direction of any Governmental Authority;

(110) **Prohibited Transaction** is defined in Section 5.09;

(111) **Purchase Price** is defined in Section 2.05;

(112) **Purchase Price Adjustment** is defined in Section 2.05(j);

(113) **QNet** is defined in Section 3.17;

(114) **Reportable Event** is defined in section 4043 of ERISA;

(115) **Restricted Area** is defined in Section 5.10;

(116) **Schedules** means the schedules referred to in this Agreement and attached hereto at the time that this Agreement is executed by each original party hereto;

(117) **Second 45-Day Period** is defined in Section 2.05(i);

(118) **Seller** is defined in the preamble;

(119) **Seller Deductible** is defined in Section 9.02;

(120) **Seller's Indemnified Persons** means Seller and Seller's members, stockholders, Affiliates, and, for all of them, their respective members, directors, trustees, officers, employees, agents, representatives, successors and assigns;

(121) **Settlement Agreement** is defined in Section 2.05(i);

(122) **Space Leases** is defined in Section 3.12(g)(i);

(123) **Strategic Business Plan** means the strategic plan developed prior to Closing by Buyer, in consultation with Seller, and, with respect to clinical service lines, in consultation with Seller-affiliated physicians, as the same may be amended from time to time, *provided, however*, that the Strategic Business Plan does not include the strategic capital plan referenced in Section 5.18 herein;

(124) **Subject Items** means each of the Net Working Capital, Captive Insurer Liability, Unfunded Pension Liabilities, Workers' Compensation Liability, and Post-Retiree Health Plan Liability.

(125) **Subsidiary** means, with respect to any Person, (i) any corporation more than 50% of whose stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person and/or one or more Subsidiaries of such Person, (ii) any partnership, limited liability company, association, joint venture or other entity in which such Person and/or one or more Subsidiaries of such Person has more than a 50% equity interest at the time and the management of which is controlled, directly or indirectly, by such Person or through one or more Subsidiaries of such Person and (iii) any entity that is organized as a not-for-profit business organization and (A) whose accounts are required in accordance with GAAP to be consolidated with the accounts of such Person or (B) whose sole member is such Person;

(126) **Target Net Working Capital** means \$24,000,000;

(127) **Tax** means any income, unrelated business income, gross receipts, license, payroll, employment, excise, severance, occupation, privilege, premium, net worth, windfall profits, environmental (including taxes under section 59A of the Code), customs duties, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, recording, stamp, sales, use, services, service use, transfer, registration, escheat, unclaimed property, value added, alternative or add-on minimum, estimated or other tax, assessment, charge, levy or fee of any kind whatsoever, including payments or services in lieu of Taxes, interest or penalties on and additions to all of the foregoing, that are due or alleged to be due to any Governmental Authority, whether disputed or not;

(128) **Tax Claims** is defined in Section 5.30;

(129) **Tax Return** means any return, declaration, report, claim for refund, information return, filing obligation of any Code section 501(c)(3) organization, or statement, including schedules and attachments thereto and amendments, relating to Taxes;

(130) **Tenant Leases** is defined in Section 3.12(i);

(131) **Third Party Claim** is defined in Section 9.05(a)(i);

(132) **Threshold Liability** is defined in Section 2.05(c);

(133) **Third Party Debt** means indebtedness of Seller for borrowed money other than the ED Loan and any assumed capital leases. For the avoidance of doubt Third Party Debt shall not include any Assumed Liabilities;

(134) **Transfer Act** means the Connecticut Transfer Act, 22 Conn. Gen. Stat. § 134 *et seq.*;

(135) **Transfer Act Activities** is defined in Section 5.08;

(136) **Transitional Services Agreement** means the agreement between Buyer and Seller whereby Buyer will lease Hired Employees to Seller at cost for the orderly wind down of the benefits and administration of Seller's other post-Closing obligations (*e.g.*, finalizing Cost Reports), in substantially the form of Exhibit A attached hereto;

(137) **Unaudited Financial Statements** means the unaudited consolidated balance sheets of Seller and its Subsidiaries as of May 31, 2016, and the unaudited consolidated statements of operations and changes in net assets and the unaudited consolidated statements of cash flows for the eight (8)-month period then ended, and the financial statements described in clauses (i) and (ii) of Section 5.04(b);

(138) **Unfunded ED Loan Amount** means (i) the unpaid principal amount outstanding on the ED Loan, plus all accrued and unpaid interest, fees and other charges thereon, less (ii) the amount of Available Cash delivered by Seller to Buyer pursuant to Section 2.05(g)(v) or Section 2.05(k)(i)(y).

(139) **Unfunded Pension Liabilities** means the unfunded pension liabilities of Seller's defined benefit pension plan, calculated as the Accumulated Benefit Obligation reduced by the fair market value of the assets of Seller's defined benefit pension plan, all as measured by an actuary chosen by Seller;

(140) **WARN Act** means the Worker Adjustment and Retraining Notification Act, 29 U.S.C. §2101, *et seq.*;

(141) **Wind-Down Reserve** is defined in Section 2.05(g)(ii); and

(142) **Workers' Compensation Liability** means all workers' compensation liabilities of Seller and its Affiliates, regardless of when incurred. The book value of the

Workers' Compensation Liability shall be measured by an actuarial firm chosen by Seller reflecting assumptions used in preparing Seller's Audited Financial Statements as of September 30, 2015. For the avoidance of doubt, the Workers' Compensation Liability includes both claims known as of the Closing Date and claims that arise post-closing but that pertain to events occurring pre-closing.

1.02. Certain References. As used in this Agreement:

(a) references to "*this Agreement*" mean this Agreement, as amended from time to time, and all Exhibits and Schedules attached to or referenced in this Agreement;

(b) references to "*Articles*" or "*Sections*" are references to Articles and Sections of this Agreement, unless the context states or implies otherwise;

(c) references to "*include*" or "*including*" mean including without limitation and are intended to be illustrative and not restrictive of the word or phrase to which they refer;

(d) references to "*partners*" include general and limited partners of partnerships and members of limited liability companies;

(e) references to "*partnerships*" include general and limited partnerships;

(f) references to any document are references to that document as amended, consolidated, supplemented, novated or replaced by the parties thereto;

(g) references to any law are references to that law as amended, consolidated, supplemented or replaced, and all rules and regulations promulgated thereunder;

(h) references to time are references to Eastern Time;

(i) references to "*Seller's knowledge*" mean the actual knowledge of each of the Persons whose names or titles are set forth on Schedule 1.02(i), after due inquiry by Seller of such Persons;

(j) the gender of all words includes the masculine, feminine and neuter, and the number of all words includes the singular and plural; and

(k) the Table of Contents, the division of this Agreement into Articles and Sections, and the use of captions and headings in connection therewith are solely for convenience and have no legal effect in construing this Agreement.

## 2. SALE OF ASSETS AND RELATED MATTERS

2.01. Sale of Assets. Subject to the terms and conditions of this Agreement, at Closing, Seller shall sell, and Buyer shall purchase, all right, title and interest of Seller in and to the Assets, free and clear of all Encumbrances other than the Permitted Encumbrances, including the following Assets:

- (a) the Owned Real Property described on Schedule 2.01(a);
- (b) the Leased Real Property described on Schedule 2.01(b);
- (c) all equipment (including medical and computer equipment located at the Hospital Businesses), vehicles, furniture and furnishings and other tangible personal properties owned or leased by Seller or used in the conduct of the Hospital Businesses; *provided* that any such leased personal property shall be described on Schedule 2.01(c);
- (d) all current assets included in Net Working Capital;
- (e) all financial, patient, medical staff, personnel and other records of the Hospital Businesses (including equipment records, medical/administrative libraries, medical records, documents, catalogs, books, records, files and operating manuals);
- (f) all rights with respect to the Contracts listed or described on Schedule 2.01(f), the leases relating to the Leased Real Property listed or described on Schedule 2.01(b), the leases relating to the leased personal property listed or described on Schedule 2.01(c), and all Immaterial Contracts not listed or described on Schedule 2.02(j) (all such Contracts, collectively, the “**Assumed Contracts**”);
- (g) all Permits of Seller, to the extent legally assignable, relating to the ownership of the Assets and the conduct of the Hospital Businesses, including those described on Schedule 2.01(g);
- (h) the Intellectual Properties, including those Intellectual Properties described on Schedule 2.01(h), and the Information Systems;
- (i) all property of Seller, real, personal or mixed, tangible or intangible, arising or acquired between the date of this Agreement and the Closing Date;
- (j) the Investment interests in the Joint Ventures, including all transferable rights relating thereto, but only to the extent that the governing instruments of the Joint Ventures permit such transfer;
- (k) subject to Section 5.13, all insurance proceeds with respect to the Assets or the Assumed Liabilities (including insurance proceeds received by Seller or payable to Seller and all deductibles, copayments and self-insurance requirements payable by Seller) arising in connection with damage to the Assets occurring on or prior to the Closing Date, to the extent not expended for the repair or restoration of the Assets;
- (l) claims of Seller against third parties relating to the Assets or the Assumed Liabilities, choate or inchoate, known or unknown, contingent or otherwise, except for those claims described on Schedule 2.02(p) and any claims relating to Excluded Assets or the Excluded Liabilities;
- (m) general intangibles of the Hospital Businesses, including goodwill;

(n) the Investment interests in CHIC, including all transferable rights relating thereto, or in the alternative at Buyer's election, all cash and investments held in CHIC, and all cash and investments held in the workers' compensation trust;

(o) Seller's provider agreements with Government Payment Programs;

(p) all proceeds of the foregoing and, except for the Excluded Assets, all other property of every kind, character or description, tangible and intangible, known or unknown, owned or leased by Seller, wherever located and whether or not reflected in the Financial Statements or similar to the properties described above;

(q) all bank accounts that receive deposits from Government Payment Programs and other third-party payors; provided, however, that all funds in such accounts as of the Closing Date shall be retained by Seller; and

(r) all cash of Seller specifically designated as cash collateral for the ED Loan (the "**ED Cash Collateral**"), provided, that in no event shall the amount of ED Cash Collateral delivered at Closing hereunder exceed \$5,000,000.

2.02. Excluded Assets. Notwithstanding the generality of the definition of Assets and of the examples of Assets listed in Section 2.01, the following assets (the "**Excluded Assets**") are not a part of the sale and purchase contemplated by this Agreement and are excluded from the Assets, and Seller shall retain all of its right, title and interest therein and thereto from and after the Closing:

(a) any financial, patient, medical staff, personnel and other records of the Hospital Businesses that Seller cannot transfer to Buyer due to applicable Legal Requirements by which Seller is bound;

(b) all cash (other than ED Cash Collateral, any cash held by CHIC, any cash held by ECHN in an account designated for the payment of workers' compensation claims), bank accounts (except for those that receive deposits from Government Payment Programs and other third party payors), certificates of deposit, treasury bills, treasury notes, marketable securities and other cash equivalents (including the Purchase Price payable to Seller) of Seller or the Hospital Businesses, except for those listed in Section 2.01(n);

(c) all short-term and long-term Investments, but excluding the Investment interests in the Joint Ventures, and, if applicable, pursuant to Section 2.01(n), the Investment interests in CHIC;

(d) board-designated, restricted, and trustee-held or escrowed funds (such as funded depreciation, debt service reserves, self-insurance trusts, working capital trust assets, and assets and Investments restricted as to use), beneficial interests in charitable trusts, and accrued earnings on all of the foregoing;

- (e) inventory and supplies disposed of or exhausted after the date of this Agreement and on or before the Closing Date in the ordinary course of the Hospital Businesses, and Assets transferred or disposed of in accordance with Section 5.02(e);
- (f) Cost Report settlement receivables for periods ended on or prior to the Closing Date and all appeals and appeal rights relating thereto;
- (g) all funds held by trustees pursuant to bond indentures of Seller (including the Indenture) related to the Bond Liabilities;
- (h) all deductions, benefits, claims, refunds, receivables and other rights of Seller or any Affiliate of Seller relating to Taxes in respect of periods ending on or before the Closing Date (or portions thereof) or resulting from the consummation of the transactions contemplated by this Agreement;
- (i) all other current financial assets not included in Net Working Capital and all deferred expenses;
- (j) all Contracts that are listed or described on Schedule 2.02(j) and all other Contracts that are not Assumed Contracts (including this Agreement and the Closing Documents);
- (k) all Permits to the extent not legally assignable to Buyer or not relating to the ownership of the Assets and the conduct of the Hospital Businesses;
- (l) the corporate or trade names set forth on Schedule 2.02(l) and all Intellectual Property rights relating thereto;
- (m) all physician loans and receivables other than repayment obligations under Assumed Contracts;
- (n) all right, title and interest of ECHN Community Healthcare Foundation in and to its assets and properties (whether owned, leased or otherwise) described on Schedule 2.02(n);
- (o) all insurance proceeds received by Seller or payable to Seller (i) with respect to other Excluded Assets or the Excluded Liabilities or (ii) arising in connection with the operation of the Assets for periods prior to Closing to the extent that all material damage to any such Asset has been repaired and to the extent consistent with Section 5.13 herein;
- (p) the claims of Seller against third parties described on Schedule 2.02(p), appeals and other risk settlements of the Hospital Businesses which arose during or relate to a pre-Closing period, and all rights, remedies, claims and defenses against third parties thereunder or otherwise relating solely to the Excluded Assets or to the Excluded Liabilities, whether choate or inchoate, known or unknown, contingent or otherwise;



(q) any other assets identified on Schedule 2.02(q) or excluded after the execution of this Agreement by mutual written agreement of the parties;

(r) any Investment interest in a Joint Venture that did not transfer at Closing because the governing instruments of such Joint Venture did not permit such transfer at Closing and all required consents to such transfer were not obtained from the owners or other participants in the Joint Venture; and

(s) all proceeds of the foregoing.

2.03. Assumed Liabilities. As of the Closing Date, Buyer shall assume from Seller and its Affiliates the Assumed Liabilities, including the Assumed Liabilities described on Schedule 2.03, and agrees to pay and satisfy all such Assumed Liabilities.

2.04. Excluded Liabilities. Notwithstanding anything to the contrary set forth in this Agreement, under no circumstance will Buyer assume or be obligated to pay, and from and after the Closing, none of the Assets will be or become liable for or subject to, any of the Excluded Liabilities, which Excluded Liabilities are and will remain liabilities of Seller, including the following:

(a) all liabilities accrued on the Closing Balance Sheets, other than those included in Net Working Capital constituting Assumed Contracts;

(b) liabilities or obligations for Taxes of the Hospital Businesses in respect of periods ending on or before the Closing Date or resulting from the consummation of the transactions contemplated by this Agreement;

(c) liabilities or obligations for federal or state income Taxes of Seller or any Affiliate of Seller, including any amounts accrued or incurred by the Hospital Businesses as a result of being a member of a consolidated, affiliated, combined, unitary or similar group that includes such other Persons;

(d) liabilities or obligations relating to the Excluded Assets;

(e) liabilities or obligations associated with indebtedness for borrowed money (other than capital lease obligations under any Assumed Contract and the ED Loan);

(f) (i) obligations required to be performed by Seller on or before the Closing Date under the Assumed Contracts, (ii) liabilities or obligations resulting from a breach or default on or before the Closing Date of any Assumed Contracts and (iii) liabilities arising under any Contracts that are not Assumed Contracts;

(g) Proceedings and claims (whether instituted before or after Closing) relating to acts or omissions that occurred on or before the Closing Date, including those relating to peer review activities, except for those Proceedings and Claims listed on Schedule 3.23 that are identified as being included in Assumed Liabilities;

(h) liabilities or obligations under the Hill-Burton Act or other restricted grant or loan programs;

(i) liabilities and obligations to Seller's employees, Seller's Employee Benefit Plans, the Internal Revenue Service, PBGC or any other Governmental Authority arising from or relating to periods on or before the Closing Date (whether or not triggered by the transactions contemplated by this Agreement), including liabilities or obligations arising on or before the Closing Date under any Seller Employee Benefit Plan, United States Equal Employment Opportunity Commission claim, unfair labor practice, and wage and hour practice, and liabilities or obligations arising under the WARN Act, provided that this subsection (i) shall not apply to (i) liabilities or obligations under the Employee Benefit Plans assumed by Buyer under Sections 5.03(d) and 5.03(e), including but not limited to the Unfunded Pension Liabilities and the Post-Retiree Health Plan Liability, (ii) Extended Illness Bank Obligations, (iii) obligations under Assumed Contracts or (iv) the Workers' Compensation Liability;

(j) Cost Report settlement payables relating to all Cost Report periods ending on or before the Closing Date;

(k) liabilities or obligations of Seller, including arising out of the operation of the Hospital Businesses or ownership of the Assets, with respect to periods ending on or before the Closing Date, or resulting from the consummation of the transactions contemplated by this Agreement, including pursuant to third-party payor programs and Government Payment Programs, including recoupment rights of the Centers for Medicare & Medicaid Services ("CMS") or the Connecticut Department of Social Services and recapture of previously reimbursed charges or expenses;

(l) penalties, fines, settlements, interest, costs and expenses arising out of or incurred as a result of any actual or alleged violation by Seller of any Legal Requirement prior to the Closing Date; and

(m) liabilities or obligations arising out of or in connection with the Eastern Connecticut Health Network, Inc. Long Term Retention Plan, as amended through August 1, 2016.

#### 2.05. Purchase Price; Purchase Price Adjustment.

(a) Subject to the terms and conditions of this Agreement, in reliance upon the representations and covenants of Seller in this Agreement, and as consideration for the sale of the Assets, Buyer shall assume the Assumed Liabilities from Seller and tender the "**Purchase Price**", determined as follows, subject to the limitations and adjustments, including post-Closing adjustments, described in Sections 2.05(b)-(m):

(i) \$105,000,000 (One Hundred Five Million Dollars), *plus*

(ii) the amount, if any, by which Net Working Capital on the Closing Balance Sheets exceeds the Target Net Working Capital, or *minus*

(iii) the amount, if any, by which Net Working Capital on the Closing Balance Sheets is less than the Target Net Working Capital, and *minus*

(iv) the book value (including the current portion) as of the Closing of any indebtedness (including capitalized leases but not including the ED Loan) assumed by Buyer, and *minus*

(v) the Unfunded Pension Liabilities as of the Closing Date, and *minus*

(vi) the Post-Retiree Health Plan Liability as of the Closing Date, and *plus* (in the case of Section 2.05(a)(vii)(w)) or *minus* (in the case of Section 2.05(a)(vii)(x)), as applicable,

(vii) (w) the amount, if any, by which the Workers' Compensation Liability as of the Closing Date is less than the cash and investments held by the workers' compensation trust with respect to such liabilities as of the Closing Date, or (x) the amount, if any, by which the Workers' Compensation Liability as of the Closing Date exceeds the cash and investments held by the workers' compensation trust with respect to such liabilities as of the Closing Date, and *plus* (in the case of Section 2.05(a)(viii)(y) below) or *minus* (in the case of Section 2.05(a)(viii)(z) below), as applicable,

(viii) (y) the amount, if any, by which the Captive Insurer Liability as of the Closing Date is less than the cash and investments held by the CHIC with respect to such liabilities as of the Closing Date, or (z) the amount, if any, by which the Captive Insurer Liability as of the Closing Date exceeds the cash and investments held by CHIC with respect to such liabilities as of the Closing Date, and *minus*

(ix) asbestos abatement liability as determined within five business days of Closing by an independent third party mutually agreed upon by Seller and Buyer; provided, however, that the total asbestos abatement liability shall not exceed \$1,000,000 (One Million Dollars), and *minus*

(x) in the event Seller is unable to assign and transfer to Buyer or Buyer's designee all of Seller's Investment in one or more Joint Ventures due to the inability to satisfy the requirements of the governing instruments of such Joint Ventures with respect to such transfer at Closing, an amount equal to the value listed next to the name of such Joint Venture on Schedule 2.05(a), provided, however, that the provisions of this Agreement shall not be construed as an offer to separately purchase Seller's Investment in one or more Joint Ventures, and *minus*

(xi) Any amounts paid to Seller by Buyer to reimburse Seller's out-of-pocket legal, valuation, or consulting expenses pursuant to Section 8.04(b).

(b) Seller and Buyer shall equally share the cost of obtaining updated actuarial valuations, which shall be conducted by an actuarial firm chosen by Seller and calculated

in accordance with Section 2.05(h)(ii)-(v), as applicable, of the Unfunded Pension Liabilities, the Captive Insurer Liabilities, the Workers' Compensation Liability, and the Post-Retiree Health Plan Liability as of the Closing.

(c) The sum of the amounts subtracted from the Purchase Price pursuant to Sections 2.05(a)(iii)-(a)(xi) above shall not exceed \$77,000,000 (Seventy Seven Million Dollars) (the "**Threshold Liability**").

(d) If Seller, as of the Closing Date, has liabilities, excluding Third Party Debt and excluding the ED Loan, that exceed the Threshold Liability ("**Additional Liabilities**"), Buyer shall assume such excess Additional Liabilities up to Ten Million Dollars (\$10,000,000) at Closing based on the amount estimated pursuant to Section 2.05(f)(i)(f) (and as such amount is finally determined pursuant to the provisions of Sections 2.05(h)-(j), as applicable), subject to Seller's obligation to reimburse Buyer for such assumption of Additional Liabilities pursuant to Section 2.05(g)(iii). Buyer may, at Closing, and based on the Closing Estimates, in its sole discretion, waive the provisions of Section 7.12 and assume liabilities in excess of Ten Million Dollars (\$10,000,000) of Additional Liabilities. As an illustration only, examples of how the provisions of this Section 2.05 will be implemented are included in Schedule 2.05.

(e) Notwithstanding the foregoing Section 2.05, no liabilities of Seller or its Affiliates shall be subtracted from the Purchase Price to the extent any such liabilities are already included in Net Working Capital.

(f) The Purchase Price, including estimates at Closing of the Net Working Capital, Captive Insurer Liability, Unfunded Pension Liabilities, Workers' Compensation Liability and the Post-Retiree Health Plan Liability calculated as of Closing, will be calculated as follows:

(i) For purposes of determining the Purchase Price, not more than five (5) but in no event less than two (2) business days prior to the Closing, Seller shall deliver to Buyer a statement setting forth its good faith estimate and calculation as of the Closing, and where actuarially determined, based on the Audited Financial Statements as of September 30, 2015, of the following (collectively, the "**Closing Estimates**"):

- (a) Net Working Capital,
- (b) Unfunded Pension Liabilities,
- (c) Captive Insurer Liability,
- (d) Workers' Compensation Liability,
- (e) Post-Retiree Health Plan Liability, and
- (f) Additional Liabilities.

including, as to each Subject Item, supporting documentation of reasonable specificity and other information reasonably requested by the Buyer to verify such amounts. For the avoidance of doubt, each of the Subject Items shall be subject to a final determination after the Closing pursuant to the provisions of Sections 2.05(h)-(i), and the Purchase Price shall be adjusted accordingly pursuant to the provisions of Section 2.05(j).

(ii) The estimate of Net Working Capital at Closing will be calculated by Buyer and Seller from the physical count of inventory and supplies conducted pursuant to this Section 2.05(f)(ii), if available, the relevant entries in the Interim Closing Balance Sheets (other than inventory and supplies if the physical inventory is available) and the parties' mutual good faith estimate as of the Closing Date of the amount of the prorations to be made pursuant to Section 2.06. The portion of Net Working Capital constituting the value of inventory and supplies will be determined based on a physical count conducted by Seller on a date not more than five (5) business days before the Closing Date. Seller shall give Buyer at least five (5) business days prior notice of the date of the count and permit Buyer to monitor the count. Seller shall count the usable items of inventory and supplies that are not damaged or obsolete, and that are of a type, quality and quantity that may be used in the ordinary course of the Hospital Businesses (having due regard for the services offered by the Hospital Businesses). Seller will conduct the count in the same manner that Seller conducted the count of, and will count the same classes and categories of items that Seller counted to determine the value of, inventory and supplies in the most recent Audited Financial Statements. Upon completion of the count, Seller shall determine the value of the inventory and supplies (determined by the lower of cost or market on a first in, first out basis). If the results of the count and the resulting value of inventory and supplies are available by Closing, then the portion of Net Working Capital attributable to inventory and supplies will be the value determined pursuant to the count (updated for actual usage and purchases between the date of the count and the Closing Date). If the results of the count or the resulting value of inventory and supplies are not available by Closing, then for purposes of the Closing, the value of the inventory and supplies will be the amount set forth in the Interim Closing Balance Sheets and the value of the inventory and supplies determined pursuant to the count (updated for actual usage and purchases between the date of the count and the Closing Date) will be set forth in the Closing Balance Sheets. The portion of Net Working Capital constituting the value of prepaid expenses and deposits will be determined based on mutual agreement of Seller and Buyer.

(g) At Closing, Buyer shall pay such Purchase Price (based on the Closing Estimates provided in a statement delivered by Seller pursuant to Section 2.05(f)) by wire transfer of immediately available funds to an account designated by the Seller to Buyer prior to the Closing Date, and Seller shall immediately use all of its Available Cash in the following manner and priority (recognizing that there may not be sufficient Available Cash to satisfy all of the following obligations):

(i) First, to pay off all Third Party Debt, including to defease the Indenture and all Encumbrances created by or in connection with the Indenture, including the Bond Liabilities and other tax-exempt debt;

(ii) Second, to fund Seller's wind-down operations up to One Million Dollars (\$1,000,000) (the "**Wind-Down Reserve**"); *provided, however*, that in the event that Seller fails to fund the Wind-Down Reserve in full, (x) Buyer shall pay such shortfall in the administrative wind-down costs incurred by Seller in accordance with Section 2.05(l)(i);

(iii) Third, to reimburse Buyer for Additional Liabilities;

(iv) Fourth, to fund the indemnity reserve in accordance with Section 9.08;

(v) Fifth, to reimburse Buyer up to the total amount of the ED Loan; and

(vi) Sixth, any excess Available Cash shall be retained by Seller.

As an illustration only, an example of how the provisions of this Section 2.05(g) will be implemented is included in Schedule 2.05.

(h) Not more than ninety (90) days after the Closing, Buyer shall prepare and deliver, or cause to be prepared and delivered, to Seller, the Closing Balance Sheet and the final closing statement (the "**Final Closing Statement**") setting forth the following:

(i) its good faith determination of the actual Net Working Capital as of the Closing Date, and a calculation showing the difference between the Net Working Capital estimated by Seller at Closing and the actual Net Working Capital as of the Closing Date,

(ii) the actual Unfunded Pension Liabilities as of the Closing Date, as determined using the updated actuarial report obtained pursuant to Section 2.05(d), provided that such updated report shall be prepared using the same assumptions, principles and methodologies used in the calculation of the Unfunded Pension Liabilities pursuant to Section 2.05(f)(i), and a calculation showing the difference between the Unfunded Pension Liabilities estimated by Seller at Closing and the actual Unfunded Pension Liabilities as of the Closing Date, and

(iii) the actual Captive Insurer Liability as of the Closing Date, as determined using the updated actuarial report obtained pursuant to Section 2.05(d), provided that such updated report shall be prepared using the same assumptions, principles and methodologies used in the calculation of the Captive Insurer Liability pursuant to Section 2.05(f)(i), except that the selected ratio for the calculation of the \$1,000,000 basic limit loss cost used in such updated actuarial report shall be 0.90 (versus 0.64 as of September 30, 2015), and a

calculation showing the difference between the Captive Insurer Liability estimated by Seller at Closing and the actual Captive Insurer Liability as of the Closing Date,

(iv) the actual Workers' Compensation Liability as of the Closing Date, as determined using the updated actuarial report obtained pursuant to Section 2.05(d), provided that such updated report shall be prepared using the same assumptions, principles and methodologies used in the calculation of the Workers' Compensation Liability pursuant to Section 2.05(f)(i), and a calculation showing the difference between the Workers' Compensation Liability estimated by Seller at Closing and the actual Workers' Compensation Liability as of the Closing Date,

(v) the actual Post-Retiree Health Plan Liability as of the Closing Date, as determined using the updated actuarial report obtained pursuant to Section 2.05(d), provided that such updated report shall be prepared using the same assumptions, principles and methodologies used in the calculation of the Post-Retiree Health Plan Liability pursuant to Section 2.05(f)(i), and a calculation showing the difference between the Post-Retiree Health Plan Liability estimated by Seller at Closing and the actual Post-Retiree Health Plan Liability as determined by Buyer as of the Closing Date, and

(vi) the actual Additional Liabilities as of the Closing Date, and a calculation showing the difference between the Additional Liabilities estimated by Seller at Closing and the actual Additional Liabilities as determined by Buyer as of the Closing Date,

Simultaneously, with its delivery to Seller of the Closing Balance Sheet and the Final Closing Statement, Buyer shall deliver to Seller supporting documentation of reasonable specificity supporting the calculation of the value of each Subject Item listed in Section 2.05(h)(i)-(v). Except as otherwise expressly provided herein, the Final Closing Statement and the Closing Balance Sheets shall be prepared using the same principles and methodologies, including the determination of Accounts Receivable, doubtful account and the Subject Items, as used in preparing the Interim Closing Balance Sheets. At all reasonable times following delivery by Buyer to Seller of the Final Closing Statement and the Closing Balance Sheets, Buyer shall make available to Seller and its agents all books and records of Buyer included in, or related to, the determination of the value of each Subject Item listed in Section 2.05(h)(i)-(v), including all of Buyer's and its agent's accounting work papers and journal entries underlying such determination or the preparation thereof and shall permit Seller to discuss all such matters with Buyer's agents.

(i) Following receipt of the information set forth in Section 2.05(h), Seller will be afforded a period of forty-five (45) days (the "**45-Day Period**") to review the Final Closing Statement and the Closing Balance Sheets. At or before the end of the 45-Day Period, Seller will either (i) accept the amount of the actual Subject Items calculated

by Buyer and set forth on the Final Closing Statement in their entirety or (ii) deliver to Buyer a written notice (the “**Objection Notice**”) containing a reasonably detailed written explanation of those items on the Final Closing Statement or the Closing Balance Sheets that Seller disputes, in which case the items specifically identified by Seller shall be deemed to be in dispute. The failure by Seller to deliver the Objection Notice within the 45-Day Period shall constitute Seller’s acceptance of the amount of the actual Subject Items calculated by Buyer. If Seller delivers the Objection Notice in a timely manner, then, within a further period of forty-five (45) days from the end of the 45-Day Period (the “**Second 45-Day Period**”), the parties will attempt to resolve in good faith any disputed items and reach a written agreement (the “**Settlement Agreement**”) with respect thereto. Failing such resolution, as promptly as practicable (and no event later than ten (10) days from the end of the Second 45-Day Period), the unresolved disputed items will be referred for final binding resolution to PricewaterhouseCoopers LLP (the “**Arbitrating Accountants**”). In resolving any disputed item, the Arbitrating Accountants may not assign a value to any item greater than the greatest value for such item claimed by either party or less than the smallest value for such item claimed by either party. The fees and expenses of the Arbitrating Accountants shall be allocated between Buyer and Seller in proportion to the amounts by which their proposals of the actual Subject Items differed from the Arbitrating Accountants’ final determination. Such determination (the “**Accountants’ Determination**”) shall be (i) in writing, (ii) furnished to the Buyer and Seller as soon as practicable (and in no event later than thirty (30) days) after the items in dispute have been referred to the Arbitrating Accountants, (iii) made in accordance with GAAP, consistently applied, and (iv) non-appealable and incontestable by Buyer or Seller and each of their respective Affiliates and successors and assigns and not subject to collateral attack for any reason other than manifest error or fraud.

(j) The Purchase Price will be recalculated (based on clauses (i)-(viii) below) (the “**Purchase Price Adjustment**”) to reflect:

(i) any such revisions in the amount of the prorations to be made pursuant to Section 2.06,

(ii) the difference between the Net Working Capital (excluding differences in prepaid expenses and deposits calculated in accordance with Section 2.05(f)(ii) and, if a physical inventory was used to calculate the Purchase Price, in inventory and supplies) estimated at Closing and the actual Net Working Capital as of the Closing Date (as finally determined pursuant to the provisions of Sections 2.05(h) and, if applicable, Section 2.05(i)),

(iii) the difference between the Unfunded Pension Liabilities estimated at Closing and the actual Unfunded Pension Liabilities (as finally determined pursuant to the provisions of Sections 2.05(h) and, if applicable, Section 2.05(i)),

(iv) the difference between the Captive Insurer Liability estimated at Closing and the actual Captive Insurer Liability (as finally determined pursuant to the provisions of Sections 2.05(h) and, if applicable, Section 2.05(i))



(v) the difference between the Workers' Compensation Liability estimated at Closing and the actual Workers' Compensation Liability (as finally determined pursuant to the provisions of Sections 2.05(h) and, if applicable, Section 2.05(i)),

(vi) the difference between the Post-Retiree Health Plan Liability estimated at Closing and the actual Post-Retiree Health Plan Liability (as finally determined pursuant to the provisions of Sections 2.05(h) and, if applicable, Section 2.05(i)), and

(vii) the difference between the Additional Liabilities estimated at Closing and the actual Additional Liabilities (as finally determined for and as of the Closing Date and pursuant to the provisions of Sections 2.05(h) and, if applicable, Section 2.05(i)).

As an illustration only, an example of how the provisions of this Section 2.05(j) will be implemented is included in Schedule 2.05.

(k)

(i) Within five (5) business days following the Final Determination Date, if the Purchase Price is adjusted upward by the Purchase Price Adjustment, the Purchase Price Adjustment shall be applied or paid, as applicable, in the following manner and priority (recognizing that the amount of the Purchase Price Adjustment may not be sufficient to satisfy each of the following obligations):

(u) First, if and to the extent Buyer has paid any of Seller's administrative wind-down costs pursuant to Section 2.05(l)(i), Buyer shall be entitled to retain any amounts remaining from the Purchase Price Adjustment as reimbursement of such administrative wind-down costs;

(v) Second, if and to the extent Seller is unable to fund fully the Wind-Down Reserve, any amounts remaining from the Purchase Price Adjustment shall be used to fund Seller's Wind-Down Reserve, less the amount retained by Buyer pursuant to Section 2.05(k)(i)(u);

(w) Third, in the event that Seller is unable to fund fully the indemnity reserve establish under Section 9.08 to the maximum amount of \$4,500,000 at the Closing, any amounts remaining from the Purchase Price Adjustment shall be used by Seller to fund the indemnity reserve (in an amount not to exceed \$4,500,000);

(x) Fourth, Buyer shall be entitled to retain any amounts remaining from the Purchase Price Adjustment up to the aggregate amount of the Additional Liabilities; and

(y) Fifth, to reimburse Buyer up to the total amount of the ED Loan;

(z) Sixth, Buyer shall pay to Seller, by wire transfer of immediately available funds to one or more accounts designated by Seller, any amounts remaining from the Purchase Price Adjustment (after application of clauses (u) through (y) above).

(ii) If the Purchase Price is adjusted downward by the Purchase Price Adjustment, within five (5) business days following the Final Determination Date, Seller shall pay to Buyer the amount by which the Purchase Price is decreased, by wire transfer of immediately available funds to one or more accounts designated by Buyer as a cash payment from Seller to Buyer in an amount up to the remaining Available Cash in excess of the remaining Wind-Down Reserve.

As an illustration only, an example of how the provisions of this Section 2.05(k) will be implemented is included in Schedule 2.05.

(l)

(i) If following completion of the process outlined in Sections 2.05(a)-2.05(k), Available Cash is less than \$1,000,000 (One Million Dollars), Buyer shall pay Seller's administrative wind-down costs (*e.g.*, preparation of tax returns, annual audit, legal fees relating to dissolution proceedings) incurred through the third anniversary of the Closing Date to the extent such wind-down costs exceed Available Cash; *provided, however*, that the total amount paid by Buyer for Seller's wind-down costs under this Section 2.05(l)(i) shall not exceed an amount equal to One Million Dollars (\$1,000,000) less Available Cash determined after the process outlined above.

(ii) To the extent that any funds remain in the Wind-Down Reserve following the wind-down of Seller's operations, and there has been a reduction in the Commitment Amount pursuant to Section 5.18, the remaining Wind-Down Reserve funds shall be paid to Buyer and the Commitment Amount shall be increased, on a dollar-for-dollar basis, up to a maximum of Seventy-Five Million Dollars (\$75,000,000), in accordance with Section 5.18(c)(v).

As an illustration only, an example of how the provisions of this Section 2.05(l) will be implemented is included in Schedule 2.05.

