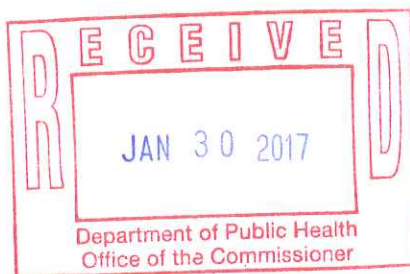




January 30, 2017



Jennifer G. Fusco
(t) 203.786.8316
(f) 203.772.2037
jfusco@uks.com

Yvonne T. Addo, MBA
Deputy Commissioner
State of Connecticut Department of Public Health
Office of Health Care Access Division
410 Capitol Avenue, MS #1 HCA
P.O. Box 340308
Hartford, CT 06134-0308

Re: Transfer of Ownership of River Valley Ambulatory Surgery Center

Dear Deputy Commissioner Addo:

This office represents SCA-River Valley, LLC ("SCA-River Valley"). SCA-River Valley currently owns 49% of the membership interests in River Valley, ASC, LLC ("River Valley ASC"), which owns and operates River Valley Ambulatory Surgery Center in Norwich.

Enclosed for your consideration please find the following:

- Certificate of Need Application for the transfer of a majority interest in River Valley ASC to SCA-River Valley;
- \$500 filing fee check; and
- USB flash drive containing a PDF of the submission, as well as a Word version of the application forms and an Excel workbook with the CON financials.

Please feel free to contact me with any questions. We look forward to working with you on this matter.

Very truly yours,

Jennifer Groves Fusco

JGF/dla

Cc: Eric Swenson

SCA

Surgical Care Affiliates



RIVER VALLEY

AMBULATORY SURGERY CENTER

Certificate of Need Application

**River Valley ASC, LLC &
SCA-River Valley, LLC**

**Transfer of Ownership of
River Valley Ambulatory Surgery Center**

January 30, 2017

Checklist

Instructions:

1. Please check each box below, as appropriate; and
2. The completed checklist *must* be submitted as the first page of the CON application.
 - Attached is a paginated hard copy of the CON application including a completed affidavit, signed and notarized by the appropriate individuals.
 - (*New*). A completed supplemental application specific to the proposal type can be found on OHCA's website at "[OHCA Forms](#)." A list of supplemental forms can be found on page 2.
 - Attached is the CON application filing fee in the form of a certified, cashier or business check made out to the "Treasurer State of Connecticut" in the amount of \$500.
 - Attached is evidence demonstrating that public notice has been published in a suitable newspaper that relates to the location of the proposal, 3 days in a row, at least 20 days prior to the submission of the CON application to OHCA. (OHCA requests that the Applicant fax a courtesy copy to OHCA (860) 418-7053, at the time of the publication)
 - Attached is a completed Financial Attachment
 - Submission includes one (1) original hardcopy in a 3-ring binder and a USB flash drive containing:
 1. A scanned copy of each submission in its entirety, including all attachments in Adobe (.pdf) format.
 2. An electronic copy of the applicant's responses in MS Word (the applications) and MS Excel (the financial attachment).

For OHCA Use Only:

Docket No.: 17-32146-CON Check No.: 3118917
OHCA Verified by: [Signature] Date: 1/30/17

Supplemental Forms

In addition to completing this **Main Form** and **Financial Worksheet (A, B or C)**, the applicant(s) must complete the appropriate **Supplemental Form** listed below. Check the box of the **Supplemental Form** to be submitted with the application, below. If unsure which form to select, please call the OHCA main number (860-418-7001) for assistance. All CON forms can be found on OHCA's website at [OHCA Forms](#).

Check form included	Conn. Gen. Stat. Section 19a-638(a)	Supplemental Form
<input type="checkbox"/>	(1)	Establishment of a new health care facility (mental health and/or substance abuse) - see note below*
<input checked="" type="checkbox"/>	(2)	Transfer of ownership of a health care facility (excludes transfer of ownership/sale of hospital – see "Other" below)
<input type="checkbox"/>	(3)	Transfer of ownership of a group practice
<input type="checkbox"/>	(4)	Establishment of a freestanding emergency department
<input type="checkbox"/>	(5) (7) (8) (15)	Termination of a service: <ul style="list-style-type: none"> - inpatient or outpatient services offered by a hospital - surgical services by an outpatient surgical facility** - emergency department by a short-term acute care general hospital - inpatient or outpatient services offered by a hospital or other facility or institution operated by the state that provides services that are eligible for reimbursement under Title XVIII or XIX of the federal Social Security Act, 42 USC 301, as amended
<input type="checkbox"/>	(6)	Establishment of an outpatient surgical facility
<input type="checkbox"/>	(9)	Establishment of cardiac services
<input type="checkbox"/>	(10) (11)	Acquisition of equipment: <ul style="list-style-type: none"> - acquisition of computed tomography scanners, magnetic resonance imaging scanners, positron emission tomography scanners or positron emission tomography-computed tomography scanners - acquisition of nonhospital based linear accelerators
<input type="checkbox"/>	(12)	Increase in licensed bed capacity of a health care facility
<input type="checkbox"/>	(13)	Acquisition of equipment utilizing [new] technology that has not previously been used in the state
<input type="checkbox"/>	(14)	Increase of two or more operating rooms within any three-year period by an outpatient surgical facility or short-term acute care general hospital
<input type="checkbox"/>	Other	Transfer of Ownership / Sale of Hospital

*This supplemental form should be included with all applications requesting authorization for the establishment of a **mental health and/or substance abuse treatment facility**. For the establishment of other "health care facilities," as defined by Conn. Gen. Stat § 19a-630(11) - hospitals licensed by DPH under chapter 386v, specialty hospitals, or a central service facility - complete *the Main Form* only.

**If termination is due to insufficient patient volume, or it is a subspecialty being terminated, a CON is not required.

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ATTACHMENT I

Check No. 3118917

Vendor Number: 58768

Business Unit	Invoice Number	Invoice Date	Voucher ID	Invoice Amount	Discount Taken	Net Check Amount
50471 RIVER VALLEY ASC Amber	A1	01/18/2017	SS000376	500.00	0.00	500.00

Totals: \$500.00 \$0.00 \$500.00

Please refer questions to AP department at 855-740-3820

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW. DO NOT CASH IF NOT PRESENT.

SURGICAL CARE AFFILIATES
569 Brookwood Village, Suite 901
Birmingham, AL 35209

BANK OF AMERICA

64-1278/611 GA

Check No. 3118917

Date: 01/19/2017

Pay Amount: \$500.00***

Pay ****FIVE HUNDRED AND XX / 100 DOLLAR****

Pay To **STATE OF CONNECTICUT**
TREASURER
55 ELM ST
Hartford, CT 06106

Authorized Signature

RV000006
01/30/2017



ATTACHMENT II

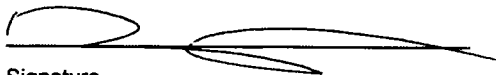
Affidavit

Applicant: River Valley ASC, LLC

Project Title: Transfer of Membership Interests in River Valley ASC, LLC to SCA-River Valley, LLC

1. Richard Martin, M.D., M.P.H. Medical Director - Board Member
(Name) (Position - CEO or CFO)

of Norwich being duly sworn, depose and state that the said facility complies with the appropriate and applicable criteria as set forth in the Sections 19a-630, 19a-637, 19a-638, 19a-639, 19a-486 and/or 4-181 of the Connecticut General Statutes.


Signature

1/19/17
Date

Subscribed and sworn to before me on JANUARY 19, 2017

Karen L. Vittoni

Notary Public/Commissioner of Superior Court

KAREN L. VITTONI
NOTARY PUBLIC
MY COMMISSION EXPIRES 12/31/2017

My commission expires: _____

Affidavit

Applicant: SCA-River Valley, LLC

Project Title: Transfer of Membership Interests in River Valley ASC, LLC to SCA-River Valley, LLC

I, Daniel Sweatman Director of Operations, Board Member
(Name) (Position – CEO or CFO)

of SCA-River Valley LLC being duly sworn, depose and state that the (Facility Name) said facility complies with the appropriate and applicable criteria as set forth in the Sections 19a-630, 19a-637, 19a-638, 19a-639, 19a-486 and/or 4-181 of the Connecticut General Statutes.

[Signature]
Signature

20-JAN-17
Date

Subscribed and sworn to before me on 1/20/2017

Marlene Frost

Notary Public/Commissioner of Superior Court

My commission expires: 7/2017

ATTACHMENT III

PUBLISHER'S CERTIFICATE

State of Connecticut,

ss. Norwich

County of New London,

On this **19th** day of **December** **2016**

personally appeared before the undersigned, a Notary Public, within and for said County and State

Jim Coletti, Proof of Publication

of the "THE BULLETIN" a daily newspaper published at Norwich, County of New London, State of Connecticut, who, being duly sworn, states on oath that

LEGAL NOTICE

River Valley ASC, LLC and SCA-River Valley, LLC are filing a Certificate of Need Application pursuant to Section 19a-638(a)(2) of the Connecticut General Statutes. SCA-River Valley, LLC, which owns 49% of River Valley ASC, LLC, will request CON approval to acquire a 60.5% controlling interest in the company, which owns and operates River Valley Ambulatory Surgery Center, located at 45 Salem Turnpike in Norwich, Connecticut 06360. The total capital expenditure associated with acquisition of the 11.5% of membership interests being purchased as part of this transaction is \$5,513,910.

LEGAL NOTICE

River Valley ASC, LLC and SCA-River Valley, LLC are filing a Certificate of Need Application pursuant to Section 19a-638(a)(2) of the Connecticut General Statutes. SCA-River Valley, LLC, which owns 49% of River Valley ASC, LLC, will request CON approval to acquire a 60.5% controlling interest in the company

a true copy of which is hereto annexed, was published in said newspaper in its issue of the

1st day of **December** **2016**

2nd day of **December** **2016**

3rd day of **December** **2016**

Subscribed and sworn to before me this 19th day of December A.D. 2016

Michael R. [Signature]

Notary Public

My Commission Expires 9/30/2020

NorwichBulletin.com Classifieds Contact us at (860) 889-3363

- Legal Notices: Lawn Care, Yard/Tag Sale, Rentals-Apartments, Vehicles Wanted, Legals, Legals, Legals, Legals, Legals

NOTICES Starts Here

AAA Services Fall Cleanups, Hedges, Gutters, Powerwashing, Deck Staining, SNOWING, House Clean-outs

VERSAILLES INDOOR TAG & BAKE SALE

Great Deals on 1, 2 & 3 Bedrooms

Nobody Beats BOYD'S BUYS JUNK CARS

LEGAL NOTICE River Valley ASC, LLC and SCA-River Valley, LLC are filing a Certificate of Need

LEGAL NOTICE Invitation for Subcontractors to Prequalify

LEGAL NOTICE The Whiting-Turner Contracting Company (WT), the construction manager, is currently pre-qualifying subcontractors for UCONN Project #902115.

LEGAL NOTICE Invitation for Subcontractors to Prequalify

LEGAL NOTICE The Whiting-Turner Contracting Company (WT), the construction manager, is currently pre-qualifying subcontractors for UCONN Project #301803.

Connecticut Scrap will buy your scrap Steel, Copper, & Aluminum

Seasoned Hardwood cut, split \$220/cord

A Publishers Notice All Real Estate advertised in this newspaper is subject to the State and Federal Fair Housing Acts

Wanted To Buy SCASH PAID: Vintage Electronics, Game Amps, and VAC Tube Audio

LEGAL NOTICE TOWN OF SPRAGUE NOTICE OF INTENT TO FILE FOR FEDERAL FINANCIAL ASSISTANCE

LEGAL NOTICE TOWN OF GRISWOLD NOTICE OF REVISION OF ORDINANCE

LEGAL NOTICE TOWN OF GRISWOLD AN ORDINANCE TO APPROVE A REVISION TO SECTION 10-3 ANNUAL BUDGET MEETINGS AND BOARD OF FINANCE HEARINGS

LEGAL NOTICE CITY OF NORWICH - ZONING BOARD OF APPEALS NOTICE IS HEREBY GIVEN that on Tuesday December 13, 2016 at 7:00 p.m.

LEGAL NOTICE TOWN OF GRISWOLD ORDER OF NOTICE

LEGAL NOTICE NOTICE OF HEIRS AND ASSIGNS OF ARTHUR GOYETTE

Lost and Found LOST CAT: Missing from Floath St. area

Antiques & Collectibles CASH PAID: For Antiques, guitars, Silver, Gold, Old Toys

Wanted To Buy SCASH PAID: Vintage Electronics, Game Amps, and VAC Tube Audio

LEGAL NOTICE TOWN OF SPRAGUE NOTICE OF INTENT TO FILE FOR FEDERAL FINANCIAL ASSISTANCE

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LEGAL NOTICE TOWN OF GRISWOLD ORDER OF NOTICE

LEGAL NOTICE NOTICE OF HEIRS AND ASSIGNS OF ARTHUR GOYETTE

Services Offered ELECTRICAL: Service upgrades, Generators & Rewiring

RENTALS - HOUSES Colchester-Breed's Tavern Cooperative Taking applications for 3 bedroom townhouse affordable housing

RENTALS - APARTMENTS BLACKSTONE APARTMENTS in Norwich Secure Building!

LEGAL NOTICE TOWN OF GRISWOLD ORDER OF NOTICE

LEGAL NOTICE NOTICE OF HEIRS AND ASSIGNS OF ARTHUR GOYETTE

LEGAL NOTICE TOWN OF GRISWOLD ORDER OF NOTICE

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LEGAL NOTICE TOWN OF GRISWOLD ORDER OF NOTICE

LEGAL NOTICE NOTICE OF HEIRS AND ASSIGNS OF ARTHUR GOYETTE

LEGAL NOTICE TOWN OF GRISWOLD ORDER OF NOTICE

Notice The state of Connecticut requires home contractors to include their license number in all forms of advertising

RENTALS - HOUSES Colchester-Breed's Tavern Cooperative Taking applications for 3 bedroom townhouse affordable housing

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LEGAL NOTICE TOWN OF GRISWOLD ORDER OF NOTICE

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Legals

Starts Here Starts Here Starts Here Starts Here Starts Here Starts Here

Legals Legals Legals Legals Legals Legals

STATE OF CONNECTICUT

RETURN DATE: JANUARY 10, 2017

CHAMPION MORTGAGE COMPANY

THE WIDOW, HEIRS, AND/OR CREDITORS OF THE ESTATE OF WILLIAM J. KINRY, ET AL

NOTICE TO THE WIDOW, HEIRS AND/OR CREDITORS OF THE ESTATE OF WILLIAM J. KINRY AND ALL UNKNOWN PERSONS, CLAIMING OR WHO MAY CLAIM, ANY RIGHTS, TITLE, INTEREST OR ESTATE IN OR LIEU OR ENCUMBRANCE UPON THE PROPERTY DESCRIBED IN THIS COMPLAINT, ADVERSE TO THE PLAINTIFF, WHETHER SUCH CLAIM OR POSSIBLE CLAIM BE VESTED OR CONTINGENT.

The Plaintiff has named as Defendant, The Widow, Heirs, and/or Creditors of the Estate of William J. Kinry, and all unknown persons, claiming or who may claim, any rights, title, interest or estate in or lieu or encumbrance upon the property described in this Complaint, adverse to the Plaintiff, whether such claim or possible claim can be vested or contingent, (if not living, as a party defendant(s) in the complaint which it is bringing to the above-named Court seeking a foreclosure of its mortgage upon premises known as 150 Fourth Street, Norwich, CT.

The Plaintiff has represented to the said Court, by means of an affidavit annexed to the Complaint, that, despite all reasonable efforts to ascertain such information, it has been unable to determine the identity and/or whereabouts of The Widow, Heirs, and/or Creditors of the Estate of William J. Kinry, and all unknown persons, claiming or who may claim, any rights, title, interest or estate in or lieu or encumbrance upon the property described in this Complaint, adverse to the Plaintiff, whether such claim or possible claim can be vested or contingent, if not living.

Now, Therefore, it is hereby ORDERED that notice of the institution of this action be given to said The Widow, Heirs, and/or Creditors of the Estate of William J. Kinry and all unknown persons, claiming or who may claim, any rights, title, interest or estate in or lieu or encumbrance upon the property described in this Complaint, adverse to the Plaintiff, whether such claim or possible claim can be vested or contingent, by some proper officer causing a true and attested copy of this Order of Notice to be published in The Bulletin, once a week for 2 successive weeks, commencing on or before December 15, 2016, and that return of such service be made to this court.

BY THE COURT
Colleen Deary,
Court Operations Asst., Clerk

A True Copy Attest
Gregory E. Kehaya, Sr., Connecticut State Marshal
New London County

NOTICE TO CREDITORS

ESTATE OF HERBERT E. ELDRIDGE, III (16-00859)

The Hon. Charles K. Norris, Judge of the Court of Probate, District of Norwich, Probate Court, by decree dated November 22, 2016, ordered that all claims must be presented to the fiduciary at the address below. Failure to promptly present any such claim may result in the loss of rights to recover on such claim.

Eileen M. Robbins, Chief Clerk
The fiduciary is: Garon Carmasar, Esq., Dubicki & Carmasar, LLP, 151 Broad Street, New London, CT 06330

NOTICE TO CREDITORS

ESTATE OF James M. Brandes, AKA James Brandes (16-00881)

The Hon. Charles K. Norris, Judge of the Court of Probate, District of Norwich, by decree dated November 22, 2016, ordered that all claims must be presented to the fiduciary at the address below. Failure to promptly present any such claim may result in the loss of rights to recover on such claim.

Barbara A. Palm, Clerk
The fiduciary is: Donald J. DiFrancesco, Esq., DiFrancesco & Steele, LLP, P.O. Box 548, Norwich, CT 06360

LEGAL NOTICE

CITY OF NORWICH

Pursuant to the requirements of Section 7-394 of the Connecticut General Statutes, notice is hereby given that there is on file in the office of the City Clerk of Norwich at 100 Broadway Room 215, Norwich, CT 06360 the City's audited statements for the City of Norwich for Fiscal Year July 1, 2015 to June 30, 2016 and is available for public inspection.

Dated at Norwich Connecticut this 1st day of December 2016.
Betsy M. Barrett, City Clerk

STATE OF CONNECTICUT

SUPERIOR COURT

JUDICIAL DISTRICT OF New London

PLAINTIFF'S NAME
Jennifer A. Hellwell
DEFENDANT'S NAME
Edwin D. Pabon

NOTICE TO: Edwin D. Pabon
The court has reviewed the Motion for Order of Notice and Application which asks for Custody of Children

The Court finds that the current address of the party to be notified is unknown and all reasonable efforts to find him have failed. The last known address of the defendant was

71 Reservoir Rd., Colchester, CT

The Court Orders that notice be given to the defendant by having a State Marshal place a legal notice in The Bulletin a newspaper circulating in Colchester, CT containing a true and attested copy of this Order of Notice and a statement that Automatic Court Orders have been issued in the case as required by Section 25-5 of the Connecticut Practice Book and are a part of the Application on file with the Court. The notice should appear before 12/27/16 and proof of service shall be filed with this Court.

Signed: D. Gage 11/21/16
A True Copy Attest:
John P. Sullivan, State Marshal

HomeFinder.com

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ahead of the weather.

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The Bulletin

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PROPERTY AUCTION

The Town of Plainfield, the Moosup Fire District, the Waregan Fire District, the Plainfield Fire District, and/or the Central Village Fire District have levied upon the following properties in Plainfield and slated them for public auction to satisfy delinquent taxes and charges under C.G.S. § 12-157. Volume and page numbers refer to the Town's land records, and Maps refer to the Town's Assessor Maps. Unless paid, these properties will be auctioned in "as is" condition at 10:00 a.m. on February 16, 2017 at the Plainfield Town Hall at 8 Community Avenue.

- 118 Charlotte Drive (Volume 267 Page 679) owned by John C. Beard and Misty T. Fox, owing \$2,030.04. Wilmington Savings Fund Society, FSB d/b/a Christiansa Trust, Trustee for Caribed Funding Mortgage Trust; William W. Backus Hospital; and Credit Acceptance Corporation may have interests which will be extinguished by the sale.
- 358 Green Hollow Road (Volume 290 Page 587) owned by John E. Brisson and Meaghan E. Brisson, owing \$2,364.88. Citifinancial Services, Inc., U.S. Bank National Association, Indenture Trustee of the Sasco Mortgage Loan Trust 2004-GEL3; Craig Fowler; and Southern New England Telephone Company may have interests which will be extinguished by the sale.
- 1371 Norwich Road (Volume 306 Page 176) owned by Edwin L. Clark, owing \$3,282.87. The Lending Connection, Inc.; Deutsche Bank Trust Company Americas; Deutsche Bank National Trust Company, as Trustee of MS Real Estate Capital Trust 2006-HE3; Mortgage Electronic Registration Systems, Inc.; First Bank; and the Connecticut Department of Revenue Services may have interests which will be extinguished by the sale.
- 17 Potts Road in Griswold and ±0.52 acre on Route Road in Plainfield identified at Map 5 Block 3A Lot 12 (Volume 178 Page 523) owned by David J. Dubois, owing \$1,500.27. Erin Capital Management, LLC, JPMorgan Chase Bank, N.A. as servicer, Shahr, Stuart Kelly & Morris, P.C.; Lawrence & Memorial Hospital; William W. Backus Hospital; CMC Acquisition Corporation as successor to Commonweath Mortgage Company, Inc.; and the Connecticut Department of Revenue Services may have interests which will be extinguished by the sale.
- 18-24 Main Street (Volume 441 Page 154) owned by 18 Main Street LLC, owing \$3,927.75. Eastern Savings Bank formerly known as Eastern Federal Bank may have interests which will be extinguished by the sale.
- 48 Topper Road (Volume 92 Page 554) owned by L. Bonita Fissette, Kenneth P. Fissette, Cynthia Fissette and Stephanie R. Houghton, owing \$24,504.27. William W. Backus Hospital and the Connecticut Department of Social Services may have interests which will be extinguished by the sale.
- 54 Sterling Hill Road (Volume 393 Page 711) owned by Four Seasons Properties LLC, owing \$1,987.91. Dime Bank may have interests which will be extinguished by the sale.
- 84 Lake Street (Volume 361 Page 271) owned by Victor S. Johnson, owing \$2,111.51. William W. Backus Hospital; Dr. Gregory Chirba; the Connecticut Department of Social Services; and the United States Rural Housing Service may have interests which will be extinguished by the sale.
- 5 Bloom Drive Unit #43 (Volume 371 Page 774) owned by Milton L. Korch, owing \$1,760.95. Colonial Woods Association, Inc. and Deutsche Bank Trust Company Americas, Trustee may have interests which will be extinguished by the sale.
- 36 Sachem Drive (Volume 376 Page 533) owned by Christine Lavallee, owing \$8,429.01. Coreplus Federal Credit Union and Scenic View Association, Inc. may have interests which will be extinguished by the sale.
- 38 Academy Street (Volume 152 Page 560) owned by Lawrence E. Loomis and Nancy J. Loomis, owing \$2,898.09. Killary Eye Care, P.C.; Savings Institute Bank; Lomas Mortgage USA, Inc.; and Normas Corp. may have interests which will be extinguished by the sale.
- 211 Lake Downing Road (Volume 484 Page 280) owned by Linda Macomber, owing \$4,913.85. Chester O. Suckley and Richard I. Rothstein may have interests which will be extinguished by the sale.
- 295 Lathrop Road (Volume 222 Page 668) owned by John H. Macomber and Linda Macomber, owing \$490.55. Jewett City Savings Bank as successor to the Jewett City Trust Company may have interests which will be extinguished by the sale.
- 2 Prospect Street (Volume 472 Page 121) owned by Santosh Mahoy owing \$28,462.61. Richard I. Rothstein, Arner Choudhry and Karen Hill, LLC may have interests which will be extinguished by the sale.
- ±4.8 acres on Norwich Road (Map 11 Block 4 Lot 39) owned by the Estate of Andrew S. Melady, Jr., owing \$2,715.99. CIT Bank, N.A.; Cynrhia Fish-Melady; the United States Internal Revenue Service; the Connecticut Department of Revenue Services; and the surviving spouse and heirs of Andrew S. Melady, Jr. may claim interests which will be extinguished by the sale.
- 45 Main Street, Unit 408 (Volume 426 Page 461) owned by Wayne Nadeau, owing \$19,272.17. Citizens Bank, N.A. as successor to RES Citizens Services; the Connecticut Department of Registration Systems, Inc. may have interests which will be extinguished by the sale.
- 872 Norwich Road (Volume 133 Page 1098) owned by Kevin E. O'Day and Donna L. O'Day, owing \$7,399.41.
- 69 Tarbox Road (Volume 451 Page 773) owned by Marc Parisek, owing \$2,910.64. William W. Backus Hospital; Mortgage Electronic Registration Systems, Inc.; Fremont Investment & Loan; HOP Energy, LLC d/b/a DDLC Energy; CACH, LLC; and Capital One Bank (USA), N.A. may have interests which will be extinguished by the sale.
- 60 Adams Drive (Volume 226 Page 659) owned by John D. Parrott and Cynthia L. Parrott, owing \$3,108.05. OneMain Financial, Inc. as successor to Citifinancial, Inc.; Norwest Mortgage, Inc.; and MRC Receivables Corporation may have interests which will be extinguished by the sale.
- 40 Tarbox Road Extension (Volume 342 Page 778) owned by Katherine Payne and Phillip Payne, owing \$2,896.99. Deutsche Bank National Trust Company, Trustee, Ameriquet Mortgage Securities, Inc. may have interests which will be extinguished by the sale.
- 84 Community Avenue (Volume 81 Page 431) owned by the Estate of Gloria M. Rizer, owing \$18,821.30. The United States Internal Revenue Service; the Connecticut Department of Revenue Services; and the surviving spouse and heirs of Gloria M. Rizer may claim interests which will be extinguished by the sale.
- 1 North Pleasant Street (Volume 219 Page 966) owned by Kevin B. Rose, owing \$2,134.30. Specialized Loan Servicing LLC; Capital One Bank (USA), N.A.; Credit Management Corporation; Nathaniel and Patricia Rose; Midland Funding, LLC may have interests which will be extinguished by the sale.
- 30 East Main Street (Volume 222 Page 961) owned by Nancy L. Sadovsky, owing \$31,858.49. Charles J. Nowakowski or his Estate and Dorothy A. Nowakowski may have interests which will be extinguished by the sale.
- ±7.42 acres on Norwich Road identified on Map 5 Block 4C Lot 13A (Volume 454 Page 80) owned by S.J. Plainfield Properties LLC, owing \$7,231.22.
- 58-62 Prospect Street (Volume 365 Page 567) owned by Yorkshire Properties Inc., owing \$3,155.13. Eastern Savings Bank formerly known as Eastern Federal Bank may have interests which will be extinguished by the sale.

Everyone is Invited to a PUBLIC INFORMATION MEETING

State Project No. 57-118

REPLACEMENT OF BRIDGE NO. 05568 NORMAN ROAD OVER THE PACHAUG RIVER & REPLACEMENT OF BRIDGE NO. 05851 SHELDON ROAD OVER THE DONNEVILLE POND GRISWOLD, CONNECTICUT

TO BE HELD THURSDAY, DECEMBER 15, 2016 (INCLEMENT WEATHER DATE: TUESDAY, DECEMBER 20, 2016)

at 7:00 p.m. at GRISWOLD SENIOR CENTER 22 Soule Street Jewett City, Connecticut 06351

Residents, business owners, commuters, and other interested individuals are encouraged to take advantage of this opportunity to learn about and discuss the proposed project.

PLEASE JOIN US ON THURSDAY, DECEMBER 15, 2016 TOWN OF GRISWOLD
Location is ADA accessible

NOTICE OF PUBLIC INFORMATION MEETING

GRISWOLD CONNECTICUT - The Town of Griswold will conduct a Public Information Meeting concerning the replacement of Bridge No. 05568, which carries Norman Road over Pachaug River, and Bridge No. 05851, which carries Sheldon Road over Donnaville Pond in the Town of Griswold as part of the Federal Local Bridge Program. The meeting will be held on Thursday, December 15, 2016 at 7:00 p.m., in Griswold Senior Center, 22 Soule Street, Jewett City, CT, Connecticut 06351. In the event of inclement weather, the meeting will be held on Tuesday, December 20, 2016 at the same time and location.

Bridge No. 05568 - Norman Road over Pachaug River
The existing structure consists of a single span of prestressed concrete deck units atop concrete and stone masonry abutments on approach footings. The clear span length of the bridge is approximately 39'-3" and the curb to curb width of the bridge is 24'-0".

At this time, the Type Study and recommended alternate has been approved, and the project will soon progress into the Final Design Phase. The report's approved alternate consists of a full replacement of the existing bridge with a 35'-0" clear span structure. The new bridge will feature an adjacent prestressed concrete deck unit superstructure supported on semi-integral abutments with H-piles to bedrock. Other improvements consist of profile adjustments to Norman Road to address approach roadway overtopping for the 100-year design storm, installation of crash tested open bridge rail system, replacement of the existing guide rail, transitions, and bridge attachments, stabilized embankment slopes and the replacement of the dry hydrant fire suppression system.

Maintenance and protection of traffic during the reconstruction of Bridge No. 05568 shall be accomplished with complete closure of the roadway in the vicinity of the bridge and the signing of a detour route via East Main Street, Taylor Hill Road and Oakville Road.

Bridge No. 05851 - Sheldon Road over Donnaville Pond
The existing structure consists of a single span of prestressed concrete deck units atop an older stone masonry gravity wall abutment encased in concrete that originally supported a stone masonry arch whose date of construction is unknown. The clear span length of the bridge is approximately 20'-0" and the curb to curb width is 24'-0".

At this time, the Type Study and recommended alternate has been approved, and the project will soon progress into the Final Design Phase. The report's approved alternate consists of a full replacement of the existing bridge with a 35'-0" clear span structure. The new bridge will feature an adjacent prestressed concrete deck unit superstructure supported on semi-integral abutments with H-piles to bedrock. Other improvements include elimination of approach roadway overtopping for the 100-year design storm as a result of the increased clear span, full depth reconstruction of the roadway approaches, installation of crash tested open bridge rails system and replacement of guiderail, riprap stabilized embankment slopes, and the installation of a dry hydrant fire suppression system.

Maintenance and protection of traffic during the reconstruction of Bridge No. 05851 shall be accomplished by maintaining the existing roadway closure in the vicinity of the bridge and the signing of a detour route via Cross Road, Cook Hill Road, Glasgow Road and Sheluckert Road.

There will be coordination with the CTDEEP regarding the presence of endangered species near the project sites as well as coordination with the State Historic Preservation Office (SHPO) regarding any archaeological sensitivity of the sites. Construction is anticipated to commence in 2018 and be completed within a single construction season, assuming acceptance of the project, availability of funding, and receipt of any required environmental permits. The construction costs will be in the range of \$2,500,000 - \$4,999,999 and will be funded with 80% Federal aid and the remaining 20% paid from Municipal funds.

The Public Information Meeting is being held to afford a full opportunity for the public's participation and to allow open discussion of any views and comments the community may have prior to progressing the proposed project into the final design stage. Plans will be available for public review. Town personnel will be available during the meeting to discuss this project. More detailed information is available at the Griswold Town Hall. Anyone wishing to review the Rehabilitation Study Report may contact Mr. Todd Bobbitt, Superintendent of Public Works, Town of Griswold, Connecticut at (860) 213-1922.

All persons interested in this project are welcome to attend this meeting and discuss the project with the Town personnel.

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NOTICE TO CREDITORS ESTATE OF Peter Mead Gagne (16-00414) The Hon. Andrea L. Thrippa, Judge of the Court of Probate, District of Plainfield, Killingly Probate Court, Room 101, 150 Broad Street, November 30, 2016

NOTICE TO CREDITORS ESTATE OF JOHN N. ADEWICH (16-00692) The Hon. Charles K. Norris, Judge of the Court of Probate, District of Norwich, Probate District, Probate District, by decree dated December 1, 2016, ordered that all claims against the estate of JOHN N. ADEWICH must be presented to the fiduciary at the address below.

NOTICE TO CREDITORS ESTATE OF RUTH ANN BOUTIQUE (16-00419) The Hon. Andrea L. Thrippa, Judge of the Court of Probate, District of Plainfield - Killingly Probate Court, by decree dated December 1, 2016, ordered that all claims against the estate of RUTH ANN BOUTIQUE must be presented to the fiduciary at the address below.

BOYD'S USED AUTO PARTS 133 Corning Road in Norwich

BOYD'S USED AUTO PARTS 133 Corning Road in Norwich

LEGALS Starts Here

LEGAL NOTICE River Valley ASC, LLC and SCA-River Valley, LLC are filing a Certificate of Need Application pursuant to Section 19a-653a(2) of the Connecticut General Statutes.

CITY OF NORWICH At the regular meeting of the Norwich Inland Wetlands Watercourses and Conservation Commission held on December 1, 2016, the following actions were taken:

TOWN OF BOZRAH INLAND WETLANDS AND CONSERVATION COMMISSION TOWN ROAD BOZRAH, CONNECTICUT 06334 Notice of Decision

At their regular meeting on December 1, 2016 the Bozrah Inland Wetlands and Conservation Commission rendered the following decision:

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LEGALS Starts Here

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TOWN OF HAMPTON REQUEST FOR PROPOSALS LEAD PAINT TESTING SERVICES

INVITATION TO BID 25 NEWEST ROAD DEMOLITION TOWN OF LISBON, CONNECTICUT

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Fun and Games HOROSCOPE ARIES (March 21-April 19): Don't let your motives be tempered with by someone who is only looking out for his or her best interests. Don't do things just to please someone who is putting undue pressure on you.

12-3 CRYPTOQUOTE RUH VHGO CMIHVA CI OCKH GYH RUH FHSFOH MUS OSSJ GR

That Scrambled Word Game Unscramble those four jumbles, one letter to each square, to form four ordinary words. NARDK OODTU WHERDS AGIAUN

Yesterday's Jumbles: SINGE DOUSE TRUDGE LETTER Answer: It was time to close her bakery for the day after the customers had "DESSERTED" IT.

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ATTACHMENT IV

Proposal Information

Select the appropriate proposal type from the dropdown below. If unsure which item to select, please call the OHCA main number (860-418-7001) for assistance.

Proposal Type (select from dropdown)	Transfer of ownership of a health care facility
Brief Description	River Valley ASC, LLC owns and operates River Valley Ambulatory Surgery Center in Norwich. SCA-River Valley, LLC, which owns 49% of River Valley ASC, LLC, is requesting approval to acquire an additional 11.5% of the company's membership interests. This would give SCA-River Valley, LLC a 60.5% controlling interest in the River Valley ASC, LLC and River Valley Ambulatory Surgery Center.
Proposal Address	45 Salem Turnpike Norwich, CT 06360
Capital Expenditure	\$ 5,513,910
<p>Is this Application the result of a Determination indicating a CON application must be filed?</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes, Docket Number: Click here to enter text.</p>	

Applicant(s) Information

	Applicant One	Applicant Two* (if applicable)
Applicant Name & Address	River Valley ASC, LLC 45 Salem Turnpike Norwich, CT 06360	SCA-River Valley, LLC 569 Brookwood Village Suite 901 Birmingham, AL 35209
Parent Corporation Name & Address (if applicable)	N/A	Surgical Care Affiliates, Inc. 569 Brookwood Village Suite 901 Birmingham, AL 35209
Contact Person Name	Susan Carocari	Jennifer Fusco
Title	Administrator	Legal Counsel
Email Address	scarocari@rivervalleyasc.com	jfusco@uks.com
Phone	(860) 859-9948, Ext. 112	(203) 786-8316
Fax Number	(860) 859-9971	(230) 772-2037
Tax Status (check one box)	<input checked="" type="checkbox"/> For Profit <input type="checkbox"/> Not-for-Profit	<input checked="" type="checkbox"/> For Profit <input type="checkbox"/> Not-for-Profit

*For more than two Applicants, attach a separate sheet with the above information

FOR OFFICE USE ONLY

Docket #:

Staff Assigned :

Date Received:

Executive Summary

The purpose of the Executive Summary is to give the reviewer a conceptual understanding of the proposal. In the space below, provide a succinct overview of your proposal (this may be done in bullet format). Summarize the key elements of the proposed project. Details should be provided in the appropriate sections of the application that follow.

This proposal involves the transfer of 11.5% of the membership interests in River Valley ASC, LLC to SCA-River Valley, LLC, an affiliate of Surgical Care Affiliates, LLC. River Valley ASC, LLC is the licensed operator of an outpatient surgical facility, River Valley Ambulatory Surgery Center, located at 45 Salem Turnpike in Norwich. SCA-River Valley, LLC acquired a 49% minority interest in the facility in October of 2016. The remaining 51% is owned by physician investors. Surgical Care Affiliates, LLC has been providing day-to-day management services at River Valley Ambulatory Surgery Center since November of 2016.

River Valley Ambulatory Surgery Center is a multi-specialty center that provides ambulatory services in the following surgical specialties: gastroenterology, general surgery, ophthalmology, orthopedics, otolaryngology, pain management, plastic and reconstructive surgery, and podiatry. Its primary service area contains a number of cities/towns in and around Norwich. There are currently 24 physicians who own an interest in facility and more who are non-investor members of the Medical Staff.

SCA-River Valley, LLC's acquisition of a majority, controlling interest in River Valley ASC, LLC will improve the quality, accessibility and cost-effectiveness of care. SCA brings a wealth of experience to the center. It operates more than 200 surgical facilities nationwide, including five in Connecticut. The company will use its size and resources to recruit talented physicians, leverage cost savings and offer competitive compensation packages. SCA also intends to bring Surgical Center of Connecticut in-network with Cigna, United Healthcare and ConnectiCare, which will help reduce costly out-of-network charges for individual insured by these payers who opt to use the center.

As a result of the foregoing, SCA expects to see increases in volume at River Valley Ambulatory Surgery Center in coming years. These will contribute to the viability of the center and ensure that it continues to exist as a lower-cost alternative for ambulatory surgical care in the Greater Norwich Area.

Pursuant to Section 19a-639 of the Connecticut General Statutes, the Office of Health Care Access is required to consider specific criteria and principles when reviewing a Certificate of Need application. Text marked with a “§” indicates it is actual text from the statute and may be helpful when responding to prompts.

Project Description

1. Provide a detailed narrative describing the proposal. Explain how the Applicant(s) determined the necessity for the proposal and discuss the benefits for each Applicant separately (if multiple Applicants). Include all key elements, including the parties involved, what the proposal will entail, the equipment/service location(s), the geographic area the proposal will serve, the implementation timeline and why the proposal is needed in the community.

RESPONSE:

The proposal involves the acquisition by SCA-River Valley, LLC (“SCA-River Valley”) of an additional 11.5% of the membership interests in River Valley, LLC (“River Valley” or the “Company”), which owns and operates River Valley Ambulatory Surgery Center (“River Valley ASC” or the “Center”). River Valley ASC is a duly licensed outpatient surgical facility located at 45 Salem Turnpike in Norwich. SCA-River Valley is a subsidiary of Surgical Care Affiliates, Inc., a publicly-traded company that owns and operates outpatient surgical facilities nationwide. SCA currently owns an interest in five (5) licensed centers operating in Connecticut.¹

Background on River Valley ASC

River Valley ASC was established in July of 2013 to serve the outpatient surgical needs of the Greater Norwich community. The Center is a multi-specialty ambulatory surgical facility with four (4) operating rooms. It offers surgical services in specialties including gastroenterology, general surgery, ophthalmology, orthopedics, otolaryngology, pain management, plastic and reconstructive surgery, and podiatry. The Center’s primary service area includes the towns/cities of Norwich, Groton, Montville, Griswold, Ledyard, Waterford, East Lyme, Plainfield, New London, Stonington, Willimantic, Colchester, Preston, Lebanon, Lisbon, Canterbury, North Stonington, and Brooklyn, Connecticut, and Westerly, Rhode Island. River Valley ASC participates with Medicare, Medicaid and many commercial payers and is accredited by the Accreditation Association for Ambulatory Healthcare, Inc. (“AAAHC”).

River Valley ASC was initially operated as a 100% physician-owned facility owned by Connecticut Surgical Arts, LLC (“CSA”). This facility was grandfathered from CON requirements because it was in operation prior to July 2003 (Report No. 00-A). In July of 2012, OHCA determined that no CON was required to syndicate ownership of CSA to an affiliate of Merritt Healthcare (“Merritt”) and a number of individual physician investors (collectively the “Sellers”) (see Docket No. 12-31761-DTR). Until recently, a majority of the Company was

¹ SCA and UnitedHealth Group Incorporate (“UHG”) are parties to an agreement that, subject to the satisfaction or waiver of certain conditions, will result in the merger of SCA with a wholly-owned subsidiary of UHG. UHG is a publicly-traded corporation that, by and through its subsidiaries, operates a diversified family of businesses dedicated to helping people live healthier lives. The transaction is expected to be completed in the first half of 2017.

owned by 24 Connecticut-licensed physician investors, with a minority stake held by Merritt Healthcare Holdings Norwich, LLC (“Merritt-Norwich”). Merritt managed day-to-day operations of the Center. There are currently 29 surgeons on the Medical Staff of River Valley ASC. The Center has performed well in its initial years of operation post-syndication, with surgical volume increasing from 1,871 procedures in FY 2014 to 2,910 procedures in FY 2016. This represents a 56% increase in volume over three years.

In 2016, Merritt made a strategic decision to divest its interests and management role in certain outpatient surgery centers in Connecticut, including River Valley ASC. Merritt and its physician partners believed that it was in the best interest of the Center to obtain a larger strategic partner who could assist the facility through scale and resources. River Valley ASC explored a variety of options, including other potential buyers, before it ultimately selected SCA as the purchaser.

On October 31, 2016, SCA-River Valley acquired a 49% interest in River Valley, acquiring all of Merritt-Norwich’s interests and some additional interests previously held by physician investors (*see* Docket No. 16-32127-DTR). SCA also took over the day-to-day management of River Valley ASC effective November 1, 2016. SCA-River Valley is now looking to acquire a majority interest in the Company. This will allow it to better negotiate managed care contracts on behalf of River Valley ASC and ensure the quality, accessibility and cost-effectiveness of services provided at the Center.

Benefits of SCA Ownership

In selecting SCA as their buyer, the Sellers acknowledged the strategic value of partnering with an established leader in the outpatient surgery center industry. They believed that a partnership with SCA would allow River Valley ASC to continue to provide patients with access to high-quality surgical care at a lower cost than provider-based options in the service area. In addition, the Sellers recognized that SCA brings a wealth of experience in ambulatory surgical facility management and administrative services to the Center.

SCA ownership will add considerable value to the Center, its physicians and its patients. SCA has already begun the process of bringing River Valley ASC in-network with Cigna, United Healthcare and ConnectiCare, which will allow more patients to receive their surgical services at the Center without incurring costly out-of-network charges. In addition, SCA will be able to leverage its scale to the benefit of the Center. For example, SCA should be able to provide GPO cost savings and SCA will provide compensation and benefits to Center personnel on a more national scale. SCA also offers a superior data and analytics platform that will enhance the Center’s operations.

SCA’s growing state-wide footprint is also beneficial for a variety of reasons. First, SCA is able to better negotiate with payers for in-network contracts when it has multiple affiliated facilities in a given area. Second, having an ownership interest in multiple facilities within a state provides SCA with an advantage for recruiting highly skilled, sought after physicians. Third, SCA is able to leverage its relationship with multiple facilities across the state with per diem staff. SCA can send per diem personnel to various facilities on a daily basis, thus meeting the staffing needs of those facilities and providing per diem staff with steady work opportunities that would otherwise be unavailable at just one ambulatory surgery center.

The only changes that SCA is proposing for River Valley ASC are positive ones. As previously mentioned, SCA majority ownership should expand commercial insurance coverage for surgeries performed at the Center, giving more patients access to services at a lower cost. SCA will also maintain the Center as a free-standing outpatient surgical facility, which is a less-costly alternative to hospital-based ambulatory surgical care. In addition, SCA expects to increase volume through physician recruitment and enhance the quality of care at River Valley ASC with its experience and leverage as discussed above.

SCA plans to complete the majority acquisition upon receipt of regulatory approval.

2. Provide the history and timeline of the proposal (i.e., When did discussions begin internally or between Applicant(s)? What have the Applicant(s) accomplished so far?).

RESPONSE:

Merritt made a strategic decision in 2016 to divest its ownership and management interests in River Valley ASC. SCA was contacted in March of 2016 to request a proposal to acquire an ownership interest in the Company and assume day-to-day management of the Center's operations. Definitive agreements were signed and SCA-River Valley acquired a 49% interest in River Valley ASC on October 31, 2016. SCA began providing management services effective November 1, 2016.

The definitive agreements contemplated a two-phase transaction. The first phase included the minority acquisition by SCA-River Valley and the initiation of SCA management services. Phase II contemplates the majority buy-up by SCA-River Valley. This acquisition will take place upon receipt of regulatory approval.

3. Provide the following information:
 - a. utilizing [OHCA Table 1](#), list all services to be added, terminated or modified, their physical location (street address, town and zip code), the population to be served and the existing/proposed days/hours of operation;

RESPONSE:

See [OHCA Table 1](#).

- b. identify in [OHCA Table 2](#) the service area towns and the reason for their inclusion (e.g., provider availability, increased/decreased patient demand for service, market share);

RESPONSE:

See [OHCA Table 2](#). The towns comprise the lowest number of contiguous ZIP codes that accounted for approximately 75% of the Center's existing volume in FY 2016.

4. List the health care facility license(s) that will be needed to implement the proposal;

RESPONSE:

No new licenses will be necessary for implementation of the proposal. River Valley ASC is currently licensed by the Department of Public Health as an Outpatient Surgical Facility. This license will remain in place following the majority change of ownership. The Department has been notified of the proposed transaction and will be provided with additional documentation once the transfer is complete.

5. Submit the following information as attachments to the application:

- a. a copy of all State of Connecticut, Department of Public Health license(s) currently held by the Applicant(s);

RESPONSE:

See River Valley ASC, LLC's Outpatient Surgical Facility license (No. 0338) attached as Exhibit A.

- b. a list of all key professional, administrative, clinical and direct service personnel related to the proposal and attach a copy of their Curriculum Vitae;

RESPONSE:

Curriculum Vitae for the following individuals are attached as Exhibit B:

Susan Carocari, Facility Administrator & Director of Nursing
Richard Martin, M.D. – Medical Director
Daniel Sweatman – Director of Operations, Surgical Care Affiliates

- c. copies of any scholarly articles, studies or reports that support the need to establish the proposed service, along with a brief explanation regarding the relevance of the selected articles;

RESPONSE:

Not applicable. No new service is being proposed.

- d. letters of support for the proposal;

RESPONSE:

See Exhibit C attached.

- e. the protocols or the Standard of Practice Guidelines that will be utilized in relation to the proposal. Attach copies of relevant sections and briefly describe how the Applicant proposes to meet the protocols or guidelines.

RESPONSE:

As previously mentioned, River Valley ASC is accredited by AAAHC. The Center meets all of the Standard of Practice Guidelines required for accreditation and will continue to meet these guidelines, and maintain its accreditation, under SCA majority ownership.

- f. copies of agreements (e.g., memorandum of understanding, transfer agreement, operating agreement) related to the proposal. If a final signed version is not available, provide a draft with an estimated date by which the final agreement will be available.

RESPONSE:

The following agreements are attached as Exhibit D:

- Membership Purchase Agreement;
- First Amendment to Amended and Restated Operating Agreement of River Valley ASC, LLC;
- Second Amended and Restated Operating Agreement of River Valley ASC, LLC; and
- Management Agreement.

Public Need and Access to Care

§ “Whether the proposed project is consistent with any applicable policies and standards adopted in regulations by the Department of Public Health;” (Conn.Gen.Stat. § 19a-639(a)(1))

6. Describe how the proposed project is consistent with any applicable policies and standards in regulations adopted by the Connecticut Department of Public Health.

RESPONSE:

OHCA has not yet established policies and standards in regulation concerning the transfer of ownership of ambulatory surgery centers. Notwithstanding, this proposal improves the quality, accessibility and cost-effectiveness of care; ensures the continued existence of lower-cost, freestanding ASC services in Southeastern Connecticut; promises the expansion of access for patients with certain insurance plans; and brings the experience of a national outpatient surgery provider to the service area for the benefit of Greater Norwich Area residents. All of this is consistent with the statutes that guide OHCA’s decision making process for CON requests, as well as the objectives of the Statewide Healthcare Facilities and Services Plan (“SHP”) as discussed below.

§ “The relationship of the proposed project to the statewide health care facilities and services plan.” (Conn.Gen.Stat. § 19a-639(a)(2))

7. Describe how the proposed project aligns with the Connecticut Department of Public Health Statewide Health Care Facilities and Services Plan, available on [OHCA’s website](#).

RESPONSE:

The proposed majority acquisition by SCA-River Valley is consistent with a number of the Guiding Principles set forth in Section 1.4 of the SHP as follows:

- Promote and support the long term viability of the state’s health care delivery system – SCA is a national ambulatory surgery provider with a long history of owning and operating outpatient surgical facilities in Connecticut and across the country. SCA’s involvement with River Valley ASC will help to ensure the success and continued viability of the Center as a freestanding outpatient surgery alternative in Southeastern Connecticut.
- Ensure that any regulated services will maintain overall access to quality healthcare; Maintain and improve the quality of health care services offered to the state’s residents – As noted above, SCA’s involvement with River Valley ASC will ensure that the Center continues to provide lower-cost access to ambulatory surgery care in the service area. In addition, SCA will call on its experience in operating more than 200 surgical facilities nationwide to build on River Valley ASC’s excellent track record for providing quality

surgical services.

- Promote equitable access to health care services (e.g., reducing financial barriers, increasing availability of physicians) – SCA is already working to bring River Valley ASC in-network with Cigna, United Healthcare and ConnectiCare. This will remove financial barriers to access for patients who would otherwise incur costly out-of-network charges if they chose to obtain surgical services at the Center. In addition, the fact that SCA and its affiliates own an interest in multiple facilities in Connecticut will assist with the recruitment of highly qualified physicians to the Center’s Medical Staff.
- Promote planning that helps to contain the cost of delivering healthcare services to its residents – SCA’s ownership and management of River Valley ASC will ensure that the Center continues to exist as a lower-cost alternative to provider-based outpatient surgical care for residents of Southeastern Connecticut.

§ “Whether there is a clear public need for the health care facility or services proposed by the applicant;” (Conn.Gen.Stat. § 19a-639(a)(3))

8. With respect to the proposal, provide evidence and documentation to support clear public need:
- a. identify the target patient population to be served;

RESPONSE:

The target patient population includes those patients in need of multispecialty outpatient surgical services residing in the Center’s PSA and other service area towns listed in OHCA Tables 2 & 8. In addition, the Center intends to participate with additional payers, including Cigna, United Healthcare and Connecticare, under SCA ownership. This will potentially allow additional patients to use the Center as an in-network provider and avoid costly out-of-network charges.

- b. discuss how the target patient population is currently being served;

RESPONSE:

The target patient population is currently being served by River Valley ASC. This patient population will continue to be served by River Valley ASC under SCA majority ownership. No changes in services or patient population are expected as a result of this proposal.

- c. document the need for the equipment and/or service in the community;

RESPONSE:

Not applicable. No new equipment or service is being proposed. See Response to Question 1.

(Project Description) above for discussion of need for transfer of ownership.

- d. explain why the location of the facility or service was chosen;

RESPONSE:

Not applicable. River Valley ASC is an existing outpatient surgical facility. Applicants are not proposing to relocate the Center as a result of this proposal.

- e. provide incidence, prevalence or other demographic data that demonstrates community need;

RESPONSE:

Not applicable. No new services are being proposed. River Valley ASC is currently meeting a need for outpatient surgical services in the Greater Norwich Area for patients of all payer classes based on its historic utilization by service area residents. See OHCA Tables 2, 5, 7 & 8.

- f. discuss how low income persons, racial and ethnic minorities, disabled persons and other underserved groups will benefit from this proposal;

RESPONSE:

River Valley ASC has historically provided surgical services to Medicaid recipients and uninsured patients. This will continue to be the practice under SCA majority ownership. In addition, SCA has a history of non-discrimination in the treatment of patients at all of its facilities nationwide. River Valley ASC currently serves patient regardless of income level, race, ethnicity, or disability and this will continue under SCA majority ownership.

SCA's policy regarding Non-Discrimination in the Treatment of Patients is attached as Exhibit E.

- g. list any changes to the clinical services offered by the Applicant(s) and explain why the change was necessary;

RESPONSE:

Not applicable. No changes to surgical services are proposed.

- h. explain how access to care will be affected; and

RESPONSE:

The proposal by SCA to acquire a majority interest in the Center will have a positive impact on access to care. SCA's breadth of experience will help to ensure the viability of River Valley ASC and maintain the Center as an alternative to hospital-based outpatient surgical care in the Greater Norwich Area. In addition, SCA intends to negotiate in-network agreements with Cigna United Healthcare and ConnectiCare, which will increase access to cost-effective surgical services for patients covered by these plans who opt to use the Center. Lastly, SCA is committed to ensuring continued access to services for Medicaid recipients and indigent persons, consistent with the Center's current policies.

- i. discuss any alternative proposals that were considered.

RESPONSE:

As previously mentioned, SCA and its affiliates are acquiring membership interests and assuming management responsibilities currently held by Merritt Healthcare and its affiliates. When Merritt decided to divest its interests in certain outpatient surgery centers in Connecticut the Sellers explored a variety of options, including other potential buyers. The Sellers ultimately selected SCA as the purchaser for the reasons discussed herein.

§ "Whether the applicant has satisfactorily demonstrated how the proposal will improve quality, accessibility and cost effectiveness of health care delivery in the region, including, but not limited to, (A) provision of or any change in the access to services for Medicaid recipients and indigent persons; (Conn.Gen.Stat. § 19a-639(a)(5))

- 9. Describe how the proposal will:

- a. improve the quality of health care in the region;

RESPONSE:

SCA intends to build upon River Valley ASC's excellent clinical track record. The Center serves as a high-quality outpatient surgery option for patients in the Greater Norwich Area, at a lower cost to patients and payers than the same services provided in a hospital setting. SCA will enhance the quality of care at River Valley ASC by incorporating best practices from the more than 200 surgery centers it owns and manages across the country.

- b. improve accessibility of health care in the region; and

RESPONSE:

See Response to Question 8.h. (Public Need & Access to Care) above.

- c. improve the cost effectiveness of health care delivery in the region.

RESPONSE:

Generally speaking, ambulatory surgical services provided in a non-hospital-based outpatient setting such as River Valley ASC are less costly than those provided in a hospital setting. In addition, the cost of care will decrease for some patients under SCA ownership with the anticipated transition to in-network status with certain additional payers (e.g. Cigna, United Healthcare & ConnectiCare). These patients will no longer need to pay costly out-of-network charges if they choose to obtain surgical services at River Valley ASC. Moreover, under SCA's managed care contracts the Center will be able to perform certain high-acuity procedures that could not be performed at the facility previously, thereby improving the cost-effectiveness of those procedures for service area residents.

- 10. How will the Applicant(s) ensure that future health care services provided will adhere to the National Standards on culturally and Linguistically Appropriate Services (CLAS) to advance health equity, improve quality and help eliminate health care disparities in the projected service area. (More details on CLAS standards can be found at <http://minorityhealth.hhs.gov/>).

RESPONSE:

See Exhibit E attached.

- 11. How will this proposal help improve the coordination of patient care (explain in detail regardless of whether your answer is in the negative or affirmative)?

RESPONSE:

This proposal – in particular the proposed addition of River Valley ASC to the networks of several major insurers – will enhance the coordination of patient care. With expanded insurance coverage for services provided at the Center surgeons and their patients will have another choice for outpatient surgical care in the area. Surgeons will be able to coordinate care for their patients at a high-quality facility without patients incurring costly out-of-network charges.

12. Describe how this proposal will impact access to care for Medicaid recipients and indigent persons.

RESPONSE:

River Valley ASC has historically serviced Medicaid and uninsured/self-pay patients. The Center will continue to serve these patients under SCA majority ownership consistent with SCA's practice of serving patients regardless of their ability to pay. As OHCA Table 7 shows, SCA expects to continue to see these patients at the Center at comparable levels in future years.

13. Provide a copy of the Applicant's charity care policy and sliding fee scale applicable to the proposal.

RESPONSE:

Several factors impact each patient's ability to meet their individual financial obligation requirements as set forth by their health plan. Consultations are held with SCA's revenue cycle team prior to service that establish expectations for payment. If the patient is not able to meet their expected obligation up front, a tailored plan is developed that takes into account their specific circumstances such as their total payment amount, their ability to make consistent payments, their requested time period and any other financial hardships. Every effort is made to provide full transparency prior to service. There are no restrictions on the types of payers that physicians can schedule at the facility, other than the restrictions placed by payers themselves.

§ "Whether an applicant, who has failed to provide or reduced access to services by Medicaid recipients or indigent persons, has demonstrated good cause for doing so, which shall not be demonstrated solely on the basis of differences in reimbursement rates between Medicaid and other health care payers;" (Conn.Gen.Stat. § 19a-639(a)(10))

14. If the proposal fails to provide or reduces access to services by Medicaid recipients or indigent persons, provide explanation of good cause for doing so.

RESPONSE:

The proposal does not fail to provide or reduce access to services by Medicaid recipients or indigent persons. As noted in Response to Question 12 (Public Need & Access to Care) above, the Center intends to maintain services for Medicaid and indigent persons at or around current levels under SCA majority ownership.

§ "Whether the applicant has satisfactorily demonstrated that any consolidation resulting from the proposal will not adversely affect health care costs or accessibility to care." (Conn.Gen.Stat. § 19a-639(a)(12))

15. Will the proposal adversely affect patient health care costs in any way? Quantify and provide the rationale for any changes in price structure that will result from this proposal, including, but not limited to, the addition of any imposed facility fees.

RESPONSE:

The proposal will not adversely affect patient healthcare costs in any way. As previously noted, River Valley ASC will remain a lower-cost option for outpatient surgical care in the Greater Norwich Area under SCA majority ownership.

Financial Information

§ "Whether the applicant has satisfactorily demonstrated how the proposal will impact the financial strength of the health care system in the state or that the proposal is financially feasible for the applicant;" (Conn.Gen.Stat. § 19a-639(a)(4))

16. Provide the Applicant's fiscal year: start date (mm/dd) and end date (mm/dd).

RESPONSE:

January 1st through December 31st

17. Describe the impact of this proposal on the financial strength of the state's health care system or demonstrate that the proposal is financially feasible for the applicant.

RESPONSE:

This proposal will have a favorable impact on the financial strength of the state's healthcare system by preserving and enhancing access to care at a lower-cost ambulatory surgical provider. Non-hospital-based ambulatory surgical facilities tend to be reimbursed at lower rates than hospital-based services. SCA also intends to negotiate additional in-network contracts, which will eliminate costly out-of-network charges for patients who choose to use River Valley ASC.

In addition, Financial Worksheet B attached as Exhibit F shows that the proposal is financially feasible. Net income with the CON proposal is projected to increase to more than \$5.5 million by FY 2019, the second full year of SCA majority ownership.

18. Provide a final version of all capital expenditure/costs for the proposal using [OHCA Table 3](#).

RESPONSE:

See [OHCA Table 3](#). The \$5,513,910 purchase price for 11.5% of River Valley ASC, LLC's membership interests is not a "capital expenditure" per se, but is included in the attached table under "other" for information purposes.

19. List all funding or financing sources for the proposal and the dollar amount of each. Provide applicable details such as interest rate; term; monthly payment; pledges and funds received to date; letter of interest or approval from a lending institution.

RESPONSE:

SCA-River Valley will finance its equity purchase of \$5,513,910 with available cash from operations.

20. Include as an attachment:

- a. audited financial statements for the most recently completed fiscal year. If audited financial statements do not exist, provide other financial documentation (e.g., unaudited balance sheet, statement of operations, tax return, or other set of books). Connecticut hospitals required to submit annual audited financial statements may reference that filing, if current;

RESPONSE:

Audited financial statements for River Valley ASC, LLC and Surgical Care Affiliates, Inc. are attached as [Exhibit G](#).

- b. completed **Financial Worksheet A (non-profit entity), B (for-profit entity) or C (§19a-486a sale)**, available on OHCA's website under [OHCA Forms](#), providing a summary of revenue, expense, and volume statistics, "without the CON project," "incremental to the CON project," and "with the CON project." **Note: the actual results reported in the Financial Worksheet must match the audited financial statement that was submitted or referenced.**

RESPONSE:

Financial Worksheet B attached as [Exhibit F](#).

21. Complete [OHCA Table 4](#) utilizing the information reported in the attached Financial Worksheet.

RESPONSE:

See [OHCA Table 4](#).

22. Explain all assumptions used in developing the financial projections reported in the Financial Worksheet.

RESPONSE:

The increase in volume and net patient revenue in FY 2017 both “without” and “with” the CON proposal is the result of (i) the addition of a pain management physician; and (ii) the anticipated transition of River Valley ASC to an in-network model with Cigna, United Healthcare and Connecticare. The latter increases are modeled on River Valley ASC’s recent experience transitioning in-network with Anthem. In subsequent years, volume and net patient revenue, as well as operating expenses, are assumed to grow at 1.5% based on SCA’s experience at other facilities in Connecticut and nationally. Expenses were projected based on FY 2015 percentages and are consistent with historic trends. Note, none of these changes are considered “incremental” to this CON proposal because the increases are expected as a result of SCA’s minority interest purchase and not specifically as a result of the majority buy-up.

23. Explain any projected incremental losses from operations resulting from the implementation of the CON proposal.

RESPONSE:

Not applicable.

24. Indicate the minimum number of units required to show an incremental gain from operations for each projected fiscal year.

RESPONSE:

No additional volume is required to show an incremental gain from operations, as SCA expects to achieve cost savings on supplies and other variable expenses.

Utilization

§ "The applicant's past and proposed provision of health care services to relevant patient populations and payer mix, including, but not limited to, access to services by Medicaid recipients and indigent persons;"
(Conn.Gen.Stat. § 19a-639(a)(6))

25. Complete [OHCA Table 5](#) and [OHCA Table 6](#) for the past three fiscal years ("FY"), current fiscal year ("CFY") and first three projected FYs of the proposal, for each of the Applicant's existing and/or proposed services. Report the units by service, service type or service level.

RESPONSE:

See [OHCA Tables 5 & 6](#). Units reported are surgical procedures.

26. Provide a detailed explanation of all assumptions used in the derivation/ calculation of the projected service volume; explain any increases and/or decreases in volume reported in OHCA Table 5 and 6.

RESPONSE:

Historic volume increases at River Valley ASC were a result of initial ramp-up following the syndication to Merritt and individual physician investors in FY 2013, and moving in-network with Anthem in May of 2015. As an in-network provider, River Valley could provide surgical services to Anthem insured without these patients incurring costly out-of-network charges.

As previously noted, the projected volume reflects an increase as a result of the addition of a pain management physician, as well as the anticipated move in-network with Cigna, United Healthcare and Connecticut. These account for an 18% increase between FYs 2016 and 2017 when the changes are expected to occur. From FY 2017 forward SCA projects a modest 1.5% increase in volume consistent with its historic experience at surgical centers in Connecticut and nationwide.

27. Provide the current and projected patient population mix (number and percentage of patients by payer) for the proposal using [OHCA Table 7](#) and provide all assumptions. **Note: payer mix should be calculated from patient volumes, not patient revenues.**

RESPONSE:

See [OHCA Table 7](#). The payer mix at River Valley ASC is expected to remain the same with the exception of a small (3%) increase in commercially insured patients projected as a result of the Center becoming an in-network provider with Cigna, United Healthcare and Connecticut under SCA ownership.

§ "Whether the applicant has satisfactorily identified the population to be served by the proposed project and satisfactorily demonstrated that the identified population has a need for the proposed services;"
(Conn.Gen.Stat. § 19a-639(a)(7))

28. Describe the population (as identified in question 8(a)) by gender, age groups or persons with a specific condition or disorder and provide evidence (i.e., incidence, prevalence or other demographic data) that demonstrates a need for the proposed service or proposal. **Please note: if population estimates or other demographic data are submitted, provide only publicly available and verifiable information (e.g., U.S. Census Bureau, Department of Public Health, CT State Data Center) and document the source.**

RESPONSE:

Not applicable. No new services are being proposed.

29. Using [OHCA Table 8](#), provide a breakdown of utilization by town for the most recently completed fiscal year. Utilization may be reported as number of persons, visits, scans or other unit appropriate for the information being reported.

RESPONSE:

See [OHCA Table 8](#).

§ "The utilization of existing health care facilities and health care services in the service area of the applicant;" (Conn.Gen.Stat. § 19a-639(a)(8))

30. Using [OHCA Table 9](#), identify all existing providers in the service area and, as available, list the services provided, population served, facility ID (see table footnote), address, hours/days of operation and current utilization of the facility. Include providers in the towns served or proposed to be served by the Applicant, as well as providers in towns contiguous to the service area.

RESPONSE:

See [OHCA Table 9](#).

31. Describe the effect of the proposal on these existing providers.

RESPONSE:

There will be no impact on existing providers with the proposed majority change of ownership. River Valley ASC is an existing surgical facility with an established physician and patient base. There is no proposed change in the scope of services provided at the Center. This proposal is simply for the transfer of 11.5% of the membership interests in the Company that owns and

operates River Valley ASC.

32. Describe the existing referral patterns in the area served by the proposal.

RESPONSE:

Patients in need of surgical services that can be performed in an outpatient setting are referred by physicians with offices in and around the Greater Norwich Area. Some of these physicians are owners of River Valley ASC and others are part of the Medical Staff. Patients come from the service area cities/towns set forth in OHCA Tables 2 & 8. Surgical services are offered in the subspecialties set forth in OHCA Tables 5 & 6.

33. Explain how current referral patterns will be affected by the proposal.

RESPONSE:

Current referral patterns will not be affected by this proposal to transfer majority ownership of an ambulatory surgical facility to an existing minority owner.

§ "Whether the applicant has satisfactorily demonstrated that the proposed project shall not result in an unnecessary duplication of existing or approved health care services or facilities;" (Conn.Gen.Stat. § 19a-639(a)(9))

34. If applicable, explain why approval of the proposal will not result in an unnecessary duplication of services.

RESPONSE:

This proposal will not result in the unnecessary duplication of services because River Valley ASC is an existing outpatient surgical facility. No new facilities or services are being proposed.

§ "Whether the applicant has satisfactorily demonstrated that the proposal will not negatively impact the diversity of health care providers and patient choice in the geographic region;" (Conn.Gen.Stat. § 19a-639(a)(11))

35. Explain in detail how the proposal will impact (i.e., positive, negative or no impact) the diversity of health care providers and patient choice in the geographic region.

RESPONSE:

The proposal will have a positive impact on the diversity of healthcare providers and patient choice in the Greater Norwich Area. It brings the experience and expertise of SCA to Norwich

through ownership of an existing facility. In addition, SCA intends to bring River Valley ASC in-network with Cigna, United Health Care and Connecticare. This will allow patients insured by these companies to choose the Center without incurring costly out-of-network charges.

Tables

**TABLE 1
APPLICANT'S SERVICES AND SERVICE LOCATIONS**

Service	Street Address, Town	Population Served	Days/Hours of Operation	New Service or Proposed Termination
Multi-specialty Ambulatory Surgery (Gastroenterology; General Surgery; Ophthalmology, Orthopedics, Otolaryngology; Pain Management, Plastic and Reconstructive Surgery; Podiatry)	45 Salem Turnpike Norwich, CT 06360	Greater Norwich Area	Mon. – Fri., 6:00 a.m. – 5:30 p.m.	Not Applicable

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**TABLE 2
SERVICE AREA TOWNS**

List the official name of town* and provide the reason for inclusion.

Town*	Reason for Inclusion
<p>Norwich Groton Montville Griswold Ledyard Waterford East Lyme Plainfield New London Stonington Willimantic Colchester Preston Lebanon Lisbon Canterbury No. Stonington Brooklyn Westerly, RI</p>	<p>These towns comprise the lowest number of contiguous ZIP codes that account for approximately 75% of the Center's volume in FY 2016.</p>

* Village or place names are not acceptable.

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**TABLE 3
TOTAL PROPOSAL CAPITAL EXPENDITURE**

Purchase/Lease	Cost
Equipment (Medical, Non-medical, Imaging)	
Land/Building Purchase*	
Construction/Renovation**	
Other (specify) Equity Interest in River Valley ASC, LLC	\$5,513,910
Total Capital Expenditure (TCE)	\$5,513,910
Lease (Medical, Non-medical, Imaging)***	\$0
Total Lease Cost (TLC)	\$0
Total Project Cost (TCE+TLC)	\$5,513,910

* If the proposal involves a land/building purchase, attach a real estate property appraisal including the amount; the useful life of the building; and a schedule of depreciation.

** If the proposal involves construction/renovations, attach a description of the proposed building work, including the gross square feet; existing and proposed floor plans; commencement date for the construction/ renovation; completion date of the construction/renovation; and commencement of operations date.

*** If the proposal involves a capital or operating equipment lease and/or purchase, attach a vendor quote or invoice; schedule of depreciation; useful life of the equipment; and anticipated residual value at the end of the lease or loan term.

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**TABLE 4
PROJECTED INCREMENTAL REVENUES AND EXPENSES**

	FY 2017*	FY 2018*	FY 2019*
Revenue from Operations	\$0	\$0	\$0
Total Operating Expenses	\$0	\$0	\$0
Gain/Loss from Operations	\$0	\$0	\$0

* Fill in years using those reported in the Financial Worksheet attached.

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**TABLE 5
HISTORICAL UTILIZATION BY SERVICE**

Service**	Actual Volume (Last 3 Completed FYs)		
	FY 2014***	FY 2015***	FY 2016***
Otolaryngology	619	733	884
Gastroenterology	555	677	786
Orthopedics	341	392	358
Pain Mgmt.	6	43	285
General	157	181	195
Ophthalmology	25	131	180
Podiatry	127	166	174
Plastics	41	37	48
Total	1,871	2,360	2,910

* For periods greater than 6 months, report annualized volume, identifying the number of actual months covered and the method of annualizing. For periods less than 6 months, report actual volume and identify the period covered.

** Identify each service type and level adding lines as necessary. Provide the number of visits or discharges as appropriate for each service type and level listed.

*** Fill in years. If the time period reported is not *identical* to the fiscal year reported in Table 4 of the application, provide the date range using the mm/dd format as a footnote to the table.

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**TABLE 6
PROJECTED UTILIZATION BY SERVICE**

Service*	Projected Volume		
	FY 2017**	FY 2018**	FY 2019**
Otolaryngology	1,067	1,083	1,100
Gastroenterology	936	950	964
Orthopedics	462	469	476
Pain Mgmt.	266	270	274
General	257	261	265
Podiatry	211	215	218
Ophthalmology	186	189	192
Plastics	58	59	60
Total	3,444	3,496	3,548

* Identify each service type by location and add lines as necessary. Provide the number of visits/discharges as appropriate for each service listed.

** If the first year of the proposal is only a partial year, provide the first partial year and then the first three full FYs. Add columns as necessary. If the time period reported is not *identical* to the fiscal year reported in Table 4 of the application, provide the date range using the mm/dd format as a footnote to the table.

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**TABLE 7
APPLICANT'S CURRENT & PROJECTED PAYER MIX**

Payer	Actual		Projected					
	FY 2016**		FY 2017**		FY 2018**		FY 2019**	
	Discharges	%	Discharges	%	Discharges	%	Discharges	%
Medicare*	728	25	758	22	769	22	781	22
Medicaid*	146	5	155	5	157	5	160	5
CHAMPUS & TriCare	0	0	0	0	0	0	0	0
Total Government	874	30	913	27	926	27	940	27
Commercial Insurers	1,892	65	2,359	68	2,395	68	2,430	68
Uninsured	29	1	52	1	52	1	53	1
Workers Compensation	115	4	121	4	122	4	124	4
Total Non- Government	2,036	70	2,531	73	2,570	73	2,608	73
Total Payer Mix	2,910	100	3,444	100	3,496	100	3,548	100

* Includes managed care activity.

** Fill in years. Ensure the period covered by this table corresponds to the period covered in the projections provided. New programs may leave the "current" column blank.

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TABLE 8
UTILIZATION BY TOWN

Town	Utilization FY 2016**
Norwich	359
Groton	265
Montville	182
Griswold	139
Ledyard	138
Waterford	134
East Lyme	126
Plainfield	116
New London	113
Stonington	99
Willimantic	85
Colchester	79
Preston	64
Lebanon	55
Lisbon	54
Canterbury	50
Westerly, RI	49
North Stonington	46
Brooklyn	43
Other	715
Total	2,910

* List inpatient/outpatient/ED volumes separately, if applicable

** Fill in most recently completed fiscal year.

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**TABLE 9
SERVICES AND SERVICE LOCATIONS OF EXISTING PROVIDERS**

Service or Program Name	Population Served	Facility ID*	Facility's Provider Name, Street Address and Town	Hours/Days of Operation	Current Utilization
Coastal Digestive Disease Care Center	New London County	Unknown	234a Bank Street, #A-4 New London, CT 06320	Mon. – Fri., 6:30 a.m. – 5:00 p.m.	Unknown
Constitution Surgery Center East	New London County	Unknown	174 Cross Road Waterford, CT 06385	Mon. – Fri., 6:30 a.m. – 5:30 p.m.	Unknown
Eastern Connecticut Endoscopy Center	New London County	Unknown	79 Wawecus Street, Suite 107 Norwich, CT 06360	Unknown	Unknown
William W. Backus Hospital	New London County	Unknown	326 Washington Street Norwich, CT 06360	24/7	Unknown
Lawrence & Memorial Hospital	New London County	Unknown	365 Montauk Avenue New London, CT 06320	24/7	Unknown

* Provide the Medicare, Connecticut Department of Social Services (DSS), or National Provider Identifier (NPI) facility identifier and label column with the identifier used.

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EXHIBIT A

STATE OF CONNECTICUT

Department of Public Health

LICENSE

License No. 0338

Out-Patient Surgical Facility

In accordance with the provisions of the General Statutes of Connecticut Section 19a-493:

River Valley ASC, LLC of Norwich, CT, d/b/a River Valley ASC, LLC is hereby licensed to maintain and operate an Out-Patient Surgical Facility.

River Valley ASC, LLC is located at 45 Salem Turnpike, Norwich, CT 06360.

This license expires **June 30, 2017** and may be revoked for cause at any time.

Dated at Hartford, Connecticut, July 1, 2015. **RENEWAL**



Jewel Mullen MD

Jewel Mullen, MD, MPH, MPA
Commissioner

EXHIBIT B

SUSAN CAROCARI, RN, BSN, CAPA

13 Clay Lane
Westerly, RI 02891
Cell (860) 235-6644

Over thirty years in the nursing profession with a wide variety of experiences including dialysis, ICU & management. Successful in working with several physicians as well as other associated support personnel to facilitate quality patient care. Assisted in opening new Ambulatory Surgical Center which included hiring & training new staff, developing policies & procedures & compliance with accrediting agencies.

PROFESSIONAL EXPERIENCE:

RIVER VALLEY ASC, LLC, Norwich, CT April 2013- present
Director of Nursing / Administrator.

Responsible for all aspects of opening & running a new ASC. Responsibilities include, but not limited to, overseeing scheduling, new physician recruitment, compliance with state and AAAHC standards, credentialing, HR & Business Office Manager.

LAWRENCE & MEMORIAL HOSPITAL, New London, CT January 2010-2013
Clinical Coordinator Ambulatory Surgery Unit/ PACU/MSU
Responsible for daily operations and flow of patients from admitting the day of surgery through recovery and discharge or admission to main hospital post-op. Responsible for pain clinic and minor surgical unit daily operations also.

BACKUS HOSPITAL, Norwich, CT March 2006-Jan. 2010
Staff nurse CCU, SDS
Staff nurse critical care unit. Provided acute care to critically ill patients. As a Same day surgery staff nurse I was responsible for admitting pre-op patients, getting patients ready for surgery, starting IV line, meds, and providing post-op care. Cross trained to PACU.

OTSUKAMERICA, Rockville, MD Dec. 2005-2007
Clinical Research Nurse
Clinical research trials with ADAcolumn apheresis for Crohn's and IBS patients. Responsible for coordinating the schedules of patients, research facility personnel, and resources.

KENT COUNTY HOSPITAL, Warwick, RI March 2004- 2006
ICU Staff Nurse
Provided nursing care to patients who are critically ill. Work with multiple disciplines within the hospital including respiratory therapy, pharmacy, X-ray, CT scan, ER and Intensivists. Use critical thinking skills and provide emotional support to families during times of crisis.

CORAL BLOOD SERVICES, Scarborough, ME August 1995 - 2006
Hemapheresis Nurse Specialist
Provide therapeutic apheresis to patients in more than twenty Connecticut and Rhode Island contracted hospitals. Performed leukopheresis for harvesting white cells for research in various cancer patients at John Dempsey Health Center (UCONN). Co-ordinate schedule and treatment orders with hospital physicians and other support personnel. Function independently at all sites and make decisions based on nursing knowledge and judgement for each individual patient. Write daily flow sheets with data specific to each apheresis treatment. Facilitate contract negotiations with Coral sales representative to several hospitals. Train new staff members for therapeutic apheresis and orient to all contracted hospitals. Oversee equipment deliveries, installation and maintenance. Submit monthly statistics.

DIALYSIS AND APHERESIS CONSULTANTS, Bridgeport, CT 1990 - 1995^{RV000047}_{01/30/2017}

Acute Dialysis/Apheresis Staff Nurse

Provide acute in-patient hemodialysis to patients in hospitals in Bridgeport area and Lawrence and Memorial Hospital in New London, CT. Provide therapeutic apheresis to subscribing sites in the southern New England area. Treatment scheduling and co-ordination with support staff.

LAWRENCE AND MEMORIAL HOSPITAL, New London, CT 1986 - 1990

Staff Nurse/ Acting Clinical Coordinator for Acute Hemodialysis

Support staff. Train new staff members. Revised policies and procedures manual. Provide acute hemodialysis treatment for critically ill patients. Schedule and co-ordination of

ST. LUKES HOSPITAL, Kansas City, MO 1983 - 1986

Hematology/Oncology Charge Nurse

Accompany primary physicians on daily rounds and co-ordinate patient care orders. Administer agents and provide patient support and education.

EDUCATION:

B.S.N. Webster University

Diploma in Nursing, St. Lukes Hospital School of Nursing

Pre-Nursing at Kansas University

PROFESSIONAL AFFILIATIONS/CERTIFICATIONS:

American Society for Apheresis (ASFA)

Basic Life Support Certification (BLS)

Advanced Cardiac Life Support Certification (ACLS)

Apheresis Certification

ASPAN Member

Pediatric Advance Life Support (PALS)

CAPA Certification

CURRICULUM VITAE

OF

RICHARD J. MARTIN, M.D., D.M.D., F.A.C.S.

ADDRESS

Office: Connecticut Surgical Arts, llc
159 Sachem Street
Norwich, CT 06360
Telephone: (860) 885-0444 Fax: (860) 885-0816
Website: martincosmeticsurgery.com CSA98@aol.com

EDUCATION

University of Connecticut School of Medicine, Farmington, CT	M.D.	1993-1995
University of Connecticut School of Dental Medicine, Farmington, CT	D.M.D.	1988 - 1992
Bowdoin College, Brunswick, ME Biology Major/Chemistry Minor	A.B.	1983 - 1987

INTERNSHIP AND RESIDENCY

General Surgery Residency Year: University of Connecticut School of Medicine, Farmington, CT 1996		1995 -
Oral/Maxillofacial Surgery Residency: University of Connecticut Health Center, Farmington, CT		1992 - 1997
Chief Resident		1996-1997

FELLOWSHIP

General Cosmetic Surgery: Alderwood Cosmetic Surgery Center, Lynnwood, WA		1998 - 1999
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BOARD CERTIFICATION

American Board of Cosmetic Surgery	eligible
American Board of Oral and Maxillofacial Surgery Part I	certified 1997
Part II	2000 & 2010

ACADEMIC POSITIONS

University of Connecticut Health Center Department of Oral/Maxillofacial Surgery Clinical Instructor	1998 - present
Hartford Hospital Department of Oral/Maxillofacial Surgery Clinical Instructor	1998 - present
University of Connecticut School of Medicine Department of Anatomy & Physiology Didactic Instructor - Head & Neck Anatomy	1995

HOSPITAL APPOINTMENTS

River Valley Ambulatory Surgery Center, LLC	2013 – present
The William W. Backus Hospital, Norwich, CT Active Staff	1999 - present
Hartford Hospital, Hartford, CT Active Staff	1998 - present
Valley General Hospital, Monroe, WA Courtesy Staff	1998 - 2000

LICENSURE

State MEDICAL license:

Connecticut, November, No. 036472	1997 - present
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State DENTAL license:

Connecticut, No. 007905 1993 - present

State SEDATION license:

Connecticut, No. 007905 1997 - present

PRIVATE PRACTICE

limited to Cosmetic, Reconstructive, and Maxillofacial Surgery
159 Sachem Street, Norwich, CT 1999 - present

PROFESSIONAL SOCIETIES

American College of Surgeons - Fellow
American Academy of Cosmetic Surgery - Fellow
American Medical Association – life time member
American Association of Oral & Maxillofacial Surgery – Fellow
American Board of Oral & Maxillofacial Surgery - Diplomate
Connecticut Society of Maxillofacial Surgeons
Horace Wells Society - member

AWARDS

Vitals.com Top 10 Doctors Honors: Selected by patients as on line review of doctors who consistently are ranked as top in their specialty 2015

Connecticut 50 Top Oral & Maxillofacial Surgeons: Peer selected award via Connecticut Magazine. 2009 - 16

Top Plastic Surgeon, CT; International Association of Healthcare Professionals, February 2011 2011

Connecticut Top Oral & Maxillofacial Surgeons; Peer selected award via New Haven Living. Peer-review selection. 2010 - 16

Physicians Recognition Award with Commendation; Presented by 2000 -
2003
the American Medical Association for achievement in self directed education.

<u>National Registry of Who's Who; Life member (#140840)</u>	2001
<u>American Association of Oral and Maxillofacial Surgeons Undergraduate Award; Presented for outstanding achievements and performance in undergraduate Oral and Maxillofacial Surgery</u>	1997
<u>American College of Dentists Student Award; Presented for demonstrating outstanding development of higher social responsibility and professionalism</u>	1997
<u>A.D.A. Certificate of Recognition for Volunteer Service in a Foreign Country; the result of work in preventive medicine in Haiti</u>	1996

RESEARCH ACTIVITIES

Principal Investigator; "Load Strength in Miniplate Design", (with Drs. Shafer D. and Piecuch J.) Liebing, Inc., 1997.

Participating Investigator; "Haitian Epidemiologic Research Project", Source-Chaude, Haiti. University of Connecticut, Department of Community Medicine, July 2, 1989 - August 15, 1989.