(m)

(i) If Seller receives any cash payments pursuant to cost report settlements following the Closing, Seller shall use such cash in the following manner and priority, to the extent available and applicable (recognizing that the amount of the cash payments pursuant to cost report settlements may not be sufficient to satisfy each of the following obligations):

(u) First, to reimburse Buyer for any amounts Buyer has expended to pay Seller's wind-down costs pursuant to Section 2.05(l)(i);

(v) Second, if and to the extent Seller is unable to fund fully the Wind-Down Reserve, to fund the shortfall in the Wind-Down Reserve less any amount paid to Buyer pursuant to Section 2.05(m)(i)(u);

(w) Third, to fund the indemnity reserve in accordance with Section 9.08;

(x) Fourth, to reimburse Buyer for the Additional Liabilities; and

(y) Fifth, to reimburse Buyer up to the total amount of the ED Loan;

(z) Sixth, to be retained by Seller.

(ii) If Seller is required to make any cash payments pursuant to cost report settlements following the Closing, Seller shall make such payments, first, from Seller's Available Cash (including the indemnity reserve established pursuant to Section 9.08); *provided, however*, that Seller shall indemnify Buyer, in accordance with Section 9.01(d), for any unpaid cash payments required to be paid by Seller pursuant to cost report settlements that are not satisfied in full pursuant to the immediately preceding clause.

As an illustration only, an example of how the provisions of this Section 2.05(m) will be implemented is included in Schedule 2.05.

2.06. Prorations. At Closing, and to the extent not included in Net Working Capital, Buyer and Seller shall prorate real estate and personal property lease payments, real estate and personal property Taxes (except that no such proration of property Taxes will be necessary in respect of the transfer of property by any Person that is a non-profit corporation that does not pay any property Taxes with respect to such property) and other assessments, and all other items of income and expense that are normally prorated upon a sale of assets of a going concern, if any. If any payment of Taxes made by Seller before Closing is credited against real estate Taxes for which Buyer will be liable, the amount of such credit will be applied as a credit against any prorations owing by Seller, to the extent available for offset, and any amounts not so applied will be paid to Seller by Buyer upon Buyer's receipt of such credit.

2.07. Promissory Note. To the extent Seller is unable to transfer to Buyer on the Closing Date Seller's Investment in one or more Joint Ventures as a result of the failure to obtain a consent or to otherwise comply with the governing instruments of such Joint Venture, Buyer shall lend to Seller an amount equal to the value of such Joint Venture(s) as such value is listed on Schedule 2.05(a). The loan described in the previous sentence shall be made pursuant to a promissory note bearing interest at 3% per annum payable solely from, and secured by, future distributions from the Joint Ventures, and further secured by the Joint Venture investments themselves, to the extent the granting of such a security interest is permissible under the laws of the State of Connecticut and the Joint Venture agreements (the "**Joint Venture Promissory Note**"). If, after the Closing Date, one or more of Seller's Joint Venture investments whose value is included in the Joint Venture Promissory Note is transferred to Buyer, the principal

amount of the Joint Venture Promissory Note shall be reduced by an amount equal to the value set forth next to the name of such Joint Venture on Schedule 2.05(a).

### 3. REPRESENTATIONS OF SELLER

Subject to the exceptions described in the Schedules, Seller makes the following representations to Buyer on and as of the date of this Agreement and will be deemed to make them again at and as of the Closing Date:

3.01. Organization and Qualification. Seller is a non-stock corporation duly organized and validly existing in good standing under the laws of the State of Connecticut. Seller is not licensed, qualified or admitted to do business in any jurisdiction other than in the State of Connecticut and there is no other jurisdiction in which the ownership, use or leasing of Seller's assets or properties, or the conduct or nature of its business, makes such licensing, qualification or admission necessary.

3.02. Corporate Powers; Absence of Conflicts, Etc. Seller has the requisite power and authority to conduct the Hospital Businesses as now being conducted, to enter into this Agreement and to perform its obligations hereunder. The execution, delivery and performance by Seller of this Agreement and the Closing Documents to which Seller is or becomes a party and the consummation by Seller of the transactions contemplated by this Agreement:

(a) are within Seller's powers, are not in contravention of its articles of incorporation, bylaws and other governing documents, and have been duly authorized by all appropriate corporate action;

(b) do not conflict with, result in any breach or contravention of, or permit the acceleration of the maturity of any liabilities of Seller (other than Excluded Liabilities to be satisfied as of the Closing Date), and do not create or permit the creation of any Encumbrance on or affecting any of the Assets;

(c) do not violate any Legal Requirement to which Seller, the Assets, or the Hospital Businesses may be subject other than with respect to the Excluded Liabilities to be satisfied as of the Closing Date; and

(d) assuming the receipt of all consents set forth in Schedule 3.02, do not conflict with or result in a breach or violation of any material Contract to which Seller is a party or by which it is bound and will not be terminated as of the Closing Date.

3.03. Binding Agreement. This Agreement and each of the Closing Documents to which Seller is or becomes a party are (or upon execution will be) valid and legally binding obligations of Seller, enforceable against it in accordance with the respective terms hereof or thereof.

3.04. Subsidiaries and Third Party Rights. Seller holds no Investment interest in any Person involved in the ownership or operation of the Hospital Businesses or the Assets, other than those Persons identified on Schedule 3.04. Schedule 3.04 indicates for each Person identified thereon whether it is currently active or inactive and whether it, together with its

consolidated Subsidiaries, has total assets of \$10,000 or more. Schedule 3.04 also indicates, for each Joint Venture, the percentage of equity interests owned by Seller or its Affiliate in such Joint Venture and the name of, and percentage of equity interests owned by, third parties in such Joint Venture. Other than Seller and those Persons set forth on Schedule 3.04, there are no other Persons that own any interest in any of the Hospital Businesses. There are no Contracts with, or rights of, any Person to acquire, directly or indirectly, any material assets, or any interest therein, of Seller, including any of the Assets, other than Contracts entered into in the ordinary course of the Hospital Businesses or Contracts entered into with Buyer with respect to the transactions contemplated by this Agreement.

3.05. Legal and Regulatory Compliance. Except as otherwise provided in this Agreement and other than as set forth on Schedule 3.05, Seller and all of its officers, directors, agents, or employees comply in all material respects with, and have complied in all material respects with, all Legal Requirements, and Seller has timely filed all material reports, data and other information required to be filed with Governmental Authorities. Seller has not received notice of any currently pending or threatened Proceeding against it alleging or based upon an alleged violation of any Legal Requirements. Neither Seller nor any Affiliate of Seller is party to or otherwise bound by (i) a corporate integrity agreement with the Office of Inspector General of the United States Department of Health and Human Services or written agreement with such Governmental Authority to establish or maintain a corporate integrity program applicable to any of the Hospital Businesses or (ii) a settlement or other agreement with any other Governmental Authority, other than participation agreements with Medicare and Medicaid, that imposes continuing obligations on any of the Hospital Businesses or contains obligations that have not been fully discharged.

3.06. Financial Statements. Attached as Schedule 3.06 are copies of the Audited Financial Statements and the Unaudited Financial Statements. The Financial Statements fairly present the financial condition and results of operations of Seller and the Hospital Businesses as of the respective dates thereof and for the periods therein referred to, all in accordance with GAAP, subject, in the case of the Unaudited Financial Statements, to normal recurring year-end adjustments (the effect of which will not, individually or in the aggregate, have a Material Adverse Change) and the absence of notes (which, if presented, would not differ materially from those included in the Audited Financial Statements), and the Financial Statements reflect the consistent application of such accounting principles throughout the periods involved.

3.07. Undisclosed Liabilities. Except and to the extent accrued or disclosed in the Financial Statements, Seller does not have any liabilities or obligations of any nature whatsoever with respect to the Hospital Businesses or the Assets, due or to become due, accrued, absolute, contingent or otherwise, that are required by GAAP to be accrued or disclosed in audited financial statements, except for liabilities and obligations incurred in the ordinary course of business and consistent with past practice since the date of the Unaudited Financial Statements, which are not, individually or in the aggregate, expected to result in a Material Adverse Change.

3.08. Recent Activities. Since September 30, 2014 and except as set forth on Schedule 3.08:

(a) no material damage, destruction or loss (whether or not covered by insurance) has occurred affecting the Assets;

(b) except in the ordinary course of the Hospital Businesses or as set forth on Schedule 3.08(b), consistent with past practice and existing personnel policies of Seller, Seller has not (i) increased or agreed to increase the compensation payable to any employees who work in the Hospital Businesses, (ii) agreed to make any bonus or severance payment to any of the employees who work in the Hospital Businesses or (iii) employed any additional management personnel in respect of the Hospital Businesses;

(c) no labor dispute, enactment or promulgation of a state or local Legal Requirement, or other event or condition, has occurred that has materially adversely affected any of the Hospital Businesses or reasonably could be expected to have such an effect on the Hospital Businesses;

(d) other than as set forth on Schedule 3.08(d), Seller has not sold or factored, or agreed to sell or factor, any Accounts Receivable, and Seller has not sold, distributed or otherwise disposed of any other Assets except in the ordinary course of the Hospital Businesses and, for equipment having an original cost in excess of \$25,000, with a comparable replacement thereof;

(e) to Seller's knowledge, no Encumbrance has been imposed on any of the Assets;

(f) Seller has not canceled or waived any material rights in respect of the Assets, except in the ordinary course of the Hospital Businesses;

(g) other than in connection with the freeze of Seller's defined benefit pension plan and post-retiree health plan, there has been no change in any accounting method, policy or practice of Seller with respect to the Hospital Businesses;

(h) other than compensation paid in the ordinary course of employment or ordinary course professional services agreements disclosed to Buyer, Seller has not paid any amount to, sold any Assets to, or entered into any Contract with any officer, director, or trustee of Seller or its Affiliates, or with any Affiliate of any such Person;

(i) Seller has not paid or agreed to pay to any Person any damages, fines, penalties or other amounts in respect of an actual or alleged violation of any Legal Requirement excluding routine workers' compensation claims in amounts no greater than \$100,000;

(j) Other than ordinary course plan benefit design changes, Seller has not instituted any new, or terminated or amended any existing, Employee Benefit Plan, except for amendments required to comply with applicable Legal Requirements and the freeze of Seller's defined benefit pension plan and post-retiree health plan;

(k) Seller has not entered into or agreed to enter into any transaction outside the ordinary course of the Hospital Businesses (other than the transactions contemplated by this Agreement); and

(l) no Material Adverse Change has occurred and no event or circumstance has occurred that could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Change.

3.09. Accounts Receivable; Inventory.

(a) The Accounts Receivable, to the extent uncollected, are valid and existing and represent monies due for goods sold and delivered and services performed in bona fide commercial transactions, have been billed or are billable, and are not subject to any Encumbrances. Except as reflected or reserved for in the Financial Statements, no refunds, discounts or setoffs are payable or assessable with respect to the Accounts Receivable.

(b) All Assets consisting of inventory and supplies are carried at the lower of cost or market on a first-in, first-out basis and are properly stated in the Audited Financial Statements as of the dates thereof. All items of inventory and supplies are of a quality usable or saleable in the ordinary course of business, except for those items that are obsolete, below standard quality or in the process of repair and for which adequate reserves have been provided in the Financial Statements. The quantities of inventory and supplies, taken as a whole, are reasonable and justified under the normal operations of the Hospital Businesses.

3.10. Equipment. Schedule 3.10 includes a depreciation schedule as of a recent date that lists all items of equipment associated with, or constituting any part of, the Assets. To Seller's knowledge, and excluding information technology equipment and systems, all major items of Seller's equipment (e.g., heating systems, magnetic resonance imaging units, ultrasound units, robotic surgery and similar equipment) are usable for their intended purposes in the ordinary course of the Hospital Business and are in working condition, subject to reasonable wear and tear.

3.11. Title. Except as provided in Schedule 3.11 and subject to Section 10.03(a), Seller owns and holds good and valid title to all of the Assets, free and clear of any Encumbrances other than the Encumbrances described on Schedule 3.11. At Closing, Seller will convey to Buyer good and valid title to all Assets, free and clear of any Encumbrances other than the Permitted Encumbrances.

3.12. Real Property.

(a) Seller owns fee simple title to the Owned Real Property, free and clear of any Encumbrances other than the Encumbrances described on Schedule 3.12(a). The Owned Real Property described on Schedule 2.01(a) comprises all of the real property owned by Seller or any Subsidiary of Seller that is associated with or utilized in the operation of the Hospital Businesses. At Closing, Seller will convey to Buyer good and

marketable fee simple title to all Owned Real Property, free and clear of any Encumbrances other than the Permitted Real Property Encumbrances.

(b) Seller has not received notice of condemnation or similar Proceedings relating to the Owned Real Property or any part thereof.

(c) Except as set forth on Schedule 3.12(c), to Seller's knowledge, the buildings standing on the Owned Real Property are structurally sound and in need of no material maintenance or repairs, except for ordinary, routine maintenance. All essential utilities (including water, sewer, gas, electricity and telephone service) are available to the Owned Real Property, and, to Seller's knowledge, no conditions exist that are reasonably likely to result in the termination or reduction of the current access from the Owned Real Property to existing roadways. To Seller's knowledge, no part of the Owned Real Property contains, is located within or abuts any flood plain, navigable water or other body of water, tideland, wetland, marshland or other area that is subject to special state, federal or municipal regulation, control or protection (other than Legal Requirements pertaining to zoning or other land use restrictions customarily applicable to all real estate within the applicable jurisdiction).

(d) Except for tenants in possession of the Owned Real Property under Contracts described on Schedule 3.18, no Person other than Seller possesses, or claims possession of, adverse or not, any Owned Real Property, whether as lessee, tenant at sufferance, trespasser or otherwise.

(e) No tenant is entitled to any rebate, concession, or free rent, other than as reflected in the Contract with such tenant; no commitments have been made to any tenant for repairs or improvements other than for normal repairs and maintenance in the future or improvements required by the tenant Contract; and no rents due under any of the Contracts with tenants have been assigned or hypothecated to, or encumbered by, any Person other than in connection with financing. All material obligations of Seller as landlord required to be performed under each of the tenant Contracts have been performed.

(f) All Owned Real Property and, to Seller's knowledge, Leased Real Property currently in use for the operation of the Hospital Businesses is in compliance in all material respects with all applicable Legal Requirements, and all material Permits and requisite certificates of the local board of fire underwriters (or other material body exercising a similar function) have been issued for the Owned Real Property and Leased Real Property.

(g) (i) Seller has provided to Buyer accurate and complete copies of those leases of which Seller or one of its Subsidiaries is landlord (collectively, the "**Space Leases**"), and (ii) attached as Schedule 3.12(g) is a "rent roll" that sets forth the following information, if any, for each of the Space Leases: (A) the names of the current tenants; (B) the rental payments for the then current month under each of the Space Leases; (C) a list of all then delinquent rental payments; (D) a list of all outstanding concessions granted to tenants; (E) a list of all tenant deposits and a description of any



application thereof; (F) the dates that each of the Space Leases commenced and will expire; (G) the square footage of any such space leased pursuant to the Space Leases; (H) any renewal options available to tenants under the Space Leases; and (I) a list of all uncured material defaults under the Space Leases known to Seller.

(h) There are no tenants or other Persons occupying any space in the Owned Real Property, other than pursuant to the Space Leases.

(i) Seller has (A) a valid leasehold estate in all of the Leased Real Property, free and clear of any Encumbrances other than the Encumbrances described on Schedule 3.12(i) pursuant to the leases described on Schedule 2.01(b) (the “**Tenant Leases**”), and (B) provided accurate and complete copies of each of the Tenant Leases to Buyer. The Leased Real Property comprises all of the real property leased by Seller or any Subsidiary of Seller that is associated with or utilized in the operation of the Hospital Businesses.

### 3.13. Environmental Matters and Medical Waste.

(a) Seller has all material Permits required under applicable Environmental Laws for the operation of the Hospital Businesses, and all such Permits are listed on Schedule 2.01(g). Other than as listed on Schedule 3.13(a), no Environmental Claim is pending, or to Seller’s knowledge, threatened by any Person against Seller or, to Seller’s knowledge, any other Person the liability for which Seller has retained or assumed, either contractually or by operation of law. To Seller’s knowledge, no activities, circumstances, conditions, events or incidents, including the release, emission, discharge or disposal of any Materials of Environmental Concern, have occurred that could reasonably be expected to form the basis of any Environmental Claim by any Person against Seller or any other Person the liability for which Seller has retained or assumed, either contractually or by operation of law.

(b) Without in any way limiting the generality of the foregoing, (i) all on-site and off-site locations where Seller stores, disposes or arranges for the disposal of material quantities or volumes of Materials of Environmental Concern for the Hospital Businesses are identified on Schedule 3.13(b), (ii) all Contracts dealing with the removal, storage, disposal and handling of Materials of Environmental Concern of the Hospital Businesses are with vendors who are, to Seller’s knowledge, properly licensed, (iii) all underground storage tanks, and the capacity and contents of such tanks, located on Owned Real Property are identified on Schedule 3.13(b) and (iv) to Seller’s knowledge, no polychlorinated biphenyls are used or stored at any Owned Real Property.

(c) Seller and the Hospital Businesses have complied in all material respects with all Medical Waste Laws.

3.14. Intellectual Properties and Information Systems. Seller owns or is licensed to use, free and clear of royalty and other payment obligations, claims of infringement or other Encumbrances, each of the Intellectual Properties and the Information Systems. Seller is not, in any material respect, in conflict with or in violation or infringement of, and has not received any notice alleging any conflict with or violation or infringement of, any rights of any other Person

with respect to any such Intellectual Properties or Information Systems. To Seller's knowledge, no other Person is in conflict with or in violation or infringement of Seller's rights in such Intellectual Properties or Information Systems. Schedule 3.14 identifies those Intellectual Properties and Information Systems used in the conduct of the Hospital Businesses that are owned by or licensed directly to Seller (other than the Intellectual Properties and Information Systems owned by Seller, for which no copyright registration or application has been made and none of which is, individually or in the aggregate, material to the Hospital Businesses) and those Intellectual Properties and Information Systems that are owned by or licensed to third parties who provide information technology services to Seller pursuant to Contracts described in Section 3.18(c).

3.15. Insurance. Schedule 3.15 describes all insurance arrangements, including self-insurance, in place for the benefit of the Assets and the conduct of the Hospital Businesses (other than Current Seller Plans described in Schedule 3.22). Seller has provided to Buyer a true and complete copy of all such policies and endorsements thereto. With respect to third party insurance, Schedule 3.15 sets forth the name of each insurer, whether such insurer is an Affiliate of Seller, and the number, coverage, limits, term and premium for each policy of insurance purchased or held by Seller covering the ownership and operation of the Assets and the Hospital Businesses. Except as set forth on Schedule 3.15, all of such policies are now, and until Closing will remain, valid, outstanding, in full force and effect, and enforceable with no premium arrearages. Since September 30, 2011, Seller has not been denied, or reduced, or requested a reduction in the scope or amount of, any insurance or indemnity bond coverage. No insurance carrier has canceled or reduced, or given written notice of its intention to cancel or reduce, any insurance coverage and, to Seller's knowledge, there exist no reasonable grounds to cancel or void any such policies or the coverage provided thereby. Except as set forth on Schedule 3.15, since September 30, 2011, Seller has not made any claims against any excess insurance coverage set forth on Schedule 3.15 or any predecessor excess insurance policies applicable during such time period.

3.16. Permits. Schedule 2.01(g) describes all material Permits relating to the ownership of the Assets and the conduct of the Hospital Businesses, all of which are in good standing and not subject to meritorious challenge. Seller has not received any written notice from any Governmental Authority relating to the threatened, pending or possible revocation, termination, suspension or limitation of any of such material Permits. Each Hospital is duly licensed as an acute care hospital by the appropriate Governmental Authorities, and all departments or other business units, including the other Hospital Businesses, that are required to be separately licensed are duly licensed by the appropriate Governmental Authorities. The Hospitals and all departments or business units, including the Hospital Businesses, comply in all material respects with the applicable licensing requirements. Each Hospital has complied in all material respects with the requirements and conditions of all certificates of need (including applications therefor, non-review letters and implemented and unimplemented certificates of need if not lapsed and unexpired).

3.17. Government Payment Programs; Accreditation. Each Hospital has a current and valid provider Contract with the Government Payment Programs and/or their fiscal intermediaries, administrative contractors or paying agents and complies in all material respects with the conditions of participation therein. Each Hospital is entitled to receive and is receiving

payment under the Government Payment Programs for services rendered to qualified beneficiaries and, to Seller's knowledge, except as reflected in the Audited Financial Statements, is not subject to any withholds or offsets in respect thereof. Seller has timely filed all Cost Reports due for Cost Report periods through September 30, 2014, and Cost Reports have been audited and notices of program reimbursement have been issued for all Cost Report periods through September 30, 2010. All amounts shown as due from Seller in the Cost Reports were remitted with such reports and all amounts shown in the notices of program reimbursement as due have been paid. Except to the extent liabilities and contractual adjustments of each Hospital under the Government Payment Programs have been properly reflected and adequately reserved in the Financial Statements in the ordinary course of business, neither Hospital has to its knowledge received nor submitted any claim for payment in excess of the amount provided by Legal Requirements or applicable Contract, and Seller has not received notice of any dispute or claim by any Governmental Authority, fiscal intermediary or other Person regarding the Government Payment Programs or each Hospital's participation therein that remains outstanding or unresolved. All Medicare and Medicaid incentive payments for meaningful use of certified electronic health record technology received by Seller under The American Recovery and Reinvestment Act of 2009 were awarded based on truthful attestations made by Seller or its Affiliates, and no such incentive payments were remitted due to any knowingly fraudulent, negligent or unlawful act or omission of Seller or its Affiliates. Seller has registered with the QNet Exchange ("**QNet**") as required by CMS under its Hospital Quality Initiative Program (the "**HQI Program**"). Seller has submitted all quality data required under the HQI Program to CMS or its agent, and all quality data required under the ORYX Core Measure Performance Measurement System ("**ORYX**") to The Joint Commission, for all calendar quarters concluded prior to the date of this Agreement, except for any quarter for which the respective reporting deadlines have not yet expired. All such submissions of quality data have been made materially in the form and manner required by CMS and The Joint Commission, respectively. Seller has not received notice of any reduction in reimbursement under the Medicare program resulting from its failure to report quality data to CMS or its agent as required under the HQI Program. Seller has provided Buyer with the HQI Program "validation results" for all calendar quarters concluded prior to the date of this Agreement, except for any quarter for which the respective reporting deadlines have not yet expired. Each Hospital is duly accredited, with no contingencies except as disclosed on Schedule 3.17, by the Joint Commission and Seller's certification for participation in the Medicare program is based on such Joint Commission accreditation. A copy of the most recent accreditation letter from the Joint Commission pertaining to each Hospital has been made available to Buyer. Seller has delivered to Buyer copies of all accreditation survey reports, deficiency lists, statements of deficiency, and plans of correction since September 30, 2011. Seller has taken or is taking all reasonable steps to correct all material deficiencies noted therein. Schedule 3.17 includes a list and description of all unexpected occurrences involving death or serious physical or psychological injury since September 30, 2011.

3.18. Agreements and Commitments. Schedule 3.18 identifies the Contracts related to the Hospital Businesses in the categories below:

- (a) Contracts that relate to the ownership or use of, title to or interest in Owned Real Property or Leased Real Property;

- (b) Contracts with (i) a physician or physician group, (ii) an Immediate Family Member of a physician on the medical staff of the Hospitals or (iii) any Person that provides marketing services for Seller or its Subsidiaries;
- (c) Contracts relating to Intellectual Properties and Information Systems;
- (d) collective bargaining agreements or other Contracts with labor unions or other employee representatives or groups;
- (e) Contracts with directors, trustees, officers, employees, or other agents of Seller or its Subsidiaries;
- (f) requirements or exclusive Contracts and Contracts that prohibit or limit competition or the conduct by Seller or any Subsidiary of any lawful business;
- (g) Contracts with any health plan, health provider, independent practice association or similar Person providing for capitation or risk-sharing arrangements;
- (h) Contracts relating to the administration, operation or funding of any Employee Benefit Plan;
- (i) Contracts between Seller and any of the Joint Ventures;
- (j) Contracts with Governmental Authorities;
- (k) Contracts providing for payments based in any manner on the revenue or profits of Seller or any Subsidiary thereof, the Hospital Businesses or the Assets;
- (l) loan agreements, indentures, bonds, mortgages, liens, or other security agreements (excluding those that will be terminated at Closing);
- (m) equipment leases and other leases that are capital leases; and
- (n) all other Contracts which require payment by Seller of amounts in excess of \$50,000 annually after the date of this Agreement, unless Seller may terminate the Contract, without cause, within ninety (90) days and all payments due by Seller under the Contract through such termination equal, in the aggregate, less than \$50,000 (including any penalty or termination fee).

3.19. The Assumed Contracts. With respect to the Assumed Contracts listed on Schedule 2.01(f):

- (a) the Assumed Contracts constitute lawful, valid and legally binding obligations of Seller and, to Seller's knowledge, each other party thereto and are enforceable against Seller and, to Seller's knowledge, against each other party thereto, in accordance with their terms;

(b) each Assumed Contract (together with all amendments and supplements thereto listed on Schedule 2.01(f)) is in full force and effect and constitutes the entire agreement between the parties thereto;

(c) all material obligations required to be performed under the Assumed Contracts by Seller, and, to Seller's knowledge, each other party thereto, have been performed, and no event has occurred or failed to occur that constitutes, or with the giving of notice, the lapse of time or both would constitute, a material default by Seller under the Assumed Contracts that has or would reasonably be expected to have a material impact on the Hospital Businesses;

(d) except as set forth on Schedule 3.19(d), no Assumed Contract contains a prohibition on competition by Seller or any Affiliate or otherwise restricts the ability of Seller or any Affiliate to engage in any lawful business after Closing; and

(e) except as set forth on Schedule 3.19(e), the assignment of any Assumed Contract to, and assumption of such Assumed Contract by, Buyer will not give a third party the right to terminate such Assumed Contract, or result in the payment of any penalty or premium to, or change in the rights, remedies, benefits or obligations of, any party thereunder.

3.20. Transactions with Affiliates. Except as disclosed in the Financial Statements of the Seller, since September 30, 2013, Seller has not purchased, acquired or leased any property or services from, or sold, transferred or leased any property or services to, or lent or advanced any money to, or borrowed any money from, or acquired any capital stock, obligations or securities of, or made any management consulting or similar fee agreement with, any officer, director or trustee of Seller or of any Affiliate of Seller except upon terms that would have been paid or received by Seller in similar transactions with independent parties negotiated at arm's length.

3.21. Employees and Employee Relations.

(a) Seller has delivered to Buyer (i) a list (as of the most recent practicable date) of names, positions, current annual salaries or wage rates, target or actual bonuses, other compensation arrangements, and paid time off or extended illness bank credits of all full-time and part-time non-physician employees of Seller and its Affiliates (indicating in the list whether each employee is classified as exempt or nonexempt by Seller), and (ii) a separate list (as of the most recent practicable date) of names, positions, current annual salaries or wage rates, target or actual bonuses, other compensation arrangements, and paid time off or extended illness bank credits of all full-time and part-time physician employees of Seller and its Affiliates (indicating in both lists whether each employee is part-time or full-time, whether such employee is employed under written Contract, the immigration status of any such employee who is eligible for employment based solely on a temporary work permit and, if such employee is not actively at work, the reason therefor).

(b) To Seller's knowledge, all employees, former employees and independent contractors of Seller and its Subsidiaries are properly classified as such for all purposes under the Code and ERISA and have been properly classified as exempt or nonexempt under the Fair Labor Standards Act and any applicable state Legal Requirement.

(c) Except as set forth in Schedule 3.21(c), Seller is in compliance in all material respects with all Legal Requirements relating to employment, employment practices, terms and conditions of employment, equal employment opportunity, nondiscrimination, immigration, wages, hours, benefits, payment of employment, social security, and similar taxes, occupational safety and health, and plant closing; Seller is not liable for the payment of any material compensation, damages, taxes, fines, penalties, interest, or other amounts, however designated, for failure to comply with any of the foregoing Legal Requirements; there are no pending or, to the knowledge of Seller, threatened claims before the Equal Employment Opportunity Commission (or any comparable state civil or human rights commission or other Governmental Authority), complaints before the Occupational Safety and Health Administration (or any comparable state safety or health administration or other Governmental Authority), wage and hour claims, unemployment compensation claims, workers' compensation claims, or the like.

(d) Schedule 3.21(d) states the number of employees terminated by Seller and its Affiliates within 90 days prior to the Closing Date, laid off by Seller within the six months prior to the Closing Date, or whose hours of work have been reduced by more than 50% by Seller in the six months prior to the Closing Date, and contains a complete and accurate list of the following information for such employees: (i) the date of termination, layoff, or reduction in work hours and (ii) the location to which the employee was assigned. In relation to the foregoing, except as set forth in Schedule 3.21(d), Seller has not violated the WARN Act or any similar state or local Legal Requirements.

(e) To the knowledge of Seller, no officer, director, agent, employee, consultant, or independent contractor of Seller is bound by any contract that purports to limit the ability of such officer, director, agent, employee, consultant, or independent contractor (i) to engage in or continue or perform any conduct, activity, duties, or practice relating to the business of Seller in respect of the Hospital Businesses or the Assets; or (ii) to assign to Seller any rights to any invention, improvement, or discovery. Except as set forth on Schedule 3.21(e), to the knowledge of Seller, no former or current employee of Seller is a party to, or is otherwise bound by, any contract that in any way adversely affected, affects, or will affect the ability of Buyer following Closing to conduct the Hospital Businesses as Seller did prior to Closing.

(f) Except as set forth on Schedule 3.21(f), (i) no employee strike, work stoppage or slowdown, labor dispute, grievance or unfair labor practice at the Hospital Businesses is pending or, to Seller's knowledge, threatened, (ii) no employees of Seller are represented by, or have made demand for recognition of, a labor union or employee organization, and, to Seller's knowledge, no other union organizing or collective bargaining activities by or with respect to any employees of Seller are taking place and (iii) no complaint, charge or claim is pending, or, to Seller's knowledge, threatened to be

brought or filed, with any Governmental Authority or arbitrator relating to the employment or termination of employment of any individual by Seller or the Hospital Businesses.

(g) All necessary visa or work authorization petitions have been timely and properly filed on behalf of any employees of Seller requiring a visa stamp, I-94 status document, employment authorization document or other immigration document to legally work in the United States, and all paperwork retention requirements with respect to such applications and petitions have been met. To the knowledge of Seller, no employee of Seller who is a foreign national has ever worked for Seller without employment authorization from the Department of Homeland Security or any other Government Authority that must authorize such employment, and Seller has complied in all material respects with all applicable immigration laws and other Legal Requirements with respect to the employment of foreign nationals. To the knowledge of Seller, Seller has timely and properly completed I-9 forms for all employees hired since the effective date of the Immigration Reform and Control Act of 1986 and has lawfully retained and re-verified all such I-9 forms. There are no Proceedings pending or, to Seller's knowledge, threatened against Seller relating to Seller's compliance with Legal Requirements relating to immigration, except as set forth on Schedule 3.21(g). Seller has not received any letters or other correspondence from the Social Security Administration regarding the failure of an employee's social security number to match his or her name in the Social Security Administration database, and Seller has not received any letters or other correspondence from the Department of Homeland Security or other Governmental Authorities regarding the employment authorization of any employees of Seller. Seller does not participate in the Department of Homeland Security's e-Verify electronic employment verification system.

### 3.22. Employee Benefit Plans.

(a) Schedule 3.22 lists each Employee Benefit Plan that Seller or any member of the Controlled Group that includes Seller maintains or to which it contributes (including employee elective deferrals) (each, a "**Current Seller Plan**").

(b) Each Current Seller Plan (and related trust, insurance contract or fund) complies in form and in operation in all material respects with applicable Legal Requirements, and has been administered and operated in all material respects in accordance with the terms of the Current Seller Plan and applicable Legal Requirements. All required reports and descriptions (including form 5500 annual reports, summary annual reports and summary plan descriptions) have been filed or distributed appropriately with respect to each Current Seller Plan. Seller has delivered to Buyer copies of the plan documents and summary plan descriptions, most recent determination letters received from the Internal Revenue Service, most recent form 5500 annual report, and all related trust, insurance and funding Contracts that implement each Current Seller Plan. No Governmental Authority has audited any Current Seller Plan or any other Employee Benefit Plan that Seller or any member of the Controlled Group that includes Seller has maintained, or to which it has contributed or been required to contribute (each,

a “**Prior Seller Plan**”), during the five (5) years preceding the date of this Agreement, and Seller has not received any notice that such an audit will or may be conducted.

(c) Each Current Seller Plan that is an Employee Pension Benefit Plan intended to be qualified under section 401(a) of the Code has a current favorable determination letter or opinion or approval letter from the Internal Revenue Service that the plan is so qualified and its trust is exempt from federal income taxation under section 501(a) of the Code, or the remedial amendment period for such Employee Pension Benefit Plan to be submitted to the Internal Revenue Service for such a determination letter or opinion or approval letter has not yet expired. All contributions (including employer contributions and employee salary reduction contributions) to each such Employee Pension Benefit Plan that are due to be paid have been paid, and all Seller contributions to any Employee Pension Benefit Plan that is a defined contribution plan in respect of periods ending on the Closing Date will be accrued on the Closing Balance Sheets. To Seller’s knowledge, nothing has occurred that could reasonably be expected to cause the revocation of such determination letter from the Internal Revenue Service or the unavailability of reliance on such opinion or approval letter from the Internal Revenue Service, as applicable. To Seller’s knowledge, nothing has occurred with respect to any Current Seller Plan that has subjected or could reasonably be expected to subject Seller, or, with respect to any period on or after the Closing Date, Buyer or any of its Affiliates, to a penalty under Section 502 of ERISA or to an excise tax under the Code. To Seller’s knowledge, with respect to any Current Seller Plan, no event has occurred or is reasonably expected to occur that has resulted in or would subject the Seller or, with respect to any period on or after the Closing Date, Buyer or any of its Affiliates, to a tax under Section 4971 of the Code or the assets of any of the foregoing persons to a lien under Section 430(k) of the Code.

(d) The requirements of part 6 of subtitle B of Title I of ERISA and of section 4980B of the Code have been met in all material respects with respect to each Current Seller Plan that is an Employee Welfare Benefit Plan, and all premiums or other payments that are due have been paid with respect to each such Employee Welfare Benefit Plan.

(e) There have been no “*prohibited transactions*,” as defined in section 406 of ERISA and section 4975 of the Code, with respect to any Current Seller Plan that would subject Seller or any member of the Controlled Group that includes Seller to any material liability. No ERISA Fiduciary has any material liability for breach of fiduciary duty or any other failure to act or comply in connection with the administration or investment of the assets of any Current Seller Plan. No Proceeding with respect to the administration or the investment of the assets of any Current Seller Plan (other than routine claims for benefits) is pending or, to Seller’s knowledge, threatened and, to Seller’s knowledge, there exists no basis for any such Proceeding. To Seller’s knowledge, no “*party in interest*” (as defined in section 3(14) of ERISA) and no “*disqualified person*” (as defined in the Code) has any interest in any assets of any Current Seller Plan that is an Employee Pension Benefit Plan other than as a beneficiary by virtue of such Person’s participation in the plan.



(f) Except as provided on Schedule 3.22(f), no Current Seller Plan that is an Employee Pension Benefit Plan has been completely or partially terminated or the subject of a Reportable Event, and no Proceeding by the PBGC to terminate any such Employee Pension Benefit Plan has been instituted or, to Seller's knowledge, threatened. Seller has not incurred, and, to Seller's knowledge, Seller will not incur, any material liability to the PBGC (other than PBGC premium payments) or otherwise under Title IV of ERISA (including any withdrawal liability) or under the Code with respect to any Current Seller Plan or Prior Seller Plan that is or was an Employee Pension Benefit Plan.

(g) Neither Seller nor any member of a Controlled Group that includes Seller contributes to, has contributed to, or has been required to contribute to any Multiple Employer Plan or any Multiemployer Plan or has any liability (including withdrawal liability) under any Multiple Employer Plan or any Multiemployer Plan. Except as provided on Schedule 3.22(g), neither Seller nor any member of a Controlled Group that includes Seller maintains or contributes, has maintained or contributed, or has been required to maintain or contribute to any Employee Welfare Benefit Plan providing medical, health or life insurance or other welfare-type benefits for current or future retired or terminated employees, their spouses or their dependents (other than in accordance with section 4980B of the Code).

3.23. Proceedings and Legal Claims. Schedule 3.23 contains a list and summary description of each Proceeding and legal claim (including *qui tam* Proceedings and legal claims) pending or, to Seller's knowledge, threatened against or otherwise affecting the Assets, the Hospital Businesses, Seller or any Affiliate of Seller (together with the reserve amount, if any, included in the Financial Statements for each uninsured Proceeding or legal claim). All such Proceedings and legal claims are or will be fully insured (except for applicable deductibles or self-insurance retentions) and no carrier has issued a "*reservation of rights*" letter or otherwise denied its obligation to insure and defend Seller against covered Losses arising therefrom. None of the Proceedings or legal claims described on Schedule 3.23, if determined adverse to Seller, could reasonably be expected to result, individually or in the aggregate, in a Material Adverse Change.

3.24. Taxes.

(a) Seller has filed all Tax Returns required to be filed by or on behalf of Seller on or prior to the date of this Agreement (taking into account applicable extensions), all such Tax Returns are accurate in all material respects and Seller has duly paid or made provision in the Financial Statements for the payment of all Taxes shown as due and payable on such Tax Returns.

(b) Seller has withheld proper amounts from its employees' compensation in compliance with all applicable withholding and similar provisions of the Code and any and all other applicable Legal Requirements, and has withheld and paid, or caused to be withheld and paid, all Taxes on monies paid by it to independent contractors, creditors and other Persons for which withholding or payment is required by Legal Requirements.

(c) No deficiencies for any Taxes relating to the Assets or the Hospital Businesses have been asserted or, to the knowledge of Seller, threatened, and no audit on any Tax Returns is currently under way or, to the knowledge of Seller, threatened. There are no outstanding agreements by Seller for the extension of time for the assessment of any Taxes (other than ordinary course extensions of time within which to file Tax Returns).

(d) To Seller's knowledge, no Governmental Authority intends to assess any additional Taxes on Seller for any period for which Tax Returns have been filed. No Governmental Authority has disputed in writing any Tax liability of Seller. No claim has ever been made in writing by a Governmental Authority in a jurisdiction where Seller does not file Tax Returns that Seller is or may be subject to Tax in that jurisdiction, and no Encumbrances exist against Seller or the Assets in connection with any failure (or alleged failure) of Seller to pay any Tax that is due and payable.

(e) No waiver of a statute of limitations in respect of Taxes or agreement to extend the time with respect to a Tax assessment or deficiency is currently in effect, in each case with respect to Seller (other than ordinary course extensions of time within which to file Tax Returns).

(f) Seller is not a party to any Tax allocation or sharing Contract. Seller is not and has not been a member of an Affiliated Group filing a consolidated federal income Tax Return.

(g) Each of Seller and its Subsidiaries that is a corporation exempt from federal and state income Tax has received a favorable letter of determination from the Internal Revenue Service and the State of Connecticut regarding such Tax status and, to Seller's knowledge, nothing has occurred, whether by action or failure to act, that could reasonably be expected to cause the loss of such exemption (except with respect to the transactions contemplated by this Agreement).

(h) To Seller's knowledge, Seller has no liability for the Taxes of any other Person (other than a Subsidiary under Internal Revenue Service regulation 1.1502-6), as a transferee or successor, by Contract or otherwise.

### 3.25. Medical Staff; Physician Relations.

(a) Seller has delivered to Buyer a copy of the bylaws, policies, rules and regulations of the medical staff and medical executive committees of each Hospital. As set forth on Schedule 3.25(a), Seller has also delivered to Buyer a list, current as of the date of this Agreement, that sets forth (i) the name and age of each member of the medical staff of each Hospital (active, associate, consulting, courtesy or other), (ii) the degree (M.D., D.O., etc.), title, specialty and board certification, if any, of each such medical staff member, (iii) the names of the medical staff members (current and former) of each Hospital in respect of whom Seller has made a report to the National Practitioners Data Bank during the last three years, and (iv) the number of current medical staff members of each Hospital in respect of whom any committee of the medical staff of such

Hospital has recommended adverse action with respect to any member of the medical staff of such Hospital that is not yet final.

(b) Except as set forth on Schedule 3.25(b), no material disputes between Seller and any medical staff member of either Hospital are pending or, to Seller's knowledge, threatened and all appeal periods in respect of any medical staff member against whom an adverse action has been taken by Seller have expired. To the knowledge of Seller, no current member of the medical staff of either Hospital has been excluded from participation in any Government Payment Program.

3.26. Restricted Assets. Except as set forth on Schedule 3.26, none of the Assets is subject to any restriction or limitation concerning the purchase, improvement or use of such Assets or the conduct of the Hospital Businesses, including restricted or conditioned grants or donations and monies received under the Hill-Burton Act.

3.27. Brokers and Finders. Neither Seller nor any Affiliate, officer, trustee, director, employee or agent acting on behalf thereof has engaged any finder or broker in connection with the transactions contemplated hereunder.

3.28. Payments. None of the Hospital Businesses has, to Seller's knowledge, made any request for payment from a Government Payment Program in respect of health care services furnished by or directed or prescribed by any physician or other Person who at such time was excluded from participation in such Government Payment Program. Seller has not, directly or indirectly, paid or delivered, or agreed to pay or deliver, any money or item of property, however characterized, to any Person in violation of any Legal Requirement. Neither Seller nor, to Seller's knowledge, any officer, director or trustee of Seller has received, or will receive as a result of the consummation of the transaction contemplated by this Agreement, any rebate, kickback or other improper or illegal payment from any Person with whom Seller conducts or has conducted any of the Hospital Businesses.

3.29. Solvency. As of immediately after Closing, Seller will not, as a result of the transactions contemplated by this Agreement, be rendered insolvent or otherwise unable to pay its debts as they become due. Seller has no intention of filing a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or any portion of Seller's property and, to Seller's knowledge, no other Person has filed or threatened to file such a petition against Seller.

3.30. Hospital Businesses and Joint Ventures.

(a) Each of Seller's Subsidiaries is a corporation duly organized under the laws of the State of Connecticut with full corporate power to carry on its business as it is now being conducted with the exception of CHIC, which is organized with full corporate power to carry on its business as it is now being conducted under the laws of the Cayman Islands. Each of Seller's Subsidiaries is duly licensed, qualified or admitted to do business and is in good standing in the State of Connecticut, which is the only jurisdiction in which the ownership, use or leasing of their respective assets or properties, or the conduct or nature of their respective businesses, makes such licensing, qualification or

admission necessary. All of the issued and outstanding shares of capital stock of Seller's Subsidiaries that are stock corporations are owned as specified on Schedule 3.30(a). All of the issued and outstanding shares of capital stock of Seller's Subsidiaries that are stock corporations have been duly and validly authorized, were validly issued and are fully paid and non-assessable. There are no outstanding rights (including preemptive rights), options, warrants or agreements for the transfer by Seller of any shares of capital stock of Seller's Subsidiaries that are stock corporations and no authorization for any such rights, options, warrants or agreements has been given. Seller has delivered to Buyer a copy of the articles of incorporation and bylaws and other agreements, instruments and documents relating to the creation, ownership and governance of Seller's Subsidiaries and has provided to Buyer a copy of, or access to, the minute books of Seller's Subsidiaries.

(b) To Seller's knowledge, for each Joint Venture that is a for-profit or nonprofit corporation, it (i) is a corporation duly organized under the laws of the state of its incorporation, (ii) has full corporate power to carry on its business as it is now being conducted, and (iii) is duly licensed, qualified or admitted to do business and is in good standing in the state of its incorporation, which is the only jurisdiction in which the ownership, use or leasing of their respective assets or properties, or the conduct or nature of their respective businesses, makes such licensing, qualification or admission necessary. To Seller's knowledge, all of the issued and outstanding shares of capital stock of the corporate Joint Ventures that are stock corporations are owned as specified on Schedule 3.30(b). To Seller's knowledge, all of the issued and outstanding shares of capital stock of the corporate Joint Ventures that are stock corporations have been duly and validly authorized, were validly issued and are fully paid and non-assessable. To Seller's knowledge, there are no outstanding rights (including preemptive rights), options, warrants or agreements for the transfer by Seller of any shares of capital stock of the corporate Joint Ventures and no authorization for any such rights, options, warrants or agreements has been given. Seller has delivered to Buyer a copy of the articles of incorporation and bylaws and other agreements, instruments and documents relating to the creation, ownership and governance of the corporate Joint Ventures in Seller's possession.

(c) To Seller's knowledge, for each Joint Venture that is a limited liability company, it (i) is organized under the laws of the state of its incorporation, (ii) has full limited liability company power to carry on its respective business as it is now being conducted, and (iii) is duly licensed, qualified or admitted to do business and is in good standing in the state of its incorporation, which is the only jurisdiction in which the ownership, use or leasing of its respective assets or properties, or the conduct or nature of its respective businesses, makes such licensing, qualification or admission necessary. To Seller's knowledge, all of the issued and outstanding membership interests of the limited liability company Joint Ventures are owned as specified on Schedule 3.30(c), have been duly and validly authorized, were validly issued and are fully paid and non-assessable. To Seller's knowledge, except as set forth in the operating agreements of the limited liability company Joint Ventures, the transfers to Buyer of the membership interests in the limited liability company Joint Ventures are not subject to any preemptive rights or third party approvals. Seller has delivered to Buyer a copy of the articles of organization

and operating agreements and other agreements, instruments and documents relating to the creation, ownership and governance of the limited liability company Joint Ventures in Seller's possession.

3.31. Operation of the Hospital Businesses. The Assets, together with the Excluded Assets, constitute all assets, properties, goodwill and businesses necessary to operate the Hospital Businesses in the manner in which they have been operated since September 30, 2014, except for property, plant and equipment sold or disposed of since such date in the ordinary course of business. Schedule 3.31 sets forth a list of the ten largest non-governmental payors of the Hospital Businesses, determined on the basis of net patient revenues from services provided during the year ended September 30, 2014. Since September 30, 2013, no payor listed on Schedule 3.31 has terminated its contract with or materially reduced reimbursement rates to, or has notified Seller in writing of its determination to terminate its contract with or to materially reduce reimbursement rates to, the Hospital Businesses.

#### 4. REPRESENTATIONS OF BUYER

Buyer makes the following representations to Seller on and as of the date of this Agreement and will be deemed to make them again at and as of the Closing Date:

4.01. Organization. Buyer is a corporation duly organized and validly existing and in good standing under the laws of Connecticut. Buyer is, or by Closing will be, qualified to do business in the State of Connecticut. Buyer has full power and authority to own, lease and operate its properties and to conduct its business as presently conducted and as proposed to be conducted immediately following the Closing. Buyer has neither conducted any business prior to the date of this Agreement nor will conduct any business, other than in contemplation of the consummation of the transactions contemplated by this Agreement, prior to the Closing. Buyer has made available to Seller a true and complete copy of its organizational documents.

4.02. Power and Authority; Due Authorization. Buyer has full power and authority to (a) execute and deliver this Agreement and the Closing Documents to which it is or becomes a party, (b) perform its obligations under this Agreement and such Closing Documents and (c) consummate the transactions contemplated by this Agreement. The execution and delivery by Buyer of this Agreement and the Closing Documents to which it is or becomes a party, the performance by Buyer of its obligations under this Agreement and such Closing Documents, and the consummation by Buyer of the transactions contemplated by this Agreement have been duly authorized on behalf of Buyer by all necessary corporate action.

4.03. Consents; Absence of Conflicts, Etc. The execution, delivery and performance by Buyer of this Agreement and the Closing Documents to which it is or becomes a party at the Closing, and the consummation of the transactions contemplated by this Agreement:

(a) are within its corporate powers, are not in contravention of its certificate of formation and operating agreement and have been approved by all required limited liability company and member action;

(b) do not violate any Legal Requirement to which it is subject; and

(c) do not conflict with, result in a breach or violation of or require any consent to be obtained or notice to be given under any material agreement to which it is a party or by which it is bound.

4.04. Due Execution; Binding Agreement. This Agreement has been duly and validly executed and delivered by Buyer. Each Closing Document to which Buyer will be a party will be duly and validly executed and delivered by Buyer at the Closing. This Agreement constitutes, and each of the Closing Documents to which Buyer will be a party will constitute (upon execution and delivery thereof by Buyer at the Closing), the valid and legally binding obligations of Buyer, enforceable against it in accordance with the terms hereof and thereof.

4.05. Proceedings. There are no claims, actions, suits, proceedings, or investigations pending or, to Buyer's knowledge, threatened that: (a) adversely affect or seek to prohibit, restrain, or enjoin the execution and delivery of this Agreement, (b) adversely affect or question the validity or enforceability of this Agreement, (c) question the power or authority of Buyer to carry out the transactions contemplated by, or to perform its obligations under, this Agreement, or (d) would result in any change that would adversely affect in any material respect the ability of Buyer to perform any of its obligations hereunder.

4.06. Availability of Funds. Buyer has the ability to obtain funds in cash in amounts equal to the Purchase Price and necessary to perform its obligations hereunder that are to be performed as of Closing by means of credit facilities or otherwise and will at Closing have immediately available funds in cash which will be sufficient to pay the Purchase Price and to perform its obligations hereunder that are required to be performed as of Closing under this Agreement.

4.07. Solvency. Buyer has no intention of filing a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or any portion of Buyer's property and, to the knowledge of Buyer, no other Person has filed or threatened to file such a petition against Buyer.

4.08. Brokers and Finders. Neither Buyer nor any Affiliate of Buyer, nor any officer, director, employee or agent thereof, has engaged or is liable for the payment of any fee to any finder or broker in connection with the transactions contemplated hereunder.

4.09. Full Disclosure. The representations of Buyer in this Agreement do not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

## 5. COVENANTS OF THE PARTIES

5.01. Operations. Until the Closing Date and except as otherwise expressly provided in this Agreement or agreed to in writing by Buyer, Seller will, and will require its Affiliates to:

(a) conduct the Hospital Businesses in substantially the same manner as it has heretofore and not make any material change in personnel, operations, finances,

accounting policies, or real or personal property of the Hospital Businesses except as set forth on Schedule 5.01;

(b) except as set forth on Schedule 5.01(b), maintain the Assets in working condition in the ordinary course of business, ordinary wear and tear excepted, and make all normal, planned and budgeted capital expenditures related to the Assets and/or the Hospital Businesses, *provided* that Seller may (i) make, in its discretion, necessary expenditures in the ordinary course from its designated capital needs fund and provide advance notice to Buyer of any individual expenditure greater than \$250,000 and (ii) consult with and solicit Buyer's input on individual capital expenditures (or a series of related capital expenditures) not paid from its designated capital needs fund that exceed \$250,000;

(c) comply in all material respects with all Legal Requirements and perform, when due, in all material respects all obligations under Contracts;

(d) deliver to Buyer title to the Assets free and clear of all Encumbrances (except for the Permitted Encumbrances) and to obtain appropriate releases, consents, estoppels, certificates, opinions and other instruments as Buyer may reasonably request;

(e) keep in full force and effect present insurance policies or other comparable insurance benefiting the Assets and the conduct of the Hospital Businesses and maintain sufficient liquid reserves reasonably estimated to be sufficient to meet all deductible, self-insurance and copayment requirements of such policies; and

(f) maintain and preserve its business organizations and operations intact, retain the present employees at the Hospital Businesses (subject to the right of Seller to discharge any employee in the ordinary course of the Hospital Businesses), and maintain in the ordinary course its relationships with physicians, suppliers, patients and other Persons doing business with Seller at the Hospital Businesses.

5.02. Negative Covenants. Until the Closing Date and except as otherwise expressly provided in this Agreement or agreed to by Buyer in writing, Seller will not, and will not permit any Affiliate to:

(a) excluding capital expenditures, amend or terminate any Assumed Contract, or enter into any Contract, except in the ordinary course of the Hospital Businesses consistent with past practices, *provided* that Seller shall obtain Buyer's consent on any new Contract (or a series of related Contracts) that has required payments by Seller that exceed \$1,000,000 annually, unless such Contract may be terminated without cause upon no more than 90 days written notice and such termination will not result in any penalty or fee (and excluding any waivers or amendments relating to Bond Liabilities that will be defeased or repaid at Closing);

(b) enter into any tertiary or quaternary affiliation with a third-party healthcare provider other than an agreement for hospitalist services;

(c) other than as set forth on Schedule 5.02(c), increase compensation payable or to become payable to, make a bonus, incentive or severance payment to, or otherwise enter into one or more bonus, severance, profit-sharing, deferred compensation, stock option, purchase, retainer, consulting, retirement, welfare or incentive plan Contracts (including any plan or agreement under which “fringe benefits” are afforded) with any employee, contractor or agent of any of the Hospital Businesses except in the ordinary course of the Hospital Businesses consistent with past practices in accordance with existing personnel policies or pursuant to Contract requirements in force on the date of this Agreement; provided, however, that nothing in this Section 5.02(c) shall prohibit Seller from making payments pursuant to the Eastern Connecticut Health Network, Inc. Long Term Retention Plan, as amended through August 1, 2016, without first receiving Buyer’s written agreement;

(d) create, assume or voluntarily consent to any new Encumbrance upon any of the Assets;

(e) sell or otherwise transfer or dispose of any item of property, plant, equipment or other Asset including any interest in a Joint Venture, except in the ordinary course of the Hospital Businesses consistent with past practices with comparable replacement thereof, and with respect to a an interest in a Joint Venture, except as may be required under the governing instruments of the Joint Venture and necessary to satisfy a closing condition in Section 7 that has not been waived by Buyer;

(f) take any action other than execution of this Agreement, which would trigger any right of first refusal, or any similar right to purchase, with respect to any Investment interest in a Joint Venture except as necessary to satisfy a closing condition in Section 7 that has not been waived by Buyer;

(g) distribute any assets, other than Excluded Assets, to any Affiliate of Seller other than its Subsidiaries that are transferring Assets pursuant to this Agreement;

(h) make necessary expenditures in the ordinary course from its designated capital needs fund of more than \$100,000 per expenditure without providing advanced notice to Buyer of such expenditure and will not make individual capital expenditures (or a series of related capital expenditures) that are outside the ordinary course in excess of \$100,000 individually or \$500,000 in the aggregate if such capital expenditures are not included in Seller’s annual operating or capital budgets that have been provided to Buyer;

(i) add, modify, or discontinue the provision of any material clinical service by the Hospital Businesses other than entering into an agreement with a third party for the provision of hospitalist services, open a new location for the provision of any material clinical service, or close the location at which any such material clinical service is currently provided without consent of Buyer, which will not be unreasonably withheld or delayed;

(j) create, incur, assume, guarantee or otherwise become liable for any liability or obligation except in the ordinary course of the Hospital Businesses consistent



with past practices in excess of \$250,000, other than Seller's customary annual line of credit renewal with TD Bank in the currently issued amount, or agree to do any of the foregoing;

- (k) make any loans to physicians without the prior written consent of Buyer;
- (l) cancel, forgive, release, discharge or waive any Person's obligation to pay or to perform obligations in respect of Accounts Receivable or other Assets, or agree to do any of the foregoing, except in the ordinary course of the Hospital Businesses consistent with past practices;
- (m) amend, change or modify the title or duties of the chief executive officer of Seller;
- (n) sell or factor any Accounts Receivable;
- (o) change any accounting method, policy or practice or reduce any reserves in the Financial Statements except (i) reductions in reserves pertaining to Government Payment Programs or third party payors made in the ordinary course of business consistent with past practices, and (ii) changes required by GAAP or applicable Legal Requirements;
- (p) except with respect to the previously planned freeze of Seller's defined benefit pension plan and post-retiree health plan, terminate, amend or otherwise modify in any material respect any Employee Benefit Plan, except for normal course annual changes and amendments required to comply with this Agreement or applicable Legal Requirements; or
- (q) amend or agree to amend the articles of incorporation or the bylaws or articles of formation or operating agreement (or comparable organizational documents) of Seller or any Subsidiary thereof or otherwise take any action relating to any liquidation or dissolution of Seller or any Subsidiary thereof, except as expressly contemplated by this Agreement, provided that Seller may merge any one or more of the Subsidiaries into each other or into the Seller in connection with the proposed transaction;
- (r) amend or agree to amend the governing documents of any Joint Venture, except immaterial amendments or amendments required to comply with applicable Legal Requirements or reasonably necessary to assign and transfer to Buyer or Buyer's designee Seller's Investment in, or for Buyer to become a partner, member or shareholder of, such Joint Venture or to restructure such joint Venture to permit Buyer to participate in such Joint Venture; or
- (s) take any action outside the ordinary course of the Hospital Businesses other than modifying its bond documents as needed.

5.03. Employee Matters.

(a) Subject to the exclusions set forth in this Section and in reliance upon the representations of Seller in Sections 3.21 and 3.22, Buyer will offer, or cause its Affiliates to offer, to employ as of the Closing Date substantially all employees of Seller and its Affiliates who work at the Hospital Businesses, including but not limited to employees on approved leaves of absence as of the Closing Date for any reason including without limitation by reason of a military leave, family or medical leave, illness, injury, disability or similar situation (provided employment shall not commence until such employees return from such approved leave), on the same terms and conditions with respect to job duties, titles and responsibilities that are applicable to such employees on the date of such offer. Buyer will offer the Hired Employees salaries equal to their salaries as of the Closing Date and Employee Benefit Plans that are consistent with Employee Benefit Plans offered to similarly-situated employees at other hospitals operated by Buyer in similar markets. Notwithstanding the foregoing, Buyer will, and will cause its Affiliates to, in all events provide each Hired Employee terms and conditions of employment, including compensation and employee benefits, sufficient to avoid Seller or its Affiliates from incurring any liability under the WARN Act or any comparable Legal Requirement due to actions or omissions of Buyer and its Affiliates related to the Hired Employees at any time on or after the Closing Date.

(b) Seller acknowledges that all employment offers are for “at will” employment only and are subject to the satisfactory completion of Buyer’s usual and customary hiring practices, including employee background checks and pre-employment screenings. Nothing in this Section or elsewhere in this Agreement may be deemed to limit or otherwise affect in any manner the right of Buyer or any Affiliate of Buyer to terminate at will the employment of any Hired Employee or, subject to Buyer’s covenants in Section 5.03(a) and (c), to change individual features or plans in the employment compensation and benefits package of the Hired Employees, provided that Buyer will assume and honor all written severance agreements between Seller and Seller’s employees existing as of Closing that are provided to Buyer prior to the date hereof, as set forth on Schedule 5.03(b).

(c) Following the Closing Date, each Employee Benefit Plan sponsored by Buyer or any Affiliate of Buyer in which the Hired Employees are eligible to participate shall credit the Hired Employees with their periods of employment with Seller or any Affiliate of Seller for all purposes (other than benefit accrual under any defined benefit pension plan), including, but not limited to, application of any preexisting condition limitation or eligibility period otherwise applicable to the Hired Employees and their eligible dependents. In addition, if prior to the Closing Date a Hired Employee or his or her covered dependents paid any amounts towards a deductible or out-of-pocket maximum in Seller’s medical and health plan’s current fiscal year, such amounts shall be applied toward satisfaction of the deductible or out-of-pocket maximum in the current fiscal year of Buyer’s medical and health plan that covers Hired Employees on and after the Closing Date. Buyer will give all Hired Employees credit for their vacation, holiday, personal time and sick pay (whether in such form or in the forms of so-called “paid time off” or an “extended illness bank”). With respect to the Hired Employees, Buyer will

assume the Workers' Compensation Liability that exists as of Closing and any such claims filed on or after Closing with respect to periods prior to Closing. Except as provided in subsection (b) above, this subsection (c), subsections (d) and (e) below, or Schedule 2.03, or as otherwise required by Legal Requirements, Buyer will not assume or otherwise become liable for, and Seller will remain solely responsible for, (i) Seller's Employee Welfare Benefit Plans and (ii) any other obligations to former or currently retired employees or their dependents. Buyer will make available group health plan continuation coverage required under COBRA to employees and former employees of Seller who are eligible for COBRA, provided that, with respect to COBRA beneficiaries whose qualifying events occurred on or prior to the Closing Date, Seller will reimburse Buyer for all claims of such COBRA beneficiaries paid by Buyer and its Affiliates in excess of the sum of (A) COBRA premiums collected from the COBRA beneficiaries; and (B) amounts reimbursed from stop loss insurance, determined in the aggregate with respect to all such individuals on the first anniversary of the Closing Date and again at the end of the COBRA period for all such COBRA beneficiaries. Buyer agrees to accept rollovers of eligible rollover distributions (within the meaning of Code section 402(c)(4)), including to the extent applicable rollovers of any outstanding loans made as part of a direct rollover, made by Hired Employees from Seller's Employee Pension Benefit Plans to Buyer's Plans.

(d) Seller has frozen its defined benefit pension plan known as the "Eastern Connecticut Health Network, Inc. Pension Plan" to new participation and future accruals and has frozen the post-retiree health plan to new participation. With respect to the post-retiree health plan, Buyer agrees to maintain post-retiree health coverage for the group of employees and former employees eligible for such coverage as of the Closing and shall not amend or terminate the post-retiree health plan unless the members of such group are provided another retiree medical benefit or cash payment of equivalent value (as calculated using reasonable assumptions determined in consultation with an actuary at the time of the determination).

(e) As of the Closing, Buyer agrees to assume, administer, and become the sponsor of Seller's defined benefit pension plan known as the "Eastern Connecticut Health Network, Inc. Pension Plan" (most recently amended as of December 23, 2015 and as it may be amended to reflect Buyer's assumption of sponsorship) and Seller's post-retiree health plan and assume all collective bargaining agreements of Seller that pertain to the Hospital Businesses.

(f) Between the date of this Agreement and Closing, Buyer may run newspaper advertisements, in the name of any of the Hospital Businesses or in the name of Buyer, to recruit employees for the Hospital Businesses to commence on or after the Closing Date.

(g) At Closing, Seller shall deliver to Buyer a list setting forth the names of all employees of the Hospital Businesses whose employment was terminated between the date of this Agreement and the Closing Date.

(h) This Section 5.03 shall not apply to employees employed by Seller under Assumed Contracts, including but not limited to the collective bargaining agreements described in subsection (e) above. Buyer shall offer employment to all such employees, subject to the satisfactory completion of Buyer's usual and customary hiring practices, including employee background checks and pre-employment screenings, and employment of such employees will be governed by the terms and conditions of the Assumed Contracts, if any, relating to the employment of such employees.

(i) On or prior to the Closing Date, Seller will be responsible for compliance with the WARN Act and all similar state and local Legal Requirements with respect to the employees of the Hospital Businesses, and for all obligations or liabilities arising thereunder as a result of any action (or failure to act) of Seller on or prior to the Closing Date, and after the Closing Date, Buyer will be responsible for compliance with the WARN Act and all similar state and local Legal Requirements with respect to the Hired Employees, and for all obligations or liabilities arising thereunder as a result of any action (or failure to act) of Buyer after the Closing Date.

#### 5.04. Access to and Provision of Additional Information.

(a) Except to the extent prohibited by applicable Legal Requirements (including antitrust laws), until the Closing Date, Seller shall (i) give Buyer reasonable access to and the right to inspect, during normal business hours and upon reasonable prior notice, Seller's Assets and books and records relating to the Hospital Businesses, (ii) give Buyer reasonable access to Seller's employees and medical staff members providing services at or for the Hospital Businesses and (iii) give Buyer such additional financial, operating and other data and information (including auditors' workpapers) regarding the Hospital Businesses as Buyer may reasonably request and that is reasonably available to Seller. Buyer shall exercise its rights under this Section 5.04(a) in such a manner as to cause the least possible interference with the normal operations of the Hospital Businesses.

(b) Seller will deliver to Buyer:

(i) within 25 days after the end of each calendar month before the Closing Date, copies of the unaudited balance sheet and the related unaudited statements of income and cash flows of the Hospital Businesses for each such month then ended and for the fiscal year-to-date then ended, in consolidating and consolidated format;

(ii) within 35 days after the end of each fiscal quarter ending on or before the Closing Date, copies of the unaudited balance sheet and the related unaudited statements of income and cash flows of the Hospital Businesses for the fiscal quarter then ended and for the fiscal year-to-date then ended; and

(iii) promptly after prepared, copies of any other financial or operating statements, reports or analyses prepared by or for management relating to the Hospital Businesses.

(c) Until the Closing Date, Seller shall confer regularly with Buyer, as reasonably requested by Buyer, and answer Buyer's reasonable questions regarding matters relating to the conduct of the Hospital Businesses and the status of transactions contemplated by this Agreement. Seller shall notify Buyer of any material changes in the operations, financial condition or prospects of the Hospital Businesses and of any material complaints, investigations, hearings or adjudicatory proceedings (or communications indicating that the same may be contemplated) concerning the Hospital Businesses and shall keep Buyer reasonably informed of the status of such matters.

(d) With respect to any individually identifiable health information disclosed by Seller to Buyer pursuant to this Section, Buyer and Seller shall comply with the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. Section 1320d, *et seq.*, as amended by the Health Information Technology for Economic and Clinical Health Act, and any current and future Legal Requirements promulgated thereunder, and with any other federal or state Legal Requirements that govern or pertain to the confidentiality, privacy, security of, and electronic transactions involving, health care information.

(e) For the avoidance of doubt, Buyer shall not, and nothing contained in this Section shall give Buyer, directly or indirectly, the right to, control or direct the Hospital Businesses (or any portion thereof) prior to the Closing.

5.05. Post-Closing Maintenance of and Access to Information.

(a) After Closing, each party may need access to books, records, documents or other information in the control or possession of the other party for purposes of concluding the transactions contemplated by this Agreement, preparing Tax Returns or conducting Tax audits, obtaining insurance, complying with Government Payment Programs and other Legal Requirements, and prosecuting or defending third party claims. Accordingly, each party shall keep and maintain in the ordinary course of business all books, records (including patient medical records), documents and other information in the possession or control of such party for a period of at least five years after the Closing and otherwise in accordance with all applicable Legal Requirements and record retention policies maintained by such party. In addition, to facilitate the foregoing purposes, each party shall also make such books, records, documents and other information available for inspection and copying upon the reasonable request and at the expense (for out-of-pocket costs) of the other party.

(b) Upon Buyer's receipt of appropriate consents and authorizations, Seller may remove and copy from the Hospital Businesses, at Seller's sole risk and expense, any patient or other records that relate to events or periods before Closing for purposes of pending Proceedings involving matters to which such records refer, as certified in writing before removal by counsel retained by Seller in connection with such Proceedings. Seller shall promptly return any records so removed to Buyer following their use.

(c) Each party shall cooperate with, and shall permit and use commercially reasonable efforts to cause its former and present directors, officers and employees to

cooperate with, the other party after Closing in furnishing information, evidence, testimony and other assistance in connection with any Proceeding or claim with respect to (i) the ownership of the Assets or the conduct of the Hospital Businesses or (ii) the Excluded Liabilities.

(d) The exercise by any party of the rights granted in this Section shall not unreasonably interfere with the conduct of business of the other party and nothing in this Section requires any party to maintain or release to any other Persons any medical or other records except in accordance with applicable Legal Requirements and record retention policies.

(e) To the extent Seller remains in existence and maintains sufficient operational control over relevant functions and pursuant to the Transitional Services Agreement, for seven years after the Closing Date, Seller will give Buyer, within 30 days after request, an updated claims history, including losses paid and open reserves, for all claims relating to the conduct of the Hospital Businesses on or before the Closing Date.

5.06. Governmental Authority Approvals; Consents to Assignment.

(a) Until the Closing Date, Seller and Buyer shall (i) promptly apply for, and use commercially reasonable efforts to obtain before Closing, all consents, approvals, authorizations and clearances of Governmental Authorities required to consummate the transactions contemplated by this Agreement, including approvals of the applications to the Attorney General and the Office of Health Care Access of the Connecticut Department of Public Health, (ii) provide such information and communications to Governmental Authorities as the other party or such Governmental Authorities may reasonably request, and (iii) assist and cooperate with the other party to obtain all Permits, including approvals of the applications to the Attorney General and the Office of Health Care Access of the Connecticut Department of Public Health, that the other party deems necessary or appropriate, and to prepare any document or other information reasonably required of it by any such Governmental Authority to consummate the transactions contemplated by this Agreement, *provided* that no party may be required without the party's consent (x) to pay any sum to Governmental Authorities other than filing fees or past due amounts, or (y) to agree to divest assets or limit the conduct of the business.

(b) Until the Closing Date, each party shall file, if and to the extent required by applicable Legal Requirements, all reports and other documents required or requested by Governmental Authorities under the HSR Act concerning the transactions contemplated by this Agreement, and shall promptly comply with any requests by the Governmental Authorities for additional information concerning such transactions, so that the waiting period specified in the HSR Act will expire as soon as reasonably possible. Each party shall furnish to the other party such information as the other party reasonably requires to comply with its obligations under the HSR Act and shall exchange drafts of the relevant portions of each other's report forms before filing. The parties shall also share equally the costs of any fees due in respect of filings required by the HSR Act.

(c) Seller shall promptly apply for and use commercially reasonable efforts to obtain before Closing all consents required to assign the Assumed Contracts to Buyer at Closing, provided that Seller shall not be required to make any payments or economic concessions to landlords to obtain such consents.

(d) To obtain one or more of the consents and approvals described in this Section, Buyer may be required by applicable Legal Requirement or practical necessity to enter into a contract that supersedes or replaces an existing Contract between Seller and a third party. Such new contract may require Buyer to assume, for the benefit of such third party, certain obligations and liabilities of Seller that are Excluded Liabilities. Alternatively, Buyer may be required by Legal Requirements to assume, or may be deemed as a matter of law to have assumed, obligations and liabilities of Seller that are Excluded Liabilities. If Buyer enters into a replacement contract or assumes such Excluded Liabilities, then – as between Seller and Buyer – such contract or assumption of Excluded Liabilities will not affect the contractual rights and remedies provided in this Agreement in respect of such contract or Excluded Liabilities, including Buyer’s rights to indemnification from Seller (subject to the limitations set forth in Article 9), or otherwise diminish Seller’s obligations to Buyer or enlarge Seller’s liabilities to Buyer (or diminish Seller’s defenses or limitations on liability) under this Agreement and will under no circumstances be claimed by Seller as a defense (whether of waiver, estoppel, consent, operation of law, or otherwise) against Buyer’s assertion of any claim under this Agreement against Seller, and the rights and obligations of the parties to each other under this Agreement will be determined as if such replacement contract did not exist or such assumption of Excluded Liabilities was not required.

5.07. Use of Controlled Substance Permits. To the extent permitted by applicable Legal Requirements, Buyer shall have the right, for a period not to exceed 120 days following the Closing Date, to operate the Hospital Businesses under the licenses and registrations of Seller relating to controlled substances and the operations of pharmacies and laboratories, until Buyer is able to obtain such licenses and registrations for the Hospital Businesses. In furtherance thereof, Seller shall execute and deliver to Buyer at or prior to the Closing limited powers of attorney substantially in the form of Exhibit B hereto. Buyer or its Affiliates shall apply for all such licenses and registrations as soon as reasonably practicable before and after the Closing Date and shall diligently pursue such applications. Buyer shall indemnify and hold harmless Seller and its Affiliates, and their officers, trustees and employees for all claims, liabilities and costs arising from or relating to use of such licenses and registration after the Closing Date.

5.08. Connecticut Transfer Act. Certain components of the Real Property (including the Hospitals) may constitute, in whole or in part, “Establishments” as the term is defined in the Transfer Act (collectively, the “**Establishment Real Properties**”). Accordingly, Seller and Buyer shall prepare an appropriate Transfer Act Form and accompanying ECAF for each Establishment Real Property to satisfy the requirements of the Transfer Act in connection with the transaction contemplated herein. Seller shall execute as transferor and Buyer shall execute as transferee and Certifying Party (as all such terms are defined in the Transfer Act). Within ten (10) days after the Closing Date, Buyer shall (i) file the fully executed Form and ECAF with the Connecticut Department of Energy and Environmental Protection (“**CTDEEP**”); (ii) pay the initial filing fee and any and all subsequent Transfer Act fees (which shall be reimbursed by

Seller); and (iii) provide written confirmation to Seller that the Transfer Act filing has been completed (with a copy of such filing). In order to evaluate the potential scope and cost of Transfer Act obligations that may be required, prior to the Closing, Buyer shall have the right to perform limited Phase II Assessments subject to and in accordance with the provisions of Section 7.09 hereof. Buyer or its designee shall conduct and complete, at Buyer's sole expense, any actions required (as determined by Buyer in its reasonable discretion) as a result of the filing of the Form and the ECAF, to comply with the Transfer Act, and, if appropriate, to obtain written approval from CTDEEP or a "verification" from a "Licensed Environmental Professional" that the Facilities have been remediated in full compliance with the Connecticut Remediation Standard Regulations (collectively "**Transfer Act Activities**"). Buyer shall complete all Transfer Act Activities as soon as practicable, but in any event within any deadline defined by or pursuant to the Transfer Act (as the same may be extended). Notwithstanding the foregoing, Seller shall pay Buyer for all costs and expenses that Buyer incurs in connection with Transfer Act Activities. Seller and Buyer agree to execute and deliver all documents reasonably requested by the other to comply with the Transfer Act. All undefined terms in this Section 5.08 shall have the meanings set forth in the Transfer Act. Notwithstanding anything to the contrary in this Agreement, the parties agree that any and all fees, expenses and other costs to be paid by Seller under this Section 5.08 shall be paid first from funds held as part of the indemnity reserve established pursuant to Section 9.08.