PUBLICATIONS

Martin, R.J., Mangubat, A. "Hair Transplantation: A Review and Technique Presentation", Journal of Oral and Maxillofacial Surgery; Vol. 58:6; 654-659. 2000

Martin, R.J., Goupil, M., Goldschmidt, M. "Implant Segmental Osteotomy: A Case Report", Int. Journal of Oral and Maxillofacial Implants; Vol. 13:5; 710-712. 1998

Martin, R.J., Shafer, D., Piecuch, J.F. "Analysis of Fixation Strength in Mandibular Osteotomies Utilizing a New Miniplate Configuration", Journal of Oral and Maxillofacial Surgery; Vol. 54:8; 98. 1996

Martin, R.J. "Wound Types and Classification", Journal of Oral and Maxillofacial Surgery; Vol. 59:9;11 2001

SCIENTIFIC PRESENTATIONS

Faculty Lecturer; "Current Techniques in Blepharoplasty and Brow Lift", UHC, Dept. of Maxillofacial Surgery, Farmington, CT February 2006

Guest Lecturer, "Penetrating Neck Injuries", The William W. Backus Hospital, Trauma Grand Rounds, 2005

Guest Lecturer, "Soft Tissue Management", Connecticut Nurses Association, 2004

Faculty Lecturer; "Rhytidectomy", UCHC, Dept. of Oral/Maxillofacial Surgery, Farmington, CT, May 2004

Guest Lecturer, "Soft Tissue Trauma", The William W. Backus Hospital, Trauma Grand Rounds, June 2003

Guest Lecturer; "Soft Tissue Injuries", AAOMS national meeting, Orlando, FL. September, 2002

Faculty Lecturer; "Rhinoplasty, the Art and Science", Hartford Hospital, Dept. of Maxillofacial Surgery, Hartford, CT, Feb. 2001

Faculty Lecturer; "Hair Grafting: A Review and Technique Presentation", The Univ. of Connecticut Health Center, Dept. of Maxillofacial Surgery, Farmington, CT, Oct. 2000

Guest Lecturer; "Advances in Cosmetic Surgery", The William W. Backus Hospital, general lecture series, Norwich, CT, Oct. 2000

Faculty Lecturer; "Rhytidectomy and the Aging Face and Neck", The Univ. of Connecticut Health Center, Dept. of Maxillofacial Surgery, Farmington, CT, Sept. 2000

Guest Lecturer; "Craniofacial Injuries", The William W. Backus Hospital Conference On trauma, Norwich, CT, April 2000

Faculty; Current Lipocontouring Techniques: A Live Surgical Experience. A two day intensive seminar and live surgical workshop, Lynnwood, WA 1998-1999

Geust Lecturer; "Maxillofacial Injuries and Emergencies", Department of Community Medicine William H. Backus Hospital, Norwich, CT, June 1997

Geust Lecturer; "Implant Segmental Osteotomy: A Case Report", Annual meeting Strauman Implant Conference, Philidelphia, PA. November, 1997Conference, Philidelphia, PA, 1996

Geust Lecturer; "Analysis of Fixation Strength in Mandibular Osteotomies Utilizing a New Miniplate Configuration", AAOMS national meeting, Miami, FL. September, 1997

COURSES/CONTINUING EDUCATION

Advanced Trauma Life Support Certification, July, 1995 - 2010

Advanced Cardiac Life Support Certification, July, 1992 - present

IMZ Implant System Certification , Farmington, CT, May 1992

Branemark Implant System Certification, Farmington, CT, June 1992

ITI Implant Course, Farmington, CT, September 1993

AO Rigid Fixation Course, Manhattan, NY, August 1996

Luxar Surgical Laser Certification, Windsor, CT, January 1997

Coherent Surgical Laser Certification, Naples, FL, April 1997

AAOMS National Meeting, September 1997, '99, '02

AACS National Meeting, January 1998, '99, '02

Obagi Chemical Peel Certification Course, Seattle, WA, October 1998

Cynosure Surgical Laser Course, Bellvue, WA, August 1998

Comprehensive Maxillofacial Surgery Review Course, Denver, CO, November 1999

Maxillofacial Surgery Board Examination Course, Columbus, OH, January 2000

The William W. Backus Hospital Trauma Conf., Norwich, CT, January 2000 – present

Johns Hopkins Continuing Ed. Series – Excellence in Cosmetic Surgery, 2006 - present

PROFESSIONAL APPOINTMENTS

Medical Director, River Valley Ambulatory Surg. Center, Norwich, CT – 1/2013 – present

Medical Director, Connecticut Surgical Arts, LLC, Norwich, CT – 2000 – present

Physician Advisory Board, The William W. Backus Hospital, Norwich, CT – 2009

State of Connecticut Peer Review, Department of Public Health, State of Connecticut, 2002 – 2003

State of Connecticut Office Anesthesia Site Evaluator, Department of Public Health,
State of Connecticut, 1997 - present

American Academy of Cosmetic Surgery Task Force, Fellowship Programs, 2/1/1999 -
1/30/2000

Trauma Committee, The William W. Backus Hospital, Norwich, CT, 2000 – present

Credentials Committee, The William W. Backus Hospital, Norwich, CT, 2003 – present

Medical Executive Committee, The William W. Backus Hospital, Norwich, CT, 2007 -
present

VOLUNTEER SERVICE

Kids Who Help Kids (Board Member); provide administrative and fund raising services.
Foundation benefits kids throughout the United States as well as internationally. 2016 -
present

Haitian Health Foundation; provided surgical cleft lip repair to the indigenous
population, Jeremy, Haiti, 1997, 2000

Bozrah Board of Education, Bozrah, CT, 2005 - 2011

Daniel Sweatman

e: dan.sweatman@gmail.com p: 619-246-3350 a: 449 East 14th Street Apt. 5E, New York, NY 10009

PROFESSIONAL EXPERIENCE

Surgical Care Affiliates

New York, NY

September 2015-Present *Manager, Operations Strategy / GM Rotational Program*

- As part of Surgical Care Affiliates General Management Rotational Program I support the Senior Vice President for Operations in developing managed care, health system and provider partnership strategies. The program is intended to be a one year development pipeline for a Director of Operations role where I will be responsible for the financial and operational performance of multiple outpatient surgical facilities.

Goldman Sachs Investment Banking Division

New York, NY

April 2014-September 2015 *Associate Consumer Retail Healthcare Group*

- As an Investment Banking Associate at Goldman Sachs I advised primarily Healthcare clients on mergers, acquisitions, and capital raising via debt and equity offerings as well as private placements.
- Completed deals on a number of financings (Debt and Equity), managed both sell-side and buy-side processes and advised clients on strategic merger and acquisition alternatives in the Healthcare and the Consumer Retail spaces.

Carrier Air Wing Eleven (CVW-11)

Naval Air Station North Island, CA

2012-2014 *Helicopter Operations Officer/Assistant Operations Officer / MH-60R Aircraft Commander*

- Allocate resources to execute Carrier Air Wing Eleven's \$82.2 million annual flight hour budget encompassing 8 squadrons composed of 54 airplanes and 1500 personnel.
- Manage the production of the daily 90+ sortie aircraft flight schedule for the Nimitz Strike Group during its eight month 2013 deployment to the Arabian Sea in support of Operation Enduring Freedom in Afghanistan.
- Manage daily flight operations as Air Wing Battle Watch Captain, while serving as the Strike Warfare Commander's direct representative to the Strike Group Admiral and Combined Air Operations Center.
- Coordinate all Helicopter Operations within Nimitz Strike Group including logistical and tactical sortie requirements for 20 helicopters and 2 helicopter squadrons. Advise the Sea Combat Commander on MH-60R and MH-60S employment in maritime operations.

Helicopter Maritime Strike Weapons School Pacific (HSMWSP)

Naval Air Station North Island, CA

2009-2012 *Operations Officer/Seahawk Weapons and Tactics Instructor/2011 HSMWSP Officer of the Year*

- Led a department of 5 officers and 10 enlisted personnel responsible for the coordination of tactical training for the 7 west coast squadrons in Helicopter Maritime Strike Wing Pacific.
- Served as Exercise Coordinator for six annual Helicopter Advanced Readiness Program (HARP) exercises, a two-month long pre-deployment qualification process consisting of two weeks of classroom instruction, 48 simulator events and 72 flights designed to certify crews in Anti-Submarine and Anti-Surface Warfare.
- Graduated from the Naval Strike Air Warfare Center's Rotary Wing Weapons School qualifying as a Seahawk Weapons Tactics Instructor, the highest tactical qualification for Navy helicopter pilots.

Helicopter Anti-Submarine Light Four Nine (HSL-49)

Naval Air Station North Island, CA

2006-2009 *Standardization Officer/Detachment Maintenance Officer/2009 HSL-49 Pilot of the Year*

- Led 16 personnel in the maintenance of an SH-60B Seahawk helicopter while deployed aboard the USS McClusky (FFG-41). Managed 18 maintenance programs and a \$400,000 operating budget in support of Counter Narco-Terrorism operations in the eastern Pacific Ocean.
- Served as aircraft commander on missions resulting in the interception of 5.5 metric tons of illegal narcotics.
- Planned and flew missions in support of Operation Enduring Freedom. Managed flight and maintenance training plans for 22 detachment personnel while deployed aboard the USS Pinckney (DDG-91).

EDUCATION

Arizona State University, W.P. Carey School of Business

Tempe, AZ

Masters of Business Administration (MBA), May 2012

- Emphasis in Finance. Graduated with a **GPA of 4.0**.
- Inducted into Beta Gamma Sigma Honor Society.

United States Naval Academy

Annapolis, MD

Bachelor of Science with merit, May 2003

- Physics Major. Selected as 30th Company Executive Officer.
- Played Lightweight Football on the 2002 Collegiate Spring Football League National Championship team.

EXHIBIT C

To: Connecticut Office of Health Care Access

From: Nicole Arcand, MD, Partner River Valley Ambulatory Surgery Center

On behalf of the River Valley Ambulatory Surgery Center partnership, I would like to express my support for our decision to partner with Surgical Care Affiliates (SCA). The decision was made after carefully evaluating other potential partners and concluding that in SCA we found a like-minded organization that has a similar approach to prioritizing quality patient care and improving the Healthcare system

The below points capture our rationale to partner with SCA:

- **Prioritization of Quality:** SCA's quality metrics across its portfolio are on par with the historical marks that we have at River Valley ASC. Our metrics exceed the local and national marks for CMS tracked quality metrics at both hospitals and ASCs.
- **In Network Strategy-** We plan to leverage SCA's national payer relationships as we alter our facility strategy to a primarily in network approach to care. This will increase access to care for our patients and reduce their overall payment obligations.
- **Supply chain purchasing power-** SCA has the purchasing power of 200+ surgery centers. We expect a reduction to our overall supply costs through their supply chain platform.
- **Physician recruiting-** We expect to have new opportunities within the market that arise because of SCA's new business development team.

Please feel free to reach out to me with any additional questions concerning our partnership.

Kind Regards,



Nicole Arcand, MD
Orthopedic Partners
82 New Park Avenue
North Franklin, CT 06254

EXHIBIT D

EXECUTION VERSION

MEMBERSHIP INTEREST PURCHASE AGREEMENT

AMONG

SCA-RIVER VALLEY, LLC

AND

RIVER VALLEY ASC, LLC

AND

CERTAIN MEMBERS OF RIVER VALLEY ASC, LLC

AND

MERRITT HEALTHCARE HOLDINGS, LLC

AND

SURGICAL CARE AFFILIATES, LLC

October 31, 2016

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Hired Employee	7.2
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MEMBERSHIP INTEREST PURCHASE AGREEMENT

THIS MEMBERSHIP INTEREST PURCHASE AGREEMENT (this “**Agreement**”) is made and entered into as of October 31, 2016 (the “**Effective Date**”), by and among **SCA-RIVER VALLEY, LLC**, a Delaware limited liability company (“**Buyer**”), **RIVER VALLEY ASC, LLC**, a Connecticut limited liability company (the “**Company**”), and those persons identified as “**Sellers**” on Exhibit A attached hereto (collectively, the “**Sellers**,” and each individually a “**Seller**”), **MERRITT HEALTHCARE HOLDINGS, LLC**, a Delaware limited liability company (“**Merritt**”), and **SURGICAL CARE AFFILIATES, LLC**, a Delaware limited liability company (“**SCA**”).

RECITALS

WHEREAS, the Company operates an ambulatory surgery center known as River Valley Ambulatory Surgery Center, located at 45 Salem Turnpike, Norwich, CT 06360 (the “**Center**”);

WHEREAS, the Sellers collectively own all of the limited liability company membership interests in the Company;

WHEREAS, the Sellers desire to transfer and sell to Buyer, and Buyer desires to purchase from the Sellers, an aggregate sixty and one-half percent (60.5%) membership interest in the Company, upon and subject to the terms and conditions of this Agreement;

WHEREAS, Merritt is a party to this Agreement solely for the purposes of agreeing to the covenants in Section 10.2 through 10.6 and Section 13.17; and

WHEREAS, SCA is a party to this Agreement solely for the purposes of agreeing to the covenants in Sections 13.18.

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

ARTICLE I PURCHASE AND SALE

1.1 **Sale and Transfer of the Transferred Interests.** Upon the terms and subject to the conditions hereof, each Seller shall transfer, sell, convey and deliver to Buyer, free and clear of all liens, pledges, security interests, rights of first refusal, options, restrictions, encumbrances and liabilities of any kind whatsoever, the percentage of membership interest in the Company set forth on Exhibit A attached hereto, including, without limitation, all governance and financial rights associated with such membership interest (collectively, the “**Transferred Interests**,” which shall be comprised of the Phase I Transferred Interests and the Phase II Transferred Interests, in each case, as hereinafter defined), which Transferred Interests collectively represent sixty and one-half percent (60.5%) of the profits, losses and voting rights of the Company, and Buyer shall purchase and accept such Transferred Interests. The transactions contemplated by this Agreement shall be consummated in two “phases” of closing as described below:

(a) **Phase I.** In the first phase of the closing of the transactions contemplated by this Agreement (the “**Phase I Closing**”), Buyer shall acquire an aggregate forty-nine percent (49%) membership interest in the Company (the “**Phase I Transferred Interests**”) from the Sellers, including (i) all of the outstanding membership interests in the Company held by Merritt Healthcare Holdings Norwich, LLC, a Delaware limited liability company (“**MHH-Norwich**”), and (ii) the balance of the Phase I Transferred Interests from the Sellers other than MHH-Norwich (collectively the “**Physician Sellers**”), all as described more specifically on Exhibit A.

(b) **Phase II.** In the second phase of the closing of the transactions contemplated by this Agreement (the “**Phase II Closing**”), Buyer shall acquire the remaining eleven and one-half percent (11.5%) membership interest in the Company comprising the Transferred Interests (the “**Phase II Transferred Interests**”) from the Physician Sellers as described more specifically on Exhibit A. The parties acknowledge and agree that certificate of need approval (the “**CON Approval**”) from the Connecticut Department of Public Health Office of Health Care Access (“**OHCA**”) is a condition precedent to the Phase II Closing.

1.2 **Sellers’ Committee.** Each Seller hereby irrevocably authorizes and appoints a committee consisting of those three (3) individuals whose names, physical addresses and email addresses are forth on Exhibit B (each a “**Sellers’ Committee Member**” and collectively the “**Sellers’ Committee**”) to act as his, her or its agent and to serve as the Sellers’ representative for purposes of carrying out the administrative obligations and other functions of such position on behalf of the Sellers as set forth in this Agreement. Without limiting the generality of the foregoing, the Sellers’ Committee will be authorized to: (a) in connection with the Phase I Closing and the Phase II Closing, execute and receive all documents, instruments, certificates, statements and agreements on behalf of and in the name of the Sellers necessary to effectuate the Phase I Closing and the Phase II Closing and consummate the transactions contemplated by this Agreement; (b) take all actions on behalf of the Sellers in connection with the calculation and settlement of Net Working Capital under Section 1.4, (c) take all actions on behalf of the Sellers in connection with any claims made under Article XII to defend or settle such claims, and to make payments in respect of such claims; (d) execute and deliver, should it elect to do so in its sole discretion, on behalf of the Sellers, any amendment to this Agreement so long as such amendment will apply consistently and in a non-discriminatory manner to all Sellers; and (e) take all other actions to be taken by or on behalf of the Sellers and exercise any and all rights which the Sellers are permitted or required to do or exercise under this Agreement. Each Seller acknowledges that such Seller has had the opportunity to review this Agreement and all agreements ancillary hereto related to the transactions contemplated hereby, and there shall be no presumption against any Seller on the ground that any such Seller was responsible for or engaged in the negotiation or drafting of this Agreement or any of such ancillary agreements or any part thereof, and any rule or principle of law, or any legal decision, that would require or permit any Seller to incur greater liability than any other Seller, or give rise to any claim by any Seller against any other Seller, related to negotiation and drafting of any such agreements has no application and is expressly waived by each of Sellers. The Sellers’ Committee shall act either (i) by majority vote of the members of the Sellers’ Committee, which may take place at a meeting with notice, either in-person or by means of telecommunications equipment, or (ii) by majority written consent in lieu of a meeting by the Sellers’ Committee. No Sellers’ Committee Member shall have authority to act on behalf of the Sellers’ Committee except in accordance with this Section 1.2. If any Sellers’ Committee Member ceases to serve in such capacity for any reason, such Person shall designate his or her successor, which successor shall be

subject to approval by the other Sellers' Committee. Failing such designation and approval within ten (10) business days after the Sellers' Committee Member has ceased to serve, the other Sellers' Committee Members shall appoint a successor Sellers' Committee Member. Each Seller (including the Physician Sellers) hereby releases the Sellers' Committee from any liability in connection with the performance of the actions contemplated to be performed by the Sellers' Committee under this Agreement. The Sellers' Committee will not be liable to any Seller for any action taken by it in good faith pursuant to this Agreement, and the Sellers will indemnify the Sellers' Committee (severally, on a pro rata basis, based on each Seller's Pro Rata Share (as set forth in Exhibit A)) from any Losses arising out of its serving as the Sellers' Committee hereunder (the "**Representative Expenses**"). Each Sellers' Committee Member is serving in that capacity solely for purposes of administrative convenience, and is not personally liable in such capacity for any of the obligations of the Sellers hereunder, and Buyer agrees that it will not look to the personal assets of the Sellers' Committee Members, acting in such capacity, for the satisfaction of any obligations to be performed by the Sellers hereunder. By executing this Agreement in its capacity as a Seller, each Sellers' Committee Member hereby agrees to act as a Sellers' Committee Member and to carry out the duties of such position as set forth herein.

1.3 Purchase Price.

(a) Purchase Price.

(i) Upon the terms and subject to the conditions hereof, Buyer shall pay to the Sellers, in full consideration for the Transferred Interests, an aggregate amount equal to Twenty-Nine Million Seven Thousand Nine Hundred Sixty Dollars (\$29,007,960) after taking into account the applicable principal balance of the outstanding long-term debt of the Company (i.e., any capital leases and other long-term debt not included in the calculation of Working Capital under Section 1.4) (the "**Long-Term Debt**") as of the Phase I Closing (the "**Debt Reduction Amount**") (such net amount being referred to herein as the "**Purchase Price**"). The Purchase Price shall be subject to adjustment as set forth in Section 1.4.

(b) Payment of the Purchase Price.

(i) Buyer shall pay Twenty-Three Million Four Hundred Ninety-Four Thousand Fifty Dollars (\$23,494,050) (the "**Phase I Purchase Price**") to the Sellers at the Phase I Closing in immediately available funds by wire transfer to accounts designated by the Sellers' Committee. The Phase I Purchase Price shall be apportioned among the Sellers in accordance with each Seller's Phase I Pro Rata Share (as set forth on Exhibit A), subject to any adjustments as contemplated by Section 1.4(c).

(ii) Buyer shall pay Five Million Five Hundred Thirteen Thousand Nine Hundred Ten Dollars (\$5,513,910) of the Purchase Price, without taking into consideration any adjustment to the Purchase Price under Section 1.4 (the "**Phase II Purchase Price**") to the Physician Sellers at the Phase II Closing in immediately available funds by wire transfer to accounts designated by the Sellers' Committee. The Phase II Purchase Price shall be apportioned among the Physician Sellers in accordance with each such Physician Seller's Phase II Pro Rata Share (as set forth on Exhibit A), subject to any adjustments as contemplated by Section 1.4(c).

(c) The Sellers authorize the Sellers' Committee to designate a portion of the Purchase Price to pay certain transaction costs of the Sellers at the Phase I Closing and/or the Phase II Closing, as applicable, and prior to disbursing the Sellers' respective shares of the Purchase Price to the Sellers, including, but not limited to, the purchase of a "tail policy" in connection with the Phase I Closing as required by Section 6.5, the payment of other Transaction Expenses (defined below) of the Sellers (e.g., attorneys' fees), and any other amounts required to be paid by or on behalf of the Sellers at or prior to the Phase I Closing and/or the Phase II Closing, as applicable, as set forth in this Agreement.

1.4 Working Capital Adjustment.

(a) The Purchase Price assumes that the Company will have Working Capital as of the Phase I Closing Date within a range of between \$738,000 and \$902,000 (the "**Required Working Capital Range**"), and is subject to adjustment if the Actual Working Capital is outside of the Required Working Capital Range, as calculated and finally determined in accordance with this Section 1.4.

(b) For purposes of this Agreement, "**Working Capital**" means an amount equal to (a) the sum of the current assets of the Company determined in accordance with generally accepted accounting principles, consistently applied ("GAAP"), including, without limitation, the following items: (i) cash, (ii) net accounts receivable and (iii) prepaid expenses, minus (b) the sum of the current liabilities of the Company determined in accordance with GAAP, including, without limitation, the following items: (i) accrued employee benefits (e.g., paid time off and related taxes, etc.), (ii) accounts payable and (iii) accrued expenses. For the sake of clarification, the parties acknowledge and agree that the Company's inventories, supplies and current portion of Long-Term Debt shall not be included in the calculation of Working Capital. Further, any amount that the Company loans to certain employees of the Company with respect to termination of the Company's 401k plan pursuant Section 6.6 (not to exceed Twenty Thousand Dollars (\$20,000) in the aggregate) shall be classified as short-term debt and excluded from the definition of Working Capital.

(c) The "**Working Capital Adjustment Amount**" (which may be a positive or negative number) will be equal to the amount by which the Actual Working Capital as of the Phase I Closing Date exceeds or is less than the Required Working Capital Range. If the Actual Working Capital is within the Required Working Capital Range, the Working Capital Adjustment shall be equal to zero. If the Actual Working Capital as of the Phase I Closing Date is greater than \$902,000, the Working Capital Adjustment Amount shall be determined by subtracting \$902,000 from the Actual Working Capital and multiplying such difference by sixty and one-half percent (60.5%) (such product, the "**Working Capital Surplus**"). The Working Capital Surplus shall be apportioned among the Sellers in accordance with each Seller's Phase I Pro Rata Share (as set forth on Exhibit A), and Buyer shall pay the Working Capital Surplus to the Sellers within three (3) business days after the calculation of the Actual Working Capital becomes binding and conclusive on the parties pursuant to Section 1.4(d) by wire transfer of immediately available funds to accounts specified by the Sellers' Committee. If the Actual Working Capital as of the Phase I Closing Date is less than \$738,000, the Working Capital Adjustment Amount shall be determined by subtracting the Actual Working Capital from \$738,000, and multiplying such difference by sixty and one-half percent (60.5%) (such product, the "**Working Capital Deficit**"). The Working

Capital Deficit shall be apportioned among the Sellers in accordance with each Seller's Phase I Pro Rata Share (as set forth on Exhibit A), and the Sellers, severally but not jointly, shall pay the Working Capital Deficit to Buyer within three (3) business days after the calculation of the Actual Working Capital becomes binding and conclusive on the parties pursuant to Section 1.4(d) by wire transfer of immediately available funds to an account specified by Buyer.

(d) Working Capital Adjustment Procedure.

(i) Buyer shall determine the Working Capital of the Company as of the Phase I Closing Date (the "**Actual Working Capital**"). Buyer shall deliver its determination of the Actual Working Capital to the Sellers' Committee within one hundred eighty (180) days after the Phase I Closing Date.

(ii) If, within thirty (30) days after delivery of the Actual Working Capital calculation, the Sellers' Committee has not given Buyer written notice of the Sellers' Committee's objection as to the Actual Working Capital calculation (which notice shall state the basis of such objection), then the Actual Working Capital calculated by Buyer shall be binding and conclusive on the parties and shall be used in computing the Working Capital Adjustment Amount.

(iii) If the Sellers' Committee timely provides Buyer with a written notice of objection pursuant to Section 1.4(d)(ii), and if Buyer and the Sellers' Committee fail to resolve the issues stated in such objection with respect to the calculation of the Actual Working Capital within thirty (30) days of Buyer's receipt of the Sellers' Committee's objection notice, the Sellers' Committee and Buyer shall submit the issues remaining in dispute to an independent certified public accounting firm as the parties may then mutually agree upon in writing (the "**Independent Accountants**"). If the determination of Actual Working Capital is submitted to the Independent Accountants for resolution, (i) the Sellers' Committee and Buyer shall furnish, or cause to be furnished, to the Independent Accountants such work papers and other documents and information relating to the disputed issues as the Independent Accountants may request and are reasonably available to that party or its agents, and each shall be afforded the opportunity to present to the Independent Accountants any material relating to the disputed issues and to discuss the issues with the Independent Accountants; (ii) the determination by the Independent Accountants, as set forth in a written notice to be delivered to the Sellers' Committee and Buyer within sixty (60) days of the submission of the dispute to the Independent Accountants, shall be final, binding and conclusive on the parties and shall be used in the calculation of the Actual Working Capital; and (iii) the Sellers (collectively) and Buyer will each bear fifty percent (50%) of the fees and costs of the Independent Accountants for such determination.

(e) Buyer and each Physician Seller hereby acknowledges and agrees that if Buyer or a Physician Seller fails to pay its undisputed allocable portion of the Working Capital Adjustment Amount due (if any) under Section 1.4(c) or Section 1.4(f), the Company (following ten (10) business days' written notice to the applicable party (or parties)) shall (i) offset future cash distributions from the Company otherwise payable to the party or parties (other than "Tax Distributions" other than "**Tax Distributions**", defined as the amount distributed by the Company to the Members to permit such Members to pay their estimated federal and state income tax

obligations related to Company income),, and (ii) pay the amount so offset to the party or parties entitled to receive the Working Capital Adjustment Amount.

(f) If the Agreement is terminated prior to the Phase II Closing in accordance with Section 11.3, nineteen percent (19%) of any previously paid Working Capital Surplus or Working Capital Deficit shall be repaid within thirty (30) days of such termination in immediately available funds by wire transfer to either accounts designated by the Sellers' Committee or to an account specified by the Buyer, as applicable.

(g) Any payments made pursuant to this Section 1.4 shall be treated as an adjustment to the Purchase Price for tax purposes, unless otherwise required by law.

ARTICLE II

PHASE I AND PHASE II CLOSINGS

2.1 **Phase I Closing.** The Phase I Closing shall take place on October 31, 2016, or at such other time as shall be agreed upon by all the parties hereto in writing (the "**Phase I Closing Date**"). For the purposes of this Agreement, the Phase I Closing shall be effective as of 11:59 p.m. on the Phase I Closing Date.

2.2 **Deliverables at the Phase I Closing.**

(a) Sellers and the Company. At the Phase I Closing, the Sellers or the Company, as applicable, shall execute and/or deliver or cause to be delivered to Buyer the following:

(i) Instruments of transfer and assignment of Phase I Transferred Interests, including certificates evidencing such Phase I Transferred Interests, if any, which at the Phase I Closing shall be effective to convey to Buyer all of the Sellers' rights, title and interest in the Phase I Transferred Interests, free and clear of all liens, pledges, security interests, rights of first refusal, options, restrictions, encumbrances and liabilities of any kind whatsoever.

(ii) A First Amendment to the Operating Agreement of the Company, duly authorized, approved and executed by all of the members of the Company, in the form attached hereto as Exhibit C (the "**First Amendment to Operating Agreement**").

(iii) A Second Amended and Restated Operating Agreement of the Company substantially in the form attached hereto as Exhibit D and to become effective as of the Phase II Closing Date (the "**Amended and Restated Operating Agreement**"), approved and executed by each of the Sellers other than MHH-Norwich.

(iv) A Management Agreement with SCA substantially in the form attached hereto as Exhibit E (the "**Management Agreement**"), as approved and executed by the Company.

(v) A Termination Agreement substantially in the form attached hereto as Exhibit F, terminating as of the Phase I Closing Date that certain Management Services Agreement between the Company and MHH-Norwich, dated November 30, 2012.

(vi) The owner restrictive covenant agreements as contemplated by Section 10.7.

(vii) Copies of resolutions duly adopted by the Board of Managers and the members of the Company, authorizing and approving the sale of the Transferred Interests as required under the Operating Agreement, certified as true and in full force as of the Phase I Closing, by the appropriate officers of the Company.

(viii) The certificates of the Sellers' Committee and the Company required to be delivered pursuant to Section 9.1 hereof, if applicable.

(ix) Certificates of existence and good standing of the Company from the State of Connecticut, dated the most recent practicable date prior to the Phase I Closing.

(x) Resignation of MHH-Norwich's appointee to the Board of Managers of the Company, effective as of the Phase I Closing Date.

(xi) Such other instruments of title, certificates, consents, endorsements, assignments, assumptions and other documents or instruments, in a form reasonably satisfactory to Buyer and its counsel, as may be reasonably requested by Buyer in order to carry out the transactions contemplated by this Agreement and to comply with the terms hereof.

(b) Buyer. At the Phase I Closing, Buyer shall execute and/or deliver or cause to be delivered to the Sellers the following:

(i) Payment of an amount equal to the Phase I Purchase Price (subject to the adjustments contemplated by Section 1.3(c)) in immediately available funds by wire transfer, to an account designated by the Sellers' Committee.

(ii) The First Amendment to the Amended and Restated Operating Agreement, duly authorized, approved and executed by Buyer.

(iii) The Management Agreement, approved and executed by SCA.

(iv) The Amended and Restated Operating Agreement, approved and executed by Buyer.

(v) The certificate of Buyer required to be delivered pursuant to Section 8.1 hereof, if applicable.

(vi) Such certificates, consents, assumption agreements and other documents, in a form reasonably satisfactory to the Sellers and their counsel, as may be reasonably requested by the Sellers to carry out the terms of and transactions contemplated by this Agreement.

2.3 Phase II Closing. The Phase II Closing shall take place as of the first day of the next month following the satisfaction of all conditions to closing (including, without limitation, receipt of the CON Approval), or at such other time as shall be agreed upon by all the parties hereto

in writing (the “Phase II Closing Date”). For the purposes of this Agreement, the Phase II Closing shall be effective as of 11:59 p.m. on the Phase II Closing Date.

2.4 Deliverables at the Phase II Closing.

(a) Sellers and the Company. At the Phase II Closing, the Sellers or the Company, as applicable, shall execute and/or deliver or cause to be delivered to Buyer the following:

(i) Instruments of transfer and assignment of the Phase II Transferred Interests, including certificates evidencing such Phase II Transferred Interests, if any, which at the Phase II Closing shall be effective to convey to Buyer all of the Sellers’ rights, title and interest in the Phase II Transferred Interests, free and clear of all liens, pledges, security interests, rights of first refusal, options, restrictions, encumbrances and liabilities of any kind whatsoever.

(ii) The certificates of the Sellers’ Committee and the Company required to be delivered pursuant to Section 9.2 hereof, if applicable.

(iii) Resignations of each of the board members and officers of the Company, effective as of the Phase II Closing Date.

(iv) Such other instruments of title, certificates, consents, endorsements, assignments, assumptions and other documents or instruments, in a form reasonably satisfactory to Buyer and its counsel, as may be reasonably requested by Buyer in order to carry out the transactions contemplated by this Agreement and to comply with the terms hereof.

(b) Buyer. At the Phase II Closing, Buyer shall execute and/or deliver or cause to be delivered to the Sellers the following:

(i) Payment of an amount equal to the Phase II Purchase Price (subject to the adjustments contemplated by Section 1.3(c)) in immediately available funds by wire transfer, to an account designated by the Sellers’ Committee.

(ii) The certificate of Buyer required to be delivered pursuant to Section 8.2 hereof, if applicable.

(iii) Such certificates, consents, assumption agreements and other documents, in a form reasonably satisfactory to the Sellers and their counsel, as may be reasonably requested by the Sellers to carry out the terms of and transactions contemplated by this Agreement.

2.5 Tax Returns; Section 754 Election.

(a) Any Tax Return to be prepared pursuant to the provisions of this Section 2.5 shall be prepared in a manner consistent with practices followed in prior years by the Company with respect to similar Tax Returns, except for changes required by changes in applicable laws or changes in fact; provided, however, that to the maximum extent permitted by Law, any Tax deductions attributable to or resulting from the incurrence or payment of Transaction Expenses by the Company, including bonus, etc. shall be (i) included on the Tax Return of the Company for the

taxable period or portion thereof ending on or prior to the Phase I Closing Date and (ii) allocated entirely to the Sellers, and none of such Tax deductions shall be allocated to Buyer. Except as required by applicable laws, neither Buyer nor the Company shall cause or permit the Company to (i) amend, refile or otherwise modify any Tax Return with respect to the Company for any taxable period or portion thereof ending on or prior to the Phase I Closing Date or the Phase II Closing Date, or (ii) enter into any closing agreement, settle any Tax claim or assessment relating to the Company, surrender any right to claim a refund of Taxes, or consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to the Company for any taxable period or portion thereof ending on or prior to the Phase I Closing Date or the Phase II Closing Date, in each instance without obtaining the prior written consent of the Sellers' Committee, such consents not to be unreasonably withheld, conditioned or delayed.

(b) Buyer shall prepare, or cause to be prepared, at the Company's reasonable expense, all Tax Returns filed by the Company after the Phase I Closing Date, including (i) Tax Returns required to be filed with respect to taxable periods ending on or prior to the Phase I Closing Date or the Phase II Closing Date (each, a "**Pre-Closing Tax Return**"), and Tax Returns required to be filed with respect to taxable periods that include, but do not end on, the Phase I Closing Date or the Phase II Closing Date (each such taxable period a "**Straddle Period**," and each such Tax Return a "**Straddle Period Tax Return**"). Buyer shall submit a copy of each Pre-Closing Tax Return and each Straddle Period Tax Return to the Sellers (together with the Section 754 Election Forms, documents regarding the effect of the Section 754 Election (hereinafter defined) on the basis of the Company's assets, and such other supporting schedules and documents reasonably requested by the Sellers) at least sixty (60) days prior to the due date (including extensions) of such Tax Return, or as soon as reasonably possible if the relevant Tax Return is required to be filed (after taking into account all available extensions) within ninety (90) days following the Phase I Closing Date or the Phase II Closing Date. If the Sellers object to any item on any such Tax Return (including items related to the Section 754 Election or the Section 754 Election Forms), they shall, within thirty (30) days after delivery of such Tax Return, notify Buyer and the other Sellers in writing that they so object, specifying such item or items and the basis for any such objection. If a notice of objection shall be duly delivered, Buyer and the Sellers shall negotiate in good faith and use their reasonable best efforts to resolve such items. If Buyer and the Sellers are unable to reach such agreement within ten (10) days after receipt by Buyer of such notice, the disputed items shall be resolved by an accounting firm selected by Buyer and reasonably acceptable to the Sellers (the "**Accounting Referee**") and any determination by the Accounting Referee shall be final. The Accounting Referee shall resolve any disputed items in accordance with the terms of this Agreement within twenty (20) days of having the item referred to it pursuant to such procedures as it may require. If the Accounting Referee is unable to resolve any disputed items before the due date for such Tax Return, the Tax Return shall be filed as prepared by Buyer at the Company's reasonable expense, and then amended by Buyer to reflect the Accounting Referee's resolution. The costs, fees and expenses of the Accounting Referee shall be borne equally by Buyer and the Sellers.

(c) Buyer and the Sellers agree that, following the Phase I Closing, the Company shall make a timely election under Section 754 of the Code ("**Section 754 Election**"). Such election will be made effective as of the taxable year of the Company in which the Phase I Closing Date occurs, and shall remain in effect for the taxable years that includes the Phase II Closing Date. The Section 754 Election will be attached to the federal income Tax Return of the

Company for the taxable year that includes or ends on the Phase I Closing Date. Buyer shall cause the Company to prepare, execute and deliver to the Sellers in accordance with Section 2.5(b) such documents and forms as are required by applicable law for an effective Section 754 Election, including the statement required by Treasury Regulations Section 1.743-1(k)(1) (regarding the effect of the adjustment of the basis of the Company's assets), and including such schedules or work papers as the Sellers may reasonably request with respect to the allocation of basis pursuant to Treasury Regulations Section 1.755-1 (collectively, the "**Section 754 Election Forms**").

(d) Notwithstanding any provision herein to the contrary, but subject to Section 2.5(e), for purposes of determining each Seller's distributive share of items of income, gain, loss, deduction and credit for the taxable years or portions thereof which include the Phase I Closing Date or the Phase II Closing Date, the Parties agree that, to the extent permitted by applicable law, the taxable year of the Company shall end as of the end of the Phase I Closing Date and the Phase II Closing Date. To the extent the taxable year of the Company does not close as of the end of the Phase I Closing Date and the Phase II Closing Date, Buyer shall cause the Company to timely elect, with respect to the closing date for which the taxable year of the Company does not close, (i) to use the interim closing method specified in Section 706 of the Code and Treasury Regulations Section 1.706-4, (ii) to use the calendar day convention specified in Treasury Regulations Section 1.706-4(c)(1)(i), and (iii) to use any similar or comparable methods or conventions for state or local Tax purposes to the extent permitted by applicable law. The Sellers and Buyer agree that (A) all items of income, gain, loss, deduction and credit of the Company with respect to taxable periods or portions thereof ending on or before the Phase I Closing Date shall be allocated pro rata among the Sellers in accordance with their respective Pre-Transaction Ownership Interests (as set forth on Exhibit A) except as otherwise required pursuant to the Company's Operating Agreement, and (B) all items of income, gain, loss, deduction and credit of the Company with respect to taxable periods or portions thereof beginning immediately after the Phase I Closing Date and ending on or before the Phase II Closing Date shall be allocated pro rata among the Sellers and Buyer in accordance with their respective Interim Ownership Interests (as set forth on Exhibit A). Following the Phase I Closing Date, no such items shall be allocable to MHH-Norwich or any other Seller who does not retain any ownership interests in any of the Company following the Phase I Closing Date. For property taxes and other taxes not based upon or related to income or receipts for which a "closing of the books" is not reasonably possible, the portion of such tax which is attributable to the taxable years or portions thereof which include the Phase I Closing Date or the Phase II Closing Date shall be determined on a pro rata, per diem basis.

(e) Notwithstanding any provision in this Section 2.5 to the contrary, to the extent permitted by applicable law, (i) all Transaction Expenses and other costs incurred by or on behalf of the Company in connection with the Phase I Transferred Interests shall be allocated for income tax purposes solely to the Sellers in accordance with their Pre-Transaction Ownership Interests (as set forth on Exhibit A) except as otherwise required pursuant to the Company's Operating Agreement, and (ii) all Transaction Expenses and other costs incurred by or on behalf of the Company in connection with the Phase II Transferred Interests shall be allocated for income tax purposes, but only with respect to a percentage of such Transaction Expenses and other costs in proportion to the Sellers' respective pro rata shares of the Interim Ownership Interests (as set forth on Exhibit A), to the Sellers in accordance with their Interim Ownership Interests (as set forth on Exhibit A).

(f) In determining the Sellers' liability for the Company's Taxes pursuant to this Agreement, the Sellers shall be credited with the amount of estimated Taxes of the Company paid by or on behalf of the Company (i) on or prior to the Phase I Closing Date, with such credit applied among the Sellers pro rata based on their Pre-Transaction Ownership Interests (as set forth on Exhibit A), and (ii) during the period beginning immediately after the Phase I Closing Date and ending on or before the Phase II Closing Date, with such credit applied among the Sellers, a percentage of such estimated Taxes in proportion to the Sellers' respective pro rata shares of the Interim Ownership Interests (as set forth on Exhibit A), pro rata based on their Interim Ownership Interests (as set forth on Exhibit A). To the extent that the Sellers' liability for the Company's Taxes is less than the amount of Taxes of the Company previously paid by or on behalf of the Company with respect to a taxable period or portion thereof ending on or before the Phase I Closing Date, or the Phase II Closing Date but only with respect to a percentage of such Taxes paid by or on behalf of the Company in proportion to the Sellers' respective pro rata shares of the Interim Ownership Interests (as set forth on Exhibit A), the Company shall pay Sellers the difference within ten (10) days of filing the Tax Return relating to such Taxes. Any payment by the Company pursuant to this Section 2.5(f) shall be allocated among the Sellers pro rata in a manner consistent with the immediately preceding sentence.

(g) Any Tax refund (including any interest in respect thereof) received by the Company, and any amounts credited against or otherwise reducing Tax to which the Company becomes entitled (including by way of any amended Tax Returns or any carryback filing), that (i) relates to any taxable period or portion thereof ending on or before the Phase I Closing Date shall be entirely for the account of the Sellers, except to the extent such Tax refund or amount was reflected as an asset in the Actual Working Capital, as finally determined pursuant to Section 1.4, and (ii) relates to the taxable period that begins immediately after the Phase I Closing Date and ends on the Phase II Closing Date shall be for the account of the Sellers and Buyer, but only with respect to a percentage of any such refunds or amounts in proportion to the Sellers' and Buyer's respective pro rata shares of the Interim Ownership Interests (as set forth on Exhibit A). Buyer shall pay over to the Sellers the amount of any Tax refund or other amounts due to the Sellers pursuant to this Section 2.5(g) within ten (10) days after receipt of such refund, credit or reduction or entitlement thereto. For purposes of this Section 2.5(g), where it is necessary to apportion any such refund, credit or reduction between Sellers and Buyer, such refund, credit or reduction shall be apportioned in the same manner that Tax liabilities are apportioned pursuant to Section 2.5(d). Any payment to the Sellers pursuant to this Section 2.5(g) shall be allocated among the Sellers pro rata in a manner consistent with Section 2.5(f). Buyer shall cooperate, and cause the Company to cooperate, in obtaining any Tax refund that Sellers reasonably believe should be available, including through filing appropriate forms with the applicable governmental authority.

(h) Except as required by applicable law, the Company shall not file any election or take any other action on or with respect to any taxable period or portion thereof ending on or prior to the Phase I Closing Date or the Phase II Closing Date which could increase the liability of a Seller for Taxes (including any liability of a Seller to indemnify Buyer for Taxes pursuant to this Agreement) without the prior written consent of the Sellers' Committee, which consent may not be unreasonably withheld, conditioned or delayed; provided, however that nothing in this Section 2.5(h) shall affect Buyer's right to cause the Company to make, at Buyer's sole cost and expense an election under Section 754 of the Code at such times so as to ensure

Buyer obtains the benefit of Section 743(b) of the Code with respect to its purchase of the Phase I Transferred Interests and the Phase II Transferred Interests pursuant to this Agreement.

(i) After each of the Phase I Closing and the Phase II Closing, each of the Sellers and Buyer shall (and shall cause the Company and its employees and representatives to) (i) assist the other party in preparing and filing any Tax Returns which such other party is required by law or this Agreement to prepare or file (such cooperation shall include, for example, signing any such Tax Returns), and (ii) cooperate fully in preparing for any audits of, or disputes with any governmental authority regarding, any Tax Returns of any of the Company. In connection therewith, the Company shall not dispose of any Tax work papers, books or records relating to any of the Company until the expiration of the applicable statute of limitations.

ARTICLE III

REPRESENTATIONS AND WARRANTIES RELATING TO THE SELLERS

For purposes of this ARTICLE III, the term “**Seller’s Knowledge**” and any grammatical variation thereof, shall mean the actual knowledge of such Seller as of the Effective Date and the Phase I Closing Date, and, in the case of the Physician Sellers, the Phase II Closing Date. As of the Effective Date and the Phase I Closing Date, and, in the case of the Physician Sellers, the Phase II Closing Date, each Seller, severally but not jointly, hereby represents and warrants to Buyer as follows:

3.1 Ownership of Membership Interests in the Company and MHH-Norwich. Such Seller holds and has good and marketable title to, and sole record and beneficial ownership of, the membership interest in the Company set forth opposite his, her or its name on Exhibit A attached hereto, free and clear of any and all liens, pledges, security interests, rights of first refusal, options, restrictions, encumbrances and liabilities of any kind whatsoever, except as set forth in the Operating Agreement. MHH-Norwich is a wholly owned subsidiary of Merritt. Except as set forth in the Operating Agreement (hereinafter defined), with respect to the portion of the Transferred Interests being transferred hereunder by such Seller (as set forth on Exhibit A) there are no (i) outstanding rights, contracts, rights to subscribe, or other agreements or commitments of any character, (ii) agreements or understandings with respect to the voting of such Transferred Interests on any matter, or (iii) preemptive or similar rights with respect to the issuance, sale or other transfer (whether present, past or future) of such Transferred Interests. Immediately after the Phase I Closing, Buyer will own all of that portion of the Phase I Transferred Interests owned by such Seller, free and clear of any liens, charges, encumbrances or other claims. Immediately after the Phase II Closing, Buyer will own all of that portion of the Phase II Transferred Interests owned by such Seller, free and clear of any liens, charges, encumbrances or other claims.

3.2 Authority. Such Seller has the full capacity, right, power and authority to enter into this Agreement and to carry out the transactions contemplated hereby, including, but not limited to, the transfer, conveyance and sale to Buyer at the Phase I Closing or the Phase II Closing, as applicable, of that portion of the Transferred Interests set forth opposite his, her or its name on Exhibit A hereto. Such Seller has taken all action required by law and by the organizational documents of the Company or such Seller, or otherwise, to authorize the transactions contemplated hereby. Merritt has full capacity, right, power and authority to enter into this Agreement and to carry out the transactions contemplated hereby. Merritt has taken all action required by law and

by the organizational documents of the Company or Merritt, or otherwise, to authorize the transactions contemplated hereby.

3.3 Binding Effect. This Agreement constitutes the valid and binding obligation of such Seller and of Merritt, as applicable, enforceable in accordance with its terms except as the same may be restricted, limited or delayed by applicable bankruptcy or other laws affecting creditors' rights generally or by equitable principles and except as to the remedy of specific performance which may not be available under the laws of various jurisdictions.

3.4 No Violations. The execution, delivery and performance of this Agreement by such Seller and Merritt and the consummation of the transactions contemplated hereunder will not (a) violate in any material respect any provision of, result in the breach of, or constitute a default under, any law or any order, writ, injunction or decree of any court, governmental agency or arbitration tribunal; (b) constitute a violation of or a default under, or a conflict with, any material term or provision of the Operating Agreement; (c) constitute a violation of any material provision or a default under any material contract, commitment, indenture, lease, instrument or other agreement, or any other material restriction of any kind to which such Seller or Merritt is a party or is bound; or (d) result in the creation of any encumbrance, claim, or obligation under any security agreement, indenture, mortgage, lien or other agreement to which such Seller or Merritt is a party or by which the assets of such Seller are bound.

3.5 No Exclusions. Neither such Seller nor any of his, her or its Affiliates, officers, directors, members, managers, managing employees or immediate family members has been excluded from participation in the Medicare, Medicaid or CHAMPUS/TriCare programs or any other Federal health care program, nor to such Seller's Knowledge, is any such exclusion threatened.

3.6 Brokers. Except as set forth on Schedule 3.6, neither such Seller nor any person acting on his, her or its behalf has paid or become obligated to pay any fee or commission to any broker, finder or intermediary for or on account of the transactions contemplated by this Agreement.

3.7 Acknowledgment. Such Seller hereby acknowledges that such Seller has read this Agreement and the other documents to be delivered by such Seller in connection with the consummation of the transactions contemplated hereby and has made an independent examination of the transactions contemplated hereby (including the tax consequences thereof). Such Seller further acknowledges that such Seller has had an opportunity to consult with and has relied upon the advice, if any, of such Seller's legal counsel, financial advisors or accountants with respect to the transactions contemplated hereby to the extent such Seller has deemed necessary, and has not been advised or directed by Buyer, the Company or their respective legal counsel or other advisors in respect of any such matters and has not relied on any such parties in connection with this Agreement and the transactions contemplated hereby.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE COMPANY

As of the Effective Date and the Phase I Closing Date, the Company hereby represents and warrants to Buyer as follows:

4.1 **Organization and Qualification.** The Company is duly organized, validly existing and in good standing as a limited liability company under the laws of the State of Connecticut.

4.2 **Corporate Authority.** The Company has all requisite power and authority necessary to carry on the businesses in which it is engaged and in which it presently proposes to engage, and to own and use the properties owned and used by it, and (ii) to enter into this Agreement and consummate the transactions contemplated hereby. All corporate action on the part of the Company and its officers necessary for the authorization, execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby shall have been taken prior to the Phase I Closing or the Phase II Closing, as applicable.

4.3 **Binding Effect.** This Agreement constitutes the legal, valid and binding obligation of the Company, enforceable in accordance with its terms except as the same may be restricted, limited or delayed by applicable bankruptcy or other laws affecting creditors' rights generally or by equitable principles and except as to the remedy of specific performance which may not be available under the laws of various jurisdictions.

4.4 **No Violations.** The execution, delivery and performance of this Agreement by the Company and the consummation of the transactions contemplated hereunder will not (a) violate in any material respect any provision of, result in the breach of, or constitute a default under, any law or any order, writ, injunction or decree of any court, governmental agency or arbitration tribunal; (b) constitute a violation of or a default under, or a conflict with, any material term or provision of the Operating Agreement (hereinafter defined); (c) constitute a violation of any material provision or a default under any material contract, commitment, indenture, lease, instrument or other agreement, or any other restriction of any kind to which the Company is a party or is bound; (d) result in the creation of any encumbrance, claim, or obligation under any security agreement, indenture, mortgage, lien or other agreement to which the Company is a party or by which the assets of the Company are bound; or (e) cause, or give any party grounds to cause (with or without notice, the passage of time or both) the maturity of any material liability or obligation of the Company to be accelerated, or increase any such liability or obligation.

4.5 **Organization and Ownership of the Company.**

(a) Schedule 4.5(a) sets forth a list of all of the members of the Company and the percentage membership interest held by each member, which represents all of the issued and outstanding membership interests in the Company. All of the issued and outstanding membership interests in the Company have been duly authorized and are validly issued, fully paid, and non-assessable.

(b) A true and correct copy of the current Operating Agreement of the Company, and all modifications, amendments, renewals and extensions thereto, are attached hereto

as Schedule 4.5(b) (the “**Operating Agreement**”). Neither the Company, nor any member of the Company, is in default under or in violation of any material provision of the Operating Agreement or the Company’s articles of organization.

(c) Other than the Operating Agreement, there is no outstanding subscription, option, convertible or exchangeable security, preemptive right, warrant, call or agreement (other than this Agreement) relating to the membership interests in the Company or other obligation or commitment of the Company to issue any membership interests and there are no voting trusts or other agreements, arrangements or understandings applicable to the exercise of voting or any other rights with respect to any membership interests in the Company.

(d) The Company has no direct or indirect ownership interest, by way of stock ownership or otherwise, in any other limited partnership, limited liability company, corporation, association or business enterprise other than the Center.

4.6 Real Property. The Company does not own any real property. The premises leased to the Company (the “**Leased Premises**”) under the lease described in Schedule 4.6 (the “**Lease**”) constitute all real properties used or occupied by the Company in connection with the operation of the Center. The Company is in compliance with the terms of the Lease. The Leased Premises are in compliance in all material respects with all applicable zoning requirements, codes, ordinances and other laws, regulations and requirements, and the consummation of the transactions contemplated herein will not result in a violation of any such law or regulation or the termination of any applicable variance from any such law or regulation now existing. No portion of the Center is subject to any pending or, to the Knowledge of the Company, threatened condemnation proceeding. To the Company’s Knowledge, the buildings, plants and structures, including heating, ventilation and air conditioning systems, roof, foundation and floors, of the Center are in operating condition, subject to ordinary wear and tear, and are not in violation of any zoning or other laws or regulations. There are no leases, subleases, licenses, concessions or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the Center. The Center is supplied with utilities and other services necessary for the operation of such facilities.

4.7 Assets of the Company.

(a) Except as set forth on Schedule 4.7(a), the Company has good title to, or the right to use pursuant to valid leases or licenses, all of the assets necessary or appropriate for the continued operation of the Center consistent with past practices, free and clear of all liens, charges, encumbrances or other claims.

(b) The assets owned, leased or licensed by the Company constitute all of the assets used or held for use by the Company in the operations of the Center and such assets are adequate in all material respects to carry on the operations of the Center as they are presently conducted. The inventory of goods and supplies used or maintained in connection with or located in the Center, including, but not limited to, cleaning materials, disposables, linens, consumables, office supplies, and drugs and medical supplies, consists of a quality and quantity usable and saleable in the ordinary course of business as currently conducted. Except as set forth on Schedule 4.7(b), all of the properties and assets of the Company are in good operating condition and repair, free from any defects (except such minor defects as do not interfere with the use thereof in the

conduct of normal operations), ordinary wear and tear excepted, and are available for immediate use in the conduct of the operations of the Center.

4.8 Contracts. Schedule 4.8 contains a list of all of the contracts, leases, instruments and commitments to which the Company is a party or by which it is bound (the "Contracts"). The Company has made available to Buyer a copy of each Contract. Each Contract constitutes the valid and legally binding obligations of the Company and is enforceable by and against the Company in accordance with their respective terms. Each Contract constitutes the entire agreement by and between the respective parties thereto with respect to the subject matter thereof. All obligations required to be performed by the Company under the terms of the Contracts have been performed, no act or omission by the Company has occurred or failed to occur which, with the giving of notice, the lapse of time or both would constitute a material default under the Contracts, and each Contract is now and will be upon and after the Phase I Closing Date, in full force and effect on the part of the Company. To the Knowledge of the Company, each other party that has or had any material obligation or liability under any Contracts is and has been in compliance, in all material respects, with the terms and requirements of the Contract. The Company has not given or received any unresolved written notice regarding any actual, alleged, possible, or potential material violation or breach of, or default under, any Contract. There are no renegotiations of, attempts to renegotiate, or outstanding rights to renegotiate any Contract and no party has made written demand for such renegotiation. The consummation of the transactions contemplated herein will not result in any penalty or loss of any material rights, remedies or benefits to the Company under the Contracts. Except as set forth on Schedule 4.8, none of the Contracts require consent or will be breached as a result of the transactions contemplated by this Agreement. Except as set forth on Schedule 4.8, no party to any of the Contracts has given written notice that it intends to terminate the Contract or withhold its consent to the transactions contemplated by this Agreement.

4.9 Related Party Transactions. Except as set forth in Schedule 4.9, no Seller, member, manager, officer or director of the Company has any material direct or indirect financial or economic interest in any competitor or supplier of the Company, and the Company is not a party to any transaction or proposed transaction (including, without limitation, the leasing of property or the purchase or sale of materials or goods) with any Seller, member, manager, officer or director of the Company or any Affiliate or family member thereof. The Company is not a guarantor of any indebtedness of any other individual, limited partnership, limited liability company, corporation, association or business enterprise.

4.10 Compliance with Law. The Company is in compliance, in all material respects, with all applicable federal, state and local laws, regulations, and administrative orders.

4.11 Healthcare Matters.

(a) The Company is in compliance, in all material respects, with all applicable federal, state and local laws, regulations, administrative orders and requirements of any governmental authority related to the health care matters, including, but not limited to, statutes and regulations governing the Medicare and Medicaid programs, state laws and regulations governing the licensure and operation of ambulatory surgery centers, the Federal Health Care Program anti-kickback law, 42 U.S.C. §§1320a-7b et seq. and the regulations promulgated thereunder

(commonly referred to as the “**Anti-Kickback Law**”), the federal physician self-referral law, 42 U.S.C. §§1395nn et seq. and the regulations promulgated thereunder (commonly referred to as the “**Stark Law**”), the federal civil False Claims Act, 31 U.S.C. §§ 3729 et seq., the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d et seq. and 42 C.F.R. Subparts 160, 162 and 164 (commonly referred to as “**HIPAA**”). The Company has timely filed all reports, returns, data, and other information required by all governmental authorities which control, directly or indirectly, any of such entity’s activities to be filed therewith, including, but not limited to, all Medicare quality reporting requirements applicable to the Center as a condition to receiving full reimbursement from the Medicare program. No such report or return has been inaccurate, incomplete or misleading in any material respect.

(b) The Center is licensed by the Connecticut Department of Public Health as an ambulatory surgical center, and the Company possesses all other permits, licenses, certificates of occupancy, certificates of completion, environmental and utility permits and approvals, and all other authorizations from each governmental authority necessary with respect to the ownership and operation of the Center by the Company (collectively, the “**Permits**”), a list of which is attached hereto as Schedule 4.11(b). None of the Permits are subject to any conditions or requirements other than those that are generally imposed on the holders of similar permits, licenses or other approvals; all of the Permits are valid and in full force and effect; and no proceeding is pending or, to the Knowledge of the Company, threatened, to revoke, suspend, cancel, terminate or otherwise adversely modify any of the Permits. The Company is in compliance in all material respects with the terms of all of the Permits, and all fees and charges with respect to such Permits that are due and payable as of or prior to the date hereof have been paid in full.

(c) The Center is certified for participation or enrollment in the Medicare and Medicaid programs as an ambulatory surgical center, has a current and valid provider contract with each of the Medicare and Medicaid programs, is in material compliance with the conditions of participation of such programs, and has received all approvals or qualifications necessary for reimbursement from such programs. The Company has not received a written notice from any governmental authority which enforces the statutory or regulatory provisions in respect to either the Medicare or Medicaid program of any pending or, to the Knowledge of the Company, threatened investigations with respect to the Center.

(d) Neither the U.S. Department of Health and Human Services nor any state agency has conducted or given the Company written notice that it intends to conduct any audit or other review of the Company’s participation in the Medicare or Medicaid programs.

(e) The Center is duly accredited, with no contingencies, by Accreditation Association for Ambulatory Health Care, Inc. (“**AAAHC**”). A copy of the most recent accreditation letter from AAAHC pertaining to the Center has been made available to Buyer. Except as set forth on Schedule 4.11(e), the Company has not received any written notices of deficiency from AAAHC with respect to the Center’s current accreditation period that require or request any action or response by the Company or the Center, or any such deficiencies have been corrected or otherwise remedied. There are no ongoing or, to the Company’s Knowledge, threatened actions that could materially impair such accreditation.

(f) All billing practices of the Company with respect to the Center to all third party payors, including the Medicare, Medicaid and CHAMPUS/TriCare programs and private insurance companies, have been in material compliance with all applicable laws, regulations and policies of such third party payors and the Medicare, Medicaid and CHAMPUS/TriCare programs, and neither the Company nor the Center have billed or received any payment or reimbursement in excess of amounts allowed by law or by the Company's contracts with third party payors, except as and to the extent that liability for such overpayment has already been satisfied in full or is adequately reserved for in the Financial Statements (hereinafter defined).

(g) Except as set forth on Section 4.11(g), no application for any Certificate of Need, Exemption Certificate (each as defined below) or declaratory ruling has been made by the Company with OHCA or other applicable agency which is currently pending or open before such agency, and no such application (collectively, the "**Applications**") filed by the Company within the past three (3) years has been ultimately denied by any commission, board or agency or withdrawn by the Company. The Company has not prepared, filed, supported or presented opposition to any Applications filed by another health care provider or facility within the past three (3) years. Except as set forth on Schedule 4.11(g), the Company has neither any Applications pending nor any approved Applications which relate to projects not yet completed. As used in this section, "**Certificate of Need**" means a written statement issued by OHCA evidencing community need for a new, converted, expanded or otherwise significantly modified health care facility, health service or hospice, and "**Exemption Certificate**" means a written statement from OHCA stating that a health care project is not subject to the Certificate of Need requirements under applicable state law.

(h) Notwithstanding anything else in this Agreement to the contrary, Section 4.11 contains all representations and warranties of Seller relating to the health care matters covered in such Section 4.11.

4.12 Government Imposed Compliance Obligations, Etc. None of the Sellers, the Company or the Center (a) has been excluded from participation in any Federal health care program (as defined in 42 U.S.C. Section 1320a-7b(f)), (b) is a party to a Corporate Integrity Agreement with the Office of Inspector General of the Department of Health and Human Services, (c) has any reporting obligations pursuant to any settlement agreement entered into with any governmental authority, (d) has been the subject of any government payor program investigation conducted by any federal or state enforcement agency, (e) has been a defendant in any qui tam/False Claims Act or similar litigation, or (f) has been served with or received any search warrant, subpoena, civil investigative demand, contact letter, or telephone or personal contact by or from any federal or state enforcement agency.

4.13 Litigation, Court Orders and Decrees. Except as set forth in Schedule 4.13, there is no outstanding or, to the Knowledge of the Company, threatened, litigation, claim, investigation, proceeding, order, writ, injunction or decree of any court, governmental agency or arbitration tribunal against or affecting the Company or its assets. The Company has provided or made available to Buyer a complete list of all professional and general liability incidents, incident reports and malpractice claims that have occurred at the Center during the three (3) year period prior to the Effective Date. There is no outstanding or, to the Company's Knowledge, threatened, court order against the Company. None of the Sellers or the Company has received written notice of

any investigation by a governmental authority with respect to the Center, and to the Company's Knowledge, no governmental authority is currently conducting an investigation of the Company and no such investigation is being threatened.

4.14 **Taxes.** Except as set forth on Schedule 4.14, all federal, state and other Tax Returns required by law to be filed by the Company (including income Tax Returns) have been timely prepared and/or filed by the Company; the Company has paid or provided for all Taxes which have become due and payable by the Company pursuant to such Tax Returns, except for any Taxes of which the amount, applicability or validity is currently being contested in good faith by appropriate proceedings and with respect to which the Company has set aside on its books adequate reserves; and all such Tax Returns have been prepared in material compliance with all applicable laws and regulations and are true, correct and complete in all material respects. For purposes of this Agreement, "Tax" or "Taxes" means (a) any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Section 59A of the Code), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value-added, alternative or add-on minimum, estimated, or other tax that is imposed by law and payable to a government agency, including any interest, penalty, or addition thereto, whether disputed or not. For purposes of this Agreement, "Tax Returns" means any return, declaration, report, claim for refund, or information return or statement required to be filed with any taxing authority (i.e., any governmental authority, domestic or foreign, having jurisdiction over the assessment, determination, collection, or other imposition of any Taxes). The Company has not waived any statute of limitations relating to Taxes, and no written request for such waiver is outstanding. The Company is not currently subject to any Tax audit or examination by a governmental agency, and all Tax deficiencies asserted or assessed against the Company by any governmental agency have been paid or otherwise finally resolved. The Company is and at all times since its formation has been properly classified as a "partnership" for United States federal income Tax purposes in accordance with Code Section 7701(a)(2) and Treasury Regulation Section 301.7701-3(b)(1)(i).

4.15 **Employees; Independent Contractors.**

(a) Except as set forth on Schedule 4.15(a), all individuals working at the Center are employed by the Company. Schedule 4.15(a) sets forth the names and titles of all employees and independent contractors who are currently performing healthcare services on behalf of the Company or the Center, the rate of compensation (including bonuses) paid or being paid to each such individual as of the most recent practicable date, and the full or part-time status of each such employee of the Center. The employees and independent contractors listed on Schedule 4.15(a) include all of the persons who are in any way currently employed or so contracted by the Company.

(b) Schedule 4.15(b) contains a list of (i) all employment agreements to which the Company is a party, other than employment agreements terminable by either party at will and without any severance obligation on the part of the Company; and (ii) all other written agreements that entitle any employee to compensation or other consideration as a result of the acquisition by any person or entity of control of the Company.

(c) The Company is not a party to any collective bargaining agreement or other labor contract. The Company is not subject to any (i) unfair labor practice complaint pending before the National Labor Relations Board or any other federal, state, local or foreign agency; (ii) pending or, to the Knowledge of the Company, threatened labor strike, slowdown, work stoppage, lockout, or other organized labor disturbance; (iii) pending grievance proceeding; (iv) pending representation question; or (v) to the Knowledge of the Company, attempt by any union to represent employees as a collective bargaining agent.

(d) There are no pending or, to the Knowledge of the Company, threatened EEOC claims, OSHA complaints, wage and hour claims, unemployment compensation claims, workers' compensation claims or the like with respect to the Center.

(e) Schedule 4.15(e) lists all current qualified beneficiaries electing or eligible to elect continuation coverage in any group health plan sponsored by the Company or any of its Affiliates pursuant to the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA").

4.16 **Employee Benefit Plans.**

(a) Except as set forth on Schedule 4.16, the Company does not provide any employee benefit plans for employees of the Center. The benefit plans listed on Schedule 4.16 are referred to herein as the "**Benefit Plans.**" The Company has made available to Buyer true and complete copies of the underlying plan materials related to each Benefit Plan. Other than the Benefit Plans, the Company presently does not have, nor has it had within the last five (5) years, any pension, profit sharing, stock bonus plan, nonqualified deferred compensation plan, or other employee pension plan or arrangement in which employees of the Center participate or have participated.

(b) Except as set forth in Schedule 4.16, (i) all of the Benefit Plans have been administered in material compliance with all applicable laws including, without limitation, the applicable provisions of the Internal Revenue Code of 1986 ("**Code**"), the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**") and the Patient Protection and Affordable Care Act of 2010 ("**ACA**"); (ii) there are no "accumulated funding deficiencies" within the meaning of the Code under any of the Benefit Plans; (iii) no reportable events (within the meaning of ERISA) or prohibited transactions (within the meaning of both the Code and ERISA) have occurred under any of the Benefit Plans; (iv) there are no pending or, to the Company's Knowledge, threatened claims by or on behalf of any of the Benefit Plans or by any employee of the Company alleging a breach or breaches of fiduciary duties or violations of other applicable state or federal law that could result in liability on the part of the Company in connection with any of the Benefit Plans under any law, nor to the Knowledge of the Company is there any reasonable basis for such a claim (but for purposes of this clause (iv), excluding routine claims for benefits); (v) all returns, reports, disclosure statements, and premium payments required to be made under the Code, ERISA, or ACA with respect to any of the Benefit Plans have been timely filed, delivered, or paid; and (vi) none of the Benefit Plans have been audited or investigated by the Internal Revenue Service, the U.S. Department of Labor, the Pension Benefit Guaranty Corporation or the U.S. Department of Health and Human Services within the last five (5) years,

and there are no outstanding issues with reference to any of the Benefit Plans pending before any other governmental agency.

(c) None of the Benefit Plans are subject to the minimum funding requirements of Code Section 412, and none of the Benefit Plans are multi-employer plans as defined in ERISA Section 3(37). The Company has made no commitment to any employee to adopt, amend, modify or terminate any Benefit Plan in connection with the consummation of the transactions contemplated by this Agreement or otherwise.

4.17 **Environmental Conditions; Medical Waste.**

(a) The Company and the Center are currently in material compliance with all Environmental Laws, including, but not limited to, the possession by the Company of all permits and other governmental authorizations required under applicable Environmental Laws to operate the Center as currently operated and is in material compliance with the terms and conditions thereof. Neither the Company nor the Center has received any written communication from a governmental agency that alleges that such entity is not in material compliance with Environmental Laws, and, to the Company's Knowledge, there are no circumstances that may prevent compliance with Environmental Laws in the future.

(b) The Company has not stored any Hazardous Substances at the Center except in material compliance with applicable Environmental Laws.

(c) Neither the Company nor the Center has disposed of or released any Hazardous Substances except in material compliance with applicable Environmental Laws.

(d) Neither the Company, nor the Center has utilized any transporters or disposal facilities for the transport or disposal of Hazardous Substances, other than Medical Waste.

(e) With respect to the generation, transportation, treatment, storage, and disposal, or other handling of Medical Waste, the Company has complied in all material respects with all Medical Waste Laws.

(f) The following terms shall have the following meanings:

(i) "**Environmental Laws**" means the federal, state, regional, county or local environmental, health or safety laws in effect on the date hereof relating to the use, refinement, handling, treatment, removal, storage, production, manufacture, transportation or disposal, emissions, discharges, releases or threatened releases of Hazardous Substances, or otherwise relating to protection of human health or the environment (including, but not limited to, ambient air, surface water, ground water, land surface or subsurface strata).

(ii) "**Hazardous Substances**" means any toxic or hazardous waste, pollutants or substances, including, without limitation, asbestos containing materials, polychlorinated biphenyls, petroleum products, byproducts, or other hydrocarbon substances, substances defined or listed as a "hazardous substance," "toxic substance," "toxic pollutant" or similarly identified substance or mixture, in or pursuant to any Environmental Law.

(iii) “**Medical Waste**” means (A) pathological waste; (B) blood; (C) sharps; (D) waste from surgery or autopsy; (E) dialysis waste, including contaminated disposable equipment and supplies; (F) cultures and stocks of infectious agents and associated biological agents; (G) contaminated animals; (H) isolation waste; (I) contaminated equipment; (J) laboratory waste; (K) various other biological waste and discarded materials contaminated with or exposed to blood, excretion or secretions from human beings or animals; and (L) any substance, pollutant, material or contaminant listed or regulated under the Medical Waste Tracking Act of 1988, 42 U.S.C. Sections 6992, et seq.

(iv) “**Medical Waste Law**” means any Laws that regulate Medical Waste, or impose requirements relating to Medical Waste, including, without limitation, the Medical Waste Tracking Act of 1988, 42 U.S.C. Sections 6992, et seq.; the U.S. Public Vessel Medical Waste Anti-Dumping Act of 1988, 33 USCA Sections 2501 et seq., the Marine Protection, Research, and Sanctuaries Act of 1972, 33 USCA Sections 1401 et seq., the Occupational Safety and Health Act, 29 USCA Sections 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.

4.18 **Medical Staff Matters.** Schedule 4.18 contains a list of all providers in good standing on the medical staff of the Center. There are no pending or, to the Knowledge of the Company, threatened disputes with staff members or allied health professionals who practice at the Center. None of the providers on the medical staff of the Center have, to the Knowledge of the Company, threatened to quit, relocate or retire.

4.19 **No Brokers.** Except as set forth on Schedule 4.19, neither the Company nor any person acting on its behalf has paid or become obligated to pay any fee or commission to any broker, finder or intermediary for or on account of the transactions contemplated by this Agreement.

4.20 **Insurance Coverage.** The Company maintains in full force and effect, with no premium arrearages, the insurance policies, including, but not limited to, the liability and hazard, medical malpractice, and workers’ compensation insurance policies, bearing the numbers, for the terms, with the companies, in the amounts and providing the coverage set forth in Schedule 4.20. True and correct copies of all such policies and all endorsements thereto have been made available to Buyer. Schedule 4.20 sets forth a list of all current claims, and any claims filed within the past three (3) years, for any loss in excess of \$5,000.00 per occurrence filed by or against the Company, any employee of the Company or any leased employees providing services at the Center, including workers’ compensation, general liability and professional malpractice liability claims. Except as set forth in Schedule 4.20, none of such insurance policies require consent or will be breached as a result of the sale of the Transferred Interests to Buyer.

4.21 **Financial Statements.** The Company has delivered to Buyer copies of the following financial statements of or pertaining to the Center and its operations (“**Financial Statements**”), which Financial Statements are maintained on a cash basis, and copies of which are attached hereto as Schedule 4.21:

(a) Unaudited Balance Sheet dated as of August 31, 2016 (the “**Balance Sheet Date**”);

(b) Unaudited Income Statement for the eight (8) month period ended on the Balance Sheet Date; and

(c) Unaudited Balance Sheets and Income Statements for the fiscal years ended December 31, 2015, 2014 and 2013.

The Financial Statements are true, correct and complete in all material respects and have been prepared in accordance with the cash basis of accounting, except as set forth on Schedule 4.21. The Financial Statements present fairly the financial position of the Company, as of the respective dates thereof and the results of operations for the periods indicated; the Company does not have any liabilities which are not reflected on the Financial Statements other than ordinary course liabilities not required to be shown as liabilities on a balance sheet under the cash basis of accounting and liabilities which have arisen in the ordinary course of business since the Balance Sheet Date. The Company maintains proper and adequate internal accounting controls and accurate books of account and other financial records of the Center which (a) reflect all items of income and expense and all assets and liabilities required to be reflected therein in accordance with the cash basis of accounting applied on a basis consistent with the past practices of the Company; and (b) are accurate and complete in all material respects.

4.22 Certain Post-Balance Sheet Results. Except as set forth in Schedule 4.22 hereto, since the Balance Sheet Date there has not been any:

(a) material damage, destruction, or loss (whether or not covered by insurance) affecting the Center or the Company’s assets;

(b) material adverse changes in the condition, financial or otherwise, of the Company, the business or prospects of, or in the results of operations of, the Center that would have a financial impact in an amount equal to \$140,000 or more;

(c) sale, assignment, transfer or disposition of any item of property or equipment included in the Company’s assets (other than supplies) with a book value greater than \$10,000 in the aggregate, except in the ordinary course of business with comparable replacement thereof;

(d) disposal of any of the Company’s assets, writing down of the value of any of the Company’s assets which are capital assets, or writing off as uncollectible any account receivable (excluding contractual adjustments and charity care) in excess of \$20,000 in the aggregate;

(e) except as in the ordinary course of business, consistent with past practice, or as required by law or the terms of any Benefit Plan (i) increases in the compensation payable to any employees or independent contractors at the Center, or (ii) any increase in, or institution of, any bonus, insurance, pension, profit-sharing or other employee benefit plan, remuneration or arrangements made to, for or with such employees;

(f) changes in the rates charged by the Center for its services, other than those made in the ordinary course of business;

(g) changes in the accounting methods or practices employed by the Company or changes in depreciation or amortization policies;

(h) other than in the ordinary course of business, incurrences of any indebtedness or material liabilities of the Company;

(i) capital expenditures by the Company in excess of \$20,000 in the aggregate;

(j) other than in the ordinary course of business, incidences wherein the Company paid, discharged or satisfied any claims, liabilities or obligations (absolute, accrued, contingent or otherwise);

(k) canceled debts or waived claims or rights by the Company, other than any accounts receivables written off in the ordinary course of its business;

(l) any redemption of any of the ownership in the Company or any declared, made or paid special bonuses, dividends or distributions to any of the owners or members of the Company;

(m) amendments to or terminations of any Contract except in the ordinary course of business; or

(n) material transactions pertaining to the Center by the Company outside the ordinary course of business.

4.23 **Receivables.** Schedule 4.23 provides an accurate list and aging of all accounts receivable, notes receivable, and other receivables of the Company arising from the operation of the Center in the ordinary course of business, consistent with past practice, as of October 31, 2016 (the "**Receivables**"). The Receivables represent valid obligations of patients/third party payors of the Company arising from bona fide transactions entered into in the ordinary course of business, consistent with past practice. On the Phase I Closing Date, the Company will provide to Buyer an accurate list and aging of all accounts receivable, notes receivable, and other receivables of the Company arising from the operation of the Center in the ordinary course of business, consistent with past practice, as of the most recent month end (as of the Phase I Closing Date) that is available (the "**Updated Receivables**"). The Updated Receivables will represent valid obligations of patients/third party payors of the Company arising from bona fide transactions entered into in the ordinary course of business, consistent with past practice. Notwithstanding the foregoing, the Company neither represents nor warrants that all (or any portion) of the Receivables or the Updated Receivables will be collected.

4.24 **Trademarks.** Schedule 4.24 contains a complete and accurate list of all fictional business names, trade names, registered and unregistered trademarks, service marks and applications of the Company (collectively, the "**Marks**"). For each registered Mark, Schedule 4.24 lists the registration number and the jurisdiction of registration beside each Mark. No Mark has been or is now involved in any opposition, invalidation or cancellation.

4.25 **Unclaimed Property.** All unclaimed property (escheat) filings required to be filed by or on behalf of the Company have been timely filed with the appropriate governmental authority or requests for extensions have been timely filed and any such extensions have not expired, each such unclaimed property (escheat) filing was true, complete and correct in all material respects, and all unclaimed property (escheat) filings for which the Company is otherwise liable have been paid in full or, to the extent are not yet due, have been adequately reserved against on the Financial Statements.

4.26 **Bank Accounts.** Set forth on Schedule 4.26 is a detailed listing of all bank accounts held by or in the name of the Company.

4.27 **No Untrue or Inaccurate Representation or Warranty.** This Agreement and Schedules hereto and all Closing Documents (as defined below) furnished and to be furnished to Buyer and its representatives by the Sellers pursuant hereto do not and will not include any untrue statement of a material fact or omit to state any material fact necessary to make the statements made and to be made not misleading. The term “**Closing Documents**” means those documents executed and delivered at the Phase I Closing and the Phase II Closing pursuant to Sections 2.2 and 2.4 above.

4.28 **Knowledge.** For the purposes of this ARTICLE IV, the terms “**Company’s Knowledge**,” “**Knowledge of the Company**” and words of similar import shall mean (i) any matters with respect to which the Company or the Center has received written notice, and (ii) the collective actual knowledge, obtained after reasonable investigation, of the administrator of the Center and the members of the Company’s Board of Managers, and the following individuals: Matt Searles, Rich Searles and Bill Mulhall.

ARTICLE V **REPRESENTATIONS AND WARRANTIES OF BUYER**

As of the Effective Date, the Phase I Closing Date and the Phase II Closing Date, Buyer represents and warrants to the Sellers as follows:

5.1 **Organization.** Each of Buyer and SCA are duly organized, validly existing and in good standing as a limited liability company under the laws of the State of Delaware.

5.2 **Corporate Authority.** Each of Buyer and SCA has all requisite power and authority necessary to enter into this Agreement and consummate the transactions contemplated hereby. All corporate action on the part of Buyer and SCA and each of their officers necessary for the authorization, execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby shall have been taken prior to the Phase I Closing or the Phase II Closing, as applicable.

5.3 **Binding Effect.** This Agreement constitutes the legal, valid and binding obligation of each of Buyer and SCA, enforceable in accordance with its terms except as the same may be restricted, limited or delayed by applicable bankruptcy or other laws affecting creditors’ rights generally or by equitable principles and except as to the remedy of specific performance which may not be available under the laws of various jurisdictions.

5.4 No Violations. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby will not (a) violate any provision of, result in the breach of, or constitute a default under, any law or any order, writ, injunction or decree of any court, governmental agency or arbitration tribunal; or (b) constitute a violation of or a default under any material contract, commitment, indenture, lease, instrument or other agreement, or any other restriction of any kind to which Buyer is a party or bound, including but not limited to any governing document of any ambulatory surgery center, physician practice or other form of medical organization in which Buyer or any Affiliate owns an interest as of the Effective Date.

5.5 No Brokers. Neither Buyer nor any person acting on behalf of Buyer has paid or become obligated to pay any fee or commission to any broker, finder or intermediary for or on account of the transactions contemplated by this Agreement.

5.6 Litigation. There is no litigation pending or, to Buyer's knowledge, threatened against Buyer at law or in equity or before any court, legislative or administrative tribunal or governmental agency which questions the validity of this Agreement or which, if adversely determined or publicly disclosed, would have a material adverse effect on the business or operations of the Company. There is no litigation pending or, to Buyer's knowledge, threatened, which questions the validity of this Agreement or which, if adversely, determined or publicly disclosed, could reasonably be expected to (i) adversely affect the ability of Buyer to consummate the transactions contemplated by this Agreement, (ii) result in a material adverse effect on the Center or (iii) materially impair the operation of the Center after the Phase I Closing or the Phase II Closing in substantially the same manner as currently conducted.

5.7 Available Funds. Buyer and SCA each shall have as of the Phase I Closing Date and the Phase II Closing Date, respectively, a sufficient amount of cash, lines of credit or other sources of immediately available funds to pay the Phase I Purchase Price and the Phase II Purchase Price, respectively, and to make all other payments required by it in connection with the transactions contemplated hereby.

5.8 Compliance with Laws; Regulatory Compliance. Buyer is in compliance in all material respects with all applicable healthcare laws. Buyer has not received notice from any governmental authority of, or notice of any investigation by any governmental authority of, a material violation of any applicable laws relating to or affecting the operations of Buyer.

5.9 Certain Securities Matters. Buyer (a) is acquiring the Transferred Interests for investment for its own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, (b) has no present intention of selling or granting any participation in the Transferred Interests, (c) does not presently have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations with respect to all or any portion of the Transferred Interests, (d) understands that the Transferred Interests have not been, and will not be, registered under any federal or state securities laws, by reason of a specific exemption from the registration provisions of such laws that depends upon, among other things, the bona fide nature of the investment intent and the accuracy of its representations as expressed herein, (e) understands that no public market now exists for the Transferred Interests and that the Company makes no assurance or representations that a public market will ever exist for the Purchased Interests, and (f) has had an opportunity to ask questions and receive answers

concerning the Company and the Transferred Interests and has had full access to such other information concerning the Company and the Transferred Interests as Buyer has requested.

ARTICLE VI
COVENANTS AND AGREEMENTS OF THE SELLERS AND THE COMPANY

The Sellers and the Company covenant and agree that from the date of this Agreement through the Phase II Closing, and thereafter if so specified, the Sellers and/or the Company, as applicable, will fulfill the following covenants and agreements unless otherwise consented to by Buyer in writing.

6.1 Consents. The Sellers and the Company shall use commercially reasonable efforts to obtain all consents, authorizations and approvals (in form and substance acceptable to Buyer) required to be obtained from any person, entity or governmental agency as a result of the transactions contemplated under this Agreement.

6.2 Access to Information. The Sellers and the Company shall (i) afford to Buyer reasonable access, during normal business hours, upon reasonable advance notice to an officer of the Company, to the offices, properties, executive employees and business, tax and accounting records (including computer files, retrieval programs and similar documentation) of the Company to the extent Buyer shall reasonably deem such access necessary or desirable; and (ii) furnish to Buyer such additional information concerning the Company as shall be reasonably requested. Buyer agrees that its investigation shall be conducted in such a manner as not to interfere unreasonably with the operations of the Center.

6.3 Operations Prior to the Phase II Closing Date. Except as otherwise contemplated herein, the Company shall operate and carry on its business in the ordinary course, and not make any material change in personnel, operations, insurance, finance, accounting policies, the Permits, or real or personal property pertaining to the Center. The Company shall continue to perform all of its obligations under the agreements relating to or affecting the Center consistent with past practice and shall use commercially reasonable efforts to maintain and preserve the business organization intact, retain the present employees at the Center and maintain its relationships with physicians, suppliers, customers, and others having business relations with the Center. Without limiting the provisions of this Section 6.3, except as otherwise contemplated by this Agreement, or with the written approval of Buyer (which Buyer agrees shall not be unreasonably withheld or delayed), between the date hereof and the Phase II Closing, the Company shall not take any action that, if taken between the Balance Sheet Date and the date of this Agreement would render the representations contained in Section 4.21 or 4.22 inaccurate.

6.4 No-Shop Clause. From and after the Effective Date until the Phase II Closing or the termination of this Agreement, without the prior written consent of Buyer or except as otherwise permitted by this Agreement: (i) no Seller will sell or offer for sale any portion of his or her membership interest in the Company; (ii) the Company will not offer for sale or lease all or any material portion of the assets of the Company or any ownership interest in the Company (in connection with a merger or consolidation of the Company or otherwise), (iii) no Seller or the Company will solicit offers, initiate, encourage or provide any documents or information to any third party in connection with, discuss or negotiate with any person regarding any inquiries,

proposals or offers relating to any such transaction; and (iv) no Seller or the Company will enter into any agreement or discussions with any party (other than Buyer) with respect to any such transaction. The Company and each Seller shall communicate promptly to Buyer the substance of any inquiry or proposal concerning any such transaction.

6.5 Tail Insurance. To the extent the Company's general and professional liability insurance coverages are maintained on a "claims made" basis, then at or prior to the Phase I Closing, the Sellers shall cause the Company to obtain "tail" insurance to insure the Company and the Center against professional and general liabilities of the Center relating to all periods prior to the Phase I Closing. Such insurance shall have coverage levels equal to the current policies insuring the Company and shall be for the longest tail period offered by the Company's insurers. The costs of obtaining such "tail" insurance coverages shall be allocated fifty percent (50%) to be paid by Buyer and fifty percent (50%) to be paid by the Sellers at the Phase I Closing.

6.6 Termination of 401(k) Plan. The Sellers shall cause the Company's Board of Managers to adopt a written consent action on or before the day immediately preceding the Phase I Closing Date, providing for the termination of the Company's 401(k) plan as of such date.

6.7 Long-Term Debt Guarantees and Lease Guarantees.

(a) Treatment at the Phase I Closing. To the extent there remains any Seller guarantees with respect to the Long-Term Debt or the Lease (collectively, the "**Debt and Lease Guarantees**"), the Sellers will use commercially reasonable efforts to cause, as of the Phase I Closing, (i) each of MHH-Norwich and Merritt (including Merritt Investors, as applicable) to be released, in full, from their Debt and Lease Guarantees; and (ii) any Debt and Lease Guarantees to be amended such that each Physician Seller shall guarantee his or her pro-rata share based on that Physician Seller's Interim Ownership Interests (as set forth on Exhibit A).

(b) Treatment at the Phase II Closing. To the extent the Long-Term Debt remains outstanding and/or the Debt and Lease Guarantees are in place at the Phase II Closing, the Sellers will use commercially reasonable efforts to cause the Debt and Lease Guarantees to be amended as of the Phase II Closing such that each Physician Seller shall guarantee his or her pro-rata share based on that Physician Seller's Post-Transaction Ownership Interest (as set forth on Exhibit A).

(c) Execution of Guarantees; Cross-Indemnity Agreement. In connection with obtaining the amendments to the Debt and Lease Guarantees as contemplated above in this Section 6.7, to the extent that any Physician Seller has not previously executed a Debt and Lease Guarantee, each Physician Seller shall execute a Debt and Lease Guarantee for his or her pro-rata share based on the Physician Seller's Pre-Transaction Ownership Interests and/or Post-Transaction Ownership Interests (each as set forth on Exhibit A), as applicable. The Physician Sellers shall execute a Cross-Indemnity Agreement in a form as mutually to by the parties which shall be effective as of the Phase I Closing Date until terminated pursuant to the terms and condition set forth therein.

ARTICLE VII
COVENANTS AND AGREEMENTS OF BUYER

Buyer covenants and agrees that from the date hereof through the Phase II Closing, unless otherwise consented to by the Sellers' Committee in writing, it will fulfill the following covenants and agreements:

7.1 Consents. Buyer shall use best efforts to obtain all consents, authorizations and approvals (in form and substance acceptable to the Sellers' Committee) required to be obtained from any person, entity or governmental agency as a result of the transactions contemplated under this Agreement.

7.2 Employees. On or about January 1, 2017 (the "**Hire Date**"), SCA shall offer employment to each active employee of the Company who is in good standing as of the Hire Date and who satisfies SCA's standard employment requirements for new employees (as determined in the sole discretion of SCA), in positions, and having salaries and wages, consistent with the position, salaries and wages of each such employee immediately prior to the Hire Date. Each such employee who accepts an offer of employment from SCA shall be referred to herein as a "**Hired Employee**." As of the Hire Date, SCA shall provide benefits to the Hired Employees identical to those benefits offered to similarly situated (by position, salary type, and tenure) employees of SCA and its Affiliates. SCA shall recognize the seniority of each Hired Employee while in the employ of the Company for purposes of determining eligibility, vesting and the rate of benefit accrual (but not actual benefit accrual for periods prior to the Hire Date) for benefits available to Hired Employees under any of SCA's current or future employee welfare benefit plans; provided, however, that no such credit need be given in respect of any new plan commenced or participated in by SCA in which no prior service credit is given or recognized to or for other plan beneficiaries. In extending such benefits, SCA shall (i) waive any preexisting condition exclusions for the Hired Employees and their dependents, except to the extent such Hired Employees have not satisfied such exclusions under the current welfare benefit plans of the Company, and (ii) provide for recognition of or credit for all deductibles paid by such Hired Employees during the current period while in the employ of the Company.