5.09. No-Shop Clause. Until termination of this Agreement, Seller shall not, and shall not permit any Affiliate of Seller or any other Person acting for or on behalf of Seller or any Affiliate of Seller to, without the prior written consent of Buyer: (a) offer for sale, lease or other disposition all or substantially all of the Assets or any material portion thereof, or any ownership interest in any entity owning any of the Assets, whether by virtue of an asset sale transaction, a lease transaction, affiliation transaction, or a change of control, change of membership, merger, consolidation or other combination transaction with respect to Seller or any entity owning any of the Assets (collectively, a "**Prohibited Transaction**"), or negotiate in respect of an unsolicited offer therefor; (b) solicit offers to acquire all or substantially all of the Assets, or any material portion thereof, or offers to acquire any ownership interest in an entity owning any of the Assets, in a Prohibited Transaction; (c) enter into any Contract with any Person with respect to the disposition of all or substantially all of the Assets, or any material portion thereof, or the sale of any ownership interest in an entity owning any of the Assets, in a Prohibited Transaction; or (d) furnish or permit or cause to be furnished any information to any Person that Seller knows or has reason to believe is in the process of considering a Prohibited Transaction. If Seller, any Affiliate of Seller, or any Person acting for or on behalf of any of the foregoing receives from any Person (other than Buyer or its representatives) any offer, inquiry or informational request referred to above, Seller will promptly advise such Person, by written notice, of this Section.

5.10. Noncompetition. For a period of five years after the Closing Date, Seller shall not, directly or indirectly, and Seller shall cause its Affiliates not to, in any capacity: (i) own, lease, manage, operate, control, be employed by, maintain or continue any interest whatsoever or participate in any manner with the ownership, leasing, management, operation, or control of any business or enterprise that offers services in competition with the Hospital Businesses, including any acute care hospital, specialty hospital, rehabilitation facility, diagnostic imaging center, inpatient or outpatient psychiatric or substance abuse facility, ambulatory or other type of surgery center, wellness center, urgent care center, ambulatory service, nursing home, skilled



nursing facility, home health or hospice agency, or physician clinic or physician medical practice, within a 30 mile radius of either Hospital (the “**Restricted Area**”); (ii) employ or solicit the employment of any Hired Employee, other than no more than five (5) individuals employed solely for winding down operations, unless (x) such employee resigns voluntarily (without any solicitation from Seller or any of its Affiliates), (y) Buyer consents in writing to such employment or solicitation, or (z) such employee is terminated by Buyer or its Affiliate after the Closing Date; (iii) induce, cause or attempt to induce or cause any Person (including any physician employee or medical staff member) to replace or terminate any contract for the provision or arrangement of health care services from the Hospital Businesses with products or services of any other Person after the Closing Date; or (iv) request, induce or cause any physician employee or medical staff member to terminate any contract with or change practice patterns at the Hospital Businesses. Notwithstanding the foregoing, however, (i) Seller and its Affiliates will not be precluded from participating in the following activities that promote health care services for residents of the communities historically served by Seller and its Affiliates through the Hospitals: development, ownership, and operation of indigent or charity care clinics and services; preventative care programs and services and educational programs; health screening services; child care services; and other similar services or programs intended to better serve the health care needs of the community’s indigent population in the Restricted Area that are not directly competitive with services to be provided by Buyer or its Affiliates. In the event of a breach of this Section, Seller recognizes that monetary damages shall be inadequate to compensate Buyer, and Buyer shall be entitled, without the posting of a bond or similar security, to an injunction restraining such breach, with the costs (including attorneys’ fees) of securing such injunction to be borne by Seller. Nothing contained herein shall be construed as prohibiting Buyer from pursuing any other remedy available to it for such breach or threatened breach. All parties hereto hereby acknowledge the necessity of protection against the competition of Buyer and its Affiliates and that the nature and scope of such protection has been carefully considered by the parties. Seller further acknowledges and agrees that the covenants and provisions of this Section form part of the consideration under this Agreement and are among the inducements for Buyer entering into and consummating the transactions contemplated herein. The period provided and the area covered are expressly represented and agreed to be fair, reasonable, and necessary. The consideration provided for herein is deemed to be sufficient and adequate to compensate for agreeing to the restrictions contained in this Section. If, however, any court determines that the foregoing restrictions are not reasonable, such restrictions shall be modified, rewritten, or interpreted to include as much of their nature and scope as will render them enforceable.

5.11. Allocation of Purchase Price. Within a reasonable time after Closing, Buyer shall provide Seller a proposed allocation of the Purchase Price among the Hospital Businesses and the Assets. Such allocation will be in accordance with section 1060 of the Code. Buyer’s proposed allocation will become final and binding on the parties 45 days after Buyer provides the proposed allocation to Seller unless Seller objects to the proposed allocation, in which case Seller shall propose an alternative allocation. The parties shall use good faith efforts to resolve their differences within 60 days after Seller gave its objection to Buyer. If a final resolution is not reached within 60 days after Seller has submitted its objection in writing, each of Buyer and Seller shall make their own independent allocation of the total consideration among the Hospital Businesses and the Assets. If Seller and Buyer reach agreement upon the allocation (or Seller does not object to Buyer’s proposed allocation), Seller and Buyer will be bound by the agreed

allocation and (for federal and state Tax purposes) account for and report the transactions contemplated by this Agreement in accordance with such allocation, and will not voluntarily take any position (whether in Tax Returns, Tax audits or other Proceedings) inconsistent with such allocation. Seller and Buyer shall exchange Internal Revenue Service Forms 8594 (including supplemental forms, if required) to report the transactions contemplated by this Agreement to the Internal Revenue Service in accordance with such allocation.

5.12. Further Assurances. After the Closing, upon request of Buyer, Seller shall do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such further acts, deeds, assignments, transfers, conveyances, powers of attorney, confirmations and assurances as Buyer may reasonably request to more effectively convey, assign and transfer to and vest in Buyer full legal right, title and interest in and actual possession of the Assets and the Hospital Businesses, to confirm Seller's capacities and abilities to perform its post-Closing covenants under this Agreement and the Closing Documents, and to generally carry out the purposes and intent of this Agreement. If any interest in a Joint Venture has not been transferred at Closing as a result of the failure to obtain a consent or to otherwise comply with the governing instruments of such Joint Venture, then Seller shall use commercially reasonable efforts following the Closing to obtain such consent or otherwise comply with the governing instruments of the Joint Venture to permit the transfer of such interest to Buyer as soon as practical following the Closing. Seller shall also furnish Buyer with such information and documents in its possession or under its control, or which Seller can execute or cause to be executed, as will enable Buyer to prosecute any and all petitions, applications, claims and demands relating to or constituting a part of the Assets and Hospital Businesses. After the Closing, upon request of Seller, Buyer shall do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such further acts, deeds, assignments, transfers, conveyances, powers of attorney, confirmations and assurances as Seller may reasonably request to more effectively convey, assign and transfer to Buyer each of the Assumed Liabilities, to confirm Buyer's capacities and abilities to perform its post-Closing covenants under this Agreement and the Closing Documents, and to generally carry out the purposes and intent of this Agreement.

5.13. Casualty. If, on or before the Closing Date, any of the Hospital Businesses are destroyed or materially damaged by fire, theft, vandalism or other cause or casualty and as a result thereof any material part of such Hospital Business is rendered unsuitable for its primary intended use and the cost of repair would exceed \$1,000,000, Buyer may elect, by giving written notice to Seller within 15 business days after having actual notice of the occurrence of such destruction or damage and the extent of the loss, to: (i) terminate this Agreement in accordance with Section 8.04(a), (ii) consummate the transaction in spite of such destruction or damage but reduce the Purchase Price by the fair market value of the Assets destroyed or damaged (determined as of the date immediately before the destruction or damage) or, if greater, the estimated cost to restore, repair or replace such Assets, in which event Seller will retain all right, title and interest in and to insurance proceeds payable on account of such destruction or damage, or (iii) consummate the transaction in spite of such destruction or damage without any reduction in the Purchase Price, in which event Seller shall pay, transfer and assign to Buyer at Closing the insurance proceeds less any reasonable out-of-pocket costs incurred in collecting the proceeds or in securing or repairing the property (or the right to receive the insurance proceeds) payable on account of such destruction or damage, and Buyer shall receive a credit for any deductibles or

copayments required under the applicable insurance policy in respect of such claim. Notwithstanding the foregoing, Buyer and Seller acknowledge and agree that the Purchase Price shall not be reduced by an amount that would preclude Seller from paying, or providing for payment of, all of its liabilities in full.

5.14. Seller's Cost Reports. Pursuant to the Transitional Services Agreement, Seller will prepare and timely file all Cost Reports required to be filed after Closing for periods ending on or before the Closing Date, including terminating Cost Reports required as a result of the consummation of the transactions described in this Agreement. Buyer will provide information to Seller and reasonably assist Seller in the preparation and filing of the terminating Cost Reports and the Purchase Price will be allocated in the terminating Cost Reports in a manner consistent with the allocation for Tax purposes described in Section 5.11. Buyer will forward to Seller any and all correspondence, remittances and demands relating to Seller's Cost Reports within ten business days after receipt by Buyer. Seller retains all rights to its Cost Reports, including any payables resulting from or reserves relating to the Cost Reports and the right to appeal any Medicare determinations relating to the Cost Reports.

5.15. Continuation of Hospitals and Post-Care Continuum. For at least 3 (three) years after Closing, Buyer will (i) continue operating the Hospitals in their current locations as acute care hospitals with emergency departments, and (ii) maintain an ownership interest in Seller's current post-acute care continuum of care network (e.g., VNA/home care, sub-acute and long-term lines of service) and require any joint venture involving such post-acute care continuum of care network to maintain the applicable service line for such three-year period. During such periods that Buyer operates the Hospitals, Buyer agrees to maintain Seller's commitment to quality, safety, and patient satisfaction, including maintaining appropriate enrollment, certifications, and accreditations necessary to receive reimbursement under Government Payment Programs.

5.16. Charity Care and Community Obligations.

(a) Seller has historically provided significant levels of care for indigent and low-income patients and has also provided support for community volunteer services and care through a variety of community-based health programs. Subject to changes in Legal Requirements or governmental guidelines or policies, Buyer will ensure that each Hospital maintains and adheres to Seller's current policies on charity care, indigent care, community volunteer services and community benefits attached as Schedule 5.16 or adopt other policies and procedures that are at least as favorable to the indigent and uninsured in the aggregate as Seller's existing policies.

(b) During all times that Buyer owns and operates the Hospitals, Buyer will strive to provide care through community-based health programs, including by cooperating with local organizations that sponsor health care initiatives to address community needs and improve the health status of the elderly, poor, and at-risk populations in the community.

5.17. Educational Support. Buyer agrees to maintain and support financially the University of New England medical student and other health professions teaching programs

established by Seller, in addition to Seller's graduate medical education programs, while operating at a level to not exceed the Indirect Medical Education and Direct Graduate Medical Education caps that may be established by CMS.

5.18. Capital Commitment.

(a) Commitment Amount. Post-Closing, Buyer, in consultation with Seller, the Local Board and potentially an outside consultant, will develop a strategic capital plan with respect to the Hospital Businesses (which for purposes of this Section 5.18 includes the Joint Ventures). In accordance with such strategic capital plan, Buyer agrees to spend within five years of Closing or commit in a binding contract to spend (or cause or permit its Affiliates or third parties to spend or commit in a binding contract to spend) within five years of Closing not less than \$75,000,000 (the "**Commitment Amount**") at Seller facilities on (i) capital projects, including routine and non-routine capital expenditures for the improvement of Seller's facilities and/or the acquisition, development, expansion and improvement of hospital, ambulatory or other health care services (such as implementation of a comprehensive and system-wide electronic medical record such as the Epic system), (ii) de novo development, expansion, or acquisition of a department, program, service or facility (whether for inpatient or outpatient services), (iii) upgrades or renovations generally, (iv) deferred maintenance items, and (v) capital expended in support of the recruitment of the Hospitals' medical staff located in the Hospitals' service area, limited to physician practice acquisitions, loan security agreements and real estate acquisition or development (including any associated medical equipment) in support of physician practice acquisitions. Buyer shall provide a written report to Seller on an annual basis that verifies its compliance with the capital commitment, which Seller may share publically. For the purposes of determining whether the Commitment Amount has been expended or committed to be expended, (x) only operating leases for (i) buildings or the fit-out or build-out of space used in the provision or support of medical services or (ii) medical equipment with a useful life of more than one year, shall count towards the Commitment Amount, (y) capital leases, and those operating leases that are permitted to be counted toward the Commitment Amount under Sections 5.18(a)(x)(i)-(ii), shall be valued at the net present value of any lease commitments, and (z) solely with respect to expenditures for equipment not currently owned or leased by the Hospital Businesses or space that is renovated, acquired or newly leased (with respect to incremental Buyer improvements) or obtained after Closing consistent with Section 5.18, it shall not be a prerequisite that the applicable expenditure be classified as a capital expenditure for accounting purposes.

(b) Reduction of Commitment Amount. Notwithstanding the foregoing,

(i) the Commitment Amount shall be reduced by the Unfunded ED Loan Amount, if any;

(ii) the Commitment Amount shall be reduced by the amount, if any, of Seller's administrative wind-down costs paid by Buyer in accordance with Section 2.05(l)(i);

(iii) if Buyer assumes any unreimbursed Additional Liabilities in accordance with Section 2.05(d), the Commitment Amount shall be further reduced by the amount of such unreimbursed Additional Liabilities;

(iv) the Commitment Amount shall be reduced by the amount by which the Purchase Price Adjustment to be paid by Seller to Buyer pursuant to Section 2.05(k)(ii) exceeds Available Cash; and

(v) the Commitment Amount may be reduced, on a dollar-for-dollar basis, by the aggregate amount of Losses incurred by Buyer's Indemnified Persons under the provisions of Section 9.01 after application of the Seller Deductible (if applicable), to the extent such Losses are not satisfied in full (i.e., regardless of whether such Losses are satisfied from the amounts maintained as an indemnify reserve under Section 9.08 or otherwise) in accordance with Section 9.08; *provided*, that Buyer shall be entitled to make such reduction to the Commitment Amount if and to the extent Seller fails to satisfy such Losses pursuant to Section 9.05(d) after a reasonable period of time following written demand for payment by Buyer, *provided, further*, that any such reduction shall not relieve Seller from its indemnification payment obligations thereunder.

(c) Restoration of Commitment Amount. Notwithstanding the foregoing,

(i) the Commitment Amount shall be increased (up to a maximum of Seventy-Five Million Dollars (\$75,000,000)) by any amounts retained by Buyer as reimbursement for the ED Loan assumed by Buyer;

(ii) the Commitment Amount shall be increased (up to a maximum of Seventy-Five Million Dollars (\$75,000,000)) by any amounts retained by Buyer to reimburse Buyer for the Additional Liabilities;

(iii) to the extent that the Commitment Amount was decreased in accordance with Section 5.18(b), and Buyer is reimbursed in full for the ED Loan assumed by Buyer and the liabilities assumed by Buyer in excess of the Threshold Liability, the Commitment Amount shall be further increased (up to a maximum of Seventy-Five Million Dollars (\$75,000,000)) by any remaining amounts received by Seller from cost report settlements and paid to Buyer in accordance with Section 2.05(m)(i)(z);

(iv) if applicable, the Commitment Amount shall be increased (up to a maximum of Seventy-Five Million Dollars (\$75,000,000)) in accordance with Section 9.08; and

(v) if applicable, the Commitment Amount shall be increased (up to a maximum of Seventy-Five Million Dollars (\$75,000,000)) in accordance with Section 2.05(l)(ii).

(d) Upon any change to the Commitment Amount made in accordance with Section 5.18(b)-(c), Buyer shall provide Seller with an updated calculation of the Commitment Amount.

5.19. Connecticut Transactions. If at any time prior to Closing, Buyer or any of its Affiliates enter into an agreement with another Connecticut hospital that seeks to consummate transactions similar to the transactions described herein, then Buyer shall promptly inform Seller of such fact, subject to such hospital's approval of waiving any nondisclosure obligation in a confidentiality agreement between such hospital and Buyer, or an Affiliate of Buyer.

5.20. Fees and Expenses.

(a) Except as otherwise expressly set forth in this Agreement, whether or not the transactions contemplated by this Agreement are consummated, (i) Buyer or its Affiliates shall bear and pay all expenses incurred by or on behalf of Buyer in connection with Buyer's due diligence investigation of the Assets and the Hospital Businesses, the preparation and negotiation of this Agreement and Buyer's performance of its obligations pursuant to this Agreement, including counsel, accounting, brokerage and investment advisor fees and disbursements, and (ii) Seller or its Affiliates shall bear and pay all expenses incurred by or on behalf of Seller in connection with the preparation and negotiation of this Agreement and Seller's performance of its obligations pursuant to this Agreement, including counsel, accounting, brokerage and investment advisor fees and disbursements.

(b) Seller shall pay all costs reasonably necessary for Seller to remove all Encumbrances on the Assets that are not Permitted Encumbrances and all expenses incurred by Seller in obtaining any third party consents or approvals necessary to assign to Buyer any Assumed Contracts (it being understood that Seller shall have no obligation to make any monetary payment to a third party beyond any nominal review fee of not more than \$1,000 or accept any material concession in the terms of any Contract in order to obtain any such consents or approvals).

(c) Buyer shall pay the following: (i) all third party fees and expenses reasonably incurred by Buyer for Buyer's land title surveys and environmental, engineering and other inspections, studies, tests, reviews and analyses undertaken by or on behalf of Buyer for the benefit of Buyer, (ii) all transfer Taxes, sales and use and similar Taxes arising out of the transfer of the Assets (whether or not originally arising with or assessed to Seller or its applicable Subsidiary) and (iii) the premium for Buyer's title insurance policies described in Section 7.06.

(d) If any party incurs legal fees or expenses in connection with any Proceeding to enforce any provision of this Agreement and is the prevailing party in the Proceeding, such party will be entitled to recover from the non-prevailing party in the Proceeding the legal fees and expenses reasonably incurred by such party in connection with the Proceeding, including attorneys' fees, costs and necessary disbursements, in addition to any other relief to which such party is entitled.

5.21. Clinical Quality and Integration. For at least three (3) years after Closing, Buyer shall (i) collaborate with the Local Board and remaining former hospital staff of Seller on clinical quality matters of the Hospital Businesses to share best practices, establish clinical quality goals and measure progress, and (ii) to the extent consistent with antitrust Legal Requirements, consult with physicians on the medical staff of each Hospital, including at least some independent (*i.e.*, non-employed) physicians, in managed care contracting and clinical integration with respect to the Hospital Businesses.

5.22. Insurance Ratings. Seller will take all commercially reasonable actions requested by Buyer to enable Buyer, at Buyer's expense, to succeed to the workers' compensation and unemployment insurance ratings of Seller and the Hospital Businesses for insurance purposes. Buyer shall not be obligated to succeed to any such rating, except as it may elect to do so or as is otherwise required to do so by Legal Requirements.

5.23. Fulfillment of Conditions. If all of the conditions to a party's obligation to consummate the transactions contemplated by this Agreement at the Closing are satisfied (or waived by that party in its sole discretion), such party will execute and deliver at Closing each Closing Document that such party is required by this Agreement to execute and deliver at Closing. Each party will use all commercially reasonable efforts to satisfy each condition to the obligations of the other party to consummate the transactions contemplated by this Agreement, to the extent that satisfaction of any such condition is within the control of such party.

5.24. Release of Encumbrances. Seller shall use all commercially reasonable efforts to cause all Encumbrances on the Assets, other than the Permitted Encumbrances, to be released and discharged at or before Closing.

5.25. Insurance Transition Provisions.

(a) With respect to the Disability Obligations, Buyer and Seller acknowledge and agree that no tail insurance shall be required in connection with the Disability Obligations because Seller is fully insured with respect to the Disability Obligations.

(b) Other than with respect to the Accumulated Benefit Obligation, the Post-Retiree Health Plan Liability, the Captive Insurer Liability and the Workers' Compensation Liability, on or immediately following the Closing Date, Seller will purchase and obtain an extended claims reporting provision for all primary and excess insurance policies listed in Schedule 5.25(b), including but not limited to coverage for directors, trustees and officers of Seller and its Affiliates, in force as of the date of the Closing Date that cover Seller, its Affiliates and each physician employee of Seller or its Affiliates (or for which Seller otherwise has an obligation to provide such insurance), and that are written on a claims-made insuring agreement. Such extended claim endorsements must name Buyer (and other Affiliates of Buyer designated by Buyer prior to the Closing) as named insureds thereunder. Within thirty (30) days following the Closing Date, Seller will provide Buyer with an original or certified copy of the tail insurance policies required by this Section 5.25(b) and receipts evidencing payment of the premiums therefor.

(c) Notwithstanding anything in this Agreement to the contrary and to the extent in the best interests of Seller, Seller may choose in its sole discretion to retain the Captive Insurer Liability, the Workers' Compensation Liability or both and, at or prior to Closing, purchase its own tail insurance policy or policies with respect to the Captive Insurer Liability, the Workers' Compensation Liability or both. To the extent Seller elects to retain the Captive Insurer Liability, the Workers' Compensation Liability or both, Seller shall provide written notice to Buyer of such election, and Buyer will be relieved of its obligations set forth in this Agreement with respect to any liability or liabilities that Seller elects to retain as set forth in such written notice, and there shall be no adjustment in the Purchase Price pursuant to Sections 2.05(a)(vi)-(vii) for any liabilities so retained.

5.26. Strategic Business Plan. After Closing, Buyer will use commercially reasonable efforts to execute and implement the Strategic Business Plan in accordance with its terms, as the Strategic Business Plan may be modified by Buyer, in consultation with the Local Board, from time to time.

5.27. Local Board. The Local Board shall, among other things, serve as a resource for Buyer with respect to Buyer's investment of the Commitment Amount (see Section 5.18 herein) and maintenance and implementation of the Strategic Business Plan, be responsible for medical staff credentialing at the Hospitals, maintain and oversee the quality assurance program at the Hospitals and oversee and manage the accreditation process for the Hospitals.

5.28. Compliance Program. The Buyer and its Affiliates have established and implemented corporate compliance and ethics programs to ensure that high ethical and conduct standards are met in the conduct of their business. Buyer shall extend after Closing its corporate compliance and ethics programs to the Hospital Businesses.

5.29. New and Existing Collective Bargaining Agreement. Seller shall keep Buyer apprised of, and consult with Buyer, regarding the status of the negotiations regarding any collective bargaining agreement. Seller shall not enter into any new collective bargaining agreement or extension of any existing collective bargaining agreement without prior written consent from Buyer, which consent shall not be unreasonably withheld, *provided, further*, that such consent does not interfere with Seller's bargaining obligations under the National Labor Relations Act. Buyer shall comply with its successorship obligations to assume the existing collective bargaining agreements through their stated expiration dates.

5.30. Tax Claims. In the event that any cash recovery is received by either Seller or Buyer relating to the claims described on Schedule 5.30 (collectively, the "**Tax Claims**"), then the Parties agree that proceeds of such claims shall be allocated and paid in the following order to the extent of such proceeds: first, to Buyer to the extent of its external counsel fees and other direct costs of pursuing the Tax Claims (including claim-related assessments from the Connecticut Hospital Association); second, to Seller in the amount of One Hundred Ten Thousand Dollars (\$110,000), being the amount of Seller's external counsel fees and direct costs incurred prior to the Closing Date relating to the Tax Claims; and third, to Buyer, to be used by Buyer to pay for capital or operating expenses relating to the delivery of health care in the Seller's primary service area, which may include, but is not limited to, renovation of facilities or



free care. The Parties agree that the decision whether to pursue or settle the Tax Claims and all matters relating to the conduct and pursuit of the Tax Claims after the Closing Date shall be within the sole and absolute discretion of the Buyer, and Seller hereby irrevocably waives any right to challenge or otherwise make any claim against the Buyer with respect to Buyer's pursuit, settlement or conduct of the Tax Claims. The Seller agrees to cooperate reasonably with the Buyer in pursuing the Tax Claims after the Closing Date, at the sole expense of the Buyer, and the Buyer will assume all costs of pursuing or settling the Tax Claims. Seller agrees to execute any documents, agreements or powers of attorney reasonably necessary or desirable to Buyer in connection with effectuating the foregoing provisions.

## 6. CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLER

The obligations of Seller to consummate the transactions contemplated by this Agreement, including by taking the actions specified in Section 8.02, are subject to the satisfaction on or before Closing of the following conditions, unless waived by Seller:

### 6.01. Representations; Covenants.

(a) Each of the representations and warranties of Buyer in this Agreement that is qualified as to materiality was true and correct on and as of the date of this Agreement, each of the other representations and warranties of Buyer was true and correct in all material respects on and as of the date of this Agreement, each of the representations and warranties of Buyer in this Agreement that is qualified as to materiality is true and correct on and as of the Closing Date, and each of the other representations and warranties of Buyer in this Agreement is true and correct in all material respects on and as of the Closing Date.

(b) Each of the covenants to be complied with or performed by Buyer on or before Closing (other than actions to be taken at the Closing, including the delivery of the Closing Documents described in Section 8.03) has been complied with and performed in all material respects.

6.02. Adverse Proceeding. No Proceeding by any Governmental Authority (including the Attorney General) has been instituted or threatened to restrain or prohibit the transactions contemplated by this Agreement, no Governmental Authority (including the Attorney General) has taken any other action or made any request of Seller or Buyer as a result of which Seller reasonably and in good faith deems it inadvisable to proceed with the transactions contemplated by this Agreement, and no order is in effect restraining, enjoining or otherwise preventing consummation of the transactions contemplated by this Agreement.

6.03. Pre-Closing Confirmations. Seller has received all consents, approvals, licenses and other authorizations of Governmental Authorities, on terms reasonably satisfactory to Seller, including (i) the certificate of need approval by the Office of Health Care Access of the Connecticut Department of Public Health, (ii) confirmation that the Bond Liabilities have been satisfied, and (iii) approval for the conversion of the Hospitals to a for-profit entity by the Attorney General (including receipt of a fairness evaluation or fairness opinion satisfactory to the Seller and the Attorney General) and approval of the transfer or disposition of all donor restricted

funds of the Hospitals and all Subsidiaries in a manner acceptable to the Attorney General, required for Seller to consummate the transactions contemplated by this Agreement and that all applicable waiting periods under the HSR Act shall have expired or been terminated.

6.04. Redemption of the Bonds/Satisfaction of the Indenture. All actions required to be taken and all conditions required to be satisfied in connection with the defeasance or redemption of all outstanding tax-exempt debt issued by or on behalf of Seller, including the Bond Liabilities, and the satisfaction, discharge, release, and termination of all trust indentures, tax-exempt equipment loans and related documents (collectively, the “**Indenture**”) associated with such tax-exempt debt, and all Encumbrances created by or in connection with the Indenture, have been, or at Closing will be, taken and satisfied. The Indenture and all Encumbrances created by or in connection with the Indenture shall have been satisfied, discharged and terminated, and Seller shall have received an opinion from counsel to the Connecticut Health and Education Facilities Authority to the effect that all Bond Liabilities have been defeased or prepaid, together with evidence satisfactory to Buyer of the discharge of all Encumbrances on the Assets under the Indenture.

6.05. Extraordinary Events. Buyer (a) is not in receivership or dissolution, (b) has not made any assignment for the benefit of creditors, (c) has not admitted in writing its inability to pay its debts as they mature, (d) has not been adjudicated a bankrupt, (e) has not filed a petition in voluntary bankruptcy, a petition or answer seeking reorganization, or an arrangement with creditors under the federal bankruptcy law or any other similar Legal Requirement of the United States or any state (and no such petition has been filed against Buyer), or (f) has not entered into any contract to do any of the foregoing on or after the Closing Date.

## 7. CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER

The obligations of Buyer to consummate the transactions contemplated by this Agreement, including by taking the actions specified in Section 8.03, are subject to the satisfaction on or before Closing of the following conditions, unless waived by Buyer:

### 7.01. Representations; Covenants; Schedules.

(a) Each of the representations and warranties of Seller in this Agreement that is qualified as to materiality was true and correct on and as of the date of this Agreement, each of the other representations and warranties of Seller in this Agreement was true and correct in all material respects on and as of the date of this Agreement, each of the representations and warranties of Seller in this Agreement that is qualified as to materiality is true and correct on and as of the Closing Date, and each of the other representations and warranties of Seller in this Agreement is true and correct in all material respects on and as of the Closing Date (other than the representation in Section 3.08(1) which shall be true and correct in all respects).

(b) Each of the covenants to be complied with or performed by Seller on or before Closing (other than actions to be taken at the Closing, including the delivery of the Closing Documents described in Section 8.02) has been complied with and performed in all material respects.

(c) Each of Seller's Schedules, Exhibits and other instruments required under this Agreement has been updated or delivered by Seller, and approved by Buyer, all in accordance with Section 10.01.

7.02. Adverse Action or Proceeding. No Proceeding by any Governmental Authority (including the Attorney General) has been instituted or threatened to restrain or prohibit the transactions contemplated by this Agreement, no Governmental Authority (including the Attorney General) has taken any other action or made any request of Seller or Buyer as a result of which Buyer reasonably and in good faith deems it inadvisable to proceed with the transactions contemplated by this Agreement, and no order is in effect restraining, enjoining or otherwise preventing consummation of the transactions contemplated by this Agreement.

7.03. Material Adverse Change. Since the date hereof, no Material Adverse Change has occurred and no event or condition has occurred or exists that could reasonably be expected to cause a Material Adverse Change.

7.04. Pre-Closing Confirmations and Contractual Consents. Buyer has obtained documentation or other evidence reasonably satisfactory to Buyer that:

(a) All Permits required to operate the Hospital Businesses will be transferred to or issued in the name of Buyer as of the Closing Date, without the imposition of any condition that is materially burdensome to the operation of the Hospital Businesses after Closing;

(b) The applicable Hospital Businesses that participate in the Government Payment Programs as of the date of this Agreement will be qualified effective as of Closing to participate in the Government Payment Programs in which they participate as of the date of this Agreement and will be entitled to receive payment under such Government Payment Programs for services rendered to qualified beneficiaries of such Government Payment Programs immediately after the Closing Date with respect to the Hospitals, and within a reasonable period of time after the Closing Date with respect to the other applicable Hospital Businesses;

(c) All other consents, approvals, licenses and other authorizations of Governmental Authorities, including the certificate of need approval by the Office of Health Care Access of the Connecticut Department of Public Health and approval for the conversion of the Hospitals to a for-profit entity by the Attorney General, required for Buyer to consummate the transactions contemplated by this Agreement and all other material consents, approvals, licenses and other authorizations of Governmental Authorities required for Buyer to operate the Hospital Businesses after Closing shall have been received on terms reasonably satisfactory to Buyer;

(d) Seller has delivered to Buyer copies of consents to assignment of the Assumed Contracts, and certain other consents, waivers and estoppels, that are listed on Schedule 7.04(d);

(e) Seller has obtained approvals from its Board of Trustees, corporators and, to the extent required, the governing boards of its Subsidiaries; and

(f) All applicable waiting periods under the HSR Act have expired or been terminated.

7.05. Extraordinary Events. Seller (a) is not in receivership or dissolution, (b) has not made any assignment for the benefit of creditors, (c) has not admitted in writing its inability to pay its debts as they mature, (d) has not been adjudicated a bankrupt, (e) has not filed a petition in voluntary bankruptcy, a petition or answer seeking reorganization, or an arrangement with creditors under the federal bankruptcy law or any other similar Legal Requirement of the United States or any state (and no such petition has been filed against it), and (f) has not entered into any Contract to do any of the foregoing on or after the Closing Date.

7.06. Title Insurance Policies and Surveys. Buyer has received:

(a) One or more commitments from a recognized national title insurance company chosen by Buyer to issue as of the Closing Date ALTA extended coverage owner's title insurance policies for the Owned Real Property, in amounts reasonably acceptable to Buyer, in form reasonably acceptable to Buyer and with such endorsements as Buyer may reasonably require, at Buyer's sole cost and expense; and

(b) ALTA land title surveys of the Owned Real Property, in form reasonably satisfactory to Buyer and the title insurance company, from a firm designated by Buyer and certified to Buyer and the title insurance company, at Buyer's sole cost and expense.

7.07. [RESERVED].

7.08. The Indenture. The Indenture and all Encumbrances created by or in connection with the Indenture, including the Bond Liabilities and other tax-exempt debt, shall have been satisfied, discharged and terminated, and Buyer shall be entitled to rely on the opinion of Seller's bond counsel described in Section 6.04.

7.09. Environmental Assessments. Buyer shall, at its election, have received a Phase I environmental site assessment in a form reasonably satisfactory to Buyer, on each parcel of Owned Real Property and, at Buyer's option, any portion of the premises forming a part of the Leased Real Property (each, a "**Phase I Assessment**," and, collectively, the "**Phase I Assessments**"). Buyer shall not be permitted to conduct any Phase II environmental site assessments, or other intrusive or destructive testing on or relating to the Owned Real Property or Leased Real Property (each, a "**Phase II Assessment**," and, collectively, the "**Phase II Assessments**") unless pursuant to information contained in the applicable Phase I Assessment and subject to the prior approval of Seller (including any conditions which Seller may impose on such investigations, and, if Seller so requires, memorialized in an environmental access agreement between Buyer and Seller), in Seller's sole discretion. Notwithstanding the foregoing, if, after review of any Phase I Assessment, the parties reasonably determine that the subject real property is an Establishment Real Property (as defined in Section 5.08 hereof) and reasonably identifies any "areas of concern" ("**AOCs**") warranting additional investigation pursuant to the Transfer Act, then, in order to obtain a preliminary (but not definitive) understanding of the nature and extent of any contamination potentially associated with such AOC, Buyer shall have the right to perform a limited Phase II Assessment of each such AOC pursuant to a scope of

work approved by Seller in advance, which approval (including any conditions which Seller may reasonably impose on such investigation) shall not be unreasonably withheld, conditioned or delayed. Buyer shall pay the full costs of any Phase I Assessment(s) and any Phase II Assessment(s) that may occur pursuant to this Section 7.09. Notwithstanding any other provision hereof to the contrary, Buyer shall not provide Seller with copies of any Phase II Assessment(s) (or any of the data contained therein) unless requested by Seller. To the extent any Phase II Assessments are performed in accordance with this provision, Buyer shall be reasonably satisfied with same.

7.10. Hill-Burton Facilities. No Encumbrance affects any of the Assets or Hospital Businesses relating to or arising under the Hill-Burton Act.

7.11. Physician Organization. On or before the Closing, Buyer shall form a medical foundation under Chapter 594b of the Connecticut General Statutes (the “**PMH Medical Foundation**”). The PMH Medical Foundation shall adopt governing documents in substantially the form set forth in Exhibit C. Simultaneous with the Closing, Eastern Connecticut Medical Professionals Foundation, Inc. shall transfer its assets, including its agreements with physicians, to the PMH Medical Foundation. The PMH Medical Foundation shall continue to employ on and after the Closing Date and consistent with the agreements transferred to it hereunder those physicians and other licensed “Providers,” as defined in Section 33-182aa of the Connecticut General Statutes, that Eastern Connecticut Medical Professional Foundations, Inc. employed immediately prior to the Closing Date.

7.12. Additional Liabilities. Seller shall not, based on the Closing Estimates, have Additional Liabilities in excess of Ten Million Dollars (\$10,000,000), unless Buyer in its sole discretion agrees to assume such Additional Liabilities in accordance with Section 2.05(d).

## 8. CLOSING; TERMINATION OF AGREEMENT

### 8.01. Closing.

(a) Consummation of the sale and purchase of the Assets and the other transactions contemplated by this Agreement (the “**Closing**”) will take place electronically at 10:00 a.m., or at such other place and time as the parties may mutually agree, on October 1, 2016, or if at such time any conditions to Closing set forth in Articles 6 and 7 have not been satisfied (or waived by the parties entitled to the benefit thereof), on the third business day following satisfaction or waiver of such conditions, or at such time or place as the parties may mutually agree. The Closing shall be effective for all purposes as of 12:01 a.m. on the day of the Closing Date.

(b) At the Closing, Seller shall deliver, or cause to be delivered, to Buyer, each of the Closing Documents and other items set forth in Section 8.02, all in forms reasonably acceptable to Buyer and its counsel, and such Closing Documents, as appropriate, shall be duly executed by, and acknowledged on behalf of, Seller. At the Closing, Buyer shall deliver, or cause to be delivered, to Seller, each of the Closing Documents and the consideration set forth in Section 8.03, all in forms reasonably

acceptable to Seller and its counsel, and such Closing Documents, as appropriate, shall be duly executed by, and acknowledged on behalf of, Buyer and, where applicable, PMH.

(c) All proceedings to be taken and all documents to be executed and delivered by all parties at the Closing will be deemed to have been taken, executed and delivered simultaneously, and no proceedings will be deemed taken nor any documents executed or delivered until all have been taken, executed and delivered. At the conclusion of the Closing, all Closing Documents shall be released to the recipients thereof and Seller shall deliver (or cause to be delivered) to Buyer control and possession of the Assets.

8.02. Action of Seller at Closing. At the Closing, Seller shall deliver to Buyer:

(a) special warranty deeds, duly executed by Seller in recordable form, conveying to Buyer fee simple title to the Owned Real Property, free and clear of Encumbrances other than the Permitted Real Property Encumbrances;

(b) assignment and assumption agreements duly executed by Seller conveying to Buyer all of Seller's right, title and leasehold interest in and to the Leased Real Property;

(c) bills of sale and assignment duly executed by Seller conveying to Buyer good and valid title to all personal property Assets, free and clear of Encumbrances other than the Permitted Personal Property Encumbrances;

(d) assignments duly executed by Seller conveying to Buyer Seller's interests in the Assumed Contracts;

(e) limited powers of attorney to permit Buyer to utilize Seller's DEA registration numbers, in substantially the form of Exhibit B attached hereto, fully executed by Seller;

(f) a copy of resolutions duly adopted by the board of directors of Seller authorizing and approving the execution and delivery of this Agreement and the Closing Documents and the consummation of the transactions contemplated herein and therein, certified as in full force and effect as of the Closing Date by an appropriate officer of Seller;

(g) a certificate of a duly authorized officer of Seller certifying that (i) each of the representations and warranties of Seller in this Agreement that is qualified as to materiality was true and correct on and as of the date of this Agreement, (ii) each of the other representations and warranties of Seller in this Agreement was true and correct in all material respects on and as of the date of this Agreement, (iii) each of the representations and warranties of Seller in this Agreement that is qualified as to materiality is true and correct on and as the Closing Date, (iv) each of the other representations and warranties of Seller in this Agreement was true and correct in all material respects on and as of the Closing Date and (v) each of the covenants to be complied with or performed by Seller on or before Closing (other than actions to be taken

at the Closing, including the delivery of the Closing Documents described in this Section 8.02) has been complied with and performed in all material respects;

- (h) a certificate of incumbency for the officers of Seller executing this Agreement and the Closing Documents;
- (i) a certificate of legal existence for Seller and each of its Subsidiaries that is organized under the laws of the State of Connecticut from the State of Connecticut, dated no earlier than 15 days prior to the Closing Date;
- (j) stock certificates and certificates or other appropriate instruments of transfer of the ownership interests in the Joint Ventures, duly endorsed for transfer to Buyer, and, to the extent obtained prior to Closing, any amendment to the operating agreement, bylaws or other governing documents of each Joint Venture that Buyer determines, in its reasonable discretion, is necessary to fully effectuate the transfer of the ownership interest in the Joint Ventures to Buyer;
- (k) a statement pursuant to section 1.1445-2(b)(2)(iv) of the Treasury Regulations under the Code, executed on behalf of Seller or any Affiliate conveying an interest in Owned Real Property to Buyer or its Affiliates, certifying that such entity is not a foreign corporation and is not otherwise a foreign Person;
- (l) all certificates of title and other documents evidencing an ownership interest conveyed as part of the Assets, including for all motor vehicles;
- (m) all necessary state and local real estate conveyance tax forms duly executed by Seller;
- (n) final execution copy of the Transfer Act Form III and ECAF with a \$3,000 filing fee, as more fully described in Section 5.08;
- (o) UCC termination statements or other releases for all Encumbrances on the Assets not constituting Permitted Encumbrances, which termination statements and releases will be effective as of Closing;
- (p) owner's affidavits, certificates, rent rolls and other documentation that may be reasonably necessary to consummate the transactions contemplated by this Agreement and obtain the title policies required to be issued hereunder;
- (q) the Transitional Services Agreement, fully executed by Seller; and
- (r) such other Closing Documents as Buyer deems reasonably necessary to consummate the transactions contemplated by this Agreement.

8.03. Action of Buyer at Closing. At the Closing, Buyer shall deliver to Seller:

- (a) The Purchase Price due to Seller, as adjusted in accordance with Section 2.05;

(b) an assumption agreement duly executed by Buyer pursuant to which Buyer assumes the Assumed Liabilities, as well as any documents Seller may reasonably require to effectuate Buyer's assumption of certain of Seller's Employee Benefit Plans pursuant to Section 5.03(e);

(c) a copy of resolutions duly adopted by the boards of directors, members or managers of PMH and Buyer, as appropriate, authorizing and approving the execution and delivery of this Agreement and the Closing Documents and the consummation of the transactions contemplated herein and therein, certified as in full force and effect as of the Closing Date by an appropriate officer of PMH and Buyer;

(d) a certificate of a duly authorized officer of Buyer certifying that each of the representations and warranties of Buyer in this Agreement that is qualified as to materiality was true and correct on and as of the date of this Agreement, that each of the other representations and warranties of Buyer in this Agreement was true and correct in all material respects on and as of the date of this Agreement, that each of the representations and warranties of Buyer in this Agreement that is qualified as to materiality is true and correct on and as of the Closing Date, that each of the other representations and warranties of Buyer in this Agreement is true and correct in all material respects on and as of the Closing Date, and that each of the covenants to be complied with or performed by Buyer on or before Closing (other than actions to be taken at the Closing, including the delivery of the Closing Documents described in this Section) has been complied with and performed in all material respects;

(e) a certificate of incumbency for the officers of PMH and Buyer executing this Agreement and the Closing Documents;

(f) a certificate of legal existence for Buyer from the State of Connecticut, dated no earlier than 15 days prior to the Closing Date;

(g) the Transitional Services Agreement, fully executed by Buyer; and

(h) such other Closing Documents as Seller deems reasonably necessary to consummate the transactions contemplated by this Agreement.

#### 8.04. Termination Prior to Closing; Termination Fee.

(a) Notwithstanding anything herein to the contrary, this Agreement may be terminated at any time: (i) by mutual consent of Seller and Buyer; (ii) by Buyer, by written notice to Seller if any event occurs or condition exists that causes Seller to be unable to satisfy one or more conditions to the obligations of Buyer to consummate the transactions contemplated by this Agreement as set forth in Article 7; (iii) by Seller, by written notice to Buyer if any event occurs or condition exists that causes Buyer to be unable to satisfy one or more conditions to the obligations of Seller to consummate the transactions contemplated by this Agreement as set forth in Article 6; (iv) by Seller or Buyer, if the Closing Date shall not have taken place on or before December 31, 2016 (as such date may be extended by mutual agreement of Seller and Buyer); *provided*, however, that no party may terminate this Agreement if the failure of Closing to occur by



such date resulted from a material breach of this Agreement by such party; (v) by Buyer, pursuant to Section 5.13 hereof, or (vi) by Seller pursuant to Section 10.11(b).

(b) For the avoidance of doubt, this Section 8.04(b) shall not be effective unless and until the Certificate of Need (“CON”) application has been filed with the State of Connecticut. Upon the filing of the CON application with the State of Connecticut, Seller shall present its invoices for reasonable out-of-pocket legal, valuation and consulting expenses incurred by Seller after the execution of that Letter of Intent between Buyer and Seller dated June 25, 2015 up to the time of the filing of the CON application (the “CON Preparation Period”). Within 10 days of receipt of such invoices, Buyer shall reimburse Seller for such reasonable out-of-pocket legal, valuation and consulting expenses up to \$1,000,000 (One Million Dollars). If, however, the out-of-pocket legal, valuation and consulting expenses incurred by Seller during the CON Preparation Period total less than \$1,000,000 (One Million Dollars), then Seller may present Buyer with additional invoices for out-of-pocket legal, valuation and consulting expenses incurred by Seller after the filing of the CON but prior to the closing of the transaction, and Buyer shall reimburse Seller for such additional out-of-pocket legal, valuation, and consulting expenses within 10 days of receipt of such invoices; provided, however, that the total amount of the invoices reimbursed by Buyer for out-of-pocket legal, valuation and consulting expenses paid by Seller during the CON Preparation Period and thereafter shall not in the aggregate exceed \$1,000,000 (One Million Dollars). In the event that the transaction closes, the total amount paid by Buyer to Seller pursuant to this Section 8.04(b) shall be credited against the Purchase Price as shown in Section 2.05(a)(xi). In the event that the transaction does not close because Buyer breaches its obligations under this Agreement or refuses to accept regulatory conditions placed on the transaction by the Attorney General and the Office of Health Care Access of the Connecticut Department of Public Health, Seller shall be entitled to retain all amounts it receives pursuant to this Section 8.04(b). In the event that the transaction does not close as a result of (i) a breach by Seller of the provisions of Section 5.23 where such breach is willful and intentional by Seller or (ii) the failure of any material regulatory approval to issue despite the good faith efforts of the parties to cooperate with each other and regulators as part of the regulatory process, then Seller shall refund to Buyer all amounts paid to Seller under this Section 8.04(b).

(c) If this Agreement is validly terminated pursuant to Section 8.04(a), this Agreement will be null and void, and there will be no liability on the part of any party pursuant to this Agreement, except that (i) upon termination of this Agreement pursuant to Section 8.04(a), subject to Section 8.04(b), Seller will remain liable to Buyer and Buyer will remain liable to Seller for any breach of their respective obligations existing at the time of such termination, and each party may seek such remedies or damages against the other with respect to any such breach as are provided in this Agreement or as are otherwise available at law or in equity and (ii) the expense allocation provisions of Section 5.20 and the confidentiality provisions of Section 10.22 shall remain in full force and effect and survive any termination of this Agreement.

(d) Upon termination of this Agreement, each party’s existing rights of access to the books and records of the other party shall terminate, and each party shall promptly

return every document furnished it by the other party (or any Affiliate of such other party) in connection with the transactions contemplated hereby, whether obtained before or after execution of this Agreement, and all copies thereof, and will destroy all copies of any analyses, studies, compilations or other documents prepared by it or its representatives to the extent they contain any information with respect to the business of the other parties hereto or their Affiliates, and will cause its representatives to whom such documents were furnished to comply with the foregoing. This Section 8.04 shall survive any termination of this Agreement.

## 9. INDEMNIFICATION

9.01. Indemnification by Seller. Subject to the conditions and limitations, and solely to the extent provided in this Article 9, Seller shall indemnify, defend and hold harmless Buyer's Indemnified Persons, and each of them, from and against any Losses incurred or suffered by Buyer's Indemnified Persons, directly or indirectly, as a result of or arising from:

(a) any inaccuracy in or breach of any representation or warranty of Seller set forth in this Agreement or in any Closing Document to which Seller is a party, whether or not Buyer's Indemnified Persons relied thereon or had knowledge thereof, *provided that*, in determining whether there has been any such inaccuracy or breach, any qualification as to materiality included in any representation or warranty shall not be taken into account;

(b) any claim asserted against Buyer or Buyer's Affiliates that, if meritorious, would constitute or give rise to a breach of any of Seller's representations and warranties as the direct cause of such claim;

(c) the nonfulfillment or breach of any covenant of Seller set forth in this Agreement or in any Closing Document to which Seller is a party;

(d) the Excluded Liabilities;

(e) any actual damages (including reasonable attorneys' fees) resulting from claims by any creditor of Seller relating to a claim in existence as of the Closing Date that the transfer of any of the Assets constitutes a fraudulent conveyance or transfer, or is avoidable under applicable state or federal insolvency, bankruptcy, bulk sales, fraudulent conveyance or creditors' rights Legal Requirements; and

(f) any liabilities, costs or expenses incurred by Buyer or its Affiliates in connection with the Transfer Act Activities contemplated by Section 5.08.

9.02. Seller's Limitations. Seller will have no liability under Section 9.01(a) and no claim will accrue against Seller under Section 9.01(a) unless and until the total amount of Losses that would otherwise be indemnifiable by Seller in respect of claims arising under Section 9.01(a) exceeds \$675,000 (the "**Seller Deductible**") in the aggregate, at which time Buyer's Indemnified Persons shall be entitled to indemnification for all Losses under Section 9.01(a) in excess of the Seller Deductible, *provided* that there shall be no minimum Loss requirement, and liability of Seller shall arise for all Losses, in respect of Losses resulting from Seller's intentional misrepresentation or fraud.

9.03. Indemnification by Buyer. Subject to the conditions and limitations, and solely to the extent, provided in this Article 9, Buyer shall indemnify, defend and hold harmless Seller's Indemnified Persons, and each of them, from and against any Losses incurred or suffered by Seller's Indemnified Persons, directly or indirectly, as a result of or arising from:

- (a) the inaccuracy in or breach of any representation or warranty of Buyer set forth in this Agreement or in any Closing Document to which Buyer is a party, whether or not Seller's Indemnified Persons relied thereon or had knowledge thereof, *provided* that, in determining whether there has been any such inaccuracy or breach, any qualification as to materiality included in any representation or warranty shall not be taken into account;
- (b) the nonfulfillment or breach of any covenant of Buyer in this Agreement or in any Closing Document to which Buyer is a party;
- (c) the Assumed Liabilities; and
- (d) the ownership by Buyer of the Assets or the operation by Buyer of the Hospital Businesses after the Closing Date.

9.04. Buyer's Limitations. Buyer will have no liability under Section 9.03(a) and no claim will accrue against Buyer under Section 9.03(a) unless and until the total amount of Losses that would otherwise be indemnifiable by Buyer in respect of claims arising under Section 9.03(a) exceeds \$675,000 (the "**Buyer Deductible**") in the aggregate, at which time Seller's Indemnified Persons shall be entitled to indemnification for all Losses under Section 9.03(a) in excess of the Buyer Deductible, *provided* that there shall be no minimum Loss requirement, and liability of Buyer shall arise for all Losses, in respect of Losses resulting from any intentional misrepresentation or fraud by Buyer.

9.05. Notice and Procedure. All claims for indemnification by any Indemnitee against an Indemnifying Party under this Article shall be asserted and resolved as follows:

(a) Third Party Claims.

- (i) If the basis for any claim for indemnification against an Indemnifying Party pursuant to this Article 9 is a claim or demand made against an Indemnitee by a Person other than Buyer's Indemnified Person or Seller's Indemnified Person (a "**Third Party Claim**"), the Indemnitee shall deliver a Claim Notice with reasonable promptness to the Indemnifying Party (with copies

of all relevant written documentation, including papers served, if any, and a reasonable summary of any relevant oral discussions with such third party) specifying the nature of and alleged basis for the Third Party Claim and, to the extent then feasible and known, the alleged amount or the estimated amount of the Third Party Claim. If the Indemnitee fails to deliver the Claim Notice (and related materials) to the Indemnifying Party within 60 days after the Indemnitee receives notice of such Third Party Claim, the Indemnifying Party will not be obligated to indemnify the Indemnitee with respect to such Third Party Claim if and only to the extent that the Indemnifying Party's ability to defend the Third Party Claim or otherwise minimize the Losses for which the Indemnifying Party must indemnify the Indemnitee has been prejudiced by such failure. The Indemnifying Party will notify the Indemnitee within 15 days after receipt of the Claim Notice by the Indemnifying Party (the "**Notice Period**") whether the Indemnifying Party elects, at the sole cost and expense of the Indemnifying Party, to assume the defense of the Indemnitee against the Third Party Claim.

(ii) If the Indemnifying Party notifies the Indemnitee within the Notice Period that the Indemnifying Party elects to assume the defense of the Indemnitee against the Third Party Claim, then the Indemnifying Party will defend, at its sole cost and expense, the Third Party Claim by all appropriate proceedings, which proceedings will be diligently prosecuted by the Indemnifying Party to a final conclusion or settled, at the discretion of the Indemnifying Party (with the consent of the Indemnitee, which consent shall not be unreasonably withheld with respect to any settlement that does not include any non-monetary relief). The Indemnifying Party will have full control of such defense and proceedings, including any compromise or settlement thereof; *provided* that, prior to the Indemnitee's receipt of the Indemnifying Party's notice that it elects to assume such defense, the Indemnitee may file, at the sole cost and expense of the Indemnitee, any motion, answer or other pleading that the Indemnitee reasonably deems necessary to protect its interests and that is not prejudicial to the Indemnifying Party (it being understood that, except as provided in this Section 9.05(a)(ii), if an Indemnitee takes any such action that is prejudicial to the Indemnifying Party, the Indemnifying Party will be relieved of its obligations hereunder with respect to that portion of the Third Party Claim (or the Losses attributable thereto) prejudiced by the Indemnitee's action); and *provided further* that, if requested by the Indemnifying Party, the Indemnitee shall reasonably cooperate, at the sole cost and expense of the Indemnifying Party, with the Indemnifying Party and its counsel in contesting any Third Party Claim that the Indemnifying Party elects to contest or, if related to the Third Party Claim, in making any counterclaim or cross-claim against any Person (other than the Indemnitee or its Affiliates). The Indemnitee may participate in, but not control, any defense or settlement of any Third Party Claim assumed by the Indemnifying Party pursuant to this Section 9.05(a)(ii) and, except in respect of cooperation requested by the Indemnifying Party as provided in the preceding sentence, the Indemnitee will bear its own costs and expenses with respect to such participation. Notwithstanding the foregoing, the Indemnifying Party may not assume the defense of the Third Party Claim on behalf of the Indemnitee if (1) the

Persons against whom the Third Party Claim is made, or any impleaded Persons, include both one or more of Buyer's Indemnified Persons and one or more of Seller's Indemnified Persons, and (2) representation of all of such Persons by the same counsel creates an actual or potential conflict of interest that, after giving effect to any waivers made by such Persons, would breach or violate the ethical rules applicable to such counsel, in which case the Indemnitee shall have the right to defend the Third Party Claim on its own behalf and to employ counsel at the expense of the Indemnifying Party.

(iii) If the Indemnifying Party fails to notify the Indemnitee within the Notice Period that the Indemnifying Party intends to defend the Indemnitee against the Third Party Claim, or if the Indemnifying Party gives such notice but fails to diligently prosecute or settle the Third Party Claim, or if the Indemnifying Party is precluded by the last sentence of Section 9.05(a)(ii) from assuming the defense of such Third Party Claim, then (A) the Indemnitee will defend the Third Party Claim by all appropriate proceedings, which proceedings will be diligently prosecuted by the Indemnitee to a final conclusion or settled at the discretion of the Indemnitee (*provided*, however, that no Indemnifying Party shall be liable to any Indemnitee for any Losses arising from any settlement that is made or entered into without an Indemnifying Party's prior, written consent, such consent not to be unreasonably withheld or delayed) and (B) the out-of-pocket costs and expenses reasonably incurred in good faith by the Indemnitee in the defense of such Third Party Claim will be paid by the Indemnifying Party. The Indemnitee will have full control of such defense and proceedings, including any compromise or settlement thereof (subject to the proviso in the first sentence of this clause (iii)), *provided* that, if requested by the Indemnitee, the Indemnifying Party shall reasonably cooperate, at the sole cost and expense of the Indemnifying Party, with the Indemnitee and its counsel in contesting the Third Party Claim which the Indemnitee is contesting or, if related to the Third Party Claim in question, in making any counterclaim or cross-claim against any Person (other than the Indemnifying Party or its Affiliates).

(b) First Party Claims.

(i) If any Indemnitee has a claim against any Indemnifying Party that is not a Third Party Claim, the Indemnitee shall deliver an Indemnity Notice with reasonable promptness to the Indemnifying Party specifying the nature of and specific basis for the claim and, to the extent then feasible, the amount or the estimated amount of the claim. If the Indemnifying Party does not notify the Indemnitee within 60 days following its receipt of the Indemnity Notice that the Indemnifying Party disputes its obligation to indemnify the Indemnitee hereunder, the claim will be presumed to be a liability of the Indemnifying Party hereunder.

(ii) Upon receipt of any Indemnity Notice, the Indemnifying Party will be entitled to request in writing and receive from the Indemnitee a reasonable extension of the 60-day period in which to respond pursuant to Section 9.05(b)(i) for the purpose of investigating the claims made therein or the proper amount

thereof. The Indemnitee, to the extent requested by the Indemnifying Party, shall reasonably cooperate, at the sole cost and expense of the Indemnifying Party, with the Indemnifying Party's investigation of such claims or the proper amount thereof.

(c) Resolution of Disputes. If the Indemnifying Party timely disputes, or is deemed to have disputed, its liability with respect to a claim described in a Claim Notice or an Indemnity Notice, the Indemnifying Party and the Indemnitee shall proceed promptly and in good faith to negotiate a resolution of such dispute within 60 days following receipt by the Indemnifying Party of the Claim Notice or Indemnity Notice and, if such dispute is not resolved through negotiations during such 60-day period, it shall be resolved pursuant to Section 10.04 and, if not resolved thereby, by other appropriate legal process.

(d) Payment of Indemnifiable Losses. Subject to the terms of any final order entered by a court of competent jurisdiction, the Indemnifying Party shall pay the amount of any indemnifiable Losses to the Indemnitee within ten days following the later to occur of (i) the date on which such indemnifiable Losses are incurred or sustained by the Indemnitee or (ii) the date on which the Indemnifying Party has acknowledged its liability for such indemnifiable Losses. Indemnifiable Losses not paid when so due shall accrue interest from (and including) the date on which such indemnifiable Losses were incurred or sustained by the Indemnitee until (but excluding) the date on which such amount is paid, at the interest rate provided in Section 10.20.

(e) Certain Disclaimers. Any estimated amount of a claim submitted in a Claim Notice or an Indemnity Notice shall not be conclusive of the final amount of such claim, and the giving of a Claim Notice when an Indemnity Notice is properly due, or the giving of an Indemnity Notice when a Claim Notice is properly due, shall not impair such Indemnitee's rights hereunder. Notice of any claim comprised in part of Third Party Claims and claims that are not Third Party Claims shall be appropriately bifurcated and given pursuant to each of Section 9.05(a)(i) and Section 9.05(b)(i), as applicable.

9.06. Survival of Representations and Warranties; Indemnity Periods. Notwithstanding any right of Buyer to investigate Seller and the Hospital Businesses or any right of any party to investigate the accuracy of the representations and warranties of the other party in this Agreement, or any actual investigation by or knowledge of a party, Seller has, on the one hand, and Buyer has, on the other hand, the right to rely fully upon the representations and warranties of the other in this Agreement. The representations, warranties and covenants of Seller and Buyer in this Agreement respectively will survive the Closing (a) indefinitely with respect to matters covered by Sections 2.04, 3.01, 3.02, 3.03, 3.11, 4.01, 4.02, 4.04, 8.04(b), 8.04(c), 8.04(d), 9.01(b)-(e), 9.03(b)-(d), 10.15, 10.20, 10.22 and 10.23, (b) until the expiration of all applicable statutes of limitations (including all periods of extension) with respect to matters covered by Sections 3.05, 3.07, 3.11, 3.12(a), 3.13, 3.17, 3.22, 3.24 and 3.28, and (c) until the second anniversary of the Closing Date in the case of all other representations and warranties, except that:

(i) the right to indemnification with respect to any claim relating to a breach or default of any representation and warranty whose survival expires in accordance with clause (b) or (c) above will continue to survive if a Claim Notice or an Indemnity Notice with respect to such claim has been given on or before the expiration of such representation or warranty until the claim for indemnification has been satisfied or otherwise resolved as provided in this Article;

(ii) in the event of intentional misrepresentation or fraud in the making of any representation and warranty, all representations and warranties that are the subject of the intentional misrepresentation, fraud or intentional nonfulfillment or breach shall survive until the expiration of all applicable statutes of limitations (including all periods of extension) with respect to claims made for such intentional misrepresentation, fraud or intentional nonfulfillment or breach; and

(iii) covenants to be performed or complied with after the Closing Date will survive the Closing until 60 days after the end of the term specified in each covenant, or, if no term is specified, indefinitely.

9.07. Mitigation. Each Indemnitee shall take all commercially reasonable steps to mitigate its Losses upon and after becoming aware of any event or condition that has given rise to any Losses for which it may be indemnified pursuant to this Agreement. The amount of Losses for which an Indemnitee may make an indemnification claim pursuant to this Agreement shall be reduced by any amounts actually recovered by the Indemnitee under insurance policies or other collateral sources (such as contractual indemnities of any Person that are contained outside of this Agreement or the Closing Documents) with respect to such Losses. Each Indemnitee must use commercially reasonable efforts to obtain recovery under such insurance policies or other collateral sources. To the extent that any payment received by an Indemnitee under any insurance policy or other collateral source was not previously taken into account to reduce the amount of indemnifiable Losses paid to such Indemnitee, such Indemnitee shall promptly pay over to the Indemnifying Party the amount so recovered or realized (after deducting therefrom the full amount of the expenses incurred by the Indemnitee in procuring such recovery or realization), but such amount paid over to the Indemnifying Party shall not exceed the sum of (a) the amount previously paid by the Indemnifying Party to the Indemnitee in respect of such matter plus (b) the amount expended by the Indemnifying Party in pursuing or defending any third party claim arising out of such matter. Notwithstanding the foregoing, no Indemnitee shall be required to seek recovery under any insurance policy issued by, or other collateral source that is, an Affiliate of the Indemnitee.

9.08. Indemnity Reserve. In accordance with the provisions of Sections 2.05(g), 2.05(k) and 2.05(m), Seller agrees to fund an indemnity reserve up to a maximum of \$4,500,000 (Four Million Five Hundred Thousand Dollars) for a period of three years after the Closing so that Buyer will have meaningful financial recourse against Seller for indemnification claims; *provided*, however, that (a) if, as of the third anniversary of the Closing Date, Buyer has pending indemnification claims, then Seller shall maintain an indemnity reserve in the amount of Buyer's Indemnified Person's bona fide claims until final resolution of such matters, and (b) if Buyer has not yet received written approval from CTDEEP or a "verification" from a "Licensed Environmental Professional" as contemplated by Section 5.08 that the Establishment Real

Properties have been remediated in full compliance with the Connecticut Remediation Standard Regulations, then the indemnification reserve shall be extended for an additional period until such written approval has been received by Buyer. Notwithstanding the foregoing, in no circumstance shall the indemnification reserve established by this Section 9.08 be extended beyond the fifth anniversary of the Closing Date. For clarity, in no event shall the indemnity reserve be deemed to be in any respect a cap on the amount of Losses for which the Buyer's Indemnified Persons shall be entitled to recover under Section 9.01. To the extent that any funds remain in the indemnity reserve following the expiration of applicable periods set forth in this Section 9.08, and there has been a reduction in the Commitment Amount pursuant to Section 5.18, the remaining indemnity reserve funds shall be paid to Buyer and the Commitment Amount shall be increased, on a dollar-for-dollar basis, up to Seventy-Five Million Dollars (\$75,000,000).

## 10. GENERAL

### 10.01. Exhibits; Schedules.

(a) Each Schedule and Exhibit to this Agreement shall be considered a part hereof as if set forth herein in full. From the date hereof until Closing, Seller shall update its Schedules such that all of its representations and warranties are true and accurate as of the Closing Date. Any other provision herein to the contrary notwithstanding, all Schedules, Exhibits, or other instruments provided for herein and not delivered at the time of execution of this Agreement or that are incomplete at the time of execution of this Agreement shall be delivered or completed within ten (10) days after the date hereof or ten (10) days prior to the Closing, whichever is sooner. It shall be deemed a condition precedent to the obligations of Buyer that each of the Schedules, Exhibits and related documents, instruments, books and records shall meet with the approval of Buyer. If Buyer, in its reasonable discretion, determines that it should not consummate the transactions contemplated by this Agreement because of any information contained in a Schedule, Exhibit, or other instrument that is delivered to Buyer after the execution of this Agreement, then Buyer may terminate this Agreement on or before the Closing by giving written notice thereof to Seller.

(b) Nothing in the Schedules shall be deemed adequate to disclose an exception to a representation or warranty made in this Agreement unless the Schedule identifies the exception with reasonable particularity and, without limiting the generality of the foregoing, the mere listing of a document as an exception to any representation and warranty shall not be deemed to disclose the contents of such document as an exception to any representation or warranty (but shall be adequate to disclose the existence of the document itself).

10.02. Equitable Remedies. Subject to Section 8.04(b), each party acknowledges and agrees that its breach of this Agreement, or its failure to perform its obligations pursuant to this Agreement in accordance with its specific terms, would cause the other party to suffer irreparable damage or injury that would not be fully compensable by money damages, or the exact amount of which may be impossible to determine, and, therefore, such other party would not have an adequate remedy available at law. Accordingly, each party agrees that the other



party shall be entitled to seek specific performance, injunctive and/or other equitable relief from any court of competent jurisdiction (without the necessity of posting bond) as may be necessary or appropriate to enforce specifically this Agreement and the terms and provisions hereof and to prevent or curtail any breach (or threatened breach) of the provisions of this Agreement. Such equitable remedies shall not be the exclusive remedy of any party for any such breach or failure to perform by another party, but shall be in addition to all other remedies available to such party at law or in equity (the availability of which remedies shall be, after the Closing, subject to the applicable limitations set forth in Article 9).

#### 10.03. Other Owners of Assets.

(a) Buyer, Seller and its undersigned Subsidiaries acknowledge that certain Assets may be owned by Subsidiaries of Seller and not Seller. Notwithstanding the foregoing, and for purposes of all representations, warranties, covenants, and agreements contained herein, Seller agrees, and, as evidenced by their acknowledgement to this Agreement, its undersigned Subsidiaries agree and acknowledge, that (i) its obligations with respect to any Assets shall be joint and several with any Subsidiary of Seller that owns or controls such Assets, (ii) the representations and warranties herein, to the extent applicable, shall be deemed to have been made by, on behalf of and with respect to such Subsidiaries of Seller in their ownership capacity, and (iii) it has the legal capacity to cause, and it shall cause, any of its Subsidiaries that owns or controls any Assets to meet all of Seller's obligations under this Agreement with respect to such Assets. Seller hereby waives any defense to a claim made by Buyer or its Affiliates under this Agreement based on the failure of any Person who owns or controls the Assets to be a party to this Agreement. Notwithstanding the foregoing, the parties acknowledge and agree that Seller shall not make pursuant to this Agreement, and this Section 10.03(a) shall not otherwise suggest, any representation, warranty or other commitment as to the Subsidiaries of Seller listed on Schedule 10.03(a).

(b) Seller and each of the Buyer Entities acknowledge that certain Assets may be purchased at Closing by one or more of the Buyer Entities (as determined by the Buyer in its discretion). Notwithstanding the foregoing, and for purposes of all representations, warranties, covenants, and agreements contained herein, Buyer agrees and acknowledges, that (i) the representations and warranties herein, to the extent applicable, shall be deemed to have been made by, on behalf of and with respect to each Buyer Entity, as applicable, in its post-Closing ownership capacity, and (ii) each of the Buyer Entities has the legal capacity to meet all of Buyer's obligations under this Agreement with respect to such Assets. Buyer hereby waives any defense to a claim made by Seller or any of its Subsidiaries, or its Affiliates, under this Agreement based on the failure of any Person who will purchase the Assets to be a party to this Agreement.

10.04. Dispute Resolution. The parties hereby agree that, prior to pursuing any other legal remedy, any controversy or claim arising out of this Agreement shall be resolved through the following procedures:

(a) In the event of a controversy or claim arising under this Agreement, either party may give the other party notice of such dispute pursuant to Section 10.14 hereof,

and promptly thereafter the parties will each select two or more senior executives to negotiate in good faith in an effort to resolve the controversy or claim. The senior executives shall meet at such location as from time to time may be mutually agreed by the parties and such meetings shall be in person to the extent practicable.

(b) If the parties are unable to resolve the controversy or claim as provided in Section 10.04(a) within 30 days of the notice of the controversy or claim, then either party may notify the other party that it wants to pursue non-binding mediation in an attempt to resolve the controversy or claim. The parties shall jointly appoint a mutually acceptable mediator to mediate the dispute or, if the parties are unable to agree on a mutually acceptable mediator within 15 days after receipt of notice requesting mediation, then the parties shall request assistance from the American Arbitration Association in finding a mutually acceptable mediator. Each party shall bear its own costs incurred in the mediation and shall bear one-half the costs and expenses of the mediator and any similar parties that may assist in the mediation. The parties agree to participate in good faith in the mediation and negotiations related thereto for a period of 30 days, unless a longer period is otherwise agreed.

10.05. Tax and Government Payment Program Effect. None of the parties (nor such parties' counsel or accountants) has made or is making in this Agreement any representation to any other party (or such party's counsel or accountants) concerning any of the Tax or Government Payment Program effects or consequences on the other party of the transactions provided for in this Agreement. Each party represents that it has obtained, or may obtain, independent Tax and Government Payment Program advice with respect thereto and upon which it, if so obtained, has solely relied.

10.06. Reproduction of Documents. This Agreement and all documents relating hereto, including consents, waivers and modifications that may hereafter be executed, the Closing Documents, financial statements, certificates and other information previously or hereafter furnished to any party, may be reproduced by any party by any photographic, microfilm, electronic or similar process. The parties stipulate that any such reproduction, when rendered in physical form and constituting an identical representation of the original, shall be admissible in evidence as the original itself in any judicial, arbitral or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made in the ordinary course of business).

10.07. Consented Assignment. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Assumed Contract, claim or other right if the assignment or attempted assignment thereof without the consent of another Person would (i) constitute a breach thereof, (ii) be ineffective or render the Contract, claim or right void or voidable, or (iii) in any material way affect the rights of Seller thereunder (or the rights of Buyer thereunder following any such assignment or attempted assignment). In any such event, until the requisite consent is obtained, Seller shall cooperate in any reasonable arrangement designed to provide for Buyer the benefits under any such Contract, claim or right, including enforcement of any and all rights of Seller against the other Person arising out of the breach or cancellation by such other Person or otherwise. After Closing, the parties shall continue to use commercially reasonable efforts to obtain the consent to the assignment of such

Contract, claim or right; provided, however, that such obligation shall be of no further force and effect if Seller and Buyer determine that such consent or approval will not be forthcoming.

10.08. Time of Essence. Time is of the essence in the performance of this Agreement, *provided* that, if the day on or by which a notice must or may be given, or the performance of any party's obligation is due, is a Saturday, Sunday or other day on which banks in Manchester, Connecticut are permitted or required to be closed, then the day on or by which such notice must or may be given, or that such performance is due, shall be extended to the first day thereafter that is not a Saturday, Sunday or other day on which banks in Manchester, Connecticut are permitted or required to be closed. The parties will use commercially reasonable efforts to file as soon as practicable and pursue all necessary regulatory approvals required in connection with this Agreement.

10.09. Consents, Approvals and Discretion. Except as expressly provided to the contrary in this Agreement, whenever this Agreement requires any consent or approval to be given by any party or any party must or may exercise discretion, such consent or approval shall not be unreasonably withheld or delayed and such discretion shall be reasonably exercised.

10.10. Choice of Law. This Agreement and all matters arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut without regard to any conflicts of laws rules (whether of the State of Connecticut or any other jurisdiction). Any litigation or proceedings among the parties arising out of or relating to this Agreement shall be commenced in a court of the State of Connecticut or the federal district court of Connecticut.

10.11. Benefit and Assignment; Change in Control of PMH.

(a) Subject to the provisions herein to the contrary, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors and assigns; *provided* however that no party may assign this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, (i) Buyer may designate one or more Affiliates to purchase any or all of the Assets including the Hospital Businesses, provided that PMH shall unconditionally guarantee any and all obligations of such Affiliates pursuant to Section 10.23, and (ii) Buyer and PMH shall be permitted to grant a security interest in and collaterally assign and transfer all their rights, interests and benefits, but not their obligations under this Agreement to any entity providing financing to Buyer and/or Buyer's Affiliates at any time and from time to time without obtaining the written consent of Seller.