7.3 Guarantees; Cross-Indemnity Agreement. Buyer will cooperate in good faith with the Sellers to obtain releases (or partial releases, as applicable) of the Debt and Lease Guarantees as contemplated by Section 6.7, including the execution of Debt and Lease Guarantees by Buyer to guarantee its pro-rata share of the Company's obligations based on and contemporaneously with (i) Buyer's percentage of ownership interest in the Company as of the Phase I Closing, and (ii) Buyer's percentage of ownership interest in the Company as of the Phase II Closing. Buyer shall execute a Cross-Indemnity Agreement in a form mutually agreed to by the parties which shall be effective as of the Phase I Closing Date until terminated pursuant to the terms and condition set forth therein.

7.4 401(k) Loans. Buyer will cooperate in good faith to facilitate the Company employees Rae-Jean Trantalis and Lisa Field to borrow funds from SCA's employee welfare benefit plan to repay the amounts owed by such individuals to the Company in connection with this transaction and the termination of the Company's 401(k) plan.

ARTICLE VIII
CLOSING CONDITIONS OF THE SELLERS

8.1 **Phase I Closing Conditions.** The Sellers shall not be obligated to consummate the transactions contemplated hereby at the Phase I Closing, unless each of the following conditions is fulfilled or performed (unless expressly waived in writing by the Sellers' Committee) prior to or at the Phase I Closing.

(a) **Representations and Warranties True.** All of the representations and warranties made by Buyer in this Agreement shall be true as of the Phase I Closing Date; Buyer shall have performed and complied in all material respects with all covenants and conditions required by this Agreement to be performed or complied with by it prior to or at the Phase I Closing. Buyer shall have delivered to the Sellers' Committee a certificate dated as of the Phase I Closing Date, as applicable, certifying to the truth of such representations and warranties as of the Phase I Closing, and to the fulfillment of such covenants and conditions.

(b) **No Obstructive Proceeding.** No action or proceedings shall have been instituted against, and no order, decree or judgment of any court, agency, commission or governmental authority shall be subsisting against the Company or any of the Sellers which seeks to, or would, render it unlawful as of the Phase I Closing, as applicable, to effect the transactions contemplated hereby in accordance with the terms hereof, and no such action shall seek damages in a material amount by reason of the transactions contemplated hereby. Also, no substantive legal objection to the transactions contemplated by this Agreement shall have been received from or threatened by any governmental department or agency.

(c) **Cross-Indemnity Agreement.** Sellers shall have received a Cross Indemnity Agreement (as contemplated by Section 6.7);

(d) **Consents and Approvals.** Each of the parties to any agreement or any instrument under which the transactions contemplated hereby would constitute or result in a default or acceleration of obligations shall have given such consent as may be necessary to permit the consummation of the transactions contemplated hereby without constituting or resulting in a default or acceleration under such agreement or instrument, and any consents or approvals required from any public or regulatory agency or organization having jurisdiction over the Center or the transactions contemplated hereby shall have been given.

(e) **Proceedings and Documents Satisfactory.** All proceedings in connection with the transactions contemplated hereby and all certificates and documents delivered to the Sellers' Committee pursuant to this Agreement shall be satisfactory in form and substance to the Sellers' Committee and the Sellers' counsel acting reasonably and in good faith. All documents required to have been delivered by Buyer to the Sellers at or prior to the Phase I Closing shall have been delivered, and all actions required to have been taken by Buyer at or prior to such times shall have been taken.

8.2 **Phase II Closing Conditions.** The Sellers shall not be obligated to consummate the transactions contemplated hereby at the Phase II Closing, unless each of the following

conditions is fulfilled or performed (unless expressly waived in writing by the Sellers' Committee) prior to or at the Phase II Closing.

(a) Representations and Warranties True. All of the representations and warranties made by Buyer in this Agreement shall be true at the time of the Phase II Closing Date; Buyer shall have performed and complied in all material respects with all covenants and conditions required by this Agreement to be performed or complied with by it prior to or at the Phase II Closing. Buyer shall have delivered to the Sellers' Committee a certificate dated as of the Phase II Closing Date, as applicable, certifying to the truth of such representations and warranties as of the Phase II Closing, and to the fulfillment of such covenants and conditions.

(b) No Obstructive Proceeding. No action or proceedings shall have been instituted against, and no order, decree or judgment of any court, agency, commission or governmental authority shall be subsisting against the Company or any of the Sellers which seeks to, or would, render it unlawful as of the Phase II Closing, as applicable, to effect the transactions contemplated hereby in accordance with the terms hereof, and no such action shall seek damages in a material amount by reason of the transactions contemplated hereby. Also, no substantive legal objection to the transactions contemplated by this Agreement shall have been received from or threatened by any governmental department or agency.

(c) Consents and Approvals. Each of the parties to any agreement or any instrument under which the transactions contemplated hereby would constitute or result in a default or acceleration of obligations shall have given such consent as may be necessary to permit the consummation of the transactions contemplated hereby without constituting or resulting in a default or acceleration under such agreement or instrument, and any consents or approvals required from any public or regulatory agency or organization having jurisdiction over the Center or the transactions contemplated hereby shall have been given, including, without limitation, the CON Approval.

(d) Proceedings and Documents Satisfactory. All certificates, documents and actions contemplated under Section 2.4 of this Agreement shall have been completed, delivered to the Sellers' Committee and be satisfactory in form and substance to the Sellers' Committee and the Sellers' counsel acting reasonably and in good faith.

ARTICLE IX

CLOSING CONDITIONS OF BUYER

9.1 Phase I Closing Conditions. Buyer shall not be obligated to consummate the transactions contemplated hereby at the Phase I Closing unless each of the following conditions is fulfilled or performed (unless expressly waived in writing by Buyer) prior to or at Phase I Closing.

(a) Representations and Warranties True. All of the representations and warranties made by the Sellers and the Company in this Agreement shall be true as of the Phase I Closing Date; the Sellers and/or the Company, as applicable, shall have performed or complied in all material respects with all covenants and conditions required by this Agreement to be performed or complied with by them prior to or at the Phase I Closing. The Sellers' Committee and the Company shall have delivered to Buyer a certificate dated as of the Phase I Closing Date certifying

to the truth of such representations and warranties as of the Phase I Closing, as applicable, and to the fulfillment of such covenants and conditions.

(b) No Obstructive Proceeding. No action or proceedings shall have been instituted against, and no order, decree or judgment of any court, agency, commission or governmental authority shall be subsisting against Buyer which seeks to, or would, render it unlawful as of the Phase I Closing, as applicable, to effect the transactions contemplated hereby in accordance with the terms hereof, and no such action shall seek damages in a material amount by reason of the transactions contemplated hereby. Also, no substantive legal objection to the transactions contemplated by this Agreement shall have been received from or threatened by any governmental department or agency.

(c) Consents and Approvals. Each of the parties to any agreement or any instrument under which the transactions contemplated hereby would constitute or result in a default or acceleration of obligations shall have given such consent as may be necessary to permit the consummation of the transactions contemplated hereby without constituting or resulting in a default or acceleration under such agreement or instrument, and any consents or approvals required from any public or regulatory agency or organization having jurisdiction over the Center or the transactions contemplated hereby shall have been given.

(d) Proceedings and Documents Satisfactory. All proceedings in connection with the transactions contemplated hereby and all certificates and documents delivered to Buyer pursuant to this Agreement shall be satisfactory in form and substance to Buyer and its counsel acting reasonably and in good faith. All documents required to have been delivered by the Sellers and the Company to Buyer at or prior to the Phase I Closing shall have been delivered, and all actions required to have been taken by the Sellers or the Company at or prior to such times shall have been taken.

(e) Adverse Change. Since the Effective Date, no material adverse change in the results of operations, financial condition, business or prospects of the Center shall have occurred, and the Company shall not have suffered any material change, loss or damage to the Center or the Company's assets, whether or not covered by insurance.

9.2 Phase II Closing Conditions. Buyer shall not be obligated to consummate the transactions contemplated hereby at the Phase II Closing unless each of the following conditions is fulfilled or performed (unless expressly waived in writing by Buyer) prior to or at Phase II Closing.

(a) Representations and Warranties True. All of the representations and warranties made by the Sellers and the Company within this Agreement shall be true at the time of the Phase II Closing Date; the Sellers and/or the Company, as applicable, shall have performed or complied in all material respects with all covenants and conditions required by this Agreement to be performed or complied with by them prior to or at the Phase II Closing. The Sellers' Committee and the Company shall have delivered to Buyer a certificate dated as of the Phase II Closing Date certifying to the truth of such representations and warranties as of the Phase II Closing, as applicable, and to the fulfillment of such covenants and conditions.

(b) No Obstructive Proceeding. No action or proceedings shall have been instituted against, and no order, decree or judgment of any court, agency, commission or governmental authority shall be subsisting against Buyer which seeks to, or would, render it unlawful as of the Phase II Closing, as applicable, to effect the transactions contemplated hereby in accordance with the terms hereof, and no such action shall seek damages in a material amount by reason of the transactions contemplated hereby. Also, no substantive legal objection to the transactions contemplated by this Agreement shall have been received from or threatened by any governmental department or agency.

(c) Consents and Approvals. Each of the parties to any agreement or any instrument under which the transactions contemplated hereby would constitute or result in a default or acceleration of obligations shall have given such consent as may be necessary to permit the consummation of the transactions contemplated hereby without constituting or resulting in a default or acceleration under such agreement or instrument, and any consents or approvals required from any public or regulatory agency or organization having jurisdiction over the Center or the transactions contemplated hereby shall have been given, including, without limitation, the CON Approval.

(d) Proceedings and Documents Satisfactory. All certificates, documents and actions contemplated under to Section 2.4 of this Agreement shall have been completed, delivered to Buyer and be satisfactory in form and substance to Buyer and its counsel acting reasonably and in good faith.

ARTICLE X **RESTRICTIVE COVENANTS**

10.1 Physician Seller Restrictive Covenants.

(a) Covenant Not to Compete. Each Physician Seller agrees that during the five (5) year period following the Phase I Closing Date, other than through the Company, no Physician Seller nor any of his or her Affiliates shall, without the prior written approval of Buyer, directly or indirectly, own, manage, operate, control or participate in any manner in the ownership, management, operation or control of, or serve as a partner, employee, principal, agent, consultant or otherwise contract with, or have any financial interest in, or aid or assist any other person or entity that operates a facility (including an ambulatory surgery center, a hospital, or an office-based or practice-based facility or operating site or room that provides any of the services offered by the Company (each, a "Competing Facility")) to provide outpatient surgical services within twenty-five (25) miles from the address of the Center (the "Restricted Area"). Further, a Physician Seller may not provide services of the type provided by the Center in his or her office if the Physician Seller's office, or other entity with which the Physician Seller has a compensation relationship or in which the Physician Seller has an ownership interest, is accredited, licensed or Medicare-certified or such entity or Physician Seller received a facility fee or technical fee or a site-of-service differential in connection with performing surgery at such location; provided, however, that the foregoing shall not prohibit a Physician Seller from performing those procedures listed beside such Physician Seller's name on Schedule 10.1(a) attached hereto and incorporated herein by this reference. Furthermore, notwithstanding the foregoing, nothing in this Section 10.1(a) shall prohibit a Physician Seller from providing medical staff governance, administrative

or similar services at a hospital, provided that the Physician Seller receives no compensation for such services.

(b) Covenant Not to Solicit. Each Physician Seller agrees that such Physician Seller shall not, within the Restricted Area, directly or indirectly, at any time during the two (2) year period following the Phase I Closing Date attempt to induce any person who is an officer, director or employee of the Company as of the Phase I Closing Date to leave the Company or the Center or in any way alter such individual's relationship with the Company or the Center, provided that no advertisement in a newspaper, on the Internet, or other publication of general circulation and no hiring as a result of such a general advertisement shall be prohibited by this Section 10.1(b). For the avoidance of doubt, each Physician Seller may engage in the activities set forth within this Section 10.1(b) outside of the Restricted Area.

(c) For the avoidance of doubt, with respect to the Physician Seller restrictive covenants addressed in this Agreement, this Section 10.1 in conjunction with the restrictive covenants set forth in the First Amendment to the Operating Agreement or the Amended and Restated Operating Agreement, as applicable, supersede all prior contracts and agreements, including the Operating Agreement, and constitute the entire agreement between and among the parties to this Agreement.

10.2 Merritt and MHH-Norwich Restrictive Covenants. Merritt and MHH-Norwich each agree that neither of them, nor any of their respective Affiliates, shall, directly or indirectly, do any of the following within the Restricted Area. For purposes of clarification, Merritt and MHH-Norwich may engage in the following activities outside of the Restricted Area. Further, for the avoidance of doubt, the advisory activity by either Merritt or MHH-Norwich in the areas of mergers and acquisition is outside the scope of this restrictive covenant.

(a) Partner with (as joint venturers or common owners of any Competing Facility), induce or attempt to induce any officer, director or employee of the Company, or any physician or other health care professional who has an ownership or investment interest in the Company, in each case as of the Phase I Closing Date, to withdraw from the ownership or employ of the Company or the Center or adversely alter such individual's relationship with the Company or the Center, for a period of four (4) years following the Phase I Closing Date, provided that no advertisement in a newspaper, on the Internet, or other publication of general circulation and no admission to a medical staff of such individuals as a result of any such advertisement or without solicitation or inducement shall be prohibited by this Section 10.2(a) (but entering into any other arrangement with any officer, director, physician or other health care professional as a result of any such advertisement shall be prohibited);

(b) Partner with (as joint venturers or common owners of any Competing Facility), induce or attempt to induce any physician who has an ownership or investment interest, in each case as of the Phase I Closing Date in any of the SCA facilities set forth on Schedule 10.2 to withdraw from the ownership or employ of such SCA facility or facilities or adversely alter such individual's relationship with such SCA facility or facilities, for a period of three (3) years following the Phase I Closing Date, provided that no advertisement in a newspaper, on the Internet, or other publication of general circulation and no admission to a medical staff of such individuals as a result of any such advertisement or without solicitation or inducement shall be prohibited by

this Section 10.2(b) (but entering into any other arrangement as a result of any such advertisement shall be prohibited); or

(c) Partner with (as joint venturers or common owners of any Competing Facility) or induce or attempt to induce any member of the Center's medical staff, in each case as of the Phase I Closing Date to withdraw from the medical staff or employ of the Center or adversely alter such individual's relationship with the Company or the Center, for a period of three (3) years following the Phase I Closing Date, provided that no advertisement in a newspaper, on the Internet, or other publication of general circulation and no admission to a medical staff of such individuals as a result of any such advertisement or without solicitation or inducement shall be prohibited by this Section 10.2(c) (but entering into any other arrangement as a result of any such advertisement shall be prohibited).

For the avoidance of doubt, with respect to the Merritt and MHH-Norwich restrictive covenants addressed in this Agreement, this Section 10.2 supersedes all prior contracts and agreements, including the Operating Agreement, and constitutes the entire agreement between and among the parties to this Agreement. Merritt, MHH-Norwich and their Affiliates are hereby expressly released from any and all restrictive covenants contained in the Operating Agreement.

10.3 Confidential Information. Following the Phase I Closing Date, and indefinitely thereafter, each Seller shall, and shall cause each agent or principal thereof, and such Seller's Affiliates, to keep secret and confidential, all information acquired relating to the following (all such information being hereinafter referred to as "**Confidential Business Information**"): (a) the financial condition and other information relating to the business of the Company, including, without limitation, its rates for services, its operations and contracts, and its business plans and arrangements; (b) the systems, products, plans, services, marketing, sales, administration and management procedures, trade relations or practices, techniques and practices heretofore or hereafter acquired, developed and/or used by the Company; and (c) in connection with the Company's patients, providers, clients, customers, suppliers, vendors, lenders, independent contractors, and payors, the provisions and terms of any agreements or proposed agreements between the Company and any of such individuals or entities. No Seller shall at any time disclose any such Confidential Business Information to any person, firm, corporation, association or other entity, or use the same in any manner other than in connection with operating the business and affairs of the Company or the Center. Notwithstanding the foregoing, the term "**Confidential Business Information**" shall not include the following: any information which was independently developed by a party without the use of the Confidential Business Information; any information which is or becomes available in the public domain during the term of this Agreement other than through a breach of this Agreement or other agreement with the Company or the Center; any information which is ordered to be released by requirement of a governmental agency or court of law; any information provided to a party's professional advisers (i.e., attorneys and accountants); and any information independently made lawfully available to a party as a matter of right by a third party.

10.4 Equitable Remedy. Each Seller acknowledges that the restrictions contained in ARTICLE X are reasonable and necessary to protect the legitimate interests of Buyer and that any violation of such restrictions would result in irreparable injury to the Company and Buyer. In addition to any other remedy or remedies to which Buyer may be entitled in law or in equity, Buyer

shall be entitled to preliminary and permanent injunctive relief for a violation or threatened violation of ARTICLE X without having to prove actual damages or to post a bond, and Buyer shall also be entitled to an equitable accounting of all earnings, profits and other benefits arising from such violation. Each Seller hereby waives any objections on the grounds of improper jurisdiction or venue to the commencement of an action in the State of Connecticut and agrees that effective service of process may be made upon him or her by mail under the provisions of Section 13.7.

10.5 Judicial Determination. If a court should hold that the restrictions set forth in ARTICLE X are unenforceable because they are unreasonable, then to the extent permitted by law, the court may prescribe the longest duration for the Restricted Period and/or the largest radius or area for the restricted area that is reasonable and the parties agree to accept such determination subject to their rights of appeal. Nothing herein stated shall be construed as prohibiting Buyer from pursuing any other remedy or remedies available for such breach or threatened breach, including recovery of damages from a breaching Seller, or injunctive relief.

10.6 Extension of Restricted Period. If a Seller is in violation of ARTICLE X at any time, then the Restricted Period shall be extended for a period of time equal to the period during which said violation or violations occurred. If Buyer seeks injunctive relief from said violation in court, then the running of the Restricted Period shall be suspended during the pendency of said proceeding, including all appeals. This suspension shall cease upon the entry of a final judgment in the matter, not subject to further appeal.

10.7 Owner Covenants. At or prior to the Closing, MHH-Norwich shall cause each individual with a direct or indirect ownership interest in MHH-Norwich to execute a restrictive covenant consistent with the covenants of MHH-Norwich in this ARTICLE X, substantially in the form set forth in Exhibit G.

ARTICLE XI **TERMINATION**

11.1 Termination Prior to the Phase I Closing. Notwithstanding any other provision of this Agreement, this Agreement may be terminated by written notice at any time prior to the Phase I Closing or the Phase II Closing, as applicable:

- (a) by mutual agreement of the Sellers' Committee and Buyer;
- (b) by the Sellers' Committee, if there has been a breach by Buyer of any of the agreements, representations or warranties contained in this Agreement and, if such breach is curable, such breach shall not have been cured by Buyer or waived in writing by the Sellers' Committee within ten (10) business days after receipt of written notice of such breach from the Sellers' Committee;
- (c) by Buyer, if there has been a breach by the Sellers of any of the agreements, representations or warranties contained in this Agreement and, if such breach is curable, such breach shall not have been cured by the Sellers or waived in writing by Buyer within ten (10) business days after receipt of written notice of such breach from Buyer;

(d) by either the Sellers or Buyer if the transactions contemplated by this Agreement with respect to Phase I shall not have been consummated on or before December 31, 2016; or

(e) by either the Sellers or Buyer if the other makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy or seeks or consents to any reorganization or similar relief under any present or future bankruptcy act or similar law, or is adjudicated a bankrupt or insolvent, or if a third party commences any bankruptcy, insolvency, reorganization or similar proceeding involving the other.

11.2 Remedies for Termination. In the event of termination under Sections 11.1(a), 11.1(d), or 11.1(e), no party shall have any liabilities pursuant to this Agreement to any other party unless such party was in breach of this Agreement in which case the non-breaching party shall be entitled to pursue all of its rights and remedies. Termination under Sections 11.1(b) or 11.1(c), shall be in addition to all other rights and remedies of the non-breaching Party.

11.3 Termination Prior to the Phase II Closing. Buyer or the Sellers may terminate their respective obligations to close the transactions contemplated by this Agreement with respect to Phase II, if the Phase II Closing shall not have been consummated on or before March 31, 2018, by providing written notice of such intent to the other. In the event of termination under this Section 11.3, no party shall have any liabilities pursuant to this Agreement to any other party for failure to consummate the Phase II Closing unless the failure to consummate the Phase II Closing was caused primarily by a breach by such party of any covenant or obligation of such party under this Agreement; provided, however, that in such event, the provisions of this Agreement related to the Phase I Closing shall remain in full force and effect following such termination.

ARTICLE XII

INDEMNIFICATION; LIMITATION OF LIABILITY

12.1 Indemnification by Each Seller. Subject to the terms of this ARTICLE XII, each Seller agrees to indemnify, defend and hold Buyer harmless from and against any claim, demand, cause of action, judgment, loss, liability, cost or other expense whatsoever, including, without limitation, reasonable attorneys' fees (each such claim, demand, cause of action, judgment, loss, liability, cost or other expense, net of any recoverable insurance proceeds, is referred to herein individually as "Loss" and collectively as "Losses") which Buyer may suffer, sustain, incur or otherwise become subject to, either directly or indirectly, as a result of (a) any inaccuracy or breach of any representation or warranty made by such Seller under ARTICLE III, or (b) a breach by such Seller of the covenants in ARTICLE X.

12.2 Indemnification by the Sellers. Subject to the terms of this ARTICLE XII, the Sellers, severally but not jointly, agree to indemnify, defend and hold Buyer harmless from and against any Loss which Buyer may suffer, sustain, incur or otherwise become subject to, either directly or indirectly, as a result of (a) any inaccuracy in or breach of any representation or warranty made herein by the Company, (b) the breach of any covenant or agreement contained herein by the Sellers (other than a breach of the covenants in ARTICLE X), or (c) any Taxes payable by the Company with respect to taxable periods or portions thereof ending on or before the Phase I Closing Date that are not reserved against in full on the Financial Statements, except to the extent

that any such Taxes are included in the calculation of Actual Working Capital as finally determined pursuant to Section 1.4.

12.3 Indemnification by Buyer. Subject to the terms of this ARTICLE XII, Buyer agrees to indemnify, defend and hold each Seller harmless from and against any Loss which such Seller may suffer, sustain, incur or otherwise become subject to, either directly or indirectly, as a result of (a) any inaccuracy in or the breach of any representation or warranty contained herein by Buyer, (b) the breach of any covenant or agreement contained herein by Buyer, or (c) any breach of any non-competition agreement or other restrictive covenant of any kind by Buyer or any of its Affiliates, including, but not limited to, claims against the Company or the Sellers for tortious interference or unfair competition, which is, either directly or indirectly, a result of this Agreement.

12.4 Procedure.

(a) Each indemnified party agrees that, within a reasonable time after its discovery of facts giving rise to a claim for indemnity under the provisions of this Agreement (“**Claim**”), it will give notice thereof in writing to the indemnifying party together with a detailed statement of such information respecting any of the foregoing that it shall then have. Each indemnified party further agrees that, in the event that the failure to give such written notice to the indemnifying party within a reasonably prompt time period following Buyer becoming aware of such claim results in the indemnifying party’s forfeiture of rights or defenses or other material prejudice to the indemnifying party, the indemnity with respect to the subject matter of the required notice shall be limited to the damages that would have resulted absent the indemnified party’s failure to notify the indemnifying party in a reasonably prompt manner after taking into account such actions as could have been taken by the indemnifying party had it received timely notice from the indemnified party.

(b) Following notice by the indemnified party to the indemnifying party of a Claim and provided that the indemnified party notifies the indemnifying party in writing that the indemnified party is entitled to indemnification hereunder with respect to such Claim, the indemnifying party shall be entitled at its cost and expense to contest and defend by all appropriate legal proceedings such Claim; provided, however, that notice of the intention so to contest shall be delivered by the indemnifying party to the indemnified party within thirty (30) days from the date of receipt by the indemnifying party of notice from the indemnified party of the assertion of such Claim. Any such contest of a Claim may be conducted in the name and on behalf of the indemnifying party or the indemnified party, as may be appropriate. Such contest shall be conducted diligently by reputable attorneys employed by the indemnifying party, but the indemnifying party shall keep the indemnified party fully informed with respect to such Claim and the contest thereof, provided that if any indemnified or indemnifying party shall conclude that such party has claims or defenses available to such party that are different from or additional to those available to any other indemnified or indemnifying party, such party may employ separate counsel at its own expense. If the indemnified party joins in any such contest, with or without separate counsel (such counsel to be at its own expense), the indemnifying party shall have full authority, after consultation with the indemnified party and its counsel, if any, to determine all action to be taken with respect thereto. Further, the indemnifying party shall not, without the prior written consent of the indemnified party, settle, compromise or offer to settle or compromise any such Claim or demand on a basis which would or could result in the imposition of a consent order,

injunction or decree which would or could restrict the future activities or conduct of the indemnified party. If any Claim is asserted and the indemnifying party fails to contest and defend such claim within a reasonable period of time, then the indemnified party may take such action in connection therewith as the indemnified party deems necessary or desirable, including retention of attorneys, and the indemnified party shall be entitled to indemnification for costs incurred in connection with such defense, including, without limitation, reasonable attorneys' fees and any investigation costs.

(c) If requested by the indemnifying party, the indemnified party agrees to cooperate with the indemnifying party and its counsel, including permitting reasonable access to books, records, and employees in contesting any Claim which the indemnifying party elects to contest or, if appropriate, in making any counterclaim against any person asserting the Claim, or any cross complaint against any person, but the indemnifying party will reimburse the indemnified party for reasonable out-of-pocket costs (but not the cost of employee time expended) incurred by the indemnified party in so cooperating.

(d) The indemnified party agrees to afford the indemnifying party and its counsel the opportunity to be present at, and to participate in, conferences with all persons, including governmental authorities, asserting any Claim against the indemnified party.

(e) In the event Buyer is entitled to indemnification from Sellers, Buyer shall pursue each liable Seller for his, her or its pro rata share of the Losses in a non-discriminatory manner.

12.5 Limitation of Damages. Notwithstanding any provision of this Agreement to the contrary:

(a) The maximum aggregate liability of the Sellers and Buyer, respectively, for indemnification under this ARTICLE XII shall be limited to one hundred percent (100%) of the Purchase Price.

(b) For the avoidance of doubt, the maximum aggregate liability of each Seller for indemnification under this ARTICLE XII shall be limited to such Seller's Pro Rata Share (as set forth on Exhibit A) of the Purchase Price and shall be further limited to each Seller's Pro Rata Share of each of the caps as set forth in Sections 12.5(c), below.

(c) The maximum aggregate liability of the Sellers for indemnification for any and all Losses under Section 12.1(a) and Section 12.2(a) (taken together) shall be limited to:

(i) An amount equal to fifteen percent (15%) of the Purchase Price (the "**Ordinary Representations Cap**") other than for Losses relating to any inaccuracy or breach of any of the Healthcare Representations, the Employee Benefits Representations, the Fundamental Representations or the Tax Representations;

(ii) An amount equal to thirty percent (30%) of the Purchase Price (the "**Healthcare Representations Cap**") for Losses relating to inaccuracies or breaches of the Healthcare Representations;

(iii) An amount equal to thirty percent (30%) of the Purchase Price (the “**Employee Benefits Representations Cap**”) for Losses relating to inaccuracies or breaches of the Employee Benefits Representations;

(iv) An amount equal to fifty percent (50%) of the Purchase Price (the “**Fundamental Representations Cap**”) for Losses relating to inaccuracies or breaches of the Fundamental Representations;

(v) An amount equal to fifty percent (50%) of the Purchase Price (the “**Tax Representations Cap**”) for Losses relating to inaccuracies or breaches of the Tax Representations; and

(vi) An amount equal to thirty-seven and one half percent (37.5%) of the Purchase Price (the “**Overall Representations Cap**”) for any and all Losses indemnifiable under Section 12.1(a) and Section 12.2(a) (taken together); provided that, such maximum aggregate liability shall be increased to fifty percent (50%) of the Purchase Price (in the aggregate and cumulatively with all other Losses indemnifiable under Section 12.1(a) and Section 12.2(a)) solely for Losses relating to inaccuracies or breaches of the Tax Representations and the Fundamental Representations (calculated together).

(d) The maximum aggregate liability of Buyer for indemnification for any and all claims under Section 12.2(a) shall be as follows:

(i) For claims relating to inaccuracies or breaches other than the Fundamental Representations, it shall be limited to an amount equal to fifteen percent (15%) of the Purchase Price;

(ii) For claims relating to inaccuracies or breaches of the Fundamental Representations, it shall be limited to an amount equal to fifty percent (50%) of the Purchase Price.

(e) Neither Buyer nor the Sellers shall be required to indemnify the other, unless and until the aggregate amount of all Losses incurred by the other to which indemnification under this ARTICLE XII applies exceeds \$140,000.

(f) In the event the Phase II Closing is not consummated as contemplated by this Agreement, then for purposes of calculating the indemnification limitations under this Section 12.5, the Purchase Price shall be equal to one hundred percent (100%) of the Phase I Purchase Price.

(g) In the event Buyer is entitled to any insurance proceeds, indemnity payments or any third-party recoveries in respect of any Losses for which Buyer is entitled to indemnification pursuant to Section 12.1 or Section 12.2, Buyer shall use commercially reasonable efforts to obtain, receive or realize such proceeds, benefits, payments or recoveries, and the amount of any such Losses shall be reduced by the amount of such proceeds, benefits, payments or recoveries. In the event that Buyer becomes entitled to receive any such proceeds, benefits, payments or recoveries after Buyer has received any indemnification payment hereunder in respect of any such Losses, Buyer shall promptly refund all or the relevant portion of such indemnification payment.

12.6 Mitigation of Damages. An indemnified party shall use its commercially reasonable efforts to mitigate any Losses for which it is entitled to indemnification pursuant to this ARTICLE XII. The indemnifying party shall have the right, but not the obligation, and shall be afforded the opportunity by the indemnified party to the extent reasonably possible, to take all available steps to minimize Losses for which the indemnified party is entitled to indemnification before such Losses actually are incurred by the indemnified party.

12.7 Survival of Representations and Warranties. The representations and warranties contained herein shall survive the Phase I Closing for a period of eighteen (18) months from the Phase I Closing Date, except for (i) the representations and warranties in Sections 3.1, 3.2, 3.3, 3.4, 3.6, 4.1, 4.2, 4.3, 4.4, 4.5, 4.7(a), 5.1, 5.2, 5.3, 5.4 and 5.5 (the “**Fundamental Representations**”), which shall survive until thirty (30) days after the expiration of the applicable statute of limitations period, (ii) the representations and warranties in Section 4.14 (the “**Tax Representations**”), which shall survive until thirty (30) days after the expiration of the applicable statute of limitations period, and (iii) the representations and warranties in Sections 4.11 and 4.12 (the “**Health Care Representations**”) and the representations and warranties set forth in Section 4.16 (the “**Employee Benefits Representations**”), each of which shall survive for a period of four (4) years from the Phase I Closing Date.

12.8 Offset Against Future Distributions. Each Physician Seller hereby acknowledges and agrees that Buyer may cause the Company to (i) offset against such Physician Seller’s future cash distributions from the Company (other than Tax Distributions as defined in the Operating Agreement of the Company, as amended, or the Amended and Restated Operating Agreement of the Company (as applicable)), an amount necessary to satisfy any unpaid Established Indemnification Obligations (as defined below) of such Physician Seller and (ii) pay the amount so offset (the “**Offset Amount**”) to Buyer. The parties hereby acknowledge and agree that the Offset Amount shall be applied against the amount of any Losses payable by such Physician Seller to Buyer under this ARTICLE XII and shall reduce, on a dollar-for-dollar basis, the remaining amount of any Losses payable by such Physician Seller to Buyer under this ARTICLE XII. For purposes of this Section 12.8, the term “**Established Indemnification Obligations**” shall mean the obligations of such Physician Seller under, and subject to the terms of, this ARTICLE XII to indemnify Buyer, but only to the extent such obligations are either (x) expressly acknowledged in writing by such Physician Seller or (y) conclusively determined by a court of competent jurisdiction in a final, non-appealable judgment.

12.9 Exclusive Remedy. FROM AND AFTER THE PHASE I CLOSING, THE PARTIES AGREE AND ACKNOWLEDGE THAT THE INDEMNIFICATION RIGHTS PROVIDED IN THIS ARTICLE XII SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND RECOURSE OF THE PARTIES FOR BREACHES OF THE TERMS AND CONDITIONS OF THIS AGREEMENT AND FOR ALL DISPUTES ARISING UNDER OR RELATING TO THIS AGREEMENT AND ANY ADDITIONAL AGREEMENTS OR DOCUMENTS EXECUTED OR DELIVERED IN OR ARISING OUT OF THIS TRANSACTION, EXCEPT (I) IN CASES WHERE SPECIFIC PERFORMANCE IS AVAILABLE AS A REMEDY, INCLUDING ARTICLE X, AND (II) FOR CLAIMS ARISING FROM FRAUD, CRIMINAL ACTIVITY OR WILLFUL MISCONDUCT ON THE PART OF A PARTY HERETO IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

12.10 **Tax Treatment of Indemnification Payments.** All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by applicable law.

ARTICLE XIII
MISCELLANEOUS

13.1 **Expenses.** Except as otherwise explicitly set forth within this Agreement, including within this Section 13.1, all fees and expenses incurred by the Sellers and the Company, including, without limitation, legal fees, expenses and compensatory bonuses, in connection with this Agreement and the transactions contemplated hereby ("**Transaction Expenses**"), will be borne by the Sellers, and Transaction Expenses incurred by Buyer will be borne by Buyer. All CON filing fees incurred in connection with obtaining a CON determination for the Phase I Closing shall be borne by Buyer. Transaction Expenses incurred in connection with obtaining the CON Approval for the Phase II Closing shall be borne by the Company.

13.2 **Section Headings.** The Section headings are for reference only and shall not limit or control the meaning of any provision of this Agreement.

13.3 **Waiver.** No delay or omission on the part of any party hereto in exercising any right hereunder shall operate as a waiver of such right or any other right under this Agreement.

13.4 **Schedules.**

(a) All schedules, exhibits and documents referred to in or attached to this Agreement are integral parts of this Agreement as if fully set forth herein and all statements appearing therein shall be deemed to be representations. All items disclosed hereunder shall be deemed disclosed only in connection with the specific representation to which they are explicitly referenced.

(b) During the period between the Phase I Closing Date and the Phase II Closing Date, the Sellers shall promptly provide written updates to Buyer upon determining that any facts or circumstances that arise after the date hereof would be reasonably likely to cause any of the Sellers' or the Company's representations or warranties in Article III or Article IV, respectively, to not be true and correct in all material respects as of the Phase I Closing Date (each a "**Schedule Supplement**"). Any disclosure in any such Schedule Supplement shall not be deemed to have cured any inaccuracy in or breach of any representation or warranty contained in this Agreement, including for purposes of the indemnification or termination rights contained in this Agreement or of determining whether or not the conditions set forth in Section 8.2 have been satisfied; provided however, that if Buyer has the right to terminate this Agreement (i.e., to not proceed with the consummation of the Phase II Closing), but Buyer does not notify Sellers that Buyer has elected to terminate within ten (10) business days of its receipt of such Schedule Supplement, then Buyer shall be deemed to have irrevocably waived any right to terminate this Agreement with respect to such matter.

13.5 **Assignment.** No party hereto shall assign this Agreement without first obtaining the written consent of the other party, except Buyer shall have the right to assign this Agreement to an entity that is wholly owned, directly or indirectly, by SCA, and Buyer or such assignee shall

have the right to collaterally assign the rights of Buyer hereunder respecting remedies in the event of breaches of representations, warranties and covenants and rights of indemnification made by the Sellers hereunder to any lender to Buyer or such assignee, for its benefit and for the benefit of other financial institutions for which it acts as agent.

13.6 Binding on Successors and Assigns. Subject to Section 13.5, this Agreement shall inure to the benefit of and bind the respective heirs, administrators, successors and assigns of the parties hereto. Nothing expressed or referred to in this Agreement is intended or shall be construed to give any person other than the parties to this Agreement or their respective successors or permitted assigns any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein, it being the intention of the parties to this Agreement that this Agreement shall be for the sole and exclusive benefit of such parties or such successors and assigns and not for the benefit of any other person.

13.7 Notices. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to any party hereto by another party hereto shall be in writing and shall be deemed duly served when personally delivered or mailed by certified or registered mail (postage prepaid) or sent by reputable overnight courier service (charges prepaid), addressed as follows:

If to Buyer:	SCA-River Valley, LLC c/o Surgical Care Affiliates, LLC 569 Brookwood Village, Suite 901 Birmingham, AL 35209 Attention: General Counsel
If to the Company:	River Valley ASC, LLC 45 Salem Turnpike Norwich, CT 06360 Attention: President
If to the Sellers:	To the addresses on file with the Company
With a copy to:	McGuireWoods LLP 77 West Wacker Drive Suite 4100 Chicago, IL 60601 Attention: Bart Walker

or at such other address as one party may designate by notice hereunder to the other party. Notices shall be deemed effective (i) on the actual receipt in the case of hand delivery, (ii) on the next business day in the case of notices by any nationally recognized overnight courier service, or (iii) on the third (3rd) business day after the date of mailing in the manner set forth herein.

13.8 Parties in Interest; Third Party Beneficiaries. Nothing in this Agreement is intended to confer any right on any person other than the parties to it and their respective successors and assigns, nor is anything in this Agreement intended to modify or discharge the obligation or

liability of any third person to any party to this Agreement, nor shall any provision give any third person any right of subrogation or action over against any party to this Agreement.

13.9 Drafting Party. The provisions of this Agreement, and the documents and instruments referred to herein, have been examined, negotiated, drafted and revised by counsel for each party hereto and no implication shall be drawn nor made against any party hereto by virtue of the drafting of this Agreement.

13.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall comprise one and the same instrument. In addition, the parties may execute multiple identical originals of this Agreement, each of which shall constitute an original for all purposes. In addition, the parties may execute a counterpart of this Agreement and transmit their signature via facsimile or other electronic means, and such signature received via facsimile or other electronic means shall have the same force and effect as an original.

13.11 Entire Agreement. With respect to the subject matter of this Agreement, this Agreement, together with all exhibits and schedules hereto, supersedes all previous contracts and constitutes the entire agreement between the parties. No oral statements or prior written material unless specifically incorporated herein shall be of any force and effect, and no changes in or additions to this Agreement shall be recognized unless incorporated herein by amendment as provided herein, such amendment(s) to become effective on the date stipulated in such amendment(s). The parties specifically acknowledge that in entering into and executing this Agreement, the parties relied solely upon the representations and agreements contained in this Agreement and no others.

13.12 Further Assurances. The Sellers and the Company shall execute and deliver such other documents and instruments, and take such other actions, as Buyer may reasonably request in order more fully to vest in Buyer and to perfect its title and interest in and to the Transferred Interests; provided, however, that no such document, instrument or action shall expand the obligations of the Sellers or the Company.

13.13 Amendment. This Agreement may not be amended other than by a written instrument executed by all parties hereto.

13.14 Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Connecticut without regard to its conflict of laws rules.

13.15 Affiliates. For the purposes of this Agreement, the term "**Affiliate**" means, as to the entity in question, any person or entity that directly or indirectly controls, is controlled by or is under common control with, the entity in question, and the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity whether through ownership of voting securities, by contract or otherwise.

13.16 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO DEMAND THAT ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY RELATED TO

THIS AGREEMENT OR THE RELATIONSHIPS OF THE PARTIES HERETO BE TRIED BY JURY. THIS WAIVER EXTENDS TO ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY ARISING FROM ANY SOURCE INCLUDING, BUT NOT LIMITED TO, THE CONSTITUTION OF THE UNITED STATES OR ANY STATE THEREIN, COMMON LAW OR ANY APPLICABLE STATUTE OR REGULATIONS. EACH PARTY HERETO ACKNOWLEDGES THAT IT IS KNOWINGLY AND VOLUNTARILY WAIVING ITS RIGHT TO DEMAND TRIAL BY JURY.

13.17 Merritt Guaranty; Net Worth Covenant. Merritt hereby unconditionally and absolutely guarantees the prompt performance and observance by MHH-Norwich of each and every obligation, covenant and agreement of MHH-Norwich arising out of, connected with, or related to, this Agreement or any ancillary documents hereto and any extension, renewal and/or modification thereof. The obligation of Merritt under this Section 13.17 is a continuing guaranty and shall remain in effect, and the obligations of Merritt shall not be affected, modified or impaired upon the happening from time to time of any of the following events, whether or not with notice or consent of Merritt:

(a) The compromise, settlement, release, change, modification, amendment (except to the extent of such compromise, settlement release, change, modification or amendment) of any or all of the obligations, duties, covenants, or agreements or any party under this Agreement or any ancillary documents hereto; or

(b) The extension of the time for performance of payment of money pursuant to this Agreement, or of the time for performance of any other obligations, covenants or agreements under or arising out of this Agreement or any ancillary documents hereto or the extension or the renewal thereof.

Merritt further covenants and agrees that for a period of two (2) years subsequent to the Phase I Closing, Merritt will maintain a net fair market value of its balance sheet assets equal to at least fifty percent (50%) of MHH-Norwich's Pro Rata Share of the Purchase Price (as set forth on Exhibit A), and for the two (2) year period thereafter, a net fair market value of its balance sheet assets equal to at least thirty percent (30%) of MHH-Norwich's Pro Rata Share of the Purchase Price (as set forth on Exhibit A).

13.18 SCA Guaranty. SCA hereby unconditionally and absolutely guarantees the prompt performance and observance by Buyer of each and every obligation, covenant and agreement of Buyer arising out of, connected with, or related to, this Agreement or any ancillary documents hereto and any extension, renewal and/or modification thereof. The obligation of SCA under this Section 13.18 is a continuing guaranty and shall remain in effect, and the obligations of SCA shall not be affected, modified or impaired upon the happening from time to time of any of the following events, whether or not with notice or consent of SCA:

(a) The compromise, settlement, release, change, modification, amendment (except to the extent of such compromise, settlement release, change, modification or amendment) of any or all of the obligations, duties, covenants, or agreements or any party under this Agreement or any ancillary documents hereto; or

(b) The extension of the time for performance of payment of money pursuant to this Agreement, or of the time for performance of any other obligations, covenants or agreements under or arising out of this Agreement or any ancillary documents hereto or the extension or the renewal thereof.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, this Agreement has been entered into as of the day and year first above written.