(b) If PMH undergoes a "Change in Control" prior to the Closing PMH shall (i) provide 30 days' advance notice to Seller of such Change in Control, and (ii) Seller shall have the right to terminate this Agreement without penalty, including that Seller shall not be required to pay any consulting fees to PMH or Buyer pursuant to any consulting agreement entered into by Seller and PMH or Buyer. For purposes of this Section 10.11(b), the term "Change in Control" means where (i) more than fifty percent (50%) of PMH's outstanding equity interest, or substantially all of PMH's assets, are transferred to a third party, or (ii) any merger, consolidation or acquisition of PMH by or

into another corporation, entity or person. Notwithstanding the forgoing, a “Change in Control” shall not include a transfer of 50% or more of the shares of PMH in connection with one or more public offerings of its shares.

10.12. Third Party Beneficiary. This Agreement (including provisions regarding employee and employee benefit matters) and the Closing Documents are intended solely for the benefit of the parties to this Agreement (and their respective successors and permitted assigns) and (solely in their capacities as Indemnified Persons) Buyer’s Indemnified Persons and Seller’s Indemnified Persons, and are not intended to confer third-party beneficiary rights upon any other Person (or, in the case of Buyer’s Indemnified Persons and Seller’s Indemnified Persons, to such Persons in any other capacity). Any reference in this Agreement to one or more Employee Benefit Plans of Buyer includes provisions, if any, in such plans permitting their termination or amendment and any covenant in this Agreement to provide any Employee Benefit Plan shall not be deemed or construed to limit Buyer’s right to terminate or amend such plan of Buyer in accordance with its terms (except as otherwise provided in Section 5.03(d)).

10.13. Waiver of Breach, Right or Remedy. The waiver by any party of (a) any breach or violation by the other party of any provision of this Agreement, (b) any condition to the obligations of such party to consummate the transactions contemplated by this Agreement, or (c) any other right or remedy permitted the waiving party in this Agreement, (i) shall not waive or be construed to waive any prior or subsequent breach or violation of the same provision or any subsequent exercise of the same right or remedy, (ii) shall not waive or be construed to waive a breach or violation of any other provision, any other closing condition or any other right or remedy, and (iii) to be effective, must be in writing and signed by the party entitled to the benefit of the provision, condition, right or remedy to be waived, and may not be presumed or inferred from any party’s conduct. The election of any one or more available remedies by a party shall not constitute a waiver of the right to pursue other available remedies.

10.14. Notices. Any notice, demand or communication required, permitted or desired to be given hereunder must be in writing and shall be deemed effectively given (i) on the date tendered by personal delivery, (ii) on the date received by fax or other electronic means, (iii) on the date tendered for delivery by nationally recognized overnight courier, or (iv) three days after the date tendered for delivery by United States mail, with postage prepaid thereon, certified or registered mail, return receipt requested, in any event addressed as follows:

If to Buyer: Prospect ECHN, Inc.  
c/o Prospect Medical Holdings, Inc.  
3415 South Sepulveda Boulevard, 9th Floor  
Los Angeles, CA 90034  
Attn: General Counsel  
Fax: 310-943-4501  
Email: [ellen.shin@prospectmedical.com](mailto:ellen.shin@prospectmedical.com)

with a copy to (which shall not constitute notice):

Epstein Becker & Green, P.C.  
1 Gateway Center  
Newark, NJ 07102  
Attn: Gary W. Herschman  
Fax: 973-639-8924  
Email: GHerschman@ebglaw.com  
Attn: David E. Weiss  
Email: DWeiss@ebglaw.com

If to Seller: Eastern Connecticut Health Network, Inc.  
General Counsel  
Eastern Connecticut Health Network  
71 Haynes Street  
Manchester, Connecticut 06040  
Attn: Joyce Tichy  
Email: jtichy@echn.org

with a copy to (which shall not constitute notice):

Ropes & Gray LLP  
Prudential Tower  
800 Boylston Street  
Boston, MA 02199-3600  
Attn: Anne Ogilby  
Fax: 617-235-0234  
Email: anne.ogilby@ropesgray.com

or to such other address or fax number, and to the attention of such other Person, as any party may designate in writing in conformity with this Section.

10.15. Misdirected Payments; Physician Loans. After Closing, (a) Seller shall remit to Buyer with reasonable promptness any monies received by Seller (or its Affiliates) constituting or in respect of the Assets and Assumed Liabilities, and (b) Buyer shall remit to Seller with reasonable promptness any monies received by Buyer (or its Affiliates) constituting or in respect of the Excluded Assets and Excluded Liabilities. If any funds previously paid or credited to Seller or the Hospital Businesses in respect of services rendered on or before the Closing Date have resulted in an overpayment or must be repaid, Seller shall be responsible for the repayment of said monies (and the defense of such actions), except to the extent that such credit or repayment obligation was included in the calculation of Net Working Capital as shown on the Closing Balance Sheets in which case Seller shall not be liable for any such repayment. If Buyer suffers any deduction to or offset or withhold against amounts due Buyer of funds previously paid or credited to Seller or the Hospital Businesses in respect of services rendered on or before the Closing Date (other than in respect of overpayments addressed by the preceding sentence), Seller shall pay to Buyer the amounts so deducted, offset or withheld within five business days after demand therefor, except to the extent that the amount of such deduction, offset or withholding was included in the calculation of Net Working Capital as shown on the Closing

Balance Sheets. Any amounts payable pursuant to this Agreement that are due Buyer by Seller or one of its Affiliates, or due Seller by Buyer or one of its Affiliates, may be offset against monies or other funds owed by the party entitled to receive payment to the party required to make payment (other than such owed amounts that are being disputed in good faith). Seller shall use, and cause its Affiliates to use, good faith efforts to collect any and all loans and other amounts due from physicians and their Affiliates that constitute Excluded Assets.

10.16. Severability. If any provision of this Agreement is held or determined to be illegal, invalid or unenforceable under any present or future law in the final judgment of a court of competent jurisdiction, then, if the rights or obligations of any party under this Agreement would not be materially and adversely affected thereby: (a) such provision will be fully severable; (b) this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; (c) the remainder of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement; and (d) instead of such illegal, invalid or unenforceable provision, there will be deemed to be added to this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

10.17. CON Disclaimer. This Agreement shall not be deemed to be an acquisition or obligation of a capital expenditure or of funds within the meaning of the certificate of need statute of any state, until the appropriate governmental agencies shall have granted a certificate of need or the appropriate approval or ruled that no certificate of need or other approval is required.

10.18. Entire Agreement; Amendment. This Agreement supersedes all previous contracts, agreements and understandings and constitutes the entire agreement of whatsoever kind or nature existing between or among the parties respecting the within subject matter and no party shall be entitled to benefits with respect to the Assets or the Hospital Businesses other than those specified in this Agreement. As between or among the parties, any oral or written representation, warranty, covenant, agreement or statement not expressly incorporated in this Agreement, whether given before or on the date of this Agreement, shall be of no force and effect unless and until made in writing and signed by the parties on or after the date of this Agreement. The representations, warranties and covenants set forth in this Agreement shall survive the Closing and remain in full force and effect as provided in Section 9.06, and shall survive the execution and delivery of, and shall not be merged with or into, the Closing Documents and all other agreements, instruments or other documents described, referenced in or contemplated by this Agreement. Each representation, warranty and covenant in this Agreement has independent legal significance and if any party has breached any representation, warranty or covenant in any respect, whether there exists another representation, warranty or covenant relating to the same subject matter (regardless of the relative level of specificity) that such party has not breached shall not detract from or mitigate the party's breach of the first representation, warranty or covenant. This Agreement may not be amended or supplemented except in a written instrument executed by each of the parties.

10.19. Counterparts; Transmission by Electronic Means. This Agreement may be executed in two or more counterparts, each and all of which shall be deemed an original and all

of which together shall constitute but one and the same instrument. This Agreement, and any executed counterpart of a signature page to this Agreement, may be transmitted by fax or e-mail (attaching a .pdf (portable document format) copy thereof), and such delivery of an executed counterpart of a signature page to this Agreement by fax or e-mail shall be effective as delivery of a manually executed counterpart of this Agreement. At the Closing, the Closing Documents may be executed, and the signature pages thereto delivered, in like manner.

10.20. Interest. Any monies required to be paid by any party to another party pursuant to this Agreement shall be due on the date or at the time for payment specified in this Agreement, and monies not paid when due shall accrue interest from and after the due date to, but not including, the date full payment is made at an annual rate equal to the average prime rate of Bank of America, N.A. during such period.

10.21. Drafting. No provision of this Agreement shall be interpreted for or against any Person on the basis that such Person was the draftsman of such provision, and no presumption or burden of proof shall arise favoring or disfavoring any Person by virtue of the authorship of any provision of this Agreement.

10.22. Confidentiality; Public Announcements.

(a) Except as required by Legal Requirements or in order to coordinate the defeasance of tax-exempt debt, Seller and Buyer (and their respective Affiliates) shall keep this Agreement and the Closing Documents and their contents confidential and not disclose the same to any Person (except the parties' attorneys, accountants or other professional advisors who need to know such contents for the purpose of advising such party in connection with the transactions contemplated hereby, and except to the applicable Governmental Authorities in connection with any required notification or application for approval or a license or exemption therefrom) without the prior written consent of the other party.

(b) At all times before and after the Closing, Seller, on the one hand, and PMH and Buyer, on the other hand, will consult with the other before issuing or making any reports, statements or releases to the public with respect to this Agreement or the transactions contemplated by this Agreement and will use good faith efforts to obtain the other party's prior approval of the text of any public report, statement or release to be made by or on behalf of such party. If either party is unable to obtain the prior approval of its public report, statement or release from the other party and such report, statement or release is, in the opinion of legal counsel to such party, necessary to discharge such party's disclosure obligations under applicable Legal Requirements, then such party may make or issue the legally required report, statement or release and promptly furnish the other party a copy thereof.

10.23. Guarantee of Buyer's Obligations. PMH, as principal obligor and not merely as a surety, hereby unconditionally guarantees full, punctual and complete performance by Buyer of all of Buyer's obligations under this Agreement and each of the Closing Documents subject to the terms hereof and thereof and so undertakes to Seller that, if and whenever Buyer is in default, PMH will on demand duly and promptly perform or procure the performance of Buyer's

obligations. The foregoing guarantee is a continuing guarantee and will remain in full force and effect indefinitely (in light of the fact that, as provided in Section 9.06, certain representations, warranties, covenants and indemnification obligations of Buyer survive the Closing indefinitely) and will be reinstated with respect to any sum paid to Seller that must be restored by Seller upon the bankruptcy, liquidation or reorganization of Buyer. PMH's obligations under this Section 10.23 shall not be affected or discharged in any way by any Proceeding with respect to Buyer under any federal or state bankruptcy, insolvency or debtor relief laws (or any order, judgment, ruling, writ, injunction or decree entered or made in connection therewith) or any other fact, development, occurrence or circumstance affecting the legal capacity of Buyer or the enforceability of this Agreement or any of the Closing Documents against Buyer in accordance with their respective terms.

*[Signature Page Follows]*



**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in multiple originals by their authorized officers, all as of the date first above written.

**SELLER:**

**EASTERN CONNECTICUT HEALTH  
NETWORK, INC.**

By: \_\_\_\_\_

Name: Peter J. Karl

Title: President & CEO

*[Signature Page 1 of 3 to ECHN/Prospect Asset Purchase Agreement]*

**BUYER:**

**PROSPECT CT MEDICAL  
FOUNDATION, INC.**

By: \_\_\_\_\_  
Name: Samuel S. Lee  
Title: President

**PROSPECT CT MANAGEMENT  
SERVICES, INC.**

By: \_\_\_\_\_  
Name: Samuel S. Lee  
Title: President

**PROSPECT ECHN, INC.**

By: \_\_\_\_\_  
Name: Samuel S. Lee  
Title: President

**PROSPECT MANCHESTER  
HOSPITAL, INC.**

By: \_\_\_\_\_  
Name: Samuel S. Lee  
Title: President

**PROSPECT ROCKVILLE  
HOSPITAL, INC.**

By: \_\_\_\_\_  
Name: Samuel S. Lee  
Title: President

**PROSPECT ECHN ELDERCARE SERVICES, INC.**

By: \_\_\_\_\_  
Name: Samuel S. Lee  
Title: President

**PROSPECT ECHN HOME HEALTH, INC.**

By: \_\_\_\_\_  
Name: Samuel S. Lee  
Title: President

**PROSPECT CARING HAND, INC.**

By: \_\_\_\_\_  
Name: Samuel S. Lee  
Title: President

**PROSPECT HAYNES STREET PROPERTY MANAGEMENT, INC.**

By: \_\_\_\_\_  
Name: Samuel S. Lee  
Title: President

**PROSPECT MEDICAL HOLDINGS, INC.,** solely for the limited purposes described in this Agreement

By: \_\_\_\_\_  
Name: Samuel S. Lee  
Title: Chief Executive Officer

*[Acknowledgement Page Follows]*

*[Signature Page 3 of 3 to ECHN/Prospect Asset Purchase Agreement]*

Each of the undersigned Subsidiaries of Seller hereby joins this Agreement to acknowledge that Seller has executed this Agreement on its behalf and that, with respect to the Assets or Hospital Businesses owned or operated by it, it is subject to and bound by the same obligations, representations, and warranties as Seller as provided under Section 10.03(a).

**ACKNOWLEDGED BY:**

**THE MANCHESTER MEMORIAL  
HOSPITAL**

By:   
Name: Peter J. Karl  
Title: President & CEO

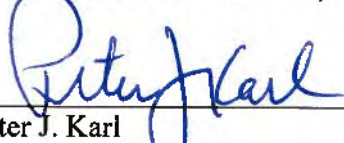
**THE ROCKVILLE GENERAL  
HOSPITAL, INCORPORATED**

By:   
Name: Peter J. Karl  
Title: President & CEO

**ECHN ELDERCARE SERVICES, INC.**

By:   
Name: Peter J. Karl  
Title: President & CEO


**VISITING NURSE AND HEALTH  
SERVICES OF CONNECTICUT, INC.**

By:   
Name: Peter J. Karl  
Title: Authorized Signatory

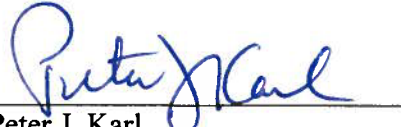
**A CARING HAND, LLC**

By:   
Name: Peter J. Karl  
Title: Authorized Signatory

**CLINICALLY INTEGRATED NETWORK  
OF EASTERN CONNECTICUT, LLC**

By:   
Name: Peter J. Karl  
Title: Authorized Signatory


**CONNECTICUT HEALTHCARE  
INSURANCE COMPANY**

By:   
Name: Peter J. Karl  
Title: Director

**ECHN CORPORATE SERVICES, INC.**

By:   
Name: Peter J. Karl  
Title: Authorized Signatory

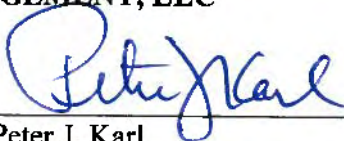
**MEDICAL PRACTICE PARTNERS, LLC**

By:   
Name: Dennis O'Neill, M.D.  
Title: Authorized Signatory

**ECHN ENTERPRISES, INC.**

By:   
Name: Peter J. Karl  
Title: President & CEO

**HAYNES STREET PROPERTY  
MANAGEMENT, LLC**

By:   
Name: Peter J. Karl  
Title: Authorized Signatory

**EASTERN CONNECTICUT MEDICAL  
PROFESSIONALS FOUNDATION, INC.**

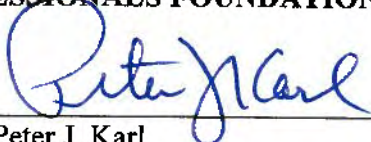
By:   
Name: Peter J. Karl  
Title: President & CEO

Exhibit A

Form of Transitional Services Agreement

*See attached.*

## TRANSITION SERVICES AGREEMENT

This Transition Services Agreement (this “Agreement”) is made and entered into as of the \_\_\_ day of \_\_\_, 2016, by and between Eastern Connecticut Health Network, Inc. (together with affiliates and successors, collectively, “OLDCO”) and Prospect ECHN, Inc. (together with affiliates and successors, collectively, “Prospect”).

### WITNESSETH

WHEREAS, at a closing held on the date hereof pursuant to that certain Asset Purchase Agreement, dated \_\_\_ 2016, by and among, Inter Alia, Prospect and OLDCO (the “Purchase Agreement”), Prospect has acquired substantially all of the assets of OLDCO; and

WHEREAS, Prospect has employed substantially all of the former employees of OLDCO;

WHEREAS, following the closing under the Purchase Agreement. Eastern Connecticut Health Network, Inc. and certain of its affiliates will change their respective names to new names that are not substantially similar to the names being used by Prospect;

WHEREAS, OLDCO, having few or no employees, requires certain post-closing services to wind down its business, administer the assets not sold to Prospect and discharge the liabilities of OLDCO not assumed by Prospect; and

WHEREAS, Prospect is willing to provide those certain services to OLDCO for such purposes during the term of this Agreement.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Term. The term of this Agreement shall commence on the date hereof and shall continue for a period of twelve (12) months (the “Initial Term”). The Initial Term shall be automatically extended for two additional twelve month renewal periods.

2. Transition Services. During the Term, Prospect shall arrange for services to be provided to OLDCO in the manner detailed in Exhibit A (the “Transition Services”).

a. Prospect will provide the Transition Services in good faith and with due care consistent with the care Prospect exercises in performing like services for itself. OLDCO acknowledges and agrees that Prospect does not regularly provide the Transition Services to third parties as part of its business, and, except as specifically stated elsewhere herein, Prospect



does not otherwise warrant or assume any responsibility for its performance of the Transition Services.

b. Prospect shall have no obligation to provide any Transition Services in any instance where such Transition Services would create a conflict of interest between Prospect and OLDCO. Prospect at its sole discretion, shall be permitted to identify instances of conflicts of interest between Prospect and OLDCO.

c. OLDCO shall have no obligation to accept any Transition Services in any instance where such Transition Services would create a conflict of interest between Prospect and OLDCO. OLDCO at its sole discretion, shall be permitted to decline any Transition Services from Prospect in instances where a conflict of interest is identified by OLDCO.

d. OLDCO shall appoint Robert A. Schwartz, MD and Michael R. Blezard as representatives of OLDCO following the Closing (the "Representatives"). The Representatives shall be the principal contact persons and shall each, whether acting singly or jointly, have the authority and be responsible for making decisions on behalf of OLDCO under this Agreement. The Representatives shall each, whether acting singly or jointly, be authorized to sign documents (including checks) on behalf of OLDCO and take all other appropriate and necessary actions on behalf of OLDCO.

e. Each party shall make available to the other party any information required or reasonably requested by that other party regarding performance of Transition Services, and shall be responsible for timely providing that information and for the accuracy and completeness of that information. The parties shall cooperate with each other in good faith in all matters relating to the provision and receipt of Transition Services. The parties shall cooperate with each other in making such information available as needed in the event of any and all internal and external audits. If this Agreement is terminated in whole or in part, the parties shall cooperate with each other in all reasonable respects in order to effect an efficient transition and to minimize disruption to the business of both parties.

### 3. Charges; Payment Terms.

a. OLDCO shall, for each Transition Service performed, reimburse Prospect for any reasonable documented out-of-pocket expenses that are incurred by Prospect in connection with Prospect's provision of the Transition Services ("Expenses"). Prospect shall provide OLDCO with an invoice for all Transition Services provided at the rates described on Exhibit B, and Expenses incurred by Prospect in connection therewith, during the Term, that are payable by OLDCO pursuant to this Agreement, together with all appropriate supporting documentation (each, an "Invoice").

b. Prospect shall provide Invoices to OLDCO on a monthly basis. OLDCO shall, subject to Section 2.05(l)(i) of the Purchase Agreement, pay in full to Prospect all fees and Expenses as set forth in the Invoice within thirty (30) days after receipt of the Invoice, unless

OLDCO has provided notice to Prospect that it disputes a given Invoice within fifteen (15) days of receipt of such Invoice, in which case the parties will work in good faith to resolve the dispute.

c. If Prospect terminates any of the Transition Services prior to the expiration of the Term, OLDCO shall be responsible for payment only for the Transition Services provided through the date on which such Transition Services are terminated.

d. If OLDCO exhausts its funds such that it can no longer pay for the Transition Services, Prospect shall continue to provide those Transition Services that are necessary for the timely filing of all governmental forms and filings in order to permit the orderly wind-down of OLDCO and shall not seek payment from OLDCO for such Transition Services.

#### 4. Indemnification.

a. Each party assumes liability for and shall indemnify and hold harmless the other party, its officers, directors, trustees, employees, and agents, from and against any and all losses, damages, penalties, liabilities, claims, actions, suits, costs, and expenses, including reasonable attorneys' fees, whether in law or in equity, of any kind or nature whatsoever, imposed upon, incurred by, or asserted against the other party relating to or arising out of any negligent or other wrongful act or omission of such party, its employees or agents, or any breach of this Agreement by such party.

b. Neither party shall have liability for consequential, exemplary, indirect, special, incidental or punitive damages, including loss of profits, revenues, data or use, incurred by the other party, whether based on contract, tort or any other legal theory, arising out of or related to this Agreement or the Transition Services provided hereunder.

c. Notwithstanding anything contained herein to the contrary, any liability of a party under this Agreement shall in no event exceed the aggregate amount of fees paid to Prospect by OLDCO hereunder, except in the case of such party's gross negligence or reckless or intentional act or omission.

d. The provisions of this Section 4 shall survive the termination of this Agreement.

#### 5. Confidentiality.

a. "Confidential Information" is defined as all information, data and materials furnished or made available by a party to another party in connection with this Agreement, including, without limitation, the identity of patients, the content of any medical records, financial and tax information, and information regarding Medicare and Medicaid claims submission and reimbursements.

b. The party receiving the Confidential Information (the “Receiving Party”) from the party who owns or holds in confidence such Confidential Information (the “Owning Party”) may use the Confidential Information solely for the purpose of performing its obligations or enforcing its rights under this Agreement.

c. The Receiving Party shall not disclose any of the Confidential Information except to those persons having a need to know for the purpose of performing the Receiving Party’s obligations or enforcing its rights under this Agreement. Each party shall take appropriate action, by instruction to or agreement with its affiliates, employees, agents, trustees, subcontractors, consultants, and professional advisors, to maintain the confidentiality of the Confidential Information. The Receiving Party shall promptly notify the Owning Party in the event that the Receiving Party learns of an unauthorized release of Confidential Information.

d. The Receiving Party shall have no obligation with respect to (i) Confidential Information made available to the general public without restriction by the Owning Party or by an authorized third party; (ii) Confidential Information known to the Receiving Party independently of disclosures by the Owning Party under this Agreement; (iii) Confidential Information independently developed by the Receiving Party; or (iv) Confidential Information that the Receiving Party may be required to disclose pursuant to subpoena or other lawful process; provided, however, that the Receiving Party notifies the Owning Party in a timely manner to allow the Owning Party to protect its interests at Owning Party’s sole expense.

e. Upon the termination or expiration of this Agreement, unless otherwise provided in this Agreement, each party shall immediately cease to use the other party’s Confidential Information and, (a) return to the other party such Confidential Information and all copies thereof within ten (10) days of the termination, or (b) provide the other party with written confirmation that all such Confidential Information and all copies thereof has been destroyed.

f. The parties acknowledge that monetary remedies may be inadequate to protect rights in Confidential Information and that, in addition to legal remedies otherwise available, injunctive relief is an appropriate judicial remedy to protect such rights. The provisions of this Section 5 shall survive the termination of this Agreement.

6. Protected Health Information.

a. Each of Prospect and OLDCO shall comply with all federal and state laws and regulations, regarding the confidentiality of Protected Health Information, as such term is defined in HIPAA (as hereinafter defined). Simultaneously herewith, the parties shall enter into a Business Associate Agreement in the form of Exhibit C in accordance with the applicable provisions of the Administrative Simplification section of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320, and the requirements of the

regulations promulgated thereunder (45 C.F.R. Parts 160, 162, and 164) as amended by the Health Information Technology for Economic and Clinical Health Act found in the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Title XIII (2009, aka HITECH), including regulations promulgated thereunder, as amended, and guidance issued pursuant thereto (collectively “HIPAA”). In addition, each of Prospect and OLDCO acknowledges that in receiving or otherwise dealing with any records or information from the other about patients receiving treatment for alcohol or drug abuse, Prospect and OLDCO respectively and their respective staffs are bound by the provisions of the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2, as amended from time to time.

b. To the extent that any records maintained or stored by either Prospect or OLDCO pursuant to this Agreement contain Personal Information (as herein defined) about their respective personnel or patients, they shall comply with Connecticut General Statutes § 36a-701b(a) (“Data Security Breaches Act”). “Personal Information” shall mean: (a) first name or first initial and last name in combination with any one or more of the following data elements: (i) Social Security number; (ii) driver’s license or state identification card number; or (iii) account number, credit or debit card number in combination with any required security code, access code or password that would permit access to an individual’s financial account. In the event of a Breach of the Security of the System involving such records, Prospect or OLDCO, as the case may be, shall immediately notify the other via telephone and in writing and shall comply fully with the Data Security Breaches Act. For purposes of this paragraph, the term Breach of the Security of the System shall mean unauthorized access to or acquisition of electronic files, media, databases or computerized data containing Personal Information when access to the Personal Information has not been secured by encryption or by any other method or technology that renders the personal information unreadable or unusable. The provisions of this paragraph shall survive the termination of this Agreement.

7. Record Retention. Until the expiration of four years after the termination of this Agreement, the Parties upon request shall make available to the Secretary, United States Department of Health and Human Services, the U.S. Comptroller General or any of their duly authorized representatives, this Agreement and all other books, documents, and records necessary to certify the nature and extent of the costs incurred by the Parties under this Agreement. If a party purchases such services through a subcontract worth Ten Thousand Dollars (\$10,000) or more over twelve (12) month period with a related organization, the subcontract shall also contain a clause permitting access by said Secretary, Comptroller General, and their respective representatives to the books and records of the related organization. Each party shall promptly notify the other via telephone and in writing if such access is requested.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut without regard to its conflict of law provisions. Each party hereby consents to jurisdiction in the state or federal courts located in the State of Connecticut should suit to enforce this contract become necessary. If either party hereto shall bring suit to enforce the terms and provisions hereof or to recover damages for breach, the

prevailing party shall be entitled to recover from the other party all costs, expenses and attorneys' fees incurred in connection with the exercise by the prevailing party of its rights and remedies hereunder.

9. Termination. OLDCO may terminate this Agreement prior to the expiration of the Term by giving Prospect at least ninety (90) days' prior written notice of termination. Prospect may terminate this Agreement prior to the expiration of the Term (i) for cause, if OLDCO fails to pay an undisputed invoice presented by Prospect pursuant to Section 3.b above within 90 days of receipt of such invoice provided that OLDCO has sufficient funds in the Wind-Down Reserve established under the Purchase Agreement to pay such invoice, or (ii) by giving OLDCO ninety (90) days' prior written notice of termination, provided that prior to termination, Prospect arranges for an alternate entity to provide the Transition Services to OLDCO on terms reasonably acceptable to OLDCO..

10. Miscellaneous.

a. Any notice or other communication under this Agreement shall be in writing and shall be deemed to have been given: (a) upon actual delivery, if delivered by hand; (b) the first business day following deposit with any nationally recognized overnight carrier; or (c) three (3) days after deposit in the United States mail, postage prepaid, certified or registered mail, return receipt requested. Each such notice shall be sent to the parties, marked to the attention of the signatories to this Agreement, at the following addresses:

If to Prospect: Prospect ECHN, Inc  
71 Haynes Street  
Manchester, CT 06040  
**Attention: CEO**

With a copy to: Prospect Medical Holdings, Inc.  
3415 South Sepulveda Boulevard, 9th Floor  
Los Angeles, California 90034  
**Attention: Legal Department**

If to OLDCO: Eastern Connecticut Health Network, Inc.  
71 Haynes Street  
Manchester, CT 06040  
**Attention: President of Legacy ECHN, Inc.**

b. The parties agree that the relationship between them shall be that of independent contractors. Neither party shall hold itself out as the employee, agent, joint venturer or partner of the other. Neither party has the authority to bind the other in any way. Prospect is responsible for paying or withholding, as required, federal, state, and local employment taxes including, without limitation, FICA and FUTA, for its employees.

c. This Agreement contains the entire agreement of the parties with respect to the matters set forth herein and may not be amended except in writing signed by all of the parties hereto.

d. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. A party shall not assign its rights and obligations under this Agreement without the other party's prior written consent.

e. No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right at any time, or from time to time thereafter. The waiver, or any breach, of any term or condition of this Agreement shall not be deemed to constitute the continuing waiver of the same or any other term or condition.

f. If any part of this Agreement should be held to be void or unenforceable, such part shall be treated as severable, leaving valid the remainder of this Agreement, notwithstanding the part or parts found to be void or unenforceable.

g. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

h. This Agreement may be executed by facsimile signature and in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties have executed this Transition Services Agreement as of the date first written above.

EASTERN CONNECTICUT HEALTH NETWORK, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

PROSPECT ECHN, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **EXHIBIT A**

### **Services**

For a twelve (12) month period after the date of closing, the services to be provided by Prospect to OLDCO may include but not be limited to:

#### **Accounting:**

- Monthly financial close
- Management of cash and investment activities as necessary
- Preparation of tax returns
- Monthly reconciliation of balance sheet accounts
- Financial audits including 401(a) and 403(b) plans
- Assistance with the final preparation and submission of the *Cy Pres* litigation and related matters
- Assistance with final cost reports

#### **Accounts Payable:**

- Entry and payment of invoices as necessary
- Creation of 1099s through February of 2017
- Assistance with reconciliation of outstanding checks

#### **Payroll:**

- Filing of payroll tax reports as necessary
- Creation of W-2's for pre-transition employees
- Management of outstanding checks
- Employee support - providing information to employees for historical payroll data, historical W-2 requests and payroll slips

#### **Human Resources:**

- Response to prior plan inquiries
- Transition management of OLDCO's 401(a), 401(k) and 403(b) plans (whether or not subject to ERISA), including:
  1. 403(b), 401(k) and 401(a) audits and Form 5500s for the 2015 and 2016 plan years (and any subsequent years required until final liquidation of the plans)
  2. Calculation and administration of trailing payroll deductions and 2016 company contributions (payment to be made for 2016 by [date]) (it being understood that provision of funding remains the responsibility of OLDCO)
  3. Liquidation and termination of defined contribution plans
  4. Any additional tasks necessary or appropriate for the proper pre-liquidation operation and liquidation of the plans
- Transition management of welfare benefits, including:



1. Oversight of claims administration for trailing claims under self-insured health plan and flexible spending accounts (it being understood that provision of funding remains the responsibility of OLDCO)
  2. Form 5500 filings as required
  3. Coordination with insurers for payment of pre-closing claims covered by insurance companies
  4. Any other tasks necessary or appropriate for the orderly termination of these benefits
- Final payout (and administration pending final payout) of 457 plans (it being understood that funding remains the responsibility of OLDCO)

**Miscellaneous:**

- Assist in Preparation of 990 tax returns
- Assist in Preparation of the Community Needs Assessment (990 reporting requirement)
- Insurance management
- Support for OLDCO Board/Finance/Investment Committee meetings, including meetings of the entities identified in the Purchase Agreement as the Hospitals and the Hospital Businesses, as well as Eastern Connecticut Physician Hospital Organization, Inc., Northeast Regional Radiation Oncology Network, Inc. and Tolland Imaging Center, LLC.
- Support and attendance of staff at OLDCO Board meetings, including meetings of the entities identified in the Purchase Agreement as the Hospitals and the Hospital Businesses, as well as Eastern Connecticut Physician Hospital Organization, Inc., Northeast Regional Radiation Oncology Network, Inc. and Tolland Imaging Center, LLC.
- Assist in the planning of and transition to post-closing operations
- Assist in developing a plan for post-closing office space
- Assist with record retention planning
- Assist with necessary reporting to regulatory authorities
- Support for organization and operation of the New Community Foundation

**Information Services:**

- Assist with support of OLDCO systems, including backup, for all necessary applications, and custom reports as needed
- Maintain and protect all data to meet OLDCO's data retention requirements
- Support all audits/reviews of data

**Legal/Risk Management:**

- Assist with operational issues
- Assist with resolution of outstanding claims and suits including legacy labor and employment issues (grievances, arbitrations, governmental inquiries, etc.)
- Assist with outstanding workers compensation and other insurance claims and matters

## **EXHIBIT B**

### Rates

1. Prospect personnel at the level of Vice President and above shall be provided at the rate of One Hundred Fifty Dollars (\$150) per hour.
2. All other Prospect personnel shall be provided at the rate of Ninety Dollars (\$90) per hour.

**EXHIBIT C**

Dual Use Business Associate Agreement Attached

## ***BUSINESS ASSOCIATE AGREEMENT***

This Business Associate Agreement (“Agreement”) is entered into and made effective as of \_\_\_\_\_, 2016 (the “Effective Date”) by and between Prospect ECHN, Inc. and its subsidiaries (collectively “Prospect”), on the one hand, and Eastern Connecticut Health Network, Inc., and its subsidiaries and successors (collectively, “OLDCO”), on the other.

### ***RECITALS***

A. Prospect and OLDSCO have entered into various agreements, including a Transition Services Agreement, (collectively the “Underlying Contracts”) pursuant to which the parties may disclose certain information to one another pursuant to the terms of the Underlying Contracts, some of which may constitute Protected Health Information (“PHI” or “Protected Information”) (defined below).

B. Prospect and OLDSCO intend to protect the privacy and provide for the security of PHI disclosed to one another and are committed to complying with the patient privacy requirements set forth in California law, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“HITECH Act”), and all regulations promulgated by the U.S. Department of Health and Human Services under HIPAA and the HITECH Act, including the requirements set forth in the HIPAA Final Omnibus Rule issued on January 25, 2013, (“HIPAA Regulations”).

C. As part of the HIPAA Regulations, the Privacy, Security, Breach Notification, and Enforcement Rules (defined below as “HIPAA Rules”) require the parties to enter into an agreement containing specific requirements concerning the disclosure of PHI, as required by Code of Federal Regulations (“C.F.R.”), Title 45, Parts 160 and 164.

In consideration of the mutual promises contained herein and the exchange of information pursuant to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

#### ***1. DEFINITIONS***

All capitalized terms used herein but not otherwise defined in this Agreement shall have the same meaning as in the HIPAA Rules.

a. **Breach** shall have the meaning given to such term under the HIPAA Rules.

b. **Business Associate** (“BA”) shall have the meaning given to such term under the HIPAA Rules, as set forth in 42 U.S.C. § 17938 and 45 C.F.R. § 160.103, and, in reference to this Agreement, shall mean either Prospect or OLDSCO, depending on which party is receiving the protected information, and the subcontractors, agents, and person(s) or entities under the party’s control.

c. **Covered Entity** (“CE”) shall have the meaning given to such term under the HIPAA Rules, as set forth in C.F.R. § 160.103. Both Prospect and OLDCO are Covered Entities and may provide protected information to the other party, which will sit in the role as the Business Associate.

d. **Data Aggregation** shall have the meaning given to such term under the HIPAA Rules, as set forth 45 C.F.R. § 164.501.

e. **Designated Record Set** shall have the meaning given to such term under HIPAA Rules, as set forth in 45 C.F.R. § 164.501.

f. **Electronic Protected Health Information or EPHI** means Protected Health Information that is maintained in or transmitted by electronic media, as defined in the HIPAA Rules.

g. **Electronic Health Record** shall have the meaning given to such term in the HIPAA Rules and as set forth in 42 U.S.C. § 17921.

h. **Health Care Operations** shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, the meaning set forth in 45 C.F.R. § 164.501.

i. **HIPAA Rules** shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and 164.

j. **Protected Health Information or PHI** shall have the meaning given to such term under the HIPAA Rules, including 45 C.F.R. § 160.103, which includes any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. Protected Health Information includes Electronic Protected Health Information.

k. **Protected Information** shall mean PHI provided by CE to BA or created or received by BA on CE's behalf.

l. **Subcontractor** means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate, pursuant to 45 C.F.R. § 160.103.

m. **Unsecured PHI** shall have the meaning given to such term under 42 U.S.C. § 17932(h), 45 C.F.R. § 164.402 and guidance issued pursuant to the HITECH Act including, but not limited to that issued on April 17, 2009 and published in 74 Federal Register 19006 (April 27, 2009), by the Secretary of the U.S. Department of Health and Human Services (“Secretary”).