BUYER:

SCA-RIVER VALLEY, LLC

By: RLS
Name: Richard L. Sharff, Jr.
Title: Vice President

SCA:

SURGICAL CARE AFFILIATES, LLC

By: RLS
Name: Richard L. Sharff, Jr.
Title: Executive Vice President

COMPANY:

RIVER VALLEY ASC, LLC

By: _____
Name: _____
Title: _____

MERRITT:

MERRITT HEALTHCARE HOLDINGS, LLC

By: _____
Name: _____
Title: _____

[Signature Pages to Membership Interest Purchase Agreement]

IN WITNESS WHEREOF, this Agreement has been entered into as of the day and year first above written.

BUYER:

SCA-RIVER VALLEY, LLC

By: _____
Name: Richard L. Sharff, Jr.
Title: Vice President

SCA:

SURGICAL CARE AFFILIATES, LLC

By: _____
Name: Richard L. Sharff, Jr.
Title: Executive Vice President

COMPANY:

RIVER VALLEY ASC, LLC

By: _____
Name: Matthew Seanes
Title: Manager

MERRITT:

MERRITT HEALTHCARE HOLDINGS, LLC

By: _____
Name: Matthew Seanes
Title: Manager

[Signature Pages to Membership Interest Purchase Agreement]

IN WITNESS WHEREOF, this Agreement has been entered into as of the day and year first above written.

BUYER:

SCA-RIVER VALLEY, LLC

By: _____
Name: Richard L. Sharff, Jr.
Title: Vice President

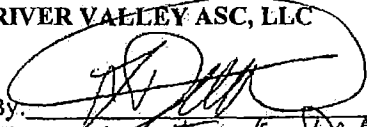
SCA:

SURGICAL CARE AFFILIATES, LLC

By: _____
Name: Richard L. Sharff, Jr.
Title: Executive Vice President

COMPANY:

RIVER VALLEY ASC, LLC

By:  _____
Name: Frank DeLuca
Title: Board Member

MERRITT:


MERRITT HEALTHCARE HOLDINGS, LLC

By: _____
Name: _____
Title: _____

[Signature Pages to Membership Interest Purchase Agreement]

SELLERS:

**MERRITT HEALTHCARE HOLDINGS
NORWICH, LLC**

By: 
Name: Matthew Seanes
Title: President

Jerilyn Allen, MD

Nicole Arcand, MD

David Boisoneau, MD

David Coletti, MD

Pamela Connors, MD

Darren Courtright, MD

William Culviner, MD

Frank Dellacono, MD

Peter Famiglietti, MD

Raymond Gaito, Jr., MD

Daniel Glenney, MD

Steven Green, MD

William Kaufold, MD

[Signature Pages to Membership Interest Purchase Agreement]

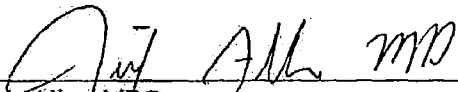
SELLERS:

**MERRITT HEALTHCARE HOLDINGS
NORWICH, LLC**

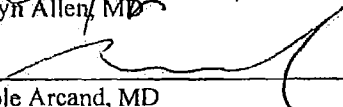
By: _____

Name: _____

Title: _____




Jerilyn Allen, MD



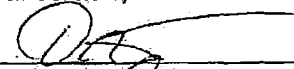
Nicole Arcand, MD

David Boisoneau, MD




David Coletti, MD

Pamela Connors, MD



Darren Conright, MD

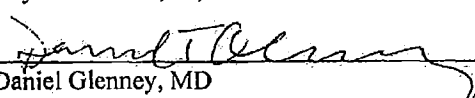


William Culviner, MD

Frank Dellacono, MD

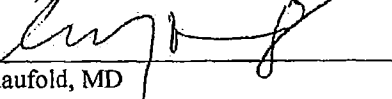
Peter Famiglietti, MD

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Steven Green, MD



William Kaufold, MD

[Signature Pages to Membership Interest Purchase Agreement]

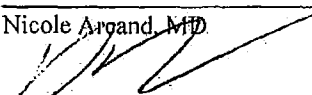
SELLERS:

**MERRITT HEALTHCARE HOLDINGS
NORWICH, LLC**

By: _____
Name: _____
Title: _____

Jerilyn Allen, MD

Nicole Argand, MD



David Boisonneau, MD

David Coletti, MD

Pamela Connors, MD

Darren Courtright, MD



William Culvener, MD

Frank Dellacono, MD

Peter Famiglietti, MD



Raymond Gallo, Jr., MD

Daniel Glenney, MD

Steven Green, MD

William Kaufold, MD

[Signature Pages to Membership Interest Purchase Agreement]

SELLERS:

**MERRITT HEALTHCARE HOLDINGS
NORWICH, LLC**

By: _____
Name: _____
Title: _____

Jerilyn Allen, MD

Nicole Arcand, MD

DB

David Boisoneau, MD

David Coletti, MD

Pamela Connors, MD

Darren Courtright, MD

William Culviner, MD

Frank Dellacono, MD

Peter Famiglietti, MD

Raymond Gaito, Jr., MD

Daniel Glenney, MD

Steven Green, MD

William Kaufold, MD

[Signature Pages to Membership Interest Purchase Agreement]

SELLERS:

**MERRITT HEALTHCARE HOLDINGS
NORWICH, LLC**

By: _____
Name: _____
Title: _____

Jerilyn Allen, MD

Nicole Arcand, MD

David Boissoneau, MD

David Coletti, MD
Pamela Connors MD

Pamela Connors, MD

Darren Courtright, MD

William Culviner, MD

Frank Dellacono, MD

Peter Famiglietti, MD

Raymond Gaito, Jr., MD

Daniel Glenney, MD

Steven Green, MD

William Kaufold, MD

[Signature Pages to Membership Interest Purchase Agreement]

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**MERRITT HEALTHCARE HOLDINGS
NORWICH, LLC**

By: _____

Name: _____

Title: _____

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Nicole Arcand, MD

David Boisoeneau, MD

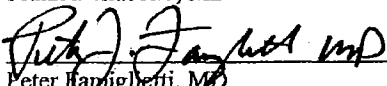
David Coletti, MD

Pamela Connors, MD

Darren Courtright, MD

William Culviner, MD

Frank Dellacono, MD



Peter Ranighetti, MD

Raymond Gaito, Jr., MD

Daniel Glenney, MD

Steven Green, MD

William Kaufold, MD

[Signature Pages to Membership Interest Purchase Agreement]

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**MERRITT HEALTHCARE HOLDINGS
NORWICH, LLC**

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Name: _____
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Daniel Glenney, MD

Steven Green, MD

Steven Green, MD

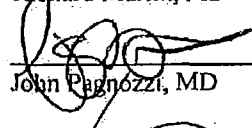
William Kaufold, MD



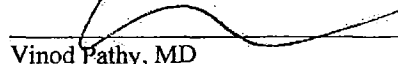
Gregory Lesnik, MD



Richard Martin, MD



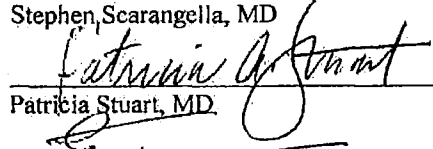
John Pagnozzi, MD



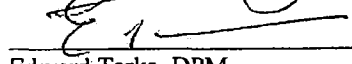
Vinod Pathy, MD

Stephen Rouse, MD

Stephen Scarangella, MD



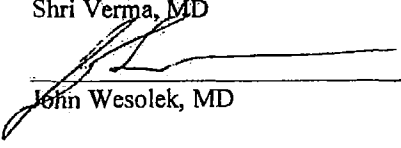
Patricia Stuart, MD



Edward Tarka, DPM



Shri Verma, MD



John Wesolek, MD

Dana Woods, MD

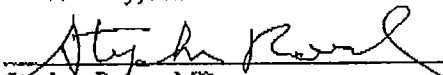
[Signature Pages to Membership Interest Purchase Agreement]

Gregory Lesnik, MD

Richard Martin, MD

John Pagnozzi, MD

Vinod Pathy, MD



Stephen Robase, MD

Stephen Scarangella, MD

Patricia Stuart, MD

Edward Tarka, DPM

Shri Verma, MD

John Wesolek, MD

Dana Woods, MD

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John Wesolek, MD


Dana Woods, MD

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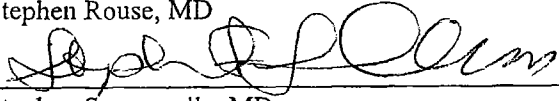
Gregory Lesnik, MD

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John Pagnozzi, MD

Vinod Pathy, MD

Stephen Rouse, MD



Stephen Scarangella, MD

Patricia Stuart, MD

Edward Tarka, DPM

Shri Verma, MD

John Wesolek, MD

Dana Woods, MD

[Signature Pages to Membership Interest Purchase Agreement]

EXHIBIT A

SELLERS

<u>Name of Seller</u>	<u>Percentage Interest in the Company Owned Prior to Closing ("Pre-Transaction Ownership Interests")</u>		<u>Seller's Portion of the Phase I Transferred Interests ("Phase I Pro Rata Share")</u>	<u>Seller's Membership Interest in the Company after the Phase I Closing ("Interim Ownership Interest")</u>		<u>Seller's Portion of the Phase II Transferred Interests ("Phase II Pro Rata Share")</u>	<u>Seller's Membership Interest in the Company after the Phase II Closing ("Post-Transaction Ownership Interest")</u>		<u>Seller's Pro-Rata Share of the Purchase Price ("Pro Rata Share")</u>	<u>Seller's Pro-Rata Share of the Purchase Price (expressed as a percentage)</u>
	<u>Units</u>	<u>Percentage</u>	<u>Percentage</u>	<u>Units</u>	<u>Percentage</u>	<u>Percentage</u>	<u>Units</u>	<u>Percentage</u>	<u>Dollars</u>	<u>Percentage</u>
-										
Daniel Glenney, MD	5.750	4.9680%	1.7628%	3.7098	3.2053%	0.7228%	2.8733	2.4825%	\$1,191,733.33	4.1083%
Nicole Arcand, MD	5.750	4.9680%	1.7628%	3.7098	3.2053%	0.7228%	2.8733	2.4825%	\$1,191,733.33	4.1083%
Patricia Stuart, MD	5.750	4.9680%	1.7628%	3.7098	3.2053%	0.7228%	2.8733	2.4825%	\$1,191,733.33	4.1083%
John Pagnozzi, MD	5.750	4.9680%	1.7628%	3.7098	3.2053%	0.7228%	2.8733	2.4825%	\$1,191,733.33	4.1083%
William Culviner, MD	4.750	4.1040%	1.4562%	3.0646	2.6478%	0.5971%	2.3736	2.0508%	\$984,475.36	3.3938%
Steven Green, MD	5.750	4.9680%	1.7628%	3.7098	3.2053%	0.7228%	2.8733	2.4825%	\$1,191,733.33	4.1083%
Stephen Rouse, MD	5.750	4.9680%	1.7628%	3.7098	3.2053%	0.7228%	2.8733	2.4825%	\$1,191,733.33	4.1083%
Jerilyn Allen, MD	4.750	4.1040%	1.4562%	3.0646	2.6478%	0.5971%	2.3736	2.0508%	\$984,475.36	3.3938%

Name of Seller	Percentage Interest in the Company Owned Prior to Closing ("Pre-Transaction Ownership Interests")		Seller's Portion of the Phase I Transferred Interests ("Phase I Pro Rata Share")	Seller's Membership Interest in the Company after the Phase I Closing ("Interim Ownership Interest")		Seller's Portion of the Phase II Transferred Interests ("Phase II Pro Rata Share")	Seller's Membership Interest in the Company after the Phase II Closing ("Post-Transaction Ownership Interest")		Seller's Pro-Rata Share of the Purchase Price ("Pro Rata Share")	Seller's Pro-Rata Share of the Purchase Price (expressed as a percentage)
Gregory Lesnik, MD	4.750	4.1040%	1.4562%	3.0646	2.6478%	0.5971%	2.3736	2.0508%	\$984,475.36	3.3938%
David Boisoineau, MD	5.750	4.9680%	1.7628%	3.7098	3.2053%	0.7228%	2.8733	2.4825%	\$1,191,733.33	4.1083%
Darren Courtright, DPM	4.000	3.4560%	1.2263%	2.5807	2.2298%	0.5028%	1.9988	1.7270%	\$829,031.88	2.8579%
Frank Dellacono, MD	5.750	4.9680%	1.7628%	3.7098	3.2053%	0.7228%	2.8733	2.4825%	\$1,191,733.33	4.1083%
Shri Verma, MD	5.750	4.9680%	1.7628%	3.7098	3.2053%	0.7228%	2.8733	2.4825%	\$1,191,733.33	4.1083%
Richard Martin, MD	5.750	4.9680%	1.7628%	3.7098	3.2053%	0.7228%	2.8733	2.4825%	\$1,191,733.33	4.1083%
Pamela Connors, MD	5.000	4.3200%	1.5328%	3.2259	2.7872%	0.6285%	2.4985	2.1587%	\$1,036,289.85	3.5724%
Edward Tarka DPM	1.090	0.9418%	0.3342%	0.7032	0.6076%	0.1370%	0.5447	0.4706%	\$225,911.19	0.7788%
Stephen Scarangela MD	2.500	2.1600%	0.7664%	1.6129	1.3936%	0.3142%	1.2492	1.0794%	\$518,144.93	1.7862%
Vinod Pathy MD	1.050	0.9072%	0.3219%	0.6774	0.5853%	0.1320%	0.5247	0.4533%	\$217,620.87	0.7502%

Name of Seller	Percentage Interest in the Company Owned Prior to Closing ("Pre-Transaction Ownership Interests")		Seller's Portion of the Phase I Transferred Interests ("Phase I Pro Rata Share")	Seller's Membership Interest in the Company after the Phase I Closing ("Interim Ownership Interest")		Seller's Portion of the Phase II Transferred Interests ("Phase II Pro Rata Share")	Seller's Membership Interest in the Company after the Phase II Closing ("Post-Transaction Ownership Interest")		Seller's Pro-Rata Share of the Purchase Price ("Pro Rata Share")	Seller's Pro-Rata Share of the Purchase Price (expressed as a percentage)
Peter Famiglietti MD	1.050	0.9072%	0.3219%	0.6774	0.5853%	0.1320%	0.5247	0.4533%	\$217,620.87	0.7502%
Raymond Gaito MD	1.050	0.9072%	0.3219%	0.6774	0.5853%	0.1320%	0.5247	0.4533%	\$217,620.87	0.7502%
David Coletti MD	1.000	0.8640%	0.3066%	0.6452	0.5574%	0.1257%	0.4997	0.4317%	\$207,257.97	0.7145%
John Wesolek MD	1.000	0.8640%	0.3066%	0.6452	0.5574%	0.1257%	0.4997	0.4317%	\$207,257.97	0.7145%
William Kaufold MD	1.000	0.8640%	0.3066%	0.6452	0.5574%	0.1257%	0.4997	0.4317%	\$207,257.97	0.7145%
Dana Woods MD	1.000	0.8640%	0.3066%	0.6452	0.5574%	0.1257%	0.4997	0.4317%	\$207,257.97	0.7145%
MHH Norwich, LLC (Merritt)	24.250	20.9521%	20.9521%	0.0000	0.0000%	0.0000%	0.0000	0.0000%	\$10,045,928.29	34.6316%
TOTAL	115.740	100.00%	49.0000%	59.0274	51.0000%	11.5000%	45.7173	39.5000%	\$ 29,007,960.00	100.00%

EXHIBIT B

SELLERS' COMMITTEE

As further described in Section 1.2, the Sellers' Committee shall consist of the following individuals:

Name: Frank Dellacono, M.D.
Address: 45 Salem Turnpike
Norwich, CT 06360
Email: fdellacono@gmail.com

Name: Richard Martin, M.D.
Address: 45 Salem Turnpike
Norwich, CT 06360
Email: rjmddmd@aol.com

Name: Matt Searles
Address: 75 Danbury Road, #B5
Ridgefield, CT 06877
Email: msearles@merritthealthcare.com

EXHIBIT C

FIRST AMENDMENT TO AMENDED AND RESTATED OPERATING AGREEMENT

See attached.

FIRST AMENDMENT TO AMENDED AND RESTATED OPERATING AGREEMENT

RIVER VALLEY ASC, LLC

THIS FIRST AMENDMENT TO AMENDED AND RESTATED OPERATING AGREEMENT (this "Amendment") is made and entered into as of November 1, 2016 (the "Amendment Effective Date"), by and among **SCA-RIVER VALLEY, LLC**, a Delaware limited liability company (the "SCA Member"), and those persons identified as Members in Exhibit A attached hereto and incorporated herein by reference.

RECITALS:

WHEREAS, the Company is governed by that certain Amended and Restated Operating Agreement dated February 1, 2014 (the "Operating Agreement"); and

WHEREAS, pursuant to that certain Membership Interest Purchase Agreement dated as of October 31, 2016 (the "Purchase Agreement"), the SCA Member purchased an aggregate forty-nine percent (49%) membership interest in the Company from the Class A Members and Merritt Healthcare Holdings Norwich, LLC ("Merritt"), including all of the issued and outstanding Units held by Merritt in the Company; and

WHEREAS, as of the Amendment Effective Date, the Company terminated that certain Management Agreement with Merritt Healthcare Holdings Norwich, LLC, and the Company entered into that certain Management Agreement between Surgical Care Affiliates, LLC ("SCA") and the Company (the "SCA Management Agreement"); and

WHEREAS, as required by the Purchase Agreement, the Members wish to amend the Operating Agreement as set forth herein.

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 hereby agree to amend the Operating Agreement as follows:

1. Capitalized Terms. Capitalized terms not otherwise defined in this Amendment shall have the meanings set forth in the Operating Agreement.
2. Substitute Member. The Members hereby consent to the admission of the SCA Member as a substitute member of the Company, and the SCA Member shall have all rights afforded to a Member under the Operating Agreement. The SCA Member shall execute and deliver to the Company a joinder to the Operating Agreement.
3. References to the Class B Member and Merritt. Any references in the Operating Agreement to "Merritt" or "Merritt Healthcare" shall be deleted and replaced with "the SCA Member." Any references to the "Class B Member" in the Operating Agreement shall be deemed to mean the SCA Member.
4. Waiver of Certain Rights. Only with respect to the transactions contemplated by the Purchase Agreement, the Class A Members hereby waive any and all rights of first refusal they may otherwise have under the Operating Agreement.

5. Exhibit A. Exhibit A (Membership Units) to the Operating Agreement shall be deleted in its entirety and replaced with a new Exhibit A (Membership Units), which is attached to this Amendment and incorporated herein by this reference.

6. Exhibit C. Exhibit C (Management Services Agreement) and all references thereto shall be deleted in their entirety.

7. Management Agreement. Any references in the Operating Agreement to the “Management Agreement” or the “Management Services Agreement” shall be deleted and replaced with the “SCA Management Agreement.”

8. Managers as Members. Section 3.6 (Managers as Members) shall be deleted and replaced with the following:

3.6 Managers as Members. Any Manager appointed by the Class A Members must hold a membership interest in the Company.

9. Withdrawal of a Member. It is the intent of the Members as of the Amendment Effective Date to remove from the Operating Agreement the concept that a Class A Member may withdraw from the Company after the seventh (7th) anniversary of the date on which such Class A Member became a Member, and such withdrawal will be treated as a Non-Adverse Terminating Event. Accordingly, the following changes shall be made to the Operating Agreement:

a. Section 4.2 shall be deleted and replaced with the following:

Section 4.2 Intentionally Omitted.

b. Sections 4.3(a)(i)(gg) and (hh) shall be deleted and replaced with the following:

(gg) the withdrawal of a Member, except as otherwise permitted by this Agreement.

(hh) Intentionally Omitted.

c. Section 4.3(b)(i)(aa) shall be deleted in its entirety and replaced with the following:

(aa) Intentionally Omitted.

10. Adverse Terminating Events. Section 4.3(a)(i)(cc) shall be deleted and replaced with the following:

(cc) any material breach of this Agreement by a Class A Member;

11. Tax Matters Partner. The following paragraph shall be added to the end of Section 6.10 (Tax Matters Partner):

Beginning on January 1, 2018, the Member then serving as Tax Matters Partner (or such other Member as selected by the Board of Directors) shall be designated as the “partnership representative” under Section 6223 of Chapter 63 of the Code (as in effect pursuant to the Bipartisan Budget Act of 2015, Pub L. No. 114-74 (the “**Bipartisan Budget Act**”), and shall be authorized to take any and all action required under the Code or Regulations, as in effect from time to time, to designate

itself the “partnership representative.” To the extent permitted by the Code and Regulations, the Member so designated as “partnership representative” shall be bound by the obligations and restrictions imposed on the tax matters partner pursuant to this Section 6.10. Upon the promulgation of Regulations implementing subchapter C of Chapter 63 of the Code (as revised by the Bipartisan Budget Act), the Members will evaluate and consider in good faith available options (including amendments to this Agreement) in order to preserve the allocation of responsibility and authority described in this Section 6.10 while conforming with the applicable provisions of the revised partnership audit procedures. The Member designated as the “partnership representative” shall be entitled to the same indemnification rights as provided to the Tax Matters Partner.

12. Offsets to Distributions. A new Section 6.11 (Offsets to Distributions) shall be added to the end of Article VI as follows:

6.11 Offsets to Distributions. Notwithstanding any other provisions of this Agreement, each Member hereby acknowledges and agrees that (i) the Company may, upon the written request of an Indemnified Member (as defined below), offset against a Member’s future distributions of profits from the Company an amount necessary to satisfy any unpaid indemnification obligations of such Member (the “**Indemnifying Member**”) to any other Member (the “**Indemnified Member**”) under the Purchase Agreement in accordance with the procedures set forth in the Purchase Agreement, and pay the amount so offset (the “**Offset Amount**”) to the Indemnified Member, and (ii) any Offset Amount paid to the Indemnified Member shall be applied against the amount of any Losses (as defined in the Purchase Agreement) payable by such Indemnifying Member to such Indemnified Member under Article XII of the Purchase Agreement and shall reduce, on a dollar-for-dollar basis, the remaining amount of any Losses payable by such Indemnifying Member to such Indemnified Member under Article XII of the Purchase Agreement. Upon receipt of a request for indemnification under Article XII of the Purchase Agreement, the Company will retain a portion of the Indemnifying Member’s future distributions otherwise owed to the Indemnifying Member, until such time as the claim for indemnification is fully and finally resolved.

13. Board of Managers. The following changes shall be made to Article VII:

a. Sections 7.3(b) (Employees) and 7.3(e) (Insurance) shall be deleted and replaced with the following:

7.3(b) Intentionally Omitted.

7.3(e) Intentionally Omitted.

b. Section 7.4(g) (Management Agreement) shall be deleted and replaced with the following:

7.4(g) Intentionally Omitted.

c. The following sentence shall be added to the end of Section 7.7 (Contracts with Affiliated Persons):

Notwithstanding anything herein to the contrary, the Members hereby consent to, approve and ratify the terms of the SCA Management Agreement and any cash management services provided by SCA pursuant to the SCA Management Agreement, and no further action or approval shall be required with respect to entering into such agreements or arrangements.

- d. A new Section 7.10 (Supermajority Board Approvals) shall be added to the end of Article VII as follows:

7.10 Supermajority Board Approvals. Notwithstanding any provision of this Agreement to the contrary, the Board shall not take any of the following actions without the approval of a majority of the Board, inclusive of the Manager appointed by the Class B Member:

- (a) Make any decisions regarding the hiring or firing of the Center's administrator;
- (b) Plan and adopt the Company's and the Center's annual operating budgets; and
- (c) Enter into, renew, amend or terminate any arrangement or agreement with any management company, consulting company, medical director or other senior employee or executive of the Company.

14. Contracts with Affiliated Persons. The following shall be added to the end of Section 7.7:

The Class A Members, upon vote of the Class A Members holding two-thirds (2/3) of the Units then held by Class A Members ("**Two-Thirds Physician Vote**") may provide SCA with notice of a breach of the SCA Management Agreement, and SCA shall have ninety (90) days to cure such breach. In the event SCA does not cure the breach within ninety (90) days of receipt of notice or in the event there is a dispute as to whether a breach occurred, the Class A Members, upon Two-Thirds Physician Vote, or the Board of Managers may initiate mediation to determine whether a breach occurred and, if so, what the damages are. If a dispute remains following the mediation, the Class A Members, upon Two-Thirds Physician Vote, or the Board of Managers may seek arbitration in accordance with Section 13.15(ii)(c) of this Agreement to determine whether a breach occurred and, if so, what the damages are; provided, however, that the award shall be limited to damages and not termination of the SCA Management Agreement. The mediation and arbitration costs and all reasonable expenses related to the mediation and arbitration (including reasonable legal fees) shall be paid by the Company.

15. Transfers by the SCA Member. The following new Section 10.14 (Transfers by the SCA Member) shall be added to the end of Article X:

10.14 Transfers by the SCA Member. Notwithstanding anything herein to the contrary, the SCA Member may freely Transfer Units held by it to an entity or entities that are wholly-owned, directly or indirectly, by SCA, and any such Transfer shall be deemed to comply with the requirements of this Article X.

16. Nonsolicitation. The following sentence shall be added to the end of Section 10.13:

Notwithstanding the foregoing, the Members expressly acknowledge and agree that, on or about January 1, 2017, SCA shall employ all of the personnel necessary for the operation of the Center, and such employment by SCA shall not violate the Class B Member's nonsolicitation covenant set forth in this Section 10.13.

17. Effect on Operating Agreement; General Provisions. Except as set forth in this Amendment, the terms and provisions of the Operating Agreement are hereby ratified and declared to be in full force and effect. This Amendment shall be governed by the provisions of the Operating Agreement; provided, however, to the extent that the terms of this Amendment and the Operating Agreement conflict, the terms of this Amendment shall control. The execution of this Amendment may occur in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. In addition, the parties may execute counterparts of this Amendment and transmit their signatures via facsimile or other electronic method, and such signatures received via facsimile or other electronic method shall have the same force and effect as an original. Captions and paragraph headings are used herein for convenience only, are not a part of this Amendment or the Operating Agreement as amended by this Amendment, and shall not be used in construing either document. On and after the date first written above, each reference in the Operating Agreement to "this Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference in the other documents and agreements relating to the Operating Agreement, shall mean and be a reference to the Operating Agreement as amended by this Amendment.

[Signature page follows]

IN WITNESS WHEREOF, this Amendment has been duly executed as of Amendment Effective Date.

SCA MEMBER:

SCA-RIVER VALLEY, LLC

By: _____
Name: Richard L. Sharff, Jr.
Title: Vice President

CLASS A MEMBERS:

Daniel Glenney, M.D.

Nicole Arcand, M.D.

Patricia Stuart, M.D.

John Pagnozzi, M.D.

William Culviner, M.D.

Steven Green, M.D.

Stephen Rouse, M.D.

Jerilyn Allen, M.D.

Gregory Lesnik, M.D.

[Signature Page to First Amendment to Amended and Restated Operating Agreement]

David Boisoneau, M.D.

Darren Courtright, DPM

Frank Dellacono, M.D.

Shri Verma, M.D.

Richard Martin, M.D.

Pamela Connors, M.D.

Edward Tarka, DPM

Stephen Scarangela, M.D.

Vinod Pathy, M.D.

Peter Famiglietti, M.D.

Raymond Gaito, M.D.

David Coletti, M.D.

[Signature Page to First Amendment to Amended and Restated Operating Agreement]

John Wesolek, M.D.

William Kaufold, M.D.

Dana Woods, M.D.

EXHIBIT A

RIVER VALLEY ASC, LLC

MEMBERSHIP UNITS

MEMBER	UNITS OWNED	PERCENTAGE OF OWNERSHIP INTEREST
<u>CLASS A MEMBERS</u>		
Daniel Glenney, MD	3.7098 Units	3.2053%
Nicole Arcand, MD	3.7098 Units	3.2053%
Patricia Stuart, MD	3.7098 Units	3.2053%
John Pagnozzi, MD	3.7098 Units	3.2053%
William Culviner, MD	3.0646 Units	2.6478%
Steven Green, MD	3.7098 Units	3.2053%
Stephen Rouse, MD	3.7098 Units	3.2053%
Jerilyn Allen, MD	3.0646 Units	2.6478%
Gregory Lesnik, MD	3.0646 Units	2.6478%
David Boisoneau, MD	3.7098 Units	3.2053%
Darren Courtright, DPM	2.5807 Units	2.2298%
Frank Dellacono, MD	3.7098 Units	3.2053%
Shri Verma, MD	3.7098 Units	3.2053%
Richard Martin, MD	3.7098 Units	3.2053%
Pamela Connors, MD	3.2259 Units	2.7872%
Edward Tarka DPM	0.7032 Units	0.6076%
Stephen Scarangela MD	1.6129 Units	1.3936%
Vinod Pathy MD	0.6774 Units	0.5853%
Peter Famiglietti MD	0.6774 Units	0.5853%
Raymond Gaito MD	0.6774 Units	0.5853%

Exhibit A

MEMBER	UNITS OWNED	PERCENTAGE OF OWNERSHIP INTEREST
David Coletti MD	0.6452 Units	0.5574%
John Wesolek MD	0.6452 Units	0.5574%
William Kaufold MD	0.6452 Units	0.5574%
Dana Woods MD	0.6452 Units	0.5574%
CLASS B MEMBERS		
SCA-River Valley, LLC	56.7126 Units	49%
TOTAL	115.7400 Units	100%

Exhibit A

EXHIBIT D

SECOND AMENDED AND RESTATED OPERATING AGREEMENT

See attached.

EXECUTION VERSION

THE MEMBERSHIP INTERESTS ISSUED UNDER THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 ("33 ACT") OR UNDER THE CONNECTICUT UNIFORM SECURITIES ACT, AS AMENDED ("STATE ACT"), AND MAY BE OFFERED OR SOLD BY A PURCHASER OF THE MEMBERSHIP INTERESTS ONLY (1) UPON REGISTRATION OF THE MEMBERSHIP INTERESTS UNDER THE '33 ACT AND THE STATE ACT OR PURSUANT TO AN EXEMPTION THEREFROM, AND (2) AFTER COMPLIANCE WITH ALL RESTRICTIONS ON TRANSFER OF MEMBERSHIP INTERESTS IMPOSED BY THIS AGREEMENT.

**SECOND AMENDED AND RESTATED
OPERATING AGREEMENT
OF
RIVER VALLEY ASC, LLC**

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**SECOND AMENDED AND RESTATED
OPERATING AGREEMENT
OF
RIVER VALLEY ASC, LLC**

This Second Amended and Restated Operating Agreement is made and entered into as of November 1, 2016, to be effective as of the Effective Date, by and among those persons who are or may become Members under the terms of this Agreement and each Interest Holder.

The parties hereto agree as follows:

This Agreement amends and restates in its entirety that certain Amended and Restated Operating Agreement of the Company dated February 1, 2014, as amended by that certain First Amendment to Amended and Restated Operating Agreement dated November 1, 2016.

I. DEFINITIONS

When used in this Agreement, the following terms shall have the meanings set forth below:

1.1 “**Act**” means the Connecticut Limited Liability Company Act, as amended from time to time.

1.2 “**Adjusted Capital Account**” means, with respect to any Member, such Member’s Capital Account as of the end of the relevant Allocation Period, after giving effect to the following adjustments:

(a) Credit to such Capital Account those amounts, if any, that such Member is deemed obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) Debit to such Capital Account the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

1.3 “**Adjusted Capital Account Deficit**” means, with respect to any Member, the deficit balance, if any, in such Member’s Adjusted Capital Account.

1.4 “**Adverse Buy/Sell Event**” means each Buy/Sell Event listed in Sections 10.5(b).

1.5 “**Adverse Event Purchase Price**” means fifty percent (50%) of the Fair Market Value Transfer Price.

1.6 “**Affiliate**” of a specified Person or entity shall mean a Person or entity that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person or entity specified. As used in this definition, the term “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such specified Person or entity, whether through ownership of voting securities, by contract or otherwise.

1.7 “**Agreement**” means this Second Amended and Restated Operating Agreement, as amended from time to time.

1.8 “**Allocation Period**” means, unless otherwise required pursuant to the Code and Regulations, the period commencing on the Effective Date and ending on the first December 31, (ii) any subsequent twelve (12) month period commencing on January 1 and ending on December 31, (iii) any portion of the period described in clauses (i) or (ii) for which the Company is required to allocate Profits, Losses and other items of Company income, gain, loss, deduction or other items pursuant to this Agreement, or (iv) any other period reasonably determined by the Board of Managers as appropriate for a closing of the Company’s books.

1.9 “**Articles**” has the meaning set forth in Section 2.1 hereof.

1.10 “**Assignee**” means a transferee of Units or any successor to a Member by operation of law, who has not, in either case, been admitted as a substitute Member.

1.11 “**Assignee Purchase Notice**” has the meaning set forth in Section 10.10 hereof.

1.12 “**Assignee Units**” has the meaning set forth in Section 10.10 hereof.

1.13 “**Available Cash Flow**” means all cash funds of the Company on hand at the end of each calendar month less (a) provision for payment of all outstanding and unpaid current cash obligations of the Company at the end of such month (including those which are in dispute); (b) provision for reserves and working capital for reasonably anticipated cash expenses and contingencies (which may include debt service on Company indebtedness and fees payable to the SCA Member or its Affiliates) as determined by the Board of Managers in its sole discretion; provided, however, that in no event shall the total amount of reserves and working capital exceed \$100,000 for purposes of calculating Available Cash Flow, unless otherwise approved by a Supermajority of the Board; (c) provisions for payment of any outstanding balance under the Overdraft Line of Credit; and (d) Sale Proceeds; provided, however, that proceeds described in subsection (d) are distributed separately under Section 8.11.

1.14 “**Benefit Plan Investor Ownership Limitation**” means Benefit Plan Investors own, in the aggregate, a twenty-five percent (25%) or greater interest in the Company without regard to any interest owned by the SCA Member and its Affiliates, or the ownership interest of any other Person who has discretionary control with respect to the assets of the Company or who provides investment advice to the Company for a fee.

1.15 “**Benefit Plan Investors**” shall have the meaning set forth in the ERISA Regulation set forth in 29 C.F.R. §2510.3-101(f)(2), as amended, or any successor regulation thereto.

1.16 “**Board**” or “**Board of Managers**” means the Managers, collectively, of the Company.

1.17 “**Buy/Sell Event**” has the meaning set forth in Section 10.5 hereof.

1.18 “**Buy/Sell Notice**” has the meaning set forth in Section 10.7 hereof.

1.19 “**Capital Account**” means, with respect to any Member, the capital account maintained by the Company for such Member in accordance with Section 6.8 of the Agreement.

1.20 “**Capital Call**” has the meaning set forth in Section 6.3 hereof.

1.21 “**Capital Contribution**” in respect of any Member or transferee of such Member means all property, tangible or intangible, contributed by such Member to the capital of the Company.

1.22 “**Center**” means the ambulatory surgery center located at 45 Salem Turnpike, Norwich, Connecticut.

1.23 “**Closing**” has the meaning set forth in Section 10.11 hereof.

1.24 “**Closing Payment**” has the meaning set forth in Section 10.11(b) hereof.

1.25 “**Code**” means the Internal Revenue Code of 1986, as amended, or any corresponding provisions of succeeding law in effect at such time.

1.26 “**Company**” means the limited liability company formed pursuant to this Agreement.

1.27 “**Company Percentage**” means, in the case of any Member, a fraction, stated as a percentage, with a numerator equal to the number of Units held by such Member and a denominator equal to the number of Units held by all Members.

1.28 “**Company Return**” means the U.S. Return of Partnership Income of the Company.

1.29 “**Competing Facility**” has the meaning set forth in Section 15.1 hereof.

1.30 “**Confidential Business Information**” has the meaning set forth in Section 15.6 hereof.

1.31 “**Covered Person**” means each Interest Holder, and each Member other than the SCA Member and its Affiliates.

1.32 “**Disability**” means inability or other failure of a Physician Interest Holder, by reason of mental or physical illness, disease or injury, to perform his or her usual and customary professional duties with a standard of care that would be exercised by a reasonable professional with the same medical practice, including performing outpatient surgical procedures, for a minimum period of six (6) consecutive months or six (6) months cumulatively in any twelve (12) month period, as determined by a Physician mutually agreeable to the Board of Managers and the Member in question.

1.33 “**Economic Risk of Loss**” has the meaning assigned to that term in Regulation Section 1.752-2(a).

1.34 “**EBITDA**” (a) means earnings before interest, taxes, depreciation and amortization for the applicable period, calculated as follows: the Net Income of the Company, plus the following, each determined in accordance with GAAP, without duplication and to the extent deducted from Net Income: (i) interest expense, (ii) federal, state and local income tax expense, (iii) depreciation and (iv) amortization of intangible assets and other non-cash charges; and (b) shall be calculated without regard to (i) any extraordinary gain or loss or (ii) any non-recurring or non-operating items related to activities outside the ordinary course of business.

1.35 “**Effective Date**” shall mean the date on which the Phase II Closing occurs, as that term is defined in the Purchase Agreement.

1.36 “**Entity Member**” means a professional association, professional corporation, partnership, limited liability company, corporation, trust, benefit plan or other such entity, other than the

SCA Member or its Affiliates, that is a Member. All Interest Holders of an Entity Member must be Physicians who meet the Physician Interest Holder Eligibility Requirements.

1.37 “**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended.

1.38 “**Estimated Purchase Price**” has the meaning set forth in Section 10.11(b) hereof.

1.39 “**Extension of Practice Requirements**” has the meaning set forth in Section 15.4(b).

1.40 “**Fair Market Value Transfer Price**” as of any date means the amount calculated according to the following formula: the product of EBITDA for the twelve (12) month period ending on the last day of the immediately preceding month as of such date multiplied by three (3), less any Interest Bearing Debt as of the last day of the immediately preceding month of such date.

1.41 “**Final Purchase Price**” has the meaning set forth in Section 10.11(b) hereof.

1.42 “**Fiscal Year**” means the period designated as such in Section 12.3 hereof.

1.43 “**Force majeure**” has the meaning set forth in Section 17.11 hereof.

1.44 “**GAAP**” means generally accepted accounting principles, as consistently applied by the Board of Managers.

1.45 “**Health Care Program Adverse Event**” means the suspension, debarment, exclusion or termination of a Physician Interest Holder from the Medicare or Medicaid programs or other federal or state health care programs, or the imposition of any civil monetary penalties or other punishment by a government program against a Physician Interest Holder.

1.46 “**Indemnified Member**” has the meaning set forth in Section 8.17 hereof.

1.47 “**Indemnifying Member**” has the meaning set forth in Section 8.17 hereof.

1.48 “**Interest Bearing Debt**” means the principal amount of any notes payable or other indebtedness of the Company, provided that such indebtedness is reflected on the balance sheet of the Company.

1.49 “**Interest Holder**” means a Person who (a) is a member, shareholder, partner or other owner (either directly or indirectly) of an Entity Member or (b) created, is a beneficiary or grantor of, or is the trustee of a trust that is a Member.

1.50 “**Interest Holder’s Proportionate Units**” means the number of Units held by an Entity Member that is attributable to an Interest Holder based on such Interest Holder’s (direct or indirect) ownership percentage interest in the Entity Member, which in the case of a Interest Holder described in (b) of Section 1.49 shall be deemed one hundred percent (100%) unless a lesser percentage is approved by the Board of Managers.

1.51 “**Manager**” means the Person or Persons so named as part of or elected to the Board of Managers pursuant to this Agreement.

1.52 “**Medical Executive Committee**” has the meaning set forth in Section 9.10 hereof.

1.53 “**Member**” means each Person designated as a Member of the Company on Schedule A hereto as of the Effective Date, including the SCA Member, or any other Person admitted as a Member of the Company in accordance with this Agreement or the Act. “**Members**” refers to such Persons as a group.

1.54 “**Member Nonrecourse Debt**” has the same meaning as the term “partner nonrecourse debt” set forth in Regulations Section 1.704-2(b)(4).

1.55 “**Member Nonrecourse Deductions**” has the same meaning as the term “partner nonrecourse deductions” set forth in Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2).

1.56 “**Net Book Value Purchase Price**” means fifty percent (50%) of the Tangible Net Book Value.

1.57 “**Net Income**” means net income (or loss), calculated in accordance with GAAP, which shall include a deduction of the annual management fees, and shall not include extraordinary and nonrecurring items (and corresponding tax consequences) and income or loss attributable to discontinued operations.

1.58 “**Non-Adverse Buy/Sell Event**” means any Buy/Sell Event that is not an Adverse Buy/Sell Event.

1.59 “**Non-Contributing Member**” has the meaning set forth in Section 6.3 hereof.

1.60 “**Note**” has the meaning set forth in Section 10.11(a).

1.61 “**Offset Amount**” has the meaning set forth in Section 8.17 hereof.

1.62 “**Outpatient Surgical Procedures**” has the meaning set forth in Section 15.4(b).

1.63 “**Overdraft Line of Credit**” has the meaning set forth in the Management Agreement.

1.64 “**Partnership Representative**” (i) for taxable years beginning on or prior to December 31, 2017, has the meaning of a “tax matters partner” set forth in Code Section 6231 and any comparable provisions of foreign, state and local income tax laws and (ii) for taxable years beginning after December 31, 2017, has the meaning of a “partnership representative” set forth in Section 6223(a) of the Code and any comparable provisions of foreign, state and local income tax laws.

1.65 “**Person**” means an individual, trust, estate, corporation, partnership, limited partnership, limited liability company, unincorporated association or other entity or association.

1.66 “**Physician**” means a Person defined as set forth in 42 U.S.C. §1395x(r) who is licensed to practice medicine in Connecticut.

1.67 “**Physician Interest Holder**” means (a) a Member who is a Physician or (b) an Interest Holder who is a Physician.

1.68 “**Physician Interest Holder Eligibility Requirements**” has the meaning set forth in Section 15.5(b).

1.69 “**Profits**” and “**Losses**” means, for each Allocation Period, an amount equal to the Company’s taxable income or loss for such Allocation Period, determined in accordance with Code

Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this Section 1.69 shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this Section 1.69 shall be subtracted from such taxable income or loss;

(c) If the book value of property is adjusted pursuant to Regulations Sections 1.704-1(b)(2)(iv)(f) or (e), such adjustment shall be taken into account as gain or loss from the disposition of an asset and, in lieu of depreciation as calculated for federal income tax purposes, subsequently such deductions shall be computed in accordance with Regulations Sections 1.704-1(b)(2)(iv)(g)(3) or 1.704-3(d)(2), as the case may be. Subsequent calculations of gain or loss resulting from the disposition of an asset for federal income tax purposes shall be computed by reference to its book value as reflected in Members' Capital Accounts rather than its adjusted tax basis;

(d) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or 743(b) is required to be taken into account in determining Capital Accounts as a result of a distribution other than in complete liquidation of a Member's interest in accordance with Regulations Section 1.704-1(b)(2)(iv)(m)(4), the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) from the disposition of the asset and shall be taken into account for purposes of computing Profits and Losses; and

(e) Any items which are specially allocated pursuant to Section 8.3, Section 8.4, Section 8.5 and Section 8.6 hereof shall not be taken into account in computing Profits or Losses.