## 2. ***OBLIGATIONS OF BUSINESS ASSOCIATE***

a. **Permitted Access, Use or Disclosure.** The parties shall neither permit the unauthorized or unlawful access to, nor use or disclose, PHI other than as permitted or required by the Underlying Contracts, this Agreement or as permitted or required by law. The parties shall not access, use or disclose Protected Information in any manner that would constitute a violation of HIPAA, the HITECH Act, the HIPAA Regulations, or applicable state law if so accessed, used or disclosed by CE. However, the parties may access, use or disclose Protected Information (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; (iv) for Data Aggregation purposes for the Health Care Operations of CE; (v) for the public health activities and purposes set forth at 45 C.F.R. § 164.512(b); or (vi) to the extent such Protected Information is de-identified in accordance with the standards set forth under 45 C.F.R. § 164.514, provided the parties have each other's written consent in advance of any such use or disclosure, which consent may be withheld in CE's sole discretion. If either party permits a third party to use or access Protected Information or otherwise discloses Protected Information to a third party, the party must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify the other party of any Breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such Breach.

b. **Prohibited Uses and Disclosures under HITECH.** Notwithstanding any other provision in this Agreement, the parties to this Agreement shall comply with the following requirements: (i) a party shall not use or disclose Protected Information for fundraising or marketing purposes, except as provided under the Agreement and consistent with the requirements of 42 U.S.C. 17936, 45 C.F.R. § 164.522(a)(vi); (ii) a party shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates, 42 U.S.C. § 17935(a); (iii) a party shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HIPAA Rules and HITECH Act, 42 U.S.C. § 17935(d)(2), 45 C.F.R. 164.502(a)(5)(ii); however, this prohibition shall not affect payment for services provided pursuant to the Agreement.

c. **Appropriate Safeguards.** The parties shall implement appropriate safeguards as are necessary to prevent the access, use or disclosure of Protected Information other than as permitted by the Underlying Contracts or this Agreement. The parties shall comply, where applicable, with the Security Rule with respect to EPHI, including but not limited to 45 C.F.R. §§ 164.308, 164.310, and 164.312 and the policies and procedures and documentation requirements of the HIPAA Security Rule set forth in 45 C.F.R. § 164.316, and shall use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of EPHI.

d. **Mitigation.** The parties agree to mitigate, to the extent practicable, any harmful effect that is known as a result of use or disclosure of PHI not authorized by the Underlying Contracts, this Agreement or applicable federal or state rules or regulations governing the use, access, maintenance or disclosure of protected health information.

e. **Reporting of Improper Access, Use or Disclosure.** The parties shall promptly report to the other party in writing of any access, use or disclosure of Protected Information exchanged between one another, not permitted by the Underlying Contracts, this Agreement, the HIPAA Rules or any corresponding state privacy or security requirements as well as any security incident of which it becomes aware. The parties shall, following the discovery of any Breach of Unsecured PHI, notify the other in writing of such breach without unreasonable delay and in no case later than ten (10) calendar days after discovery. The party responsible for the improper use or disclosure agrees to pay the actual, reasonable costs of the required notifications.

f. **Business Associate's Subcontractors.** The receiving party of any protected information shall ensure that any Subcontractors that create, maintain or transmit Protected Information, agree in writing to the same restrictions and conditions that apply to the party with respect to such PHI. To the extent a party creates, maintains, receives or transmits Electronic PHI on behalf of the other party, the receiving party shall implement the safeguards required by paragraph 2.c. above with respect to EPHI and shall ensure that any Subcontractor to whom it provides Protected Information agrees in writing to implement the same safeguards.

g. **Access to Protected Information.** To the extent the receiving party maintains a Designated Record Set on behalf of the other party, it shall make Protected Information maintained by it or its Subcontractors in Designated Record Sets available to the other party for inspection and copying within fifteen (15) days of a request by the other party to enable the other party to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. § 164.524. If the receiving party maintains an Electronic Health Record, the receiving party shall provide such information in electronic format to enable the CE to fulfill its obligations under the HIPAA Rules (and the HITECH Act as set forth in 42 U.S.C. § 17935(e)).

h. **Amendment of PHI.** To the extent a party maintains a Designated Record Set on behalf of the other party, within fifteen (15) days of receipt of a request from the other party or an individual for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, the party and/or its Subcontractors shall make any amendments that the other party directs or agrees to in accordance with the HIPAA Rules.

i. **Accounting Rights.** Within fifteen (15) days of notice by a party of a request for an accounting of disclosures of Protected Information, each party and its Subcontractors shall make available to the requesting party the information required to provide an accounting of disclosures to enable the party to fulfill its obligations under the HIPAA Rules, including, but not limited to, 45 C.F.R. § 164.528 and 42 U.S.C. § 17935(c), as determined by the requesting party. The provisions of this subparagraph 2.i. shall survive the termination of this Agreement.

j. **Governmental Access to Records.** The parties shall make their internal practices, books and records relating to the use and disclosure of Protected Information available

to the other party and to the Secretary of the U.S. Department of Health and Human Services (the “Secretary”) for purposes of determining the party’s compliance with the HIPAA Rules. Each party shall immediately notify the other party of any requests made by the Secretary and provide the other party with copies of any documentation it provides in response to such requests.

k. **Compliance with Privacy Rule.** To the extent that a party carries out the other party’s obligations under the Privacy Rule, the party shall comply with the requirements of the Privacy Rule that apply to the other party in the performance of such obligations.

l. **Minimum Necessary.** Each party and their respective Subcontractors shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure. The parties understand and agree that the definition of “minimum necessary” shall be the meaning set forth in the HIPAA Rules. The parties agree to make their respective uses, disclosures and requests for Protected Information consistent with the other party’s minimum necessary policies and procedures, to the extent such policies and procedures are provided to one another.

m. **Business Associate’s Insurance.** The parties shall each obtain insurance for themselves and their respective employees, agents and independent contractors in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual aggregate of Commercial General Liability insurance and Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) annual aggregate of Errors and Omissions insurance. The Errors and Omissions insurance shall cover, among other things, Breaches. Upon request, the parties shall exchange certificates of insurance or other written evidence of the insurance policy or policies required herein prior to execution of this Agreement (or as shortly thereafter as is practicable) and as of each annual renewal of such insurance policies during the period of such coverage. Further, in the event of any material modification, termination, expiration, non-renewal or cancellation of any of such insurance policies, the party shall give written notice to the other party not more than ten (10) days following the party’s receipt of such notification. If a party fails to procure, maintain or pay for the insurance required under this section, the other party shall have the right, but not the obligation, to obtain such insurance. In such event, the party shall promptly reimburse the other party for the cost thereof upon written request, and failure to repay the same upon demand by the party shall constitute a material breach of this Agreement.

### 3. **TERMINATION**

a. **Term.** The term of this Agreement shall be effective as of the Effective Date and shall terminate upon the later of (1) the termination or expiration of the Underlying Contracts; or (2) when all of the PHI provided by CE to BA, or created or received by BA on behalf of CE, is destroyed or returned to CE.

b. **Termination.**

i. **Material Breach.** A breach by either party of any provision of this Agreement, as determined by the other party, shall constitute a material breach of the Agreement



and shall provide grounds for termination of the Agreement, any provision in the Agreement to the contrary notwithstanding, with or without an opportunity to cure the breach. If termination of the Agreement is not feasible, the party may report the problem to the Secretary.

ii. **Material Breach by either CE.** If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under the Underlying Contracts, the Agreement or other arrangement, the party shall notify the other party of the pattern or activity or practice and take reasonable steps to assist the other party in curing or ending the breach or violation. If the steps are unsuccessful, the party may be required terminate the Agreement or other arrangement.

c. **Effect of Termination.** Upon termination of the Agreement for any reason, the parties shall, at the option of the other party, return or destroy all Protected Information or its Subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by a party, the other party shall continue to extend the protections of this Agreement to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. If a party elects destruction of the PHI, the party shall certify in writing to the other party that such PHI has been destroyed.

**4. INDEMNIFICATION; LIMITATION OF LIABILITY.** To the extent permitted by law, a party shall indemnify, defend and hold harmless the other party and its directors, officers, employees, parent, subsidiaries, agents and affiliates from any and all liability, claim, lawsuit, injury, loss, expense or damage resulting from or relating to the acts or omissions of the indemnifying party in connection with the representations, duties and obligations of the indemnifying party under this Agreement. Any limitation of liability contained in the Agreement shall not apply to the indemnification requirement of this provision. This provision shall survive the termination of the Agreement.

**5. ASSISTANCE IN LITIGATION.** Each party shall make itself and any Subcontractors assisting a party in the performance of its obligations pursuant to the Underlying Contracts available, at no cost to the other party, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against a party, its directors, officers, agents, employees or affiliates based upon a claim of violation of the HIPAA Rules or HITECH Act, or other California or federal laws related to security and privacy, except where the party or its Subcontractor is named as an adverse party.

**6. COMPLIANCE WITH STATE LAW.** Nothing in this Agreement shall be construed to require or permit either party to use or disclose Protected Information without a written authorization from an individual who is a subject of the Protected Information, or without written authorization from any other person, where such authorization would be required under state law for such use or disclosure.

**7. AMENDMENT TO COMPLY WITH LAW.** The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such develop-

ments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that they must receive satisfactory written assurance from the other party that it will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act or any other applicable law. A party may terminate the Agreement upon thirty (30) days written notice if (i) the other party does not promptly enter into negotiations to amend the Agreement or Agreement when requested by a party pursuant to this section or (ii) the other party does not enter into an amendment to the Underlying Contracts or Agreement providing assurances regarding the safeguarding of PHI that the other party, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

**8. NO THIRD-PARTY BENEFICIARIES.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer upon any person other than the parties to this Agreement and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

**9. INTERPRETATION.** The provisions of this Agreement shall prevail over any provisions in the Underlying Contracts that may conflict or appear inconsistent with any provision in this Agreement. This Agreement and the Underlying Contracts shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, and any other state or federal rules concerning PHI. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. Except as specifically required to implement the purposes of this Agreement, or to the extent inconsistent with this Agreement, all other terms of the Agreement shall remain in force and effect.

**10. NOTICES.** All notices hereunder shall be in writing and delivered by a confirmed facsimile, personally, by certified or registered mail, return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered by fax, personally or when deposited in the United States mail, postage prepaid, or deposited with the overnight courier addressed as follows:

**If to Prospect**

**Prospect ECHN, Inc.**  
**Attn: Chief Executive Officer**  
71 Haynes Street  
Manchester, CT 06040  
Fax: [(860) 533-3404]

and

**Prospect Medical Holdings, Inc.**  
**Attn: Legal Department**  
10780 Santa Monica Blvd, Suite 400, Los Angeles, CA 90025  
Fax: (310) 943-4501

If to OLDSCO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_

Fax: \_\_\_\_\_

or to such other persons or places as either party may from time to time designate by written notice to the other.

**11. ENTIRE AGREEMENT OF THE PARTIES.** This Agreement supersedes any and all prior and contemporaneous business associate agreements or addenda between the parties and constitutes the final and entire agreement between the parties hereto with respect to the subject matter hereof. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, with respect to the subject matter hereof, have been made by either party, or by anyone acting on behalf of either party, which is not embodied herein. No other agreement, statement or promise, with respect to the subject matter hereof, not contained in this Agreement shall be valid or binding.

**12. REGULATORY REFERENCES.** A reference in this Agreement to a section of regulations means the section as in effect or as amended, and for which compliance is required.

**13. COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement as of the Effective Date referenced above.

**PROSPECT ECHN, INC.**

**EASTERN CONNECTICUT HEALTH  
NETWORK, INC.**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

Exhibit B

Form of Limited Power of Attorney

*See attached.*

## LIMITED POWER OF ATTORNEY

\_\_\_\_\_, a Connecticut non-stock corporation (“Registrant”), operates under the certain licenses and registrations relating to controlled substances and the operation of pharmacies and laboratories set forth on Exhibit A hereto (collectively, the “Licenses and Registrations”). This Limited Power of Attorney is being delivered pursuant to that certain Asset Purchase Agreement, dated as of \_\_\_\_\_, 2016, by and among Registrant, \_\_\_\_\_, a Connecticut corporation (“Corporation”), and certain other parties (the “Purchase Agreement”).

1. To the extent permitted by applicable law:

(a) I, \_\_\_\_\_, am authorized to sign the current applications for DEA registration on behalf of the Registrant under the Controlled Substances Act or Controlled Substances Import and Export Act, and have made, constituted, and appointed, and by these present, do hereby make, constitute, and appoint Corporation as my true and lawful attorney-in-fact to act for me in my name, place, and stead, to execute applications for Forms 222 and to sign orders for Schedule II controlled substances, whether these orders be on Form 222 or electronic, in accordance with 21 U.S.C. § 828 and Part 1305 of Title 21 of the Code of Federal Regulations, for the Limited Period described in Section 3 below. I hereby ratify and confirm all that Corporation must lawfully do or cause to be done by virtue hereof.

(b) Corporation further grants this Limited Power of Attorney to \_\_\_\_\_ (“Pharmacist-In-Charge”) to act as the true and lawful agent and attorney in-fact of Corporation, and to act in the name, place, and stead of Corporation, to execute applications for Forms 222 and to sign orders for Schedule II controlled substances, whether these orders be on Form 222 or electronic, in accordance with 21 U.S.C. § 828 and Part 1305 of Title 21 of the Code of Federal Regulations, as is necessary for the treatment of pharmacy patients. Corporation hereby ratifies and confirms all that said Pharmacist-In-Charge must lawfully do or cause to be done by virtue hereof.

(c) Corporation shall have the right, for the Limited Period described in Section 3 below, to operate under all of the Licenses and Registrations, until it is able to obtain all requisite licenses and registrations for itself.

2. Registrant recognizes that it remains legally responsible for Licenses and Registrations issued to it, during the period in which this Limited Power of Attorney is in effect. Therefore, Registrant grants this Limited Power of Attorney to Corporation based upon the following covenants and warranties of Corporation: (a) Corporation shall follow and abide by and comply with all federal and state laws governing the regulation of controlled substances, and the operation of the pharmacies, laboratories, blood banks and blood collection facilities set forth on Exhibit A hereto at all times while utilizing this Limited Power of Attorney and shall indemnify and hold Registrant harmless from and against any claims arising out of Corporation’s failure to do so; and (b) Corporation, or its designee, shall make application for and pursue its own licenses and registrations relating to controlled substances, and the operation of pharmacies, laboratories, blood banks and blood collection facilities that are required by law as soon as practicable.

3. This Limited Power of Attorney shall remain in effect for a period not to exceed one hundred twenty (120) days following the closing date of the Purchase Agreement (the “Limited Period”).

4. Registrant may revoke this Limited Power of Attorney at any time by executing the Notice of Revocation, attached hereto at Exhibit B.

5. This Limited Power of Attorney may be executed in multiple counterparts, each and all of which shall be deemed an original and all of which together shall constitute one and the same instrument. A signature delivered by facsimile or PDF will be sufficient for all purposes among the parties hereto and shall be deemed to have the same legal effect as delivery of an original.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, Registrant and Corporation have executed this Limited Power of Attorney as of the \_\_\_\_ day of \_\_\_\_\_, 2016 to be effective as of 12:01 a.m. Eastern Time on the \_\_ day of \_\_\_\_\_, 2016.

**REGISTRANT:**

WITNESS

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

WITNESS

\_\_\_\_\_

**CORPORATION:**

\_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

*(Limited Power of Attorney Signature Page – \_\_\_\_\_)*

I, \_\_\_\_\_, hereby affirm that I am the person named herein as attorney-in-fact pursuant to Section 1(b) of the Limited Power of Attorney and that the signature affixed hereto is my signature.

\_\_\_\_\_  
Name:  
Pharmacist-In-Charge

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

*(Limited Power of Attorney Signature Page – Pharmacist-In-Charge – \_\_\_\_\_)*



**EXHIBIT A**

<i>Location</i>	<i>License/Registration</i>	<i>License/Registration #</i>
	U.S. Drug Enforcement Agency Controlled Substance Registration	
	Controlled Substance Registration	
	Connecticut Laboratory Licenses	
	Connecticut Blood Bank and Blood Collection Facility Registrations	
	CMS Laboratory – CLIAs	

**EXHIBIT B**

The Limited Power of Attorney, executed on \_\_\_\_\_, 2016, is hereby revoked by the undersigned, who is authorized to sign the current applications for the Licenses and Registrations. Written notice of this revocation has been given to the attorney-in-fact this same day.

By: \_\_\_\_\_

Name:

Title:

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

Exhibit C

Form of Governing Documents of PMH Medical Foundation

*See attached.*

**ORGANIZATIONAL ACTION BY  
SOLE INCORPORATOR  
OF  
PROSPECT CT MEDICAL FOUNDATION, INC.**

The undersigned, being the sole incorporator named in the Certificate of Incorporation of Prospect CT Medical Foundation, Inc., a Connecticut corporation (the "**Corporation**"), filed with the Secretary of State of the State of Connecticut on April 15, 2016, acting by written consent without a meeting pursuant to Section 33-1029(b) of the Connecticut Revised Nonstock Corporation Act, hereby consents to the adoption of the following specified resolutions:

**Number and Election of Directors**

**RESOLVED:** That the number of members that shall constitute the Board of Directors shall initially be two (2); and

**RESOLVED, FURTHER:** That each of the following persons is hereby elected to the Board of Directors of the Corporation, to hold such office until his or her successor or successors have been duly elected and qualified, or until his or her earlier death, resignation or removal:

Samuel S. Lee

David Topper

**IN WITNESS WHEREOF**, the undersigned has duly executed this Organizational Action as of this 25<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
Michele M. Volpe, Esq.  
Sole Incorporator

**PROSPECT CT MEDICAL FOUNDATION, INC.**  
(a Connecticut corporation)

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**UNANIMOUS WRITTEN CONSENT IN LIEU OF MEETING  
OF THE BOARD OF DIRECTORS**

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The undersigned, being all of the members of the Board of Directors of Prospect CT Medical Foundation, Inc., a Connecticut corporation (the "**Corporation**"), acting by unanimous written consent without a meeting pursuant to Section 33-1064 of the Connecticut Revised Nonstock Corporation Act, do hereby waive notice of a meeting and consent to the adoption of the following resolutions:

**NOW, THEREFORE, BE IT:**

**Organizational Matters**

**RESOLVED:** That all of the actions of Michele M. Volpe, Esq., as the sole incorporator of the Corporation (the "**Incorporator**"), are hereby approved, ratified and adopted in all respects; and be it hereby

**RESOLVED, FURTHER:** That the Certificate of Incorporation of the Corporation executed by the Incorporator and filed with the Secretary of State of the State of Connecticut, attached hereto and incorporated herein as Exhibit A (the "**Certificate**"), be, and the same hereby is, approved, ratified and adopted; and be it hereby

**Bylaws**

**RESOLVED, FURTHER:** That the Bylaws attached hereto and incorporated herein as Exhibit B be, and the same hereby are, adopted as the Bylaws of the Corporation; and be it hereby

**Officers; Delegated Authority**

**RESOLVED, FURTHER:** That the following individuals be, and each of them hereby is, elected to serve in the offices of the Corporation set opposite their respective names, each to hold such offices until his or respective successor is duly elected and qualified or until his or her earlier resignation or removal; and be it hereby:

President	Samuel S. Lee
Chief Executive Officer	David Topper
Secretary	Ellen J. Shin, Esq.
Chief Financial Officer	Steve M. Aleman

**RESOLVED, FURTHER:** That for the purposes of authorizing the Corporation to do business in any state, territory or dependency of the United States or any foreign country in which it is necessary or expedient for this Corporation to transact business, the proper officers of the Corporation be, and each of them hereby is, authorized to appoint and substitute all necessary agents or attorneys for service of process, to designate and change the location of all necessary statutory offices and to make and file all necessary certificates, reports, powers of attorney, and other instruments as may be required by the laws of such state, territory, dependency or country to authorize the Corporation to transact business therein; and be it hereby

**RESOLVED, FURTHER:** That the President and the Chief Financial Officer of the Corporation and/or any officers or agents as they may designate be, and each of them hereby is, authorized to make payments from the funds of the Corporation for expenses incurred or to be incurred incident to the organization of the Corporation or to the implementation of authorized corporate action including, but not limited to, all expenses for office and clerical services and professional accounting, investment consultant, and legal services provided to the Corporation, and all filing fees relating to the creation of the Corporation or the implementation of any authorized corporate practice; and be it hereby

#### **Books and Records**

**RESOLVED, FURTHER:** That the President of the Corporation and/or any officers or agents as he may designate be, and each of them hereby is, authorized and directed to procure all books of account and other materials and supplies necessary or appropriate in connection with maintaining the records and conducting the business of the Corporation; and be it hereby

#### **Banking**

**RESOLVED, FURTHER:** That the President and the Chief Financial Officer of the Corporation and/or any officers or agents as they may designate be, and each of them hereby is, authorized to open such bank account(s) on behalf of the Corporation as they deem appropriate or advisable, and that such officers or agents be, and each of them hereby is, authorized to execute and deliver to such banks the resolutions required thereby and such resolutions will be deemed to have been approved by the Board of Directors with the same force and effect as if they had been set forth herein; and be it hereby

**RESOLVED, FURTHER:** That the President and the Chief Financial Officer of the Corporation and/or any officers or agents as they may designate be, and each of them hereby is, authorized to deposit any of the funds of the Corporation in said bank(s) and that the President or the Chief Financial Officer of the Corporation and/or any officers or agents as they may designate be, and each of them hereby is, authorized to withdraw funds of the Corporation by checks drawn in the name of the Corporation from said bank(s) either at its main office or any of its branches; and be it hereby

#### **General**

**RESOLVED, FURTHER:** That all actions previously taken by any of the officers of the Corporation, or by any of the Corporation's directors, employees, agents or representatives in connection with the organization of the Corporation and the matters contemplated by the

foregoing resolutions be, and each of them hereby is, expressly approved, ratified, and confirmed in all respects as the acts and deeds of the Corporation; and be it hereby

**RESOLVED, FURTHER:** That the President of the Corporation and/or any officers or agents as he may designate be, and each of them hereby is, authorized to take all such further action, as the President of the Corporation or any such officer or agent, as applicable, may deem necessary, proper, convenient or desirable, in order to carry out each of the foregoing resolutions and fully to effectuate the purposes and intents thereof, and that all actions taken by the President of the Corporation or any such officers or agents, as applicable, to date, in connection with the foregoing resolutions, or otherwise, be, and each of them hereby is, in all respects approved, ratified and confirmed; and be it hereby

**RESOLVED, FURTHER:** That the officers of the Corporation be, and each of them hereby is, authorized and directed in the name of the Corporation, to prepare and file all such notices and applications and any and all certificates, documents, letters and other instruments with all appropriate state and federal or other governmental authorities as necessary or desirable with respect to hospital licensure and the transactions contemplated by the foregoing resolutions; and be it hereby

**RESOLVED, FURTHER:** That the Corporation may proceed to carry on the business for which it was incorporated; and be it hereby

**RESOLVED, FURTHER:** That this unanimous written consent may be signed in two or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument, and the undersigned members of the Board of Directors of the Corporation hereby direct the Secretary of the Corporation to file the executed copy of this unanimous written consent in the books and records of the Corporation.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the undersigned members of the Board of Directors of Prospect CT Medical Foundation, Inc. have duly executed this unanimous written consent as of the 25<sup>th</sup> day of July, 2016.

By: \_\_\_\_\_  
Print Name: Samuel S. Lee  
Title: Director

By: \_\_\_\_\_  
Print Name: David Topper  
Title: Director



**EXHIBIT A**

**CERTIFICATE OF INCORPORATION**

Certificate of Incorporation

of

Prospect CT Medical Foundation, Inc., a Connecticut Nonstock Corporation

1. The name of the corporation shall be Prospect CT Medical Foundation, Inc., a Connecticut Nonstock Corporation (the "Corporation").
2. The nature of the activities to be conducted and the purposes to be promoted or carried out by the Corporation shall include the following:
  - a. To provide professional medical services to the patients of hospitals affiliated with Prospect CT, Inc. (the "Hospitals") and other affiliates of Prospect CT, Inc. and to other individuals in the Hospitals' service areas; provided, however, that all professional medical services rendered by the Corporation shall be rendered only through individuals who are authorized by the laws of the State of Connecticut to render professional medical services.
  - b. To promote and support the mission and purposes of the Hospitals by providing professional medical services to their patients and engaging in education activities related to patient care and the promotion of good health.
  - c. To carry on additional activities related to rendering care to the sick or injured or the promotion of health in the community.
  - d. To invest the funds of the Corporation in stocks, bonds, real estate, mortgages, or any other type of investment and to own real property incident to the rendering of professional medical services.
  - e. To otherwise engage in any lawful act or activity from which a medical foundation may be organized under Chapter 594b of the Connecticut General Statutes or for which a corporation may be organized under the Connecticut Revised Nonstock Corporation Act (the "Act").
  - f. Medical foundation status will not be effective until Member or a Member affiliate owns a Connecticut licensed hospital.
3. The Corporation is nonprofit and shall not have or issue shares of stock or make distributions.

4. The Corporation shall have one member (the "Member") which shall be Prospect CT, Inc., a Delaware corporation. The Member shall have the right to adopt bylaws (the "Bylaws") for the conduct of the affairs of the Corporation and the right to elect the Board of Directors and officers of the Corporation in accordance with the Corporation's Bylaws and shall have all other rights, powers and privileges usually or by law accorded to the members of a non-stock nonprofit corporation and conferred thereby or by the Corporation's Certificate of Incorporation or Bylaws.
5. Subject to the rights and powers of the Member, the Corporation shall operate under the management of its Board of Directors. The Member shall prescribe the number, qualifications (if any) and manner of election of the Directors of the Corporation. The Member may provide that persons occupying certain positions within or without the Corporation shall be ex-officio members of the Board of Directors, who may vote and be counted in determining a quorum.
6. No part of the net earnings of the Corporation shall inure to the benefit of or be distributable to the Corporation's Directors, officers or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Paragraph 2 hereof. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.
7. Upon any dissolution or termination of the existence of the Corporation, all its property and assets shall be applied and distributed as follows: (i) All liabilities and other obligations of the Corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor; (ii) assets held by the Corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements; (iii) assets received and held by the Corporation subject to limitations permitting their use, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in section 33-1175; (iv) other assets, if any, shall be distributed to the Member except to the extent that the certificate of incorporation provides for distribution to others; and (v) any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for

profit or nonprofit, as may be specified in a plan of distribution adopted as provided in section 33-1175.

8. The personal liability of a Director of the Corporation to the Corporation for breach of duty as a Director of the Corporation shall be limited to the fullest extent permitted by the Act and as set forth in Section 1104 or any other applicable laws presently or hereafter in effect.
9. The Corporation shall indemnify its Directors and officers as follows:
  - a. The Corporation shall, to the fullest extent permitted by law, indemnify its Directors or officers from and against any and all of the liabilities, expenses and other matters referenced in or covered by the Act or any other applicable laws presently or hereafter in effect. In furtherance and not in limitation thereof, the Corporation shall indemnify a Director for a liability, as defined in Section 33-1116 of the Act, to any person for any action taken, or any failure to take any action, as a Director, except a liability that (i) involved a knowing and culpable violation of law by the Director; (ii) enabled the Director or an associate, as defined in Section 33-840 of the Connecticut General Statutes, to receive an improper personal gain; (iii) showed a lack of good faith and a conscious disregard for the duty of the Director to the Corporation under circumstances in which the Director was aware that his or her conduct or omission created an unjustifiable risk of serious injury to the Corporation; or (iv) constituted a sustained and unexcused pattern of inattention that amounted to an abdication of the Director's duty to the Corporation.
  - b. In addition to the foregoing, the Corporation shall provide to its Directors and officers the full amount of indemnification that the Corporation is permitted to provide to such Directors and officers pursuant to Sections 33-1116 to 33-1125, inclusive, of the Act or any other applicable laws presently or hereafter in effect. Expenses (including attorneys' fees) incurred by a Director or officer in defending a civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of both (i) a written affirmation by such officer or Director of his or her good faith belief that he or she has met the relevant standard of conduct under the Act or that the proceeding involves conduct for which liability has been limited under Paragraph 8 of this Certificate of Incorporation; and (ii) an undertaking by or on behalf of such Director or officer to repay such amount if it shall ultimately be determined that such Director or officer is not entitled to be indemnified by the Corporation as authorized in this Paragraph 9.

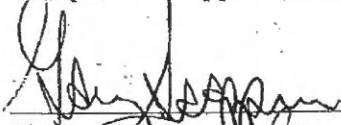
Such expenses (including attorneys' fees) incurred by other employees and agents of the Corporation may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate.

- c. The indemnification and advancement of expenses provided by, or granted pursuant to this Paragraph 9 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.
  - d. No amendment to or repeal of this Paragraph 9 shall apply to or have any effect on the indemnification of any Director or officer for or with respect to any acts or omissions of such Director or officer occurring prior to such amendment or repeal, nor shall any such amendment or repeal apply to or have any effect on the obligations of the Corporation to pay for or reimburse in advance expenses incurred by a Director or officer in defending any action, suit or proceeding arising out of or with respect to any acts or omissions occurring prior to such amendment or repeal.
10. References in this Certificate of Incorporation to the Act shall be deemed to include amendments adopted from time to time to such Act.
11. The Corporation's registered agent shall be:

Name: C T Corporation System

Business Address: One Corporate Center, Hartford, CT 06103

Acceptance of Appointment:

  
Signature of Agent: Gary Scappini, Special Asst Sec

Email address: NONE

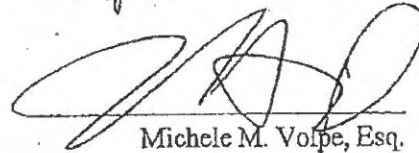
12. The name and address of the incorporator is:

Name: Michele M. Volpe, Esq.

Address: Bershtein, Volpe & McKeon PC  
105 Court Street, 3<sup>rd</sup> Floor  
New Haven, CT 06511

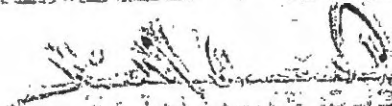
I hereby declare, under penalties of false statement, that the statements made in the foregoing certificate are true.

Dated this 14 of April, 2016



Michele M. Volpe, Esq.  
Sole Incorporator

STATE OF CONNECTICUT  
OFFICE OF THE SECRETARY OF THE STATE  
I hereby certify that this is a true copy of record  
in this Office.  
In testimony whereof, I have hereunto set my hand  
and added the Great Seal of the State at Hartford,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2016.



STATE OF CONNECTICUT }  
OFFICE OF THE SECRETARY OF THE STATE } SS. HARTFORD

I hereby certify that this is a true copy of record  
in this Office.

In Testimony whereof, I have hereunto set my hand  
and affixed the Seal of said State, at Hartford,  
this 23<sup>RD</sup> day of APRIL A.D. 20 16

  
\_\_\_\_\_  
SECRETARY OF THE STATE

**EXHIBIT B**

**BYLAWS**



**BYLAWS OF  
PROSPECT CT MEDICAL FOUNDATION, INC.  
A CONNECTICUT NONSTOCK CORPORATION**

**Dated: \_\_\_\_\_, 2016**

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**BYLAWS OF**  
**PROSPECT CT MEDICAL FOUNDATION, INC.**  
**A CONNECTICUT NONSTOCK CORPORATION**

**ARTICLE 1 – ORGANIZATION**

**1.1. Name.** The name of the Corporation shall be Prospect CT Medical Foundation, Inc. (herein referred to as the “Corporation”).

**Purposes.** The Corporation is organized and shall be operated exclusively as a medical foundation of the Member pursuant to Chapter 594b of the Connecticut General Statutes (as it may be amended from time to time, the “Foundation Act”), providing medical services and other health care services to patients of the Member and its affiliates and to other individuals ; providing public health services, to include promoting the efficient delivery of quality medical care in and around the service area of the Corporation; meeting the healthcare needs of the public; participating in activities designed to promote the general health of the community; and for the other purposes described in the Corporation’s Certificate of Incorporation.

**1.2. Offices.** The principal office of the Corporation shall be located in the State of Connecticut at such location as may be determined by the Corporation. The Corporation may have such other offices within and without the State of Connecticut as the Member may determine.

**1.3. Divisions.** The operations of the Corporation shall be divided into divisions representing the service area of each hospital or health system operated by the Member or an affiliate (each such area hereinafter referred to as a “Division”) or by a particular specialty all determined by the Member at its sole discretion.

**ARTICLE 2 - THE MEMBER**

**2.1. Membership.** Prospect CT, Inc. shall be the sole member (the “Member”) of the Corporation, which shall have the right to elect the Board of Directors (the “Board”) of the Corporation, and shall have all of the other rights, powers and privileges usually or by law accorded to the member of a medical foundation under the Foundation Act and the member of a nonstock corporation under the Connecticut Revised Nonstock Corporation Act (the “Nonstock Act”) that are not conferred by these Bylaws on the Board of Directors of the Corporation.

**2.2. Member's Action; Powers of the Member.** In the exercise of its powers, the Member may act through its President or Chief Executive Officer, or such other officer duly designated by the Member. The President, Chief Executive Officer or duly designated officer shall have the full power and authority to act on behalf of the Member, to vote in person or by proxy on behalf of the Member, and to take all other actions as the Member may be authorized to take by law, the Certificate of Incorporation or these Bylaws. All action of the Member may be taken by written consent in lieu of a meeting, including in lieu of the annual meeting of the Corporation. Whenever approval by the Member is required by law, the Certificate of Incorporation or these Bylaws, the Member shall attempt to act on a request for approval within the time frame set forth in any schedule that may be developed from time to time, or if no such schedule exists, in a timely manner. In addition to any other powers that are provided to the Member by law and to the fullest extent permitted by law, the Member shall have the following rights, powers and privileges:

- 2.2.1. The power, consistent with Section 3.2.2 hereof, to appoint all Directors to the Board.
- 2.2.2. The power to approve or initiate all operating and capital budgets of the Corporation.
- 2.2.3. The power to approve unbudgeted expenditures in such amount or amounts as may be established by the Member or any increase in an approved annual operating or capital budget.
- 2.2.4. The power to approve or initiate any advances of assets of, or loans by, the Corporation, or the incurring of any indebtedness, secured or unsecured.
- 2.2.5. The power to appoint the Corporation's auditors and to appoint legal counsel and other consultants whose responsibilities encompass rights or responsibilities of corporations, subsidiaries or entities affiliated with the Corporation or Member (the "Subsidiaries" and "Affiliates").
- 2.2.6. The power to engage in managed care and other third party payor contracting on behalf of the Corporation.
- 2.2.7. The power to obtain Director and Officer liability, comprehensive general and other insurance on behalf of the Corporation.

- 2.2.8. The power, to the extent permitted under applicable law, to exercise supervision and control over the investment of any and all of the Corporation's funds and assets.
- 2.2.9. The power to approve or initiate the commencement, cessation, location, relocation or consolidation of clinical services provided by the Corporation and to approve or initiate the filing of any application for a Certificate of Need by the Corporation.
- 2.2.10. The power to adopt system-wide quality, performance and credentialing standards and procedures to which the Corporation is expected to adhere.
- 2.2.11. The power to approve or initiate any agreement or transaction involving another corporation or entity, including corporations or entities controlled directly by or otherwise affiliated with the Corporation or Member.
- 2.2.12. The power to approve or initiate the affiliation of the Corporation with any other entities for the purpose of the joint conduct of business or other purposes, whether in the form of participation in said organization or entity or through the holding of stock or by membership or in the form of partnership, joint venture, co-tenancy or any other form of ownership or control.
- 2.2.13. The power to change, amend or restate the Corporation's Certificate of Incorporation, Bylaws, purposes, membership and rights and responsibilities accruing thereto, fiscal year, principal office or name.
- 2.2.14. The power to create any corporation of which the Corporation is the sole member or controlling member; to approve any merger or consolidation with another corporation in which the Corporation is a constituent corporation; and to reorganize, liquidate or dissolve the Corporation or any corporation of which the Corporation is the sole member or controlling member.
- 2.2.15. The power to sell, leases, exchange, or otherwise disposes of all or substantially all of the property or assets of the Corporation.
- 2.2.16. The power to elect, re-elect and remove Directors, the Chair, the Vice Chair, the Treasurer, the Secretary, the President and Chief Executive Officer and the power to increase or decrease the size of the Board.
- 2.2.17. The power to establish, appoint and remove members of committees of the Corporation and to delegate certain duties to committees, officers, employees or agents of the Corporation.

- 2.2.18.** The power to approve, amend or adopt policies and procedures governing indemnification of Directors and officers of the Corporation; conflicts or dualities of interest; accounting and investment standards and practices; and such other policies and provisions.
- 2.2.19.** The power to approve or initiate the conveyance of, or the granting of mortgages, trusts, deeds or the creation of other liens on, any real property assets of the Corporation.
- 2.2.20.** The power to adopt a system-wide strategic plan and vision to which the Corporation is expected to adhere.
- 2.2.21.** The power to approve any employee pension and other employee benefit plans for or on behalf of the Corporation.
- 2.2.22.** The power to approve any contract with an unrelated third party for the management of all or substantially all of the assets or operations of the Corporation.
- 2.2.23.** The power to approve any compensation plan of the Corporation and establish any policies and procedures relating to compensation
- 2.3. Annual Meetings.** The annual meeting of the Member shall be held at such date, time and place as shall be determined by the Member. At the annual meeting, the Member shall elect and re-elect Directors and transact such other business relating to the affairs of the Corporation as may properly come before the meeting.
- 2.4. Special Meetings.** Special meetings of the Member may be called by the Member or by the Chair. Notice of such call shall be given at least ten (10) days in advance of the meeting and shall state the purpose for which the meeting is called. No business shall be transacted at the meeting except such business as was set forth in the notice of such meeting.
- 2.5. Action at Meeting.** At any meeting of the Member, the vote of the President and Chief Executive Officer of the Member, or other duly authorized officer of the Member, shall be sufficient to take any action. Any action required or permitted to be taken at a meeting of the Member maybe taken without a meeting of the Member if the Member, acting through the President and Chief Executive Officer of the Member or other duly authorized officer of the Member, consents to the action in writing and such written consent is filed with the



records of the meeting of the Member. Each such consent shall be treated for all purposes as a vote taken at a meeting.

### **ARTICLE 3 - BOARD OF DIRECTORS**

**3.1. Powers.** Subject only to the powers of or reserved to the Member by law, the Certificate of Incorporation or these Bylaws, the Board shall have and may exercise all of the powers of the Corporation and shall have the general direction and control of the activities of the Corporation.

**3.2. Number; Composition and Qualification.** The composition, classification, manner of election or appointment of individuals to the Board, and their term of office, shall be subject to the following provisions:

**3.2.1.** The Board shall be appointed or elected by the Member as set forth in this Article 3.

**3.2.2.** The Board shall consist of a minimum of 7 and a maximum of 15 Directors, such number to be determined from time to time by the Member.

**3.2.3.** In accordance with the Foundation Act, the number of Directors on the Board who are providers within the meaning of the Foundation Act shall equal or exceed the number of Directors on the Board who are employees of the Member and who are not providers.

**3.2.4.** No employee, director or representative of a nonprofit hospital, nonprofit health system, nonprofit medical school or any entity that owns or controls a nonprofit hospital, nonprofit health system or nonprofit medical school may serve on the Board.

**3.2.5.** No person shall serve on the Board of the Corporation if prohibited by law.

**3.3. Election and Term.** The initial members of the Board shall, subject to Section 3.5 of these Bylaws, hold office for a term of two (2) years and until their successors are duly elected and qualified. At the second annual meeting of the Corporation, the Member shall elect Directors (other than Directors who serve by virtue of holding a particular office as set forth in Section 3.2.2) to staggered terms of one (1) year, two (2) years, or three (3) years in length such that approximately one-third of such Directors expire each year. Thereafter, the Member shall elect at each annual meeting approximately one-third of the Directors, each to serve a full three (3) year term, to fill the vacancies created by those Directors whose terms are then expiring. The Member may also at any time elect Directors to terms

of less than three (3) years to promote the objective of having the terms of approximately one-third of the Directors expire each year. Directors shall take office at the close of the meeting at which they were elected and, subject to Section 3.5 of these Bylaws, shall hold office for the term specified and until a successor is duly elected and qualified, provided that a Director appointed to fill a vacancy shall serve for the remainder of the applicable term. Each Director shall be counted in determining a quorum and shall have full voting rights.

**3.4. Vacancies.** Any vacancy in the Board caused by the death, resignation or removal of a Director may be filled by the Member, such Director to serve for the unexpired term of such Director's predecessor in office.

**3.5. Resignation and Removal.** Any Director may resign at any time by delivering a written resignation to the Corporation at its principal office, to the Chair, the Secretary or the President and Chief Executive Officer of the Corporation. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. A Director may be removed with or without cause by vote of the Member after reasonable notice of the proposed removal to the Director. Notice of a proposed removal shall be given in a notice of a meeting at which such removal shall be considered taken. A Director's failure to comply with the attendance policy and requirements adopted by the Board from time to time shall be considered by the Member as cause for removal of the Director in accordance with this section.

**3.6. Annual Meetings.** The annual meeting of the Board shall be held as soon as practicable following the annual meeting of the Member, at a date, time and place to be determined by the Chair or the Board. At the annual meeting, the Board shall ratify the election of the officers appointed by the Member and may conduct such other business as may properly come before the Board.

**3.7. Regular Meetings.** The Board shall meet at least quarterly, at such times and at such places, as the Chair or the Board may from time to time determine.

**3.8. Special Meetings.** Special meetings of the Board may be held at any time and at any place as designated in a call by the Chair, the President and Chief Executive Officer, the Secretary or any two (2) or more Directors. No business shall be conducted at a special meeting other than as stated in the notice of the meeting.

**3.9. Meetings by Telecommunications.** Directors or members of any committee of the Board may participate in a meeting of the Board or such committee by means of a conference telephone or similar communications equipment by means of which all persons

participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting.

**3.10. Notice of Meetings.** Notice of any meeting of the Board shall be given to each Director by the Chair, the President and Chief Executive Officer, or in the event of a special meeting called by two (2) or more Directors, by one of the Directors calling the meeting. In the case of the annual or any regular meeting, notice shall be given to each Director in person, by telephone, or by regular mail, overnight delivery or electronic mail sent to such Director's business or home address at least ten (10) days in advance of the meeting. In the case of a special meeting, notice shall be given to each Director in person, by telephone, or by regular mail, overnight delivery or electronic mail sent to such Director's business or home address at least seventy-two (72) hours in advance of the meeting. Notice need not be given to any Director who executes, before or after the meeting, a written waiver of notice, or to any Director who attends the meeting without protesting prior to the meeting or at its commencement the lack of notice to such Director. Unless otherwise stated in these Bylaws, a notice or waiver of notice of a Board meeting need not specify the purposes of the meeting.

**3.11. Quorum and Voting.** At any meeting of the Board, a majority of the Directors then currently serving and entitled to vote and who are present at the meeting shall constitute a quorum. Unless otherwise disqualified from voting, each Director shall have one (1) vote to be exercised in person. Voting by proxy shall not be permitted.

**3.12. Action at Meeting.** At any meeting of the Board at which a quorum is present, the vote of a majority of those Directors present and entitled to vote, unless a different vote is specified by law, by the Certificate of Incorporation, or by these Bylaws, shall be sufficient to take any action.

**3.13. Action by Consent.** Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if all the Directors then currently serving consent to the action in writing and the written consents are filed with the records of the Board meetings. Each such consent shall be treated for all purposes as a vote taken at a properly called and held meeting. For purposes hereof, a Director may evidence his or her consent with any manual, facsimile, conformed or electronic signature, including an electronic mail communication from the Director to the Corporation from an electronic mail address provided by the Director to the Corporation.

**3.14. Rules of Order.** The Board shall adopt formal, parliamentary Rules of Order, that when not inconsistent with the Bylaws, shall govern the meetings of the Board and all committees.

**3.15. Compensation.** The Board shall serve without compensation for their services as Directors but may be reimbursed by the Corporation for their reasonable expenses and disbursements in that capacity on behalf of the Corporation.

#### **ARTICLE 4-OFFICERS**

**4.1. Number and Designation.** The officers of the Corporation shall be elected by the Member and shall consist of a Chair, President, Secretary, Treasurer and such other officers with such other titles as the Member may from time to time designate.

**4.2. Qualification.** The Chair, President, Secretary, Treasurer shall be designated by the Member. Any officer may be required to give bond for the faithful performance of such officer's duties to the Corporation in such amount and with such sureties as the Member may determine. The premiums for such bonds shall be paid by the Corporation.

**4.3. Election and Term.** Each officer shall be elected by the Member at the annual meeting of the Member and shall, subject to Section 4.4 of these Bylaws, hold office until the next annual meeting or until his or her successor shall have been chosen and qualified.

**4.4. Resignation and Removal.** Any officer may resign by delivering a written resignation to the President, or, if the resigning officer is the President, to the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. The Member may remove any officer with or without cause after reasonable notice to the officer. Notice of a proposed removal shall be given in the notice of any meeting at which such removal shall be considered or taken. Any such removal shall be without prejudice to the contract rights, if any, of the person so removed, provided, however, that election or appointment to an office shall not in and of itself create any contract rights.

**4.5. Vacancies.** The Member may fill any vacancy occurring for any reason in any office.

**4.6. Chair.** The Chair or the Chair's delegate shall preside at all meetings of the Board of Directors and shall perform other duties incident to the office or delegated by the Board of Directors or these Bylaws from time to time. The Chair shall be an ex-officio member of all Committees.

**4.7. President.** The President shall serve as the chief executive officer of the Corporation and shall be responsible for the integration, operation, administration and performance of the Corporation and its Subsidiaries and Affiliates within the system of health care

organizations operated under the ownership and control of the Member and shall be given the necessary authority for the accomplishment of such responsibility subject to the policies enacted by the Member, of any committees to which the Member or the Board has delegated such responsibilities, and of any Subsidiary subject only to the policies enacted by the board of such Subsidiary. The President shall perform such other duties and shall have such other powers as the Member from time to time may prescribe. In the event of a vacancy in the office of President, the Secretary shall serve as the Acting President during such vacancy.

**4.8. Secretary.** The Secretary shall be responsible for having minutes kept of the proceedings of the Board and the Member; shall give, or cause to be given, all notices in accordance with the provisions of these Bylaws or as required by law; and shall be the custodian of the records of the Corporation. The Secretary shall perform such other duties and shall have such other powers as the Member may from time to time prescribe.

**4.9. Treasurer.** The Treasurer shall supervise the receipt and custody of the Corporation's funds and investments; render a full account and statement of the condition of the Corporation's finances at each annual meeting. The Treasurer shall perform such other duties and shall have such other powers as the Member may from time to time prescribe.

**4.10. Other Powers and Duties.** Each officer, subject to these Bylaws, shall have in addition to the duties and powers specifically set forth in these Bylaws, such duties and powers as are customarily incident to such officer's office, and such duties and powers as the Member may from time to time designate.

## **ARTICLE 5 – COMMITTEES**

**5.1. Committees.** The Member or the Board may designate two (2) or more Directors to constitute a committee, which may be standing or ad hoc. The Chair may, in his or her discretion, appoint a committee chair or delegate the selection of a chair to the committee itself, unless otherwise specified in these Bylaws. The Chair, subject to the approval of the Board if the committee was formed by the Board or the Member if the committee was formed by the Member, may designate or provide for the designation of one or more Directors or others as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. Standing committees shall have such powers and responsibilities as shall be set forth in these Bylaws or in any resolutions establishing such committees; provided, however, that committees may not have any authority prohibited by law.

**5.2. Action by Committee.** A quorum shall be a majority of the number of members of the committee. Any committee member restricted from voting on any matter pursuant to the Corporation's Conflict of Interest Policy shall not be counted in determining the quorum for the matter in question, even where permitted by law. The minutes of the committee meeting should reflect the disclosure, the abstention from voting, and the quorum situation. The act of a majority of the members of any committee present at a meeting at which a quorum is present at the time of the act shall be the act of such committee, unless the act of a greater number is required by the Member, by these Bylaws, by resolution of the Board of Directors or by law. Committees shall have only such authority delegated to them by the Board or the Member as shall be provided in resolutions of appointment, and no committee shall have any other power.

**5.3. Standing Committees:**

**5.3.1. Quality and Performance Committee.** The Quality and Performance Committee shall consist of at least three (3) members of the Board, including one member from each Division, and such other members as the Board determines are necessary to properly perform the functions of the Committee. The Quality and Performance Committee shall assist the Board in providing strategic direction and oversight for all quality improvement, patient safety, risk management, and regulatory compliance activities provided in and by the Corporation.

**5.4. Ad Hoc Committees.** The Board may appoint ad hoc committees from time to time for such special tasks as circumstances warrant. An ad hoc committee shall limit its activities to the accomplishment of the task for which it is appointed and shall have no power to act except as specifically conferred by action of the Board. Upon completion of the task for which appointed, such ad hoc committee shall stand discharged.

**5.5. Other Committees.** The Board may by resolution from time to time establish committees to serve in a purely advisory role to the Board, and such committees may consist of Directors and such other individuals as the Board shall determine.

**ARTICLE 6- INDEMNIFICATION**

**6.1. Indemnification of Directors and Officers.** The Corporation shall, to the fullest extent permitted by law, indemnify its Directors and Officers from and against any and all of the liabilities, expenses and other matters referenced in or covered by the Act or any other applicable laws presently or hereafter in effect. In furtherance and not in limitation thereof, the Corporation shall indemnify a Director for a liability, as defined in Section 33-1116 of the Act, to any person for any action taken, or any failure to take any action, as

a Director, except a liability that (i) involved a knowing and culpable violation of law by the Director; (ii) enabled the Director or an associate, as defined in Section 33-840 of the Connecticut General Statutes, to receive an improper personal gain; (iii) showed a lack of good faith and a conscious disregard for the duty of the Director to the Corporation under circumstances in which the Director was aware that his or her conduct or omission created an unjustifiable risk of serious injury to the Corporation; or (iv) constituted a sustained and unexcused pattern of inattention that amounted to an abdication of the Director's duty to the Corporation.

**6.2. Advancement of Expenses to Directors and Officers.** The Corporation shall advance funds to pay for or reimburse the reasonable expenses incurred by a current or former Director or officer who is or was a party to a proceeding because he or she is or was a Director or officer if he or she delivers to the Corporation: (i) a written affirmation of his or her good faith belief that he or she has met the relevant standard of conduct or that the proceeding involves conduct for which liability has been eliminated under a provision of the Corporation's Certificate of Incorporation; and (ii) his or her written undertaking to repay any funds advanced if he or she is not entitled to mandatory indemnification under the Nonstock Act and it is ultimately determined that he or she has not met the relevant standard of conduct required by the Corporation's Certificate of Incorporation or by the Nonstock Act.

**6.3. Indemnification of Other Parties.** The Corporation shall indemnify under Sections 33-1116 to 33-1125, inclusive, of the Connecticut General Statutes, a non-Director officer of the Corporation, who is a party to a proceeding because he or she is an officer, to the same extent as the Corporation is obligated to indemnify a Director. The Corporation may, at the discretion of the Board, indemnify any other current or former officer, employee or agent of the Corporation who is not a Director to the fullest extent permitted by law.

**6.4. Advancement of Expenses to Other Parties.** The Corporation shall advance expenses under Sections 33-1116 to 33-1125, inclusive, of the Connecticut General Statutes to a non-Director officer of the Corporation who is a party to a proceeding because he or she is an officer, to the same extent as the Corporation is obligated to advance expenses to a Director. The Corporation may, at the discretion of the Board, advance expenses to any other current or former officer, employee or agent of the Corporation who is not a Director to the fullest extent permitted by law.

**6.5. Predecessors of the Corporation.** Subsections 6.1 through 6.4 of this Article 6 shall obligate the Corporation to indemnify and advance expenses to a Director or officer of a predecessor of the Corporation pertaining to conduct with respect to the predecessor.

**6.6. Insurance.** The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or other agent of the Corporation, or is or was serving at the request of the Corporation as a trustee, director, officer, employee or other agent of another organization in which it has an interest, against any liability incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability.

## **ARTICLE 7 - CONFLICTS OF INTEREST**

**7.1. Conflicts of Interest Policy.** The Board shall adopt and implement, or cause to be implemented, a written policy, which shall apply to all Directors, officers, members of committees, and all employees who regularly exercise general authority to make administrative or policy decisions on behalf of the Corporation ("Interested Persons") and which shall address, without limitation, the standard and procedures for determining when a conflict of interest exists and for addressing any conflicts of interest determined to exist, and for disclosure by Interested Persons of all financial or other interests that might result in a conflict of interest (the "Conflicts of Interest Policy").

**7.2. Standard.** The standard for determining whether a conflict of interest exists shall incorporate all applicable legal requirements, including without limitation the requirements the statutory standard set forth in the Foundation Act and the Nonstock Act, as such requirements may be revised from time to time.

**7.3. Disclosure.** All Interested Persons shall be required to disclose all financial and other interests, and all material facts related thereto, that might lead to a conflict of interest in accordance with the Conflicts of Interest Policy and each Interested Person shall sign an annual statement acknowledging his receipt, understanding of, and agreement to comply with the Conflicts of Interest Policy.

## **ARTICLE 8 - MISCELLANEOUS PROVISIONS**

**8.1. Fiscal Year.** The fiscal year of the Corporation shall be as determined by the Member.

**8.2. Execution of Instruments.** All checks, deeds, leases, transfers, contracts, bonds, notes and other obligations authorized to be executed by an officer of the Corporation on its behalf shall be signed by the Chair or the President and Chief Executive officer, except as the Board may generally or in particular cases otherwise determine.



**8.3. Voting of Interest in Other Corporations.** When authorized by the Board, the President and Chief Executive Officer may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for the Corporation (with or without power of substitution) at any meeting of stockholders or members of any other corporation or organization in which this Corporation holds an equity or membership interest.

**8.4. Corporate Records.** The original, or attested copies of, the Certificate of Incorporation, these Bylaws and records of all meetings of the Member and the Board, shall be kept in the State of Connecticut at the principal office of the Corporation, or at the office of the Secretary and shall be available at all reasonable times for the inspection by any Director for any purpose relative to the affairs of the Corporation.

**8.5. Evidence of Authority.** A certificate by the Secretary, acting secretary or assistant secretary, as to any action taken by the Board, any committee or any officer or representative of the Corporation shall, as to all persons who rely on the certificate in good faith, be conclusive evidence of such action.

**8.6. Certificate of Incorporation.** All references in these Bylaws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended or restated, and in effect from time to time.

**8.7. Days.** As used herein, all references to days shall refer to calendar days unless specifically provided otherwise.

## **ARTICLE 9 – AMENDMENTS**

**9.1.** These Bylaws may be amended only by vote of the Member at any meeting of the Member.

**PROSPECT CT MEDICAL FOUNDATION, INC.**  
(a Connecticut corporation)

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**UNANIMOUS WRITTEN CONSENT IN LIEU OF MEETING  
OF THE BOARD OF DIRECTORS**

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The undersigned, being all of the members of the Board of Directors of Prospect CT Medical Foundation, Inc., a Connecticut corporation (the "**Corporation**"), acting by unanimous written consent without a meeting pursuant to Section 33-1064 of the Connecticut Revised Nonstock Corporation Act, do hereby waive notice of a meeting and consent to the adoption of the following resolutions:

**NOW, THEREFORE, BE IT:**

**RESOLVED:** That the Amended and Restated Certificate of Incorporation (Exhibit A) be adopted by the Corporation.

**RESOLVED, FURTHER:** That Michele Volpe, Esq. be authorized to execute and file the Certificate of Amendment (Exhibit B) with the Connecticut Secretary of State.

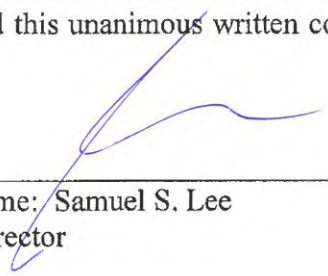
**RESOLVED, FURTHER:** That this unanimous written consent may be signed in two or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument, and the undersigned members of the Board of Directors of the Corporation hereby direct the Secretary of the Corporation to file the executed copy of this unanimous written consent in the books and records of the Corporation.

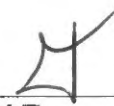
**RESOLVED, FURTHER:** That, Michele Volpe hereby resigns as the sole incorporator of the Corporation, and the powers and duties of the undersigned shall be and they hereby are terminated.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the undersigned members of the Board of Directors of Prospect CT Medical Foundation, Inc. have duly executed this unanimous written consent as of the 25<sup>th</sup> day of July, 2016.

By:   
\_\_\_\_\_  
Print Name: Samuel S. Lee  
Title: Director

By:   
\_\_\_\_\_  
Print Name: David Topper  
Title: Director

**EXHIBIT A**

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION**

Prospect CT Medical Foundation, Inc.

Exhibit B

RESTATED CERTIFICATE OF INCORPORATION  
OF  
PROSPECT CT MEDICAL FOUNDATION, INC.

1. The name of the corporation shall be **Prospect CT Medical Foundation, Inc.**, a Connecticut Nonstock Corporation (the "Corporation").
2. The nature of the activities to be conducted and the purposes to be promoted or carried out by the Corporation shall include the following:
  - a. To provide professional medical services to the patients of hospitals affiliated with Prospect CT, Inc. (the "Hospitals") and other affiliates of Prospect CT, Inc. and to other individuals in the Hospitals' service areas; provided, however, that all professional medical services rendered by the Corporation shall be rendered only through individuals who are authorized by the laws of the State of Connecticut to render professional medical services.
  - b. To provide the following public services: public health (including nurses, nurse practitioners, nurses in a clinical setting, and full-time professionals engaged in health care practitioner occupations and health care support occupations and is not a business organized for profit.
  - c. To promote and support the mission and purposes of the Hospitals by providing professional medical services to their patients and engaging in education activities related to patient care and the promotion of good health.
  - d. To carry on additional activities related to rendering care to the sick or injured or the promotion of health in the community.
  - e. To invest the funds of the Corporation in stocks, bonds, real estate, mortgages, or any other type of investment and to own real property incident to the rendering of professional medical services.
  - f. To otherwise engage in any lawful act or activity from which a medical foundation may be organized under Chapter 594b of the Connecticut General

Statutes or for which a corporation may be organized under the Connecticut Revised Nonstock Corporation Act (the "Act").

- g. Medical foundation status will not be effective until Member or a Member affiliate owns a Connecticut licensed hospital.
3. The Corporation is nonprofit and shall not have or issue shares of stock or make distributions.
4. The Corporation shall have one member (the "Member") which shall be Prospect CT, Inc., a Delaware corporation. The Member shall have the right to adopt bylaws (the "Bylaws") for the conduct of the affairs of the Corporation and the right to elect the Board of Directors and officers of the Corporation in accordance with the Corporation's Bylaws and shall have all other rights, powers and privileges usually or by law accorded to the members of a non-stock nonprofit corporation and conferred thereby or by the Corporation's Certificate of Incorporation or Bylaws.
5. Subject to the rights and powers of the Member, the Corporation shall operate under the management of its Board of Directors. The Member shall prescribe the number, qualifications (if any) and manner of election of the Directors of the Corporation. The Member may provide that persons occupying certain positions within or without the Corporation shall be ex-officio members of the Board of Directors, who may vote and be counted in determining a quorum.
6. Intentionally Omitted
7. Upon any dissolution or termination of the existence of the Corporation, all its property and assets shall be applied and distributed as follows: (i) All liabilities and other obligations of the Corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor; (ii) assets held by the Corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements; (iii) assets received and held by the Corporation subject to limitations permitting their use, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in section 33-1175; (iv) other assets, if any, shall be distributed to the Member except to the extent that the certificate of incorporation provides for distribution to others; and (v) any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for

profit or nonprofit, as may be specified in a plan of distribution adopted as provided in section 33-1175.

8. The personal liability of a Director of the Corporation to the Corporation for breach of duty as a Director of the Corporation shall be limited to the fullest extent permitted by the Act and as set forth in Section 1104 or any other applicable laws presently or hereafter in effect.
9. The Corporation shall indemnify its Directors and officers as follows:
  - a. The Corporation shall, to the fullest extent permitted by law, indemnify its Directors or officers from and against any and all of the liabilities, expenses and other matters referenced in or covered by the Act or any other applicable laws presently or hereafter in effect. In furtherance and not in limitation thereof, the Corporation shall indemnify a Director for a liability, as defined in Section 33-1116 of the Act, to any person for any action taken, or any failure to take any action, as a Director, except a liability that (i) involved a knowing and culpable violation of law by the Director; (ii) enabled the Director or an associate, as defined in Section 33-840 of the Connecticut General Statutes, to receive an improper personal gain; (iii) showed a lack of good faith and a conscious disregard for the duty of the Director to the Corporation under circumstances in which the Director was aware that his or her conduct or omission created an unjustifiable risk of serious injury to the Corporation; or (iv) constituted a sustained and unexcused pattern of inattention that amounted to an abdication of the Director's duty to the Corporation.
  - b. In addition to the foregoing, the Corporation shall provide to its Directors and officers the full amount of indemnification that the Corporation is permitted to provide to such Directors and officers pursuant to Sections 33-1116 to 33-1125, inclusive, of the Act or any other applicable laws presently or hereafter in effect. Expenses (including attorneys' fees) incurred by a Director or officer in defending a civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of both (i) a written affirmation by such officer or Director of his or her good faith belief that he or she has met the relevant standard of conduct under the Act or that the proceeding involves conduct for which liability has been limited under Paragraph 8 of this Certificate of Incorporation; and (ii) an undertaking by or on behalf of such Director or officer to repay such amount if it shall ultimately be determined that such Director or officer is not entitled to be indemnified by the Corporation as authorized in this Paragraph 9.

Such expenses (including attorneys' fees) incurred by other employees and agents of the Corporation may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate.

- c. The indemnification and advancement of expenses provided by, or granted pursuant to this Paragraph 9 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.
- d. No amendment to or repeal of this Paragraph 9 shall apply to or have any effect on the indemnification of any Director or officer for or with respect to any acts or omissions of such Director or officer occurring prior to such amendment or repeal, nor shall any such amendment or repeal apply to or have any effect on the obligations of the Corporation to pay for or reimburse in advance expenses incurred by a Director or officer in defending any action, suit or proceeding arising out of or with respect to any acts or omissions occurring prior to such amendment or repeal.

10. References in this Certificate of Incorporation to the Act shall be deemed to include amendments adopted from time to time to such Act.

11. The Corporation's registered agent shall be:

Name: C T Corporation System

Business Address: One Corporate Center, Hartford, CT 06103

Email address: NONE

12. The name and address of the incorporator is:

Name: Michele M. Volpe, Esq.

Address: Bershtein, Volpe & McKeon PC  
105 Court Street, 3<sup>rd</sup> Floor  
New Haven, CT 06511



**EXHIBIT B**

**CERTIFICATE OF AMENDMENT**



# SECRETARY OF THE STATE OF CONNECTICUT

MAILING ADDRESS: COMMERCIAL RECORDING DIVISION, CONNECTICUT SECRETARY OF THE STATE, P.O. BOX 160470, HARTFORD, CT 06115-0470

DELIVERY ADDRESS: COMMERCIAL RECORDING DIVISION, CONNECTICUT SECRETARY OF THE STATE, 30 TRINITY STREET, HARTFORD, CT 06109

PHONE: 860-509-6003

WEBSITE: [www.concord-sofs.ct.gov](http://www.concord-sofs.ct.gov)

## CERTIFICATE OF AMENDMENT NONSTOCK CORPORATION

USE INK. COMPLETE ALL SECTIONS. PRINT OR TYPE. ATTACH 8 1/2 X 11 SHEETS IF NECESSARY.

<p><b>FILING PARTY</b> (CONFIRMATION WILL BE SENT TO THIS ADDRESS):</p> <p>NAME: Michele M. Volpe  ADDRESS: Bershtein, Volpe &amp; McKeon, P.C.  105 Court Street, 3rd Floor  CITY: New Haven  STATE: Connecticut ZIP: 06511</p>	<p><b>FILING FEE: \$20</b></p> <p>MAKE CHECKS PAYABLE TO "SECRETARY OF THE STATE"</p>
<p><b>1. NAME OF CORPORATION:</b></p> <p>Prospect CT Medical Foundation, Inc.</p>	
<p><b>2. THE CERTIFICATE OF INCORPORATION IS</b> (check A, B or C):</p> <p><input type="checkbox"/> A. AMENDED  <input type="checkbox"/> B. RESTATED  <input checked="" type="checkbox"/> C. AMENDED AND RESTATED</p> <p>THE RESTATED CERTIFICATE CONSOLIDATES ALL AMENDMENTS INTO A SINGLE DOCUMENT</p>	
<p><b>3. TEXT OF EACH AMENDMENT / RESTATEMENT:</b></p> <p>Please see Exhibit A for the text of each amendment.  Please see Exhibit B for the Restated Certificate of Incorporation.</p>	

**4. VOTE INFORMATION** (CHECK A, B or C)


A. THE AMENDMENT WAS DULY APPROVED BY THE MEMBERS IN THE MANNER REQUIRED BY SECTIONS 33-1140 TO 33-1147 OF THE CONNECTICUT GENERAL STATUTES, AND BY THE CERTIFICATE OF INCORPORATION.

B. THE AMENDMENT WAS DULY APPROVED BY THE INCORPORATORS AND MEMBER APPROVAL WAS NOT REQUIRED.

C. THE AMENDMENT WAS DULY APPROVED BY THE BOARD OF DIRECTORS AND MEMBER APPROVAL WAS NOT REQUIRED.

**5. EXECUTION:**

DATED THIS 15<sup>th</sup> DAY OF June, 2016

NAME OF SIGNATORY	CAPACITY/TITLE OF SIGNATORY	SIGNATURE
Michele M. Volpe, Esq.	Incorporator	

Prospect CT Medical Foundation, Inc.

**Exhibit A**

**3. TEXT OF EACH AMENDMENT / RESTATEMENT**

1. Article Second is amended by adding new section b. which shall read as follows:

b. To provide the following public services: public health (including nurses, nurse practitioners, nurses in a clinical setting, and full-time professionals engaged in health care practitioner occupations and health care support occupations and is not a business organized for profit.

2. Article Sixth is deleted in its entirety.

Prospect CT Medical Foundation, Inc.

**Exhibit B**

RESTATED CERTIFICATE OF INCORPORATION  
OF  
PROSPECT CT MEDICAL FOUNDATION, INC.

1. The name of the corporation shall be **Prospect CT Medical Foundation, Inc.**, a Connecticut Nonstock Corporation (the "Corporation").
2. The nature of the activities to be conducted and the purposes to be promoted or carried out by the Corporation shall include the following:
  - a. To provide professional medical services to the patients of hospitals affiliated with Prospect CT, Inc. (the "Hospitals") and other affiliates of Prospect CT, Inc. and to other individuals in the Hospitals' service areas; provided, however, that all professional medical services rendered by the Corporation shall be rendered only through individuals who are authorized by the laws of the State of Connecticut to render professional medical services.
  - b. To provide the following public services: public health (including nurses, nurse practitioners, nurses in a clinical setting, and full-time professionals engaged in health care practitioner occupations and health care support occupations and is not a business organized for profit.
  - c. To promote and support the mission and purposes of the Hospitals by providing professional medical services to their patients and engaging in education activities related to patient care and the promotion of good health.
  - d. To carry on additional activities related to rendering care to the sick or injured or the promotion of health in the community.
  - e. To invest the funds of the Corporation in stocks, bonds, real estate, mortgages, or any other type of investment and to own real property incident to the rendering of professional medical services.
  - f. To otherwise engage in any lawful act or activity from which a medical foundation may be organized under Chapter 594b of the Connecticut General

Statutes or for which a corporation may be organized under the Connecticut Revised Nonstock Corporation Act (the "Act").

- g. Medical foundation status will not be effective until Member or a Member affiliate owns a Connecticut licensed hospital.
3. The Corporation is nonprofit and shall not have or issue shares of stock or make distributions.
4. The Corporation shall have one member (the "Member") which shall be Prospect CT, Inc., a Delaware corporation. The Member shall have the right to adopt bylaws (the "Bylaws") for the conduct of the affairs of the Corporation and the right to elect the Board of Directors and officers of the Corporation in accordance with the Corporation's Bylaws and shall have all other rights, powers and privileges usually or by law accorded to the members of a non-stock nonprofit corporation and conferred thereby or by the Corporation's Certificate of Incorporation or Bylaws.
5. Subject to the rights and powers of the Member, the Corporation shall operate under the management of its Board of Directors. The Member shall prescribe the number, qualifications (if any) and manner of election of the Directors of the Corporation. The Member may provide that persons occupying certain positions within or without the Corporation shall be ex-officio members of the Board of Directors, who may vote and be counted in determining a quorum.
6. Intentionally Omitted
7. Upon any dissolution or termination of the existence of the Corporation, all its property and assets shall be applied and distributed as follows: (i) All liabilities and other obligations of the Corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor; (ii) assets held by the Corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements; (iii) assets received and held by the Corporation subject to limitations permitting their use, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in section 33-1175; (iv) other assets, if any, shall be distributed to the Member except to the extent that the certificate of incorporation provides for distribution to others; and (v) any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for

profit or nonprofit, as may be specified in a plan of distribution adopted as provided in section 33-1175.

8. The personal liability of a Director of the Corporation to the Corporation for breach of duty as a Director of the Corporation shall be limited to the fullest extent permitted by the Act and as set forth in Section 1104 or any other applicable laws presently or hereafter in effect.
9. The Corporation shall indemnify its Directors and officers as follows:
  - a. The Corporation shall, to the fullest extent permitted by law, indemnify its Directors or officers from and against any and all of the liabilities, expenses and other matters referenced in or covered by the Act or any other applicable laws presently or hereafter in effect. In furtherance and not in limitation thereof, the Corporation shall indemnify a Director for a liability, as defined in Section 33-1116 of the Act, to any person for any action taken, or any failure to take any action, as a Director, except a liability that (i) involved a knowing and culpable violation of law by the Director; (ii) enabled the Director or an associate, as defined in Section 33-840 of the Connecticut General Statutes, to receive an improper personal gain; (iii) showed a lack of good faith and a conscious disregard for the duty of the Director to the Corporation under circumstances in which the Director was aware that his or her conduct or omission created an unjustifiable risk of serious injury to the Corporation; or (iv) constituted a sustained and unexcused pattern of inattention that amounted to an abdication of the Director's duty to the Corporation.
  - b. In addition to the foregoing, the Corporation shall provide to its Directors and officers the full amount of indemnification that the Corporation is permitted to provide to such Directors and officers pursuant to Sections 33-1116 to 33-1125, inclusive, of the Act or any other applicable laws presently or hereafter in effect. Expenses (including attorneys' fees) incurred by a Director or officer in defending a civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of both (i) a written affirmation by such officer or Director of his or her good faith belief that he or she has met the relevant standard of conduct under the Act or that the proceeding involves conduct for which liability has been limited under Paragraph 8 of this Certificate of Incorporation; and (ii) an undertaking by or on behalf of such Director or officer to repay such amount if it shall ultimately be determined that such Director or officer is not entitled to be indemnified by the Corporation as authorized in this Paragraph 9.

Such expenses (including attorneys' fees) incurred by other employees and agents of the Corporation may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate.

- c. The indemnification and advancement of expenses provided by, or granted pursuant to this Paragraph 9 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.
- d. No amendment to or repeal of this Paragraph 9 shall apply to or have any effect on the indemnification of any Director or officer for or with respect to any acts or omissions of such Director or officer occurring prior to such amendment or repeal, nor shall any such amendment or repeal apply to or have any effect on the obligations of the Corporation to pay for or reimburse in advance expenses incurred by a Director or officer in defending any action, suit or proceeding arising out of or with respect to any acts or omissions occurring prior to such amendment or repeal.

10. References in this Certificate of Incorporation to the Act shall be deemed to include amendments adopted from time to time to such Act.

11. The Corporation's registered agent shall be:

Name: C T Corporation System

Business Address: One Corporate Center, Hartford, CT 06103

Email address: NONE

12. The name and address of the incorporator is:

Name: Michele M. Volpe, Esq.

Address: Bershtein, Volpe & McKeon PC  
105 Court Street, 3<sup>rd</sup> Floor  
New Haven, CT 06511