The amounts of items of Company income, gain, loss, and deduction available to be specifically allocated pursuant to Section 8.3, Section 8.4, Section 8.5 and Section 8.6 hereof shall be determined by applying rules analogous to those set forth in Subparagraphs (a) through (e) above.

1.70 **"Purchase Agreement"** means that certain Membership Interest Purchase Agreement by and among the SCA Member, the Company, certain of the Members, Merritt Healthcare Holdings, LLC, Merritt Healthcare Holdings Norwich, LLC, and SCA, dated effective as of October 31, 2016.

1.71 **"Purchase Notice"** has the meaning set forth in Section 10.8 hereof.

1.72 **"Regulations"** means the Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

1.73 **"Regulatory Allocations"** has the meaning set forth in Section 8.6 hereof.

1.74 **"Repurchase Failure Notice"** has the meaning set forth in Section 10.12 hereof.

1.75 **"Repurchase Period"** has the meaning set forth in Section 10.12 hereof.

1.76 **“Responsible Party”** has the meaning set forth in Section 16.3 hereof.

1.77 **“Restricted Period”** means (a) in the case of a Member, the period commencing on the date he or she becomes a Member and ending on the second (2nd) annual anniversary of the date such Member is no longer a Member, and (b) in the case of an Interest Holder that is not directly a Member, means the period commencing on the date that he or she becomes an Interest Holder in an Entity Member and ending on the later of (i) the second (2nd) annual anniversary of the date such Interest Holder ceased to be an Interest Holder of the Entity Member, or (ii) the second annual anniversary of the date such Entity Member ceased to be a Member.

1.78 **“Retirement”** shall mean when a Physician Interest Holder ceases to practice medicine and publicly announces such retirement or, if he or she does not publicly announce such retirement, the Board of Managers shall have determined that such person no longer practices medicine or performs ambulatory surgical procedures on at least a substantially full-time basis (i.e., at least thirty-five (35) hours per week for at least forty (40) weeks per year).

1.79 **“Sale Proceeds”** means all proceeds of any sale, exchange, foreclosure, abandonment, financing or refinancing of capital assets of the Company, or from condemnation awards or casualty insurance claims, less applicable expenses and any debt paid or prepaid with the proceeds of or in connection with such transaction occurring upon the liquidation of the Company or sale of all or substantially all of the Company’s assets outside the ordinary course of business.

1.80 **“SCA”** means Surgical Care Affiliates, LLC, a Delaware limited liability company and the indirect owner of the SCA Member, and any successor entity.

1.81 **“SCA Member”** means SCA-River Valley, LLC, a Delaware limited liability company, and any successor entity.

1.82 **“Supermajority of the Board”** means the affirmative vote of four (4) of the five (5) Members of the Board.

1.83 **“Supermajority of the Members”** means a vote requiring the approval of (i) the SCA Member and (ii) the Members holding at least fifty percent (50%) of the Units then held by all Members other than the SCA Member.

1.84 **“Tangible Net Book Value”** means the net assets of the Company, less current and long-term liabilities and less any intangible asset that appears on the Company’s balance sheet, including, without limitation, goodwill, each determined in accordance with GAAP.

1.85 **“Tax Distribution”** has the meaning set forth in Section 8.10.

1.86 **“Tax Matters Partner”** means the party responsible for certain tax responsibilities for the Company as set forth in Section 9.8 hereof.

1.87 **“Transfer”** (and its derivations) means any involuntary or voluntary sale, lease, pledge, assignment, grant of a security interest, subcontract, dividend, merger, consolidation, gift or other disposition, direct or indirect, by operation of law or otherwise.

1.88 **“Unit”** means an interest as a Member in the capital and profit and losses of the Company. The Board of Managers, in its sole discretion, may increase the number of Units. Units may be offered and sold in fractional increments.

1.89 “**Withdrawing Member**” has the meaning set forth in Section 10.7.

1.90 “**Withdrawing Member’s Units**” has the meaning set forth in Section 10.11 hereof.

II. ORGANIZATION

2.1 Formation. The Company was previously formed as a limited liability company under and pursuant to the Act, by filing articles of organization (the “**Articles**”) with the Secretary of State of Connecticut. The parties desire to cause the Company to continue in effect in accordance with the terms of this Agreement. The Board of Managers shall cause any amendments to the Articles to be filed of record and in such places as required by the Act to protect the status of the Company as a limited liability company doing business in Connecticut and as otherwise required by law.

2.2 Name. The name of the Company is River Valley ASC, LLC. The business of the Company may be conducted under such other name as the Board of Managers may determine.

III. PRINCIPAL PLACE OF BUSINESS

3.1 Principal Place of Business. The principal place of business of the Company shall be located at the Center, or at such other place as the Board of Managers may from time to time designate.

3.2 Registered Office. The registered office of the Company shall be the address designated by the Board of Managers.

3.3 Registered Agent. The Registered Agent of the Company shall be CT Corporation.

IV. BUSINESS

The business to be conducted by the Company shall be to own and operate the Center, and to carry on any and all activities necessary, proper, convenient, or advisable in connection therewith.

V. TERM

The Company shall be perpetual, unless terminated earlier pursuant to Article XI of this Agreement.

VI. CAPITAL CONTRIBUTION AND CAPITAL ACCOUNTS OF MEMBERS

6.1 Capital Contribution of the SCA Member. The SCA Member, or its respective predecessors in interest, has previously made a Capital Contribution to the Company in exchange for its Units or has acquired its Units from another Member. The number of Units held by the SCA Member as of the Effective Date is set forth on Schedule A.

6.2 Capital Contributions of the Other Members. The Members other than the SCA Member, or their respective predecessors in interest, have previously made a Capital Contribution to the Company in exchange for Units or have acquired their Units from another Member. The number of Units held by each of the Members other than the SCA Member as of the Effective Date is set forth on Schedule A.

6.3 Additional Capital Contributions. In the event that the Board of Managers determines at any time (or from time to time) that additional funds are required by the Company for or in respect of its business or to pay any of its obligations, expenses, costs, liabilities or expenditures (including, without limitation, any operating deficits), then the Board of Managers may, in its reasonable discretion, and with

the approval of a Supermajority of the Members in accordance with Section 9.5(c) of this Agreement, require the Members to contribute additional capital to the Company in proportion to their Company Percentage (“**Capital Call**”). If any Member fails to contribute his, her or its pro rata share of any Capital Call within ten (10) days of receipt of written notice from the Board of Managers (a “**Non-contributing Member**”), the SCA Member may, if it has made its additional contribution hereunder make the additional contribution that such Non-contributing Member has failed to make in exchange for Units. Under such circumstances, the Board of Managers shall adjust the Company Percentage and Unit ownership of the Members to the extent necessary in accordance with the following formula: Each Member’s adjusted Units shall be determined by multiplying the total outstanding Units times each Member’s adjusted Company Percentage. Each Member’s adjusted Company Percentage shall be equal to the quotient of (a) the sum of (i) the fair market value of the Company, as determined by the Board of Managers in good faith immediately prior to the applicable Capital Contribution, multiplied by each Member’s Company Percentage at the time of the additional Capital Contribution, plus (ii) the amount, if any, of such Member’s additional Capital Contribution actually contributed, divided by (b) the total fair market value of the Company, as determined by the Board of Managers in good faith immediately after the applicable Capital Contribution. The formula set out in the paragraph is summarized below for illustration purposes.

Total Outstanding Units x ((FMV Pre-contribution x each Member’s Company Percentage) + each Member’s Capital Contribution)/FMV Post-Contribution.

The Board of Managers is hereby authorized to amend Schedule A to reflect the number of Units held by each Member in accordance with the terms of this Section.

6.4 Limited Liability. A Member shall not be bound by, or personally liable for, the expenses, liabilities or obligations of the Company, except as provided in the Act or as otherwise provided by applicable law. Notwithstanding the foregoing, in the event that SCA or a third party commercial lender requires a Member to guarantee the Company’s obligations under a loan as a condition of financing and the Member agrees to do so, the Member shall be liable under the guaranty according to its terms.

6.5 Role of Members. Except as otherwise provided in this Agreement, no Member shall take part in or interfere in any manner with the conduct or control of the business of the Company and shall have no right or authority to act for or bind the Company.

6.6 Withdrawal of Capital Contributions. No Member shall have the right to withdraw or reduce his, hers or its Capital Contribution without the prior written consent of the Board of Managers. No Member shall have the right to demand or receive property other than cash in return for his, her or its Capital Contribution, and no Member shall have priority over any other Member, either as to the return of Capital Contributions or as to profits, losses or distributions.

6.7 Assessments and No Negative Capital Account Make-up. Other than as set forth in Section 6.3 hereof, Members will not be subject to additional assessments for contributions to the capital of the Company. Notwithstanding any other provision in this Agreement or any inference from any provision in this Agreement, no Member shall have an obligation to the Company, to the other Members or to third parties to restore a negative Capital Account balance during the existence of the Company or upon the dissolution or termination of the Company.

6.8 Creation and Maintenance of Capital Account. The Company shall establish and maintain a Capital Account for each Member for the full term of the Company. The Capital Account

shall be increased by such Member's Capital Contribution and allocations of Profits and items thereof to such Member and decreased by distributions and allocations of Losses and items thereof to such Member and otherwise maintained in accordance with the capital account maintenance rules of Regulations Section 1.704-1(b)(2)(iv). Upon occurrence of any of the events specified in Regulations Section 1.704-1(b)(2)(iv)(f)(5), the Company shall revalue all of its assets and adjust the Capital Accounts to reflect such revaluation unless the Board of Managers reasonably determines that such adjustments are not necessary or appropriate to reflect the relative economic interests of the Members in the Company; further, all of the rules of Regulations Section 1.704-1(b)(2)(iv)(f) shall be complied with upon any such revaluation and Capital Account adjustment. If the Board of Managers determines that it is prudent or necessary to modify the manner in which the Capital Accounts, or any debits or credits thereto, are computed in order to comply with such Regulations, the Board of Managers may require the Company to make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Member upon the dissolution of the Company. The Company shall make appropriate modifications required by the Board of Managers in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b).

6.9 Admission of Additional Members. The Company may admit additional Members upon the approval of, and on terms determined by, a Supermajority of the Board. Each additional Member shall deliver to the Board of Managers (a) a written agreement by the additional Member to be bound by all the terms and conditions of this Agreement, as amended from time to time, and (b) pay any additional capital that such additional Member has agreed to contribute. All such issuances shall be structured such that the amount paid for the Units is not less than fair market value, payments are made in cash and such that the issuance of Units does not take into account the potential value or volume of referrals to the Center of the additional Member.

6.10 Issuance of Replacement Units. In the event that the Company purchases the Units of any Member, such Units shall not cease to exist but shall remain available for the Company to resell. During the period after such Units are purchased by the Company and until they are resold, such Units shall not be deemed to be outstanding under this Agreement for any purposes (i.e., voting, receipt of distributions, etc.).

6.11 Redemption of Units from the SCA Member. In the event the Company redeems Units from the SCA Member in connection with an offering of Units to other Persons, the redemption price shall be equal to the gross proceeds received by the Company from the sale of Units in the offering, and the Company shall be responsible for any commission and fees associated with brokers or other third parties engaged by the Company.

VII. EXPENSES OF THE COMPANY

7.1 Organizational and Offering Expenses. All expenses incurred in connection with the formation of the Company and obtaining the Company's capital shall be paid by the Company.

7.2 Fees Receivable By An Affiliate of the SCA Member. The Company may contract with others, including Affiliates of the SCA Member, to perform services; provided, however, that contracts with Members of Affiliates of Members shall require approval by a Supermajority of the Board. Any such arrangements with Affiliates will be on terms that the Board of Managers believes to be fair and reasonable to the Company and generally not materially less favorable than could reasonably be realized with unaffiliated persons. In addition, Affiliates of the SCA Member will receive from the Company on the terms and conditions hereinafter set forth certain fees, which shall be in addition to the interest of the SCA Member in the Profit and Loss and Available Cash Flow of the Company. As of the Effective Date of this Agreement, arrangements with Affiliates of the SCA Member include, but are not limited to a

management agreement by and between SCA and the Company dated as of November 1, 2016 (the “**Management Agreement**”), pursuant to which SCA provides (i) management services and staffing for the Center in exchange for the consideration set forth therein, and (ii) certain cash management services to the Company. Each Member hereby approves, consents to, and ratifies all the foregoing arrangements.

7.3 Breach of Management Agreement. The Members other than the SCA Member (the “**Physician Members**”), upon vote of the Physician Members holding two-thirds (2/3) of the Units then held by Physician Members (“**Two-Thirds Physician Vote**”) may provide SCA with notice of a breach of the Management Agreement, and SCA shall have ninety (90) days to cure such breach. In the event SCA does not cure the breach within ninety (90) days of receipt of notice or in the event there is a dispute as to whether a breach occurred, the Physician Members, upon Two-Thirds Physician Vote, or the Board of Managers may initiate mediation to determine whether a breach occurred and, if so, what the damages are. If a dispute remains following the mediation, the Physician Members, upon Two-Thirds Physician Vote, or the Board of Managers may seek arbitration to determine whether a breach occurred and, if so, what the damages are; provided, however, that the award shall be limited to damages and not termination of the Management Agreement. The mediation and arbitration shall occur in Norwich, Connecticut. The mediation and arbitration costs and all reasonable expenses related to the mediation and arbitration (including reasonable legal fees) shall be paid by the Company.

7.4 Other Arrangements with Affiliates. Subject to Section 9.5, the Company may enter into agreements with Members or Affiliates of any Member, including, without limitation, the Management Agreement and a medical director agreement, and may extend, renew, amend, or modify such agreements in any respect, provided such actions are commercially reasonable and generally on such terms not materially less favorable than could reasonably be obtained with an unaffiliated third person and approved by a Supermajority of the Board.

VIII. ALLOCATION OF INCOME AND LOSS; CASH DISTRIBUTIONS

8.1 Profits. After giving effect to the special allocations set forth in Sections 8.3 through and including 8.8 for each Fiscal Year or other Allocation Period, Profits for each Fiscal Year or other Allocation Period shall be allocated as follows:

a. First, to the Members in proportion to and to the extent of the amount equal to the remainder, if any, of (i) the cumulative Losses allocated to each such Member (or such Member’s predecessor in interest) pursuant to Section 8.2(b) for all prior Fiscal Years or other Allocation Periods, over (ii) the cumulative Profits allocated to each such Member (or such Member’s predecessor in interest) pursuant to this Section 8.1(a) for all prior Fiscal Years or other Allocation Periods.

b. Second, in accordance with the Members’ Company Percentages.

8.2 Losses. After giving effect to the special allocations set forth in Sections 8.3 through and including 8.8 for each Fiscal Year or other Allocation Period, Losses for each Fiscal Year or other Allocation Period shall be allocated as follows:

a. First, in accordance with the Members’ Company Percentages.

b. Second, the Losses allocated pursuant to Section 8.2(a) shall not exceed the maximum amount of Losses that can be so allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any Fiscal Year or other Allocation Period. In the event that some but not all of the Members would have Adjusted Capital Account Deficits as a

consequence of the allocation of Losses pursuant to Section 8.2(b), the limitation set forth in this Section 8.2(b) shall be applied on a Member by Member basis and those Losses not allocable to a Member as a result of such limitation shall be allocated to the other Members in accordance with the positive balances in such Members' Adjusted Capital Accounts so as to allocate the maximum permissible losses to each Member under Regulations Section 1.704-1(b)(2)(ii)(d). Notwithstanding the first sentence of this Section 8.2(b), if no Member has a positive balance in its Adjusted Capital Account, then allocations of Losses that create an Adjusted Capital Account Deficit shall be permitted and such allocations of Losses shall be made to the Members in amounts in proportion to their Company Percentages.

8.3 Compliance with Treasury Regulations. The provisions of this Article VIII are intended to comply with Regulations Sections 1.704-1(b), 1.704-2, 1.704-3 and any successor regulations, and shall be defined and interpreted consistently with this intention and the Company shall make such special allocations reasonably determined necessary by the Board of Managers for the allocations of income and loss to be respected for federal income tax purposes pursuant to Regulations Section 1.704-1(b) and 1.704-2. This Article VIII is specifically intended to comply with the "alternate test for economic effect" under Regulations Section 1.704-1(b)(2)(ii) and thus all of the requirements necessary to comply with such test, including a qualified income offset, are incorporated herein by reference. In addition, the provisions in Regulations Section 1.704-2 pertaining to minimum gain chargebacks and non-recourse deductions are incorporated herein by reference.

8.4 Nonrecourse Deductions. Nonrecourse Deductions (as such term is defined in Regulations Section 1.704-2(b)) shall be specially allocated to and among the Members in accordance with their Company Percentages.

8.5 Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Allocation Period shall be specially allocated to the Member who bears the Economic Risk of Loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1). If more than one Member bears the Economic Risk of Loss with respect to Member Nonrecourse Debt, Member Nonrecourse Deductions attributable thereto shall be allocated between or among such Members in accordance with the ratios in which they share such Economic Risk of Loss.

8.6 Corrective Allocations. The allocations provided in Sections 8.3, 8.4 and 8.5 above (the "Regulatory Allocations") are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations may be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss, or deduction pursuant to this Section 8.6. Therefore, notwithstanding any other provision of this Article VIII (other than the Regulatory Allocations), the Board of Managers may make such offsetting special allocations of Company income, gain, loss, or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to Sections 8.1, 8.2, 8.7, and 8.8, or as otherwise necessary to eliminate the economic distortions created by such Regulatory Allocations. In exercising its discretion under this Section 8.6, the Board of Managers shall take into account future Regulatory Allocations under the minimum gain chargeback and partner minimum gain chargeback incorporated into this Agreement by Section 8.3 that, although not yet made, are likely to offset other Regulatory Allocations previously made under Section 8.4 and under the allocation of partner nonrecourse debt incorporated herein by Section 8.3.

8.7 Allocations in Event of Recharacterization or Imputed Interest Transactions. In the event that any otherwise deductible payment made by the Company to a Member or an Affiliate of a Member is recharacterized as a distribution from the Company, then the Member which is deemed to have received the distribution shall be allocated items of Company income or gain for such Fiscal Year or other Allocation Period (and, if necessary for subsequent Fiscal Years) in an amount equal to the distribution. In addition, if, pursuant to the Code or Regulations, a Member recognizes imputed interest income as a result of a transaction between such Member and the Company, such Member shall be allocated any related Company deduction for such imputed interest.

8.8 Allocations Upon Liquidation. After giving effect to any allocations required by Sections 8.3, 8.4, 8.5, 8.6, and 8.7 upon the liquidation of the Company (and in any Fiscal Year prior to the year in which the Company liquidates if the Board of Managers reasonably determines it necessary or appropriate to do so in order to achieve the objectives set forth in this Section 8.8), all items of income, gain, loss, and deduction shall be allocated among the Members to cause the ending Capital Account balance of each Member to equal, as near as reasonably practicable, an amount equal to the distribution that is anticipated to be distributed to each such Member under Sections 8.10 and 8.11, assuming for purposes of this Section 8.8 that all such distributions pursuant to Sections 8.10 and 8.11 were made pro rata among the Members in accordance with their respective Company Percentages. If the items of Company income, gain, loss and deduction for the Fiscal Year in which the liquidation occurs are not sufficient to cause the ending Capital Account balance of each Member to equal such amount, the Company shall, to the extent permitted by Law, amend its income tax returns (including IRS Form 1065, "U.S. Return of Partnership Income") so as to cause the ending Capital Account of each Member to equal such amount. Such allocations shall be made among the Members according to the following ratio: (i) the difference between each Member's Capital Account and the amount of the anticipated distribution under Sections 8.10 and 8.11 (assuming such distribution pursuant to Sections 8.10 and 8.11 was pro rata among the Members in accordance with their respective Company Percentages) over (ii) the sum of such differences for all Members. Thereafter, all remaining items of income, gain, loss and deduction shall be allocated among the Members in accordance with their Company Percentages.

8.9 Tax Allocations: Code Section 704(c). Income, gain, loss and deduction as computed for income tax purposes with respect to Company property subject to Code Section 704(c) shall be allocated in accordance with said Code Section and/or Regulations Section 1.704-1(b)(4)(i), as the case may be, using any reasonable method specified in Regulations Section 1.704-3(b). Allocations pursuant to this Section 8.9 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any person's Capital Account or share of Profits and Losses, other items, or distributions pursuant to any provision of this Agreement.

8.10 Distributions of Available Cash Flow. Subject to Article VII, the Company shall distribute the Available Cash Flow to the Members pro rata in accordance with their respective Company Percentages. Such distributions shall be made in monthly installments within fifteen (15) days after the end of each month, or at such other time or times as the Board of Managers shall deem practicable. Notwithstanding the foregoing, at a minimum the Company shall attempt to distribute to each of the Members, at least fifteen (15) days prior to the date on which a Physician Interest Holder is required to pay estimated federal income tax, an amount necessary for the Members to pay their estimated federal and state income tax obligations related to Company income (such amount, a "**Tax Distribution**"); provided, however, that all Tax Distributions shall be pro rata among the Members in accordance with their respective Company Percentages. If a distribution is in connection with the liquidation of the Company, such distribution shall be made in accordance with the penultimate sentence of Section 11.2. At the reasonable request of any Member, the Center's administrator shall provide such Member with an accounting of the Company's collection and payment activities.

8.11 Distributions of Sale Proceeds. Subject to the penultimate sentence in Section 11.2, the Company shall distribute any Sale Proceeds less provision for reserves and working capital for reasonably anticipated cash expenses and contingencies (which may include debt service on Company indebtedness and fees payable to SCA, the SCA Member or any of their Affiliates) as determined by the Board of Managers in its reasonable discretion. Such distribution shall be made in accordance with each Member's Company Percentage. Such distribution shall be made as soon after the receipt by the Company of Sale Proceeds as the Board of Managers deems practicable. Notwithstanding anything to the contrary above, in the event that the Company sells its assets for a combination of cash and notes, the Members, including the SCA Member, shall be entitled to (a) their proportionate share of the remaining cash required to be distributed under this Section, and (b) an undivided interest in each note received by the Company and shall be paid their proportionate share of principal and interest on such notes as the purchaser pays such amounts. If a distribution of Sale Proceeds is in connection with the liquidation of the Company, such distribution shall be made in accordance with the penultimate sentence of Section 11.2.

8.12 Consequences of Distributions. Upon the determination to distribute funds in any manner expressly provided in this Article VIII, made in good faith, the Board of Managers shall not incur any liability on account of such distribution, even though such distribution may have resulted in the Company retaining insufficient funds for the operation of its business which insufficiency resulted in loss to the Company or necessitated the borrowing of funds by the Company.

8.13 Tax Credits. Tax credits for any Fiscal Year or other Allocation Period shall be allocated among the Members in accordance with the Members' Company Percentages. Such allocations shall not be taken into account in computing any Member's Capital Account balance.

8.14 Member Admission Date. A purchaser of Units shall become a Member (a) with respect to Units sold by the Company on the date that both (i) his, her or its Capital Contribution is received by the Company, and (ii) the Board of Managers accepts such purchaser's subscription by signing the appropriate signature line of such purchaser's subscription agreement or (b) with respect to substitute Members purchasing Units in accordance with Article X hereof, on the date that the Board of Managers consents in writing to such Transfer of Units.

8.15 Allocation of Profits, Losses and Distribution In Respect of Units Transferred. If one or more Units are transferred or issued during any Fiscal Year of the Company, items of income, gain, loss, deduction and credit attributable to such Unit(s) for such Fiscal Year shall be divided and allocated between the transferor and the transferee based on the time each such party was, according to the books and records of the Company, the owner of record of the Unit(s) transferred during the year in which the transfer or issuance occurs. For this purpose, the transferor shall be deemed not to be a Member as of the date the transfer actually occurs, and the transferee shall, for these purposes, be deemed to be a Member as of the like day. Distributions of Available Cash Flow in respect of Units shall be divided between the transferor and the transferee for the quarter in which such transfer occurs based on the time during such quarter each such party was, according to the books and records of the Company, the owner of record of the Unit(s) transferred during the period in which the transfer occurs. All other distributions by the Company shall be distributed to the Persons holding Units on the date of the distribution. As in the case of allocations, the transferor shall be deemed not to be a Member as of the date that the transfer actually occurs, and the transferee shall, for these purposes, be deemed to be Member as of the like day. The Managers and the Company shall incur no liability for making distributions in accordance with the provisions of the preceding sentence whether or not the Managers or the Company have knowledge or notice of any transfer of ownership of any Unit(s).

8.16 Tax Obligations Pursuant to the Purchase Agreement. The Members acknowledge the Purchase Agreement imposes on the Members and the Company certain obligations with respect to the

preparation and filings of tax returns and the payment of taxes, including, without limitation, (i) an obligation to make a timely election under Section 754, (ii) an obligation to use the interim closing method and the calendar day convention specified in Regulations Section 1.706-4 with respect to the "Phase I Closing Date" and "Phase II Closing Date" (as such terms are defined in the Purchase Agreement), and (iii) an obligation regarding the allocation of items income, gain, loss, deduction and credit of the Company with respect to taxable periods or portions thereof ending on or before the Phase I Closing Date, and the taxable period or portion thereof beginning immediately after the Phase I Closing Date and ending on and including the Phase II Closing Date. Notwithstanding any other provision of this Agreement, the Members hereby agree the Company shall to take all actions required to be taken by it pursuant to the terms of the Purchase Agreement, and this Agreement shall interpreted in a manner consistent therewith.

8.17 Offsets to Distributions. Notwithstanding any other provisions of this Agreement, each Member hereby acknowledges and agrees that (i) the Company may, upon the written request of an Indemnified Member (as defined below) after following the procedures contained in the Purchase Agreement regarding offsets, offset against a Member's future distributions of profits from the Company an amount necessary to satisfy any unpaid indemnification obligations of such Member (the "**Indemnifying Member**") to any other Member (the "**Indemnified Member**") under the Purchase Agreement, and pay the amount so offset (the "**Offset Amount**") to the Indemnified Member, and (ii) any Offset Amount paid to the Indemnified Member shall be applied against the amount of any Losses (as defined in the Purchase Agreement) payable by such Indemnifying Member to such Indemnified Member under Article XII of the Purchase Agreement and shall reduce, on a dollar-for-dollar basis, the remaining amount of any Losses payable by such Indemnifying Member to such Indemnified Member under Article XII of the Purchase Agreement. Upon receipt of a request for indemnification under Article XII of the Purchase Agreement, the Company will retain a portion of the Indemnifying Member's future distributions otherwise owed to the Indemnifying Member, until such time as the claim for indemnification is fully and finally resolved.

IX. RIGHTS, POWERS AND OBLIGATIONS OF THE BOARD OF MANAGERS

9.1 Establishment of Board of Managers. The Company shall be "manager-managed" as defined in the Act and the business and affairs of the Company shall be managed by the Board of Managers. The number of Managers on the Board of Managers shall be five (5). Three (3) Managers shall be appointed by the SCA Member and two (2) Managers shall be appointed by the Members other than the SCA Member holding an aggregate Company Percentage that is in excess of fifty percent (50%) of the aggregate Company Percentage held by all Members other than the SCA Member. A Manager is not required to be a resident of any particular state. Unless authorized to do so by this Agreement or the Board of Managers, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. The Managers shall only act collectively as the Board of Managers and no individual Manager shall have the right or authority to act independently on behalf of the Company unless prior approval or authorization has been given by the Board of Managers. The initial Managers shall be as follows:

<u>SCA Managers</u>	<u>Physician Managers</u>
Thomas Chadwick	Rick Martin, M.D.
Brian Nicholls	Frank Dellacano, M.D.
Dan Sweatman	

9.2 Powers. Except for situations in which the approval of the Members is expressly required by this Agreement or by non-waiveable provisions of applicable law, the management and

control of the Company and its business and affairs shall rest exclusively with the Board of Managers, which shall have all the rights and powers which may be possessed by a "manager" pursuant to the Act, and such additional rights and powers as are otherwise conferred by law or are necessary, advisable or convenient to the discharge of its duties under this Agreement. Without limiting the generality of the foregoing, the Board of Managers may, subject to Section 9.5, at the cost, expense and risk of the Company:

- a. Spend the capital and Net Income of the Company in the exercise of any rights or powers possessed by the Board of Managers hereunder;
- b. Prepare and approve ordinary and capital budgets of the Company for each Fiscal Year;
- c. Operate the Center, acquire leasehold improvements at the Center, and enter into agreements containing such terms, provisions and conditions as the Board of Managers in its discretion shall approve provided, however that any agreements with any Member or an Affiliate of a Member shall require the approval of Supermajority of the Board;
- d. Purchase from or through others contracts of liability, casualty and other insurance which the Board of Managers deems advisable for the protection of the Company or for any purpose convenient or beneficial to the Company;
- e. Incur indebtedness for a Company purpose in accordance with an approved budget;
- f. Sell or otherwise dispose of, upon such terms and conditions as the Board of Managers may deem advisable, appropriate or convenient, any of the assets of the Company in the ordinary course;
- g. Invest in short-term debt obligations (including obligations of federal and state governments and their agencies, commercial paper and certificates of deposit of commercial banks, savings banks or savings and loan associations) and "money market" mutual funds, such funds as are temporarily not required for the purposes of the Company's operations;
- h. Delegate all or any of its duties hereunder and, in furtherance of any such delegation, appoint, employ or contract with any Person (including Affiliates of the SCA Member) for the transaction of the business of the Company, which persons may, under the supervision of the Board of Managers, act as consultants, accountants, attorneys, brokers, escrow agents or in any other capacity deemed by the Board of Managers necessary or desirable, and pay appropriate fees consistent with fair market value for such services to any of such persons;
- i. Amend this Agreement or any other document or record of the Company from time to time to reflect the withdrawal or admission of Members and any changes in the number of or types of Units or any changes in Company Percentage held by any Member arising from the increase in the number of Units, admission of new Members, transfer of any Units to or by such Member, any conversion of Company debt to Units and any changes in the amounts contributed or agreed to be contributed by a Member; and
- j. Make a decision to hire or terminate the administrator or business office manager of the Center; provided, however, that any such decision shall be made in consultation with all of the Managers.

9.3 Independent Activities. A Manager may, notwithstanding the existence of this Agreement, engage in whatever activities such Manager chooses, whether or not the same may be competitive with the Company, without having or incurring any obligation to offer any interest in such activities to the Company or any party hereto, and, as a material part of the consideration for the Manager's execution hereof and for the admission of such Member, each Member hereby waives, relinquishes and renounces any such right or claim of participation.

9.4 Duties. Each Manager shall manage and control the Company and its business and affairs to the best of such Manager's ability and shall use commercially reasonable efforts to carry out the business of the Company in accordance with applicable laws and regulations. Each Manager shall devote himself or herself to the business of the Company to the extent that he or she, in his or her discretion, deems necessary for the efficient carrying on thereof. Each Manager shall act as a fiduciary with respect to the safekeeping and use of the funds and assets of the Company.

9.5 Certain Limitations.

a. The Board of Managers shall not do or authorize any act which the manager of a limited liability company is prohibited from doing under Connecticut law.

b. Notwithstanding the rights provided in Section 9.2 above, the Board of Managers shall not, without obtaining the approval of a Supermajority of the Board, take any of the following actions:

(i) Offer or sell additional Units or increase the number of the Company's Units;

(ii) Make capital purchases in excess of One Hundred Thousand Dollars (\$100,000) outside of the Company's budget and outside of the ordinary course of business;

(iii) Admit new Members of the Company as set forth in Section 6.9;

(iv) Enter into, renew, amend or terminate any arrangement or agreement between the Company and any Member or Affiliate of any Member or change fees payable thereunder;

(v) Relocate the Center or terminate the Center's lease at any time other than the end of a lease term;

(vi) Approve the Transfer of Units, except for certain Transfers by the SCA Member, as contemplated by Section 10.16;

(vii) Modify the anesthesia coverage or anesthesiology services at the Center or select the anesthesia provider for the Center; provided, however that the Board will take the recommendation from the Medical Executive Committee regarding the hiring and terminating of anesthesia providers and making decisions regarding anesthesia policies;

(viii) Waive any Member obligations or approve the withdrawal of a Member from the Company;

(ix) Determine or establish the fair market value of the Company's assets upon the occurrence of any of the events specified in Regulations Section 1.704-1(b)(2)(iv)(f)(5);

(x) With respect to staff privileges of the Center, approve the credentialing requirements of the Center, close the staff privileges of the Center, approve all medical staff bylaws, manuals, policies and procedures and approve all medical staff terminations and privileges;

(xi) Determine whether there has been an occurrence of a Buy/Sell Event under Sections 10.5(a)(i), (a)(iii) and (b)(v), and Section 10.6; provided that with respect to determining whether a Buy/Sell Event has occurred with respect to the SCA Member under Section 10.6, only the approval of the two (2) Managers appointed by the Members other than the SCA Member shall be required;

(xii) Assign the Company's right to purchase a Withdrawing Member's or Interest Holder's Units to the SCA Member in accordance with Article X;

(xiii) Hire or terminate the director of nursing of the Center;

(xiv) Approve a total amount of reserves and working capital in excess of \$100,000.00, as contemplated by Section 1.13;

(xv) Make a decision to draw on the Overdraft Line of Credit as contemplated by the Management Agreement; and

(xvi) Make any of the decisions under Sections 11.1(a), (d), and (f), and 14.1(b).

c. Notwithstanding the rights provided in Section 9.2 above, the Board of Managers shall not, without obtaining the approval of a Supermajority of the Members, take any of the following actions:

(i) Sell or transfer all or substantially all of the Company's assets, provided that the Board of Managers may grant a security interest in the Company's assets in connection with a properly approved loan;

(ii) Liquidate or dissolve the Company as long as the Company is operating the Center;

(iii) Require any Member to make any additional Capital Contributions;

(iv) Substantially change the nature of the Company's business;

(v) Amend this Agreement, unless otherwise permitted pursuant to Article XIV;

(vi) Merge or consolidate the Company into another entity;

(vii) Make or file any election or take any other action that would result in the Company being classified as an association taxable as a corporation for federal income tax purposes;

(viii) Issue any Units in the Company in exchange for services rendered or to be rendered to or on behalf of the Company, or in exchange for a contribution of property other than cash;

(ix) Appoint the medical director.

9.6 Board of Manager Meetings.

a. Place; Waiver of Notice. Meetings of the Board of Managers may be held at such place or places as shall be determined from time to time by resolution of the Board of Managers. At all meetings of the Board of Managers, business shall be transacted in such order as shall from time to time be determined by resolution of the Board of Managers. Attendance of a Manager at a meeting of the Board of Managers shall constitute a waiver of notice of such meeting, except where a Manager attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

b. Notice of Meetings. Regular meetings of the Board of Managers shall be held at such times and at such places as shall be designated from time to time by resolution of the Board of Managers. Notice of such meeting shall not be required so long as members of the Board of Managers receive copies of each resolution pursuant to which the time and place of such meetings are set. Special meetings of the Board of Managers may be called on at least forty-eight (48) hours' Notice to each Manager by any other Manager. Such Notice need not state the purpose or purposes of, nor the business to be transacted at, such meeting, except as may otherwise be required by law or provided for in this Agreement.

c. Voting. Each Manager shall be entitled to one (1) vote. Any action authorized by this Agreement may be taken at a meeting at which a majority of the Managers are present. The affirmative vote of a majority of the Board of Managers entitled to vote on the matter and present at a properly called meeting shall constitute the act of the Board of Managers, unless a greater vote is required under this Agreement, by the Articles or the law.

d. Action by Written Consent or Telephone Conference. Any action permitted or required by the Act, the Articles or this Agreement to be taken at a meeting of the Board of Managers may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by the number of the Managers required to approve such action under the Act, the Articles or this Agreement. Notice of any such consent shall be given to all Managers. Such consent shall have the same force and effect as a vote at a meeting and may be stated as such in any document or instrument filed with any public official, public office or other state authority, and the execution of such consent shall constitute attendance or presence in person at a meeting of the Board of Managers. Subject to the requirements of this Agreement for notice of meetings, the Managers may participate in and hold a meeting of the Board of Managers by means of a conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other, and participation in such meeting shall constitute attendance and presence in person at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

e. Open Meetings. Unless the Board elects to go into executive session in its reasonable discretion, all Members shall receive notice of any meetings of the Board of Managers in accordance with this Section 9.6 and shall be permitted but not required to attend and observe, but not to vote at, such meetings of the Board of Managers.

9.7 Resignation, Removal and Replacement of a Manager. A Manager may at any time resign as a Manager of the Company by providing written notice to the other Managers. Any Manager appointed by the SCA Member may be removed by the SCA Member in its sole discretion, and any Manager appointed by the other Members pursuant to Section 9.1 may be removed by the Members other than the SCA Member holding an aggregate Company Percentage that is in excess of fifty percent (50%) of the aggregate Company Percentage held by all Members other than the SCA Member. In the event of such resignation or removal, (i) if the Manager was appointed by the SCA Member pursuant to Section 9.1, the SCA Member shall designate and appoint a replacement Manager as soon as reasonably practicable after such resignation or removal, or (ii) if the Manager was appointed by the Members other than the SCA Member pursuant to Section 9.1, a replacement Manager shall be appointed as soon as reasonably practicable after such resignation by the Members other than the SCA Member holding an aggregate Company Percentage that is in excess of fifty percent (50%) of the aggregate Company Percentage held by all Members other than the SCA Member.

9.8 Tax Matters Partner and Partnership Representative.

a. The SCA Member shall serve as the Tax Matters Partner and shall have the following duties, along with any other duties required by the Code, to the extent and in the manner provided by the Code:

(i) Furnish the name, address, profits interest and taxpayer identification number of each Member to the IRS;

(ii) Promptly inform each Member in writing of the administrative and judicial proceedings for the adjustment of any item required to be taken into account by a Member for income tax purposes; and

(iii) Within fifteen (15) days of receiving a notice of a Company audit or other correspondence from the IRS, forward a copy of such notice or correspondence to the Members, and promptly upon submitting any notice or correspondence to the IRS, deliver a copy of such notice or correspondence to the Members.

b. The Tax Matters Partner is hereby authorized, but not required, to:

(i) Enter into any settlement with the IRS with respect to any tax audit or judicial review, in which agreement the Tax Matters Partner may expressly state that such agreement shall bind the other Members, except that such settlement agreement shall not bind any Member who (within the time prescribed pursuant to the Code and regulations thereunder) files a statement with the IRS providing that the Tax Matters Partner shall not have the authority to enter into a settlement agreement on the behalf of such Member;

(ii) If a final administrative adjustment of a Company item required to be taken into account by a Member for tax purposes is mailed to the Tax Matters Partner, seek judicial review of such final adjustment, including the filing of a petition for readjustment with the Tax Court, the District Court of the United States for the district in

which the Company's principal place of business is located, or the United States Claims Court;

(iii) Intervene in any action brought by any other Member for judicial review of a final adjustment;

(iv) File a request for an administrative adjustment with the IRS at any time and, if any part of such request is not allowed by the IRS, file a petition for judicial review with respect to such request;

(v) Enter into an agreement with the IRS to extend the period for assessing any tax which is attributable to any item required to be taken into account by a Member for tax purposes, or an item affected by such item; and

(vi) File a petition as contemplated in Sections 6226(a) and/or 6228 of the Internal Revenue Code.

c. The Partnership Representative shall be the SCA Member or such Member as shall be appointed by the Board of Managers, as determined from time to time. The Partnership Representative shall be required to obtain the prior approval of Supermajority of the Board of Managers with respect to all material matters involved in any Tax audit, examination or investigation.

(i) The Partnership Representative shall have the full authority to take any and all actions approved by Supermajority approval of the Board of Managers, to the extent such actions are permitted to be taken by the Partnership Representative under the Code, (i) in connection with any audit, examination or investigation of the Company or any Company income tax return, and (ii) in connection with any and all administrative and judicial proceedings arising out of such audit, examination or investigation. The Partnership Representative shall keep the Board of Managers and the other Members informed of all administrative and judicial proceedings involving the Company or any Company return, and shall furnish promptly to each member of the Board of Managers, and to each Member if requested in writing, a copy of each notice or other communication received by the Partnership Representative from the Internal Revenue Service not otherwise sent directly to the other Member(s).

(ii) The Partnership Representative shall employ experienced tax advisors to represent the Company in connection with any audit or investigation of the Company by the Internal Revenue Service and in connection with all subsequent administrative and judicial proceedings arising out of such audit. The fees and expenses of such tax advisors shall be a Company expense and shall be paid by the Company. It shall be the responsibility of the Members (including any Member serving as Partnership Representative), at their own expense, to employ tax advisors to represent their respective separate interests.

(iii) The Members agree that, unless otherwise directed by Supermajority of the Board of Managers, the Company shall elect out of the application of Section 6221(a) of the Code (as amended by the Budget Act) for its first fiscal year beginning after December 31, 2017, and for each fiscal year thereafter, if possible. If such election out is impossible, the Members further agree that, unless otherwise directed by Supermajority of the Board of Managers, the Company will elect the application of Section 6226 of the

Code (as amended by the Budget Act) for its first fiscal year beginning after December 31, 2017, in the event that it receives a "notice of final partnership adjustment" that would otherwise permit the Internal Revenue Service to collect from the Company a deficiency of tax, for each relevant year. The Members covenant to take into account and report to the Internal Revenue Service any adjustment to their items for the reviewed year as notified to them by the Company in a statement furnished to them pursuant to Section 6226(a) of the Code (as amended by the Budget Act), in the manner provided in Section 6226(b) of the Code (as amended by the Budget Act), whether or not Members own any Units in the year of the Company's statement. Any Member which fails to report its share of such adjustments on its tax return for its taxable year including the date of the Company's statement as described immediately above shall indemnify and hold harmless the Company against any tax, interest and penalties collected by the Internal Revenue Service from the Company as a result of the Member's failure.

d. The Company shall indemnify and reimburse the Tax Matters Partner and Partnership Representative for all expenses, including legal and accounting fees, claims, liabilities, losses and damages incurred in connection with any administrative or judicial proceeding with respect to the tax liability of the Members and against any and all loss, liability, cost or expense, including judgments, fines, amounts paid in settlement and attorneys' fees and expenses, incurred by the Tax Matters Partner or Partnership Representative in any civil, criminal or investigative proceeding in which the Tax Matters Partner or Partnership Representative is involved or threatened to be involved solely by virtue of being Tax Matters Partner or Partnership Representative, except such loss, liability, cost or expense arising by virtue of the Tax Matters Partner's or Partnership Representative's fraud, gross negligence, malfeasance, breach of fiduciary duty or intentional misconduct.

9.9 Officers.

a. Number. The Company may have officers with such duties and responsibilities as the Board of Managers may determine from time to time. Any such officer serves at the pleasure of the Board of Managers. Any two (2) or more offices may be held by the same person. The officers need not be Members or residents of the State of Connecticut. As of the Effective Date, the initial officers shall be as follows:

President – Richard L. Sharff, Jr.

Vice President – Richard Martin, M.D.

Vice President – Richard Martin, M.D.

b. Term of Office. Each officer shall hold office until the earlier of his or her death, removal or resignation.

c. Removal and Resignation. An officer serves at the pleasure of the Board of Managers and the Board of Managers may remove an officer at any time with or without cause. The Board of Managers may also eliminate any officer position at any time. The removal of an officer is without prejudice to the contractual rights of the officer, if any. Any officer may resign at any time and for any reason. In the event of a vacancy in any office because of death, resignation or removal, the Board of Managers shall elect a successor to such office.

d. Delegation. An officer may delegate some or all of the duties and powers of his office to other persons. An officer who delegates the duties or powers of an office remains

subject to the standard of conduct for an officer with respect to the discharge of all duties and powers so delegated.

e. Standard of Conduct. An officer shall discharge the duties of an office in good faith, in a manner the officer reasonably believes to be in the best interests of the Company and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. In discharging his or her duties, an officer is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by one or more officers or employees of the Company whom the officer reasonably believes to be reliable and competent in the matters presented or legal counsel, public accountants or other persons as to matters the officer reasonably believes are within the person's professional or expert competence. An officer is not acting in good faith if he or she has actual knowledge concerning the matter in question that makes reliance otherwise permitted unwarranted. An officer is not liable for action taken as an officer, or any failure to take any action if he or she performed the duties of his or her office in compliance with this subsection. A person exercising the principal functions of an office or to whom some or all of the duties and powers of an office are delegated is considered an officer for purposes of this section.

9.10 Medical Executive Committee. The Company shall also have a medical executive committee (the "**Medical Executive Committee**") comprised of one or more Physician Interest Holders who are members of the Center's medical staff and selected by a majority vote of the Physician Interest Holders who are members of the Center's medical staff. The exact number of individuals serving on the Medical Executive Committee shall be determined by the Board of Managers from time to time. The Medical Executive Committee shall be responsible for the general supervision of the Center's medical staff and making recommendations to the Center's governing body regarding patient care as described in the Center's medical staff bylaws as amended from time to time.

X. TRANSFER OF UNITS

10.1 In General. A Member, other than the SCA Member, may not Transfer any or all of the Units owned by him, her or it, or any interest in a Unit, unless he, she or it complies with the following conditions:

a. A Supermajority of the Board must consent to the Transfer. A Supermajority of the Board will not consent to any Transfer of any Unit or of an interest in a Unit or to the admission of any Person as a substitute Member if, in its opinion, such consent and/or substitution would result in (i) a violation of any applicable federal or state law pertaining to securities regulation, (ii) the admission of a Member who has been, or an Entity Member having any Physician Interest Holder who has been, subject to a Health Care Program Adverse Event, (iii) Benefit Plan Investors owning an aggregate interest in the Company in excess of the Benefit Plan Investor Ownership Limitation, or (iv) a violation of 42 U.S.C. §§1320a-7b(b).

b. The transferring Member and his, her or its purchaser, assignee or transferee must execute and deliver to the Board of Managers such instruments of transfer and assignment with respect to such transaction as are in a form and substance satisfactory to the Board of Managers.

c. Such Member must pay the Company a transfer fee which is sufficient to pay all reasonable expenses of the Company in connection with such transaction.

Any attempt to Transfer all or any part of a Member's Units that does not comply with the terms and conditions of this Agreement shall be void. In the event the Company is required to recognize a Transfer of all or any part of a Member's Units, the transferee of such Units shall have only those rights of an Assignee as described more fully in Section 10.4 hereof and shall have no right to become a Member of the Company or to exercise the assigning Member's governance rights unless such Assignee is admitted as a substitute Member in accordance with Section 10.3 of this Agreement.

10.2 Intentionally Omitted.

10.3 Substitute Members. A purchaser, assignee or transferee of a Unit from a Member (other than the SCA Member) shall become a substitute Member within the meaning of the Act if:

- a. A Supermajority of the Board consents to such person becoming a substitute Member;
- b. Such person executes and acknowledges such other instruments as the Board of Managers may deem necessary or advisable to effect the admission of such person as a substitute Member, including, without limitation, the written acceptance and adoption by such person of the provisions of this Agreement; and
- c. Such person pays a transfer fee to the Company that is sufficient to cover all reasonable expenses connected with the admission of such person as a substitute Member within the meaning of the Act.

The Board of Managers shall take all other steps which, in the opinion of the Board of Managers, are reasonably necessary to admit such person as a substitute Member under the Act. Notwithstanding the foregoing, and subject to the restrictions set forth in Section 10.16, a purchaser, assignee or transferee of a Unit from the SCA Member shall become a Member upon compliance with Section 10.3(b) above and no further action or approval shall be required.

10.4 Rights of Assignees. Except as otherwise provided in this Agreement, the only rights which an Assignee shall have are those rights associated with the right to receive distributions and allocations of Profits and Losses with respect to the Units held by the Assignee. The Assignee shall have no right to become a Member except as provided in Section 10.3. Any voting rights formerly incident to the Units held by an Assignee shall lapse unless and until the Assignee is admitted as a substitute Member under Section 10.3, and all computations of voting power for matters reserved to the Members shall be made only with respect to the Units held by Members.

10.5 Buy/Sell Events. If any of the buy/sell events listed in this Section 10.5 (each, a "Buy/Sell Event") occurs in relation to a Covered Person, the Company, upon approval of the Board of Managers, may require the affected Member to transfer his, her or its Unit(s) to either the Company or, upon approval of a Supermajority of the Board, the SCA Member. If the Buy/Sell Event occurs in relation to an Interest Holder of an Entity Member, the Board of Managers may require the Entity Member to repurchase the interest of the affected Interest Holder or to Transfer Units in accordance with the terms of Section 10.12. Notwithstanding the foregoing, and as contemplated by Section 9.5(b)(xi), the Board of Managers shall not act with respect to a Buy/Sell Event occurring under Sections 10.5(a)(i), (a)(iii) or 10.5(b)(v) without the approval of a Supermajority of the Board.

(a) Non Adverse Buy/Sell Events

(i) The Disability, death, or judicial determination of incompetence or incapacity of a Covered Person;

(ii) Any dissolution, insolvency, or the filing of a petition or suit under the bankruptcy laws by or against a Covered Person that is not dismissed within sixty (60) days;

(iii) Upon a determination by a Supermajority of the Board, following consultation with experienced health legal counsel, that (i) under state or federal regulations or laws, or any legal developments thereunder, as applied to the continued direct or indirect ownership and operation of ambulatory surgical centers generally, continued ownership by a Covered Person would adversely affect (or potentially adversely affect), in a manner reasonably deemed substantial by a Supermajority of the Board, the operations of the Company; or (ii) under state or federal regulations or laws, or any legal developments thereunder, as applied to the specific Units of any Covered Person, continued direct or indirect ownership by any Covered Person would adversely affect (or potentially adversely affect), in a manner deemed substantial by a Supermajority of the Board, the operations of the Company or any affected Covered Person;

(iv) A Physician Interest Holder fails to satisfy the Extension of Practice Requirements;

(v) The Retirement of any Physician Interest Holder;

(vi) The relocation of a Physician Interest Holder's medical practice to a location which is twenty-five (25) miles or more from the Center; or

(vii) Benefit Plan Investors owning an interest in the Company equal to or greater than the Benefit Plan Investor Ownership Limitation.

b. Adverse Buy/Sell Events

(i) Any voluntary or involuntary Transfer of all or any part of (i) a Member's Units, or any withdrawal by a Member, except as otherwise permitted by this Agreement, or (ii) an Interest Holder's ownership interest in an Entity Member;

(ii) Any material breach of this Agreement by a Covered Person, including, without limitation, (i) a breach of Section 15.1; (ii) a Physician Interest Holder's failure to continue to comply with the Physician Interest Holder's Eligibility Requirements (other than the Extension of Practice Requirements) or (iii) a Covered Person's failure to comply with the certification requirements in Section 15.4;

(iii) The failure of a Physician Interest Holder to obtain and maintain medical staff privileges at the Center; notwithstanding anything contained herein to the contrary, this Section 10.5(b)(iii) shall not be applied if the failure to maintain medical staff privileges is the result of events that are Non-Adverse Buy/Sell Events;

(iv) A Covered Person's default under a loan or other instrument in which the Covered Person has or granted a security interest in, or lien upon, such Covered Person's Units;

(v) A Covered Person's gross misconduct that in the reasonable opinion of a Supermajority of the Board adversely affects the Company or the operation of the Center (including, but not limited to, a Covered Person's mistreatment of employees or staff at the Center), which is not corrected within ten (10) days of written notice from the Board of Managers, or a Covered person's failure to adhere to the Company's policies and procedures, which is not corrected within ten (10) days of written notice from the Board of Managers;

(vi) The voluntary, involuntary, and/or permanent, suspension, revocation, termination, material limitation or cancellation of a Physician Interest Holder's license to practice medicine in the State of Connecticut;

(vii) The voluntary, involuntary, and/or permanent suspension, revocation, or non-renewal of a Physician Interest Holder's controlled substance registration certificate issued by the Drug Enforcement Administration;

(viii) The conviction of a Covered Person of a felony or crime of moral turpitude;

(ix) The occurrence of a Health Care Program Adverse Event with respect to a Covered Person;

(x) The failure of an Entity Member to cause all of its Interest Holders to execute a joinder to this Agreement;

(xi) The possession of a direct or indirect ownership interest in an Entity Member by an Interest Holder who is not a Physician who meets the Physician Interest Holder Eligibility Requirements; or

(xii) The dissociation of a Member from the Company as contemplated by the Act.

10.6 Adverse Buy/Sell Events Related to the SCA Member. Upon the occurrence of (a) a Health Care Program Adverse Event to the SCA Member, or (b) the dissolution, insolvency, or the filing of a petition or suit under the bankruptcy laws by or against the SCA Member that is not dismissed within sixty (60) days, the Members (other than the SCA Member), upon approval of the two (2) Managers appointed by the Members other than the SCA Member as contemplated by Section 9.5(b)(xi), shall have the option to purchase all, but not less than all, of the SCA Member's Units, pro rata, at the Adverse Event Purchase Price, for a period of thirty (30) days following notice by the SCA Member of the occurrence of either of the events under this Section 10.6(a) or (b). The Members, other than the SCA Member, shall pay the Adverse Event Purchase Price to the SCA Member in immediately available funds in one final payment at the closing of the purchase of such Units, which closing shall occur no later than sixty (60) days after the date on which the Members received notice of such event. Notwithstanding anything to the contrary contained herein, this Section 10.6 shall not be the sole remedy of the Company and the Members, other than the SCA Member, with respect to a breach of this Agreement by the SCA Member.

10.7 Notice. Upon the occurrence of a Buy/Sell Event, the Member to whom such Buy/Sell Event has occurred (the "**Withdrawing Member**") or his, her or its legal representative shall give notice of the Buy/Sell Event (the "**Buy/Sell Notice**") to the Board of Managers. If such an event has occurred with respect to an Interest Holder of an Entity Member, the Entity Member shall be responsible for

issuing the notice required by this Section 10.7. If the Withdrawing Member or Entity Member fails to give the Buy/Sell Notice, the Board of Managers may give the Buy/Sell Notice to the Withdrawing Member or the Entity Member. The issuance of a Buy/Sell Notice shall commence the procedures related to a Buy/Sell Event provided for in this Article X.

10.8 Purchase Option. The Company shall have the option to elect to purchase all of the Withdrawing Member's Units from such time as the Buy/Sell Event occurs until sixty (60) days following the Board of Managers' receipt of the Buy/Sell Notice. Upon approval of a Supermajority of the Board, the Company may assign its option to purchase all of the Withdrawing Member's Units to the SCA Member. The decision to cause the Company to exercise its option shall be made by the Board of Managers. To exercise an option to purchase such Units, the Company or the SCA Member, as the case may be, shall give the Withdrawing Member notice of its decision to purchase a Unit or Units (the "**Purchase Notice**") pursuant to this Section 10.8, which Purchase Notice shall specify (a) a summary of the basis for such determination, (b) a detailed description of the calculation and payment of the purchase price for such Unit(s) (pursuant to Section 10.11), and (c) whether the Company or the SCA Member (as applicable) shall purchase the Units. Unless agreed otherwise by the parties, the terms of the purchase shall be those set forth below in Section 10.11. If the Buy/Sell Event has occurred to an Interest Holder of an Entity Member, the provisions of Section 10.11 shall apply. All of the Members and Interest Holders acknowledge and agree that the decision not to exercise the rights provided hereunder after one Buy/Sell Event shall not be deemed a waiver of any rights relating to such Buy/Sell Event or to any subsequent Buy/Sell Event.

10.9 Benefit Plan Investors. Upon the occurrence of a Buy/Sell Event resulting from Benefit Plan Investors owning an interest in the Company in violation of the Benefit Plan Investor Ownership Limitation, the number of Units subject to the Buy/Sell Event shall be that number of Units necessary to cause the Benefit Plan Investor's ownership in the Company, in the aggregate, to not exceed the maximum permitted ownership as set forth in the Benefit Plan Investor Ownership Limitation. The Board of Managers, in its sole discretion, shall select the number of Units to be purchased from each Benefit Plan Investor to cause the ownership of Benefit Plan Investors to be less than the Benefit Plan Investor Ownership Limitation.

10.10 Additional Option to Purchase Units Held by Assignee. In the event a Buy/Sell Event occurs but neither the Company nor the SCA Member (if the Company's purchase option is assigned to the SCA Member as contemplated by Section 10.8) purchases the Member's Units pursuant to Section 10.8 and as a result of the Buy/Sell Event an Assignee holds the Units subject to such options, then until the Assignee is admitted as a substitute Member pursuant to Section 10.3 the Company and the SCA Member (if applicable) shall have the continuing option to purchase the Units held by such Assignee (the "**Assignee Units**"). The Company or the SCA Member (if applicable) may exercise its rights under this Section by providing notice (the "**Assignee Purchase Notice**") to the Assignee of its election to purchase the Assignee Units, which notice shall include (a detailed description of the calculation of the purchase price for such Assignee Unit(s) (as determined pursuant to Section 10.11 as if the Assignee were a Withdrawing Member as a result of a Non-Adverse Buy/Sell Event). Any purchase of Assignee Units pursuant to this Section shall be completed pursuant to the terms of Section 10.11 as if the Assignee were a Withdrawing Member as a result of a Non-Adverse Buy/Sell Event. The SCA Member shall have the right to assign the option to purchase the Assignee Units to an Affiliate or to other Members of the Company, in the event that a Supermajority of the Board approves the assignment of the Company's right to purchase Assignee Units to the SCA Member.

10.11 Closing of Purchase of Withdrawing Member's Unit(s) and Payment Terms. If the Company or the SCA Member, as applicable, is purchasing the Unit(s) of a Member (the "**Withdrawing Member's Unit(s)**") pursuant to Section 10.8 or 10.10, the closing (the "**Closing**") of the purchase of

such Unit(s) shall take place on the date agreed upon by the parties to the transfer. If the parties do not reach agreement on the date of Closing, the Company or the SCA Member, as applicable, shall set a date of Closing which shall occur no later than thirty (30) days after the Withdrawing Member's receipt of the Purchase Notice. The Board of Managers shall, at its sole option, determine the purchase price for the Unit(s) being sold utilizing one of the calculation methods specified in this Section which shall be calculated and paid as follows:

a. If the purchase of Units is triggered by a Non-Adverse Buy/Sell Event, the purchase price shall be the Fair Market Value Transfer Price set forth in the Purchase Notice (or the Assignee Purchase Notice, if applicable) multiplied by the Withdrawing Member's Company Percentage. The Company or the SCA Member, as the case may be, shall pay the Fair Market Value Transfer Price in immediately available funds in one final payment at the Closing, or at Company's or SCA Member's option, as applicable, by delivery of a promissory note bearing interest at the prime rate of interest as published in The Wall Street Journal, plus one percent (1%) with sixty (60) equal amortizable payments of principal and interest (the "Note"); or

b. In lieu of paying the Fair Market Value Transfer Price as of the date of Closing as set forth in Section 10.11(a) above, the Board of Managers may determine an initial estimated purchase price as of the date of the Closing (the "**Estimated Purchase Price**") by (i) determining the Fair Market Value Transfer Price as of the date of Closing and (ii) multiplying such Fair Market Value Transfer Price by the Withdrawing Member's Company Percentage. The Company or the SCA Member, as the case may be, shall pay at the Closing, in cash or immediately available funds, an initial payment equal to twenty percent (20%) of the Estimated Purchase Price (the "**Closing Payment**") to the Withdrawing Member. The Board of Managers shall then determine a final purchase price as of the date of the first annual anniversary of the Closing (the "**Final Purchase Price**") by (i) determining the Fair Market Value Transfer Price (except that the period used in the calculation of the purchase price shall be the twelve (12) month period subsequent to the Closing), and (ii) multiplying such Fair Market Value Transfer Price by the Withdrawing Member's Company Percentage as of the date of Closing. The Company or the SCA Member, as the case may be, shall pay, in cash or immediately available funds, the Final Purchase Price less the Closing Payment to the Withdrawing Member which shall be payable in one final payment within thirty (30) days after the determination of the Final Purchase Price or at the Company's or SCA Member's option, as applicable, by delivery of the Note in an amount equal to the Final Purchase Price less the Closing Payment. Aggregate payments to be made in connection with a Buy/Sell Event by the Company shall not exceed seven and one half percent (7.5%) of the Company's annual operating income for the then current Fiscal Year. If payments are so restricted, payment shall be made in proportion to amounts owed to all Members as a result of Buy/Sell Events and the balance of that Fiscal Year's payment obligations shall be deferred to the following Fiscal Year or Years, until such amounts can be paid without violating such limitation with respect to any such Fiscal Year or Years. Within thirty (30) days following the end of each Fiscal Year, the Company shall make an adjusted payment to the former Members if and to the extent that actual aggregate collections during the prior Fiscal Year (or relevant portion thereof) have exceeded the anticipated amount.

c. Notwithstanding anything contained herein to the contrary, when calculating the Final Purchase Price, the Board of Managers shall exclude any and all expenses or revenues attributable to cases referred to the Center by the Withdrawing Member from the calculations of the Final Purchase Price.

d. In connection with the purchase of Unit(s) pursuant to an Adverse Buy/Sell Event, other than a breach of Section 15.1, the purchase price shall be determined as of the last

day of the month preceding the Purchase Notice and shall be the Adverse Event Purchase Price multiplied by the Withdrawing Member's Company Percentage. The Company or the SCA Member, as the case may be, shall pay the purchase price to the Withdrawing Member, in immediately available funds in one payment within thirty (30) days after the determination of the purchase price or at the Company's or the SCA Member's option, as applicable, by delivery of the Note in an amount equal to the purchase price.

e. In connection with the purchase of Unit(s) pursuant to breach of Section 15.1 the purchase price shall be determined as of the last day of the month preceding the Purchase Notice and shall be the Net Book Value Purchase Price multiplied by the Withdrawing Member's Company Percentage. The Company shall pay the purchase price to the Withdrawing Member, in immediately available funds in one payment at Closing, or at the Company's option, by delivery of the Note in an amount equal to the purchase price.

f. Except as otherwise provided in Section 10.5(b)(iii), in the event a Buy/Sell Event qualifies as both an Adverse Buy/Sell Event and a Non Adverse Buy/Sell Event, the Buy/Sell Event shall be deemed to be an Adverse Buy/Sell Event.

g. At the Closing, the Withdrawing Member shall execute and deliver such assignments and other instruments as may be reasonably necessary to evidence and carry out the transfer of such Unit(s) to the Company or the SCA Member, as the case may be. The Board of Managers shall be entitled to adjust the Fair Market Value Transfer Price from time to time, at its reasonable discretion, if it is advised to do so by an independent third party healthcare appraiser and if such revisions will more closely align the Fair Market Value Transfer Price with the fair market value of the interests of other healthcare entities of comparable size and function.

h. Notwithstanding the foregoing, all obligations of the Withdrawing Member to the Company shall become immediately due and payable upon purchase of the Withdrawing Member's Unit(s). To the extent not previously taken into account pursuant to this Section 10.11, the purchase price shall be reduced by the amount of any such obligations.

10.12 Effect of a Buy/Sell Event Related to an Interest Holder of an Entity Member. If a Buy/Sell Event occurs regarding an Interest Holder of an Entity Member, the Board of Managers may, in its sole and absolute discretion, require the Entity Member to repurchase the Interest Holder's interest in the Entity Member pursuant to the terms of an Entity Member's Owners' Agreement (or similar agreement) of the Entity Member. If the Entity Member fails to repurchase the Interest Holder's interest in the Entity Member within sixty (60) days (the "**Repurchase Period**") of the Board of Managers' written demand, the Company shall have the option to purchase from the Entity Member the Interest Holder's Proportionate Units for an amount attributable to the Interest Holder's Proportionate Units and calculated in accordance with the applicable provisions of Section 10.11. Upon approval of a Supermajority of the Board, the Company may assign its option to purchase such Interest Holder's Proportionate Units to the SCA Member. If the Entity Member fails to repurchase the Interest Holder's interest in the Entity Member within the Repurchase Period, the Board of Managers or the SCA Member, as applicable, shall provide notice (the "**Repurchase Failure Notice**") to such Entity Member of the Entity Member's failure to repurchase the Interest Holder's interest in the Entity Member, which notice shall include (a) the calculation of the Interest Holder's Proportionate Units and (b) a detailed description of the calculation of the purchase price for such Unit(s) (as determined pursuant to Section 10.11 as if the Interest Holder were a Withdrawing Member). The Company or the SCA Member, as the case may be, may exercise its option by providing notice of its election to the Entity Member within the sixty (60) day period following the receipt of the Repurchase Failure Notice. Notwithstanding the foregoing provisions of this Section 10.12 to the contrary, (a) if a Buy/Sell Event occurs and the failure of the Entity Member

to repurchase such Interest Holder's interest in the Entity Member would result in the Company being (i) subject to a Health Care Program Adverse Event or (ii) in violation of applicable law, as determined by the Board of Managers, then either the Company or, upon approval of a Supermajority of the Board, the SCA Member, shall have the option to repurchase all Units owned by the Entity Member for an amount equal to the Net Book Value Purchase Price multiplied by the Entity Member's Company Percentage and (b) if the Company and an Entity Member have executed an Entity Member's Owner's Agreement and the terms of this Agreement conflict with the terms of the Entity Member's Owner's Agreement, the terms of the Entity Member's Owner's Agreement will govern. In addition, each Entity Member shall give the Board of Managers and the SCA Member written notice of any change in its Interest Holders.

10.13 Effect on Withdrawing Member's Interest. From the date of the exercise of an option to purchase following the occurrence of a Buy/Sell Event until the date of Closing, the Withdrawing Member shall have no right to vote his, her or its Units under this Agreement and the Withdrawing Member's Units will be excluded from any calculation of aggregate Units for purposes of any approval required of the Members under this Agreement. Without limiting the generality of any other provision of this Agreement, following Closing, the Withdrawing Member will have no rights in, or against, the Board of Managers, the Company or any Member other than the right to receive payment for his, her or its Units in accordance with this Article X.

10.14 No Dissolution or Termination. The admission, addition, removal, withdrawal, substitution or bankruptcy of any Member shall not dissolve or terminate the Company or otherwise be treated as a change of ownership or the formation of a new limited liability company. No Member shall have the right to have the Company dissolved or to have his, her or its Capital Contribution returned except as provided in this Agreement.

10.15 Liquidated Damages. The Members agree that in each of the circumstances where the purchase price to be paid for Units pursuant to this Agreement is less than the fair market value of the purchased Units, that the Company has been damaged by the circumstance giving rise to the less than fair market value purchase and that such difference between the fair market value and the purchase price is intended to compensate the party sustaining the damage, in part, for the damage sustained. The Members further agree that it is inherently difficult to determine with precision the amount of damages arising in such circumstances and that it is for this reason that the Members have provided for a specific dollar amount calculated as the difference between the fair market value of the Units and the purchase price to compensate the damaged party, in part, for the damages sustained. This provision is not intended to limit the damaged party's ability to recover the damages it receives as a result of the circumstance giving rise to the purchase hereunder.

10.16 Transfers by the SCA Member. Notwithstanding anything herein to the contrary, the SCA Member may freely Transfer Units held by the SCA Member to an entity or entities that are wholly owned, directly or indirectly, by SCA after providing prior written notice to the Members of such proposed Transfer of Units and provided that the Transfer complies with Sections 10.1(b) and (c); provided, however, that any proposed Transfer of Units by the SCA Member to unaffiliated third parties, including but not limited to hospitals, physician groups, or surgery center management companies, shall require the approval of a Supermajority of the Members; provided further that any proposed Transfer of Units by the SCA Member to new or existing Physician Interest Holders shall only require the approval of a Supermajority of the Board.

XI. DISSOLUTION AND WINDING UP OF THE COMPANY

11.1 Dissolution of the Company. In no event shall the death of any Member result in dissolution of the Company. The Company will be dissolved upon the following events:

a. All or substantially all of the assets of the Company are sold, exchanged or otherwise transferred (unless a Supermajority of the Members have elected to continue the business of the Company, in which event the Company will continue until the Members elect to dissolve the Company);

b. As determined by the Board of Managers and a Supermajority of the Members;

c. The entry of a final judgment, order or decree of a court of competent jurisdiction adjudicating the Company to be bankrupt and the expiration without appeal of the period, if any, allowed by applicable law in which to appeal;

d. The determination by a Supermajority of the Board that state or federal regulations or law, or any legal developments thereunder, as applied to the Company or to the Units of the Members, would adversely affect (or potentially adversely affect), in a manner deemed substantial by a Supermajority of the Board, the operations of the Company or the Members;

e. The entry of a decree of judicial dissolution or the issuance of a certificate for administrative dissolution under the Act; or

f. The determination by a Supermajority of the Board that the Center has not been operating for more than thirty (30) consecutive days.

11.2 Winding Up of the Company. Upon the dissolution of the Company, the Board of Managers shall take full account of the Company's assets and liabilities, and the assets shall be liquidated as promptly as is consistent with obtaining the fair value thereof. The proceeds therefrom, to the extent sufficient therefor, shall be applied and distributed as provided in the Act and this Agreement; provided, however, that after payment of or creating adequate reserves to provide for all Company debts, obligations and liabilities, the remaining Company assets, notwithstanding anything contained in this Agreement to the contrary, shall be distributed to the Members in accordance with their ending positive Capital Account balances after all allocations and any other Capital Account adjustments for the Fiscal Year are made. All Company assets shall be distributed by the later of (i) the last day of the tax year of the liquidation as defined in Regulations Section 1.704-1(b) or (ii) ninety (90) days after the liquidation; provided, however, if the Company creates reserves or holds installment obligations owed to Company, such amounts will be distributed as soon as practicable and in proportion to the Members' ending positive Capital Account balances.

XII. BOOKS OF ACCOUNT, ACCOUNTING, REPORTS, FISCAL YEAR, BANKING AND TAX ELECTION

12.1 Books of Account. The Company's books and records (including a current list of the names and addresses of all Members) and an executed copy of this Agreement, as currently in effect, shall be maintained at the principal office of the Company, and each Member shall have access thereto at all reasonable times. The books and records shall be kept by the Board of Managers using an appropriate method of accounting consistently applied and shall reflect all Company transactions and be appropriate and adequate for the Company's business. The Board of Managers shall also keep adequate federal income tax records using an appropriate method of accounting applied on a consistent basis.

12.2 Financial Reports. As soon as reasonably practicable after the end of each Fiscal Year, but not later than March 31 of the next succeeding year, an unaudited balance sheet of the Company as of the last day of such Fiscal Year and unaudited statements of income or loss of the Company for such year

shall be made available to each Member. In addition, the Company will make available to the Members unaudited quarterly summaries of its operations. All such financial statements shall be prepared on an accrual basis of accounting in accordance with GAAP, consistently applied. The Company shall also furnish to each Member not later than March 31 of each year whatever information may be necessary for Members to file their federal income tax returns. The Company will also make available to each Member upon request a copy or summary of all federal, state and/or local tax returns which are filed by the Company. The Company will make available to the Members any audited balance sheet of the Company, if one has been prepared.

12.3 Fiscal Year. The “**Fiscal Year**” of the Company shall be the calendar year except as otherwise required by the Code or Regulations.

12.4 Tax Election. Subject to the Section 8.16, (i) upon the transfer of an interest in the Company or in the event of a distribution of the Company’s property, the Company may, but is not required to, elect pursuant to Code Section 754 to adjust the basis of the Company’s property as allowed by Sections 734(b) and 743(b) thereof, and (ii) the Board of Managers shall have the sole authority and discretion to make such an election.

12.5 Tax Returns. The Board of Managers shall, for each Fiscal Year, file on behalf of the Company with the Internal Revenue Service a Company Return within the time prescribed by law (including any extensions) for such filing. The Board of Managers shall also file on behalf of the Company such state and/or local income tax returns as may be required by law.

XIII. POWER OF ATTORNEY

13.1 Appointment of Attorney-in-Fact. Each Member hereby makes, constitutes and appoints any Manager, and any officer of the Company, with full power of substitution and re-substitution, his, her or its agent and attorney-in-fact to file for record, and to sign, execute, certify and acknowledge any other instruments which may be required of the Company or of the Members by law to qualify or continue the Company under the Act, including, but not limited to, amendments to or cancellations of this Agreement, including any amendments necessary to substitute or add a Member or a Manager pursuant to this Agreement, or of the Certificate. Each Member authorizes such attorney-in-fact to take any further action which such attorney-in-fact shall consider reasonably necessary in connection with the foregoing, hereby giving such attorney-in-fact full power and authority to act to the same extent as if such Member were himself personally present. Notwithstanding anything to the contrary, the foregoing power of attorney does not authorize or empower any Manager to take any action that would otherwise require the approval of the Members.

13.2 Effect of Power. The power of attorney granted pursuant to Section 13.1 of this Agreement:

a. Is a special power of attorney coupled with an interest, is irrevocable, and shall survive the death, dissolution, insanity, or incapacity of the granting Member; and

b. May be exercised by such attorney-in-fact for each Member by listing all of the Members executing any agreement, certificate, instrument or document with the single signature of such attorney-in-fact as attorney-in-fact for all of them; and

c. Shall survive the delivery of an assignment by a Member of the whole or a portion of his interest in the Company, except that where the purchaser, transferee or assignee thereof is to be admitted as a substitute Member, the power of attorney shall survive the delivery

of such assignment for the sole purpose of enabling such attorney-in-fact to execute, acknowledge and file any agreement, certificate, instrument, or document necessary to effect such substitution.

XIV. AMENDMENTS AND VOTING

14.1 Amendments. Amendments to this Agreement may be proposed by the SCA Member or by Members holding an aggregate Company Percentage of greater than ten percent (10%).

a. A proposed amendment shall be adopted and effective as an amendment to this Agreement upon the approval of a Supermajority of the Members.

b. In addition to any amendments otherwise authorized herein, the Board of Managers may, upon approval of Supermajority of the Board, without obtaining the consent of the Members, amend this Agreement from time to time as follows:

(i) to cure any ambiguity, to correct or supplement any provision in this Agreement which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Agreement or the Certificate, as the case may be, which will not be inconsistent with the provisions of this Agreement or the Certificate as the case may be, provided that such amendment does not adversely affect the interests of the Members;

(ii) as necessary in the opinion of counsel to the Company for the allocations of taxable income and loss contained herein to be respected for federal income tax purposes, provided that no such amendment shall materially increase the obligations of the Members hereunder or materially dilute their rights under the Agreement;

(iii) upon advice of counsel that the operations of the Company are in violation of law, to cause this Agreement to comply with law; provided, however, such amendments shall not alter materially the economic objectives of the Company and, further, provided that any amendment to or deletion of any provision shall not in the opinion of a Supermajority of the Board materially reduce the economic return to the Members; or

(iv) Such that the SCA Member and SCA will be able to consolidate the financial results of operations and financial condition of the Company with the financial results of operation and financial condition of its ultimate parent under applicable requirements of GAAP, consistently applied, as such may change from time to time, as determined in the reasonable opinion of SCA's independent certified accountants; provided, however, that any such change does not have an adverse economic impact on the Members other than the SCA Member.

c. The Board of Managers may, without obtaining the consent of the Members, amend this Agreement to evidence the admission of additional or substitute Members admitted in accordance with the terms of this Agreement.

14.2 Meetings and Means of Voting. Meetings of the Members may be called by the Board of Managers, the SCA Member or by Physician Interest Holders holding at least thirty percent (30%) of the Units then held by all Physician Interest Holders. The call for any meeting called under this Section 14.2 shall state the nature of the business to be transacted. Notice of any such meeting shall be delivered by the Board of Managers within ten (10) days of its calling to all Members in the manner prescribed in

Section 17.1 of this Agreement and such meeting shall be held not less than fifteen (15) days nor more than sixty (60) days after such notice. Members may vote in person or by proxy at any such meeting. Whenever the vote or consent of Members is permitted or required under this Agreement, such vote or consent may be given at a meeting of Members or may be given in writing. For purposes of obtaining a written vote, the Board of Managers may require response within a specified time, but not less than thirty (30) days from the date notice is deemed to have been given, and failure to respond shall constitute a vote which is consistent with the Board of Managers' recommendation with respect to the proposal.

14.3 Voting Rights. Except as otherwise required by the Act, this Agreement does not grant to any Member the right to vote upon any matter not specifically provided for in this Agreement. Subject to the reserve powers of the Members set forth in this Agreement, the Board of Managers of the Company has complete right and power to control all management functions and decisions of the business and affairs of the Company.

XV. DUTIES OF COVERED PERSONS

15.1 Covenants of Covered Persons. Each Covered Person agrees that during the Restricted Period, other than through the Company, no Covered Person nor any of his or her Affiliates shall, without the prior written approval of the Board of Managers, directly or indirectly, own, manage, operate, control or participate in any manner in the ownership, management, operation or control of, or serve as a partner, employee, principal, agent, consultant or otherwise contract with, or have any financial interest in, or aid or assist any other person or entity that operates a facility (including an ambulatory surgery center, a hospital, or an office-based or practice-based facility or operating site or room that provides any of the services offered by the Company (each, a "**Competing Facility**")) to provide outpatient surgical services within twenty-five (25) miles from the address of the Center. Further, a Covered Person may not provide services of the type provided by the Center in his or her office if the Covered Person's office, or other entity with which the Covered Person has a compensation relationship or in which the Covered Person has an ownership interest, is accredited, licensed or Medicare-certified or such entity or Covered Person received a facility fee or technical fee or a site-of-service differential in connection with performing surgery at such location; provided, however, that the foregoing shall not prohibit a Covered Person from performing those procedures or administrative services listed beside such Covered Person's name on **Schedule B** attached hereto and incorporated herein by this reference. Furthermore, notwithstanding the foregoing, nothing in this Section 15.1 shall prohibit a Covered Person from providing medical staff governance, administrative or similar services at a hospital, provided that the Covered Person receives no compensation for such services.

a. Equitable Remedy. Each Covered Person acknowledges that the restrictions contained in this Section 15.1 are reasonable and necessary to protect the legitimate interests of the Company and that any violation of such restrictions would result in irreparable injury to the Company. In addition to any other remedy or remedies to which the Company may be entitled in law or in equity, the Company shall be entitled to preliminary and permanent injunctive relief for a violation or threatened violation of this Section 15.1 without having to prove actual damages or to post a bond, and the Company shall also be entitled to an equitable accounting of all earnings, profits and other benefits arising from such violation. Each Covered Person hereby waives any objections on the grounds of improper jurisdiction or venue to the commencement of an action in the State of Connecticut and agrees that effective service of process may be made upon him or her by mail under the provisions of Section 17.1.

b. Judicial Determination. If a court should hold that the restrictions set forth in Section 15.1 are unenforceable because they are unreasonable, then to the extent permitted by law, the court may prescribe the longest duration for the Restricted Period and/or the largest

radius or area for the restricted area that is reasonable and the parties agree to accept such determination subject to their rights of appeal. Nothing herein stated shall be construed as prohibiting the Company from pursuing any other remedy or remedies available for such breach or threatened breach, including recovery of damages from the Covered Person or injunctive relief.

c. Extension of Restricted Period. If a Covered Person is in violation of Section 15.1 at any time, then the Restricted Period shall be extended for a period of time equal to the period during which said violation or violations occurred. If the Company seeks injunctive relief from said violation in court, then the running of the Restricted Period shall be suspended during the pendency of said proceeding, including all appeals. This suspension shall cease upon the entry of a final judgment in the matter, not subject to further appeal.

d. Return of Purchase Price. In the event a former Covered Person violates the provisions of Section 15.1 after the date on which he, she or it has, directly or indirectly, Transferred his, her or its Units (which shall include a Transfer by an Interest Holder of his, her or its interest in an Entity Member), and the Company or the SCA Member purchased the Units or Interest Holder's Proportionate Units related to such former Covered Person, such Covered Person shall pay to the Company or the SCA Member, as the purchaser of such Units or Interest Holder's Proportionate Units as follows:

(i) If the former Covered Person was a Member, such former Covered Person shall pay the Company or the SCA Member, as applicable, an amount equal to the difference between (A) the greater of the purchase price received upon the Transfer of his, her or its Units or the fair market value of the Units on such date, as determined by the SCA Member and (B) the Net Book Value Purchase Price multiplied by the Withdrawing Member's Company Percentage as of the date of such Transfer;

(ii) If the former Covered Person was an Interest Holder, the Entity Member shall pay or shall cause such Interest Holder to pay the Company or the SCA Member, as applicable, an amount equal to the difference between (A) the greater of the purchase price received upon the Transfer of the Interest Holder's Proportionate Units related to such former Covered Person or the fair market value of the Interest Holder's Proportionate Units on such date, as determined by the SCA Member and (B) the Net Book Value Purchase Price multiplied by the portion of the Entity Member's Company Percentage attributable to the Interest Holder's Proportionate Units as of the date of such Transfer.

15.2 Medical Malpractice Insurance. Each Physician Interest Holder shall maintain and each Entity Member shall cause its Physician Interest Holders who are physicians on the medical staff of the Center to maintain medical malpractice insurance in accordance with the Center's medical staff bylaws.

15.3 Non-Discrimination. Each Physician Interest Holder shall treat, and each Entity Member shall cause its Physician Interest Holders to treat, the Center's patients receiving medical benefits or assistance under any Federal health care program in a nondiscriminatory manner.

15.4 Certification.

a. In order to assist the Board of Managers in determining whether each Physician Interest Holder is using the Center as an extension of his or her practice, each Physician Interest Holder shall certify in writing to the Company at such times as requested (provided no more frequently than once per calendar year) and in the then current written form as may be required

by the Board of Managers, with respect to the preceding twelve (12) months: (i) whether such Physician Interest Holder satisfied the Extension of Practice Requirements; (ii) whether such Physician Interest Holder has been subject to a Health Care Program Adverse Event; (iii) whether all patients referred to the Center by the Physician Interest Holder were fully informed of the Physician Interest Holder's ownership interest in the Company; and (iv) whether such Physician Interest Holder maintains medical malpractice insurance in accordance with the requirements set forth in the Center's medical staff bylaws. In addition, each Covered Person shall certify in writing to the Company at such times (provided no more frequently than once per calendar year) and in the current written form as may be required by the Board of Managers, with respect to the preceding twelve (12) months (i) whether such Covered Person has complied with the terms of this Agreement; (ii) whether such Covered Person is subject to a Buy/Sell Event and (iii) if an Entity Member, whether there have been any changes in its Interest Holders or the percentage of equity owned by the Interest Holders in the Entity Member within the previous twelve (12) month period.

b. **"Extension of Practice Requirements"** means the requirements that a Physician: (i) derive at least one-third (1/3) of his or her annual medical practice income (from all sources) from performing Outpatient Surgical Procedures, or procedures requiring an ambulatory surgery center or hospital operating room setting, or from providing anesthesia in connection with such procedures, and (ii) perform at least one-third (1/3) of his or her Outpatient Surgical Procedures or anesthesia procedures as applicable at the Center. For purposes of this definition, **"Outpatient Surgical Procedures"** shall mean those surgical procedures on the list of Medicare covered procedures for ambulatory surgery centers under applicable Medicare regulations in effect at the time a procedure is performed. The intent of the Extension of Practice Requirements is to ensure that each Physician Interest Holder is not serving as an indirect referral source with respect to the Center and that each Physician Interest Holder actively performs services at the Center. The Extension of Practice Requirements are intended to establish general standards for physicians based upon the Office of Inspector General safe harbors for surgery centers. The Board of Managers, acting in its sole discretion, may waive a Physician Interest Holder's compliance with all or a portion of the Extension of Practice Requirements if the Board of Managers reasonably believes that a Physician Interest Holder is acting in good faith to comply with the applicable statutes, including 42 U.S.C. §1320a-7b, and the Board of Managers reasonably believes that the Company will not be in violation of applicable law if such Physician Interest Holder continues to have a direct or indirect ownership interest in the Company.

15.5 Physician Interest Holder Eligibility Requirements.

a. All Physician Interest Holders must:

(i) Be licensed to practice medicine in the State of Connecticut;

(ii) Obtain and maintain medical staff privileges at the Center and at least one local hospital in New London County, Connecticut, except for William J. Kaufold, M.D., Dana P. Woods, M.D. and Stephen Scarangella, M.D., who shall be permitted to maintain medical staff privileges at at least one local hospital in Windham County, Connecticut;

(iii) At all times, be in compliance with paragraphs (A) through (C) of this subsection and affirm in writing, in connection with the initial acquisition of his or her Units and, thereafter, at such times (provided no more frequently than once per calendar

year) and in the written form as may be then be required by the Board of Managers from time to time:

(A) the Physician Interest Holder agrees to fully inform each patient referred to the Center by the Physician Interest Holder of his or her ownership interest in the Company;

(B) the Physician Interest Holder satisfies the Extension of Practice Requirements (or, if a new Physician Interest Holder, he or she satisfies component (i) of the Extension of Practice Requirements and expects to satisfy component (ii) of the Extension of Practice Requirements at the Center each year); and

(C) the Physician Interest Holder has treated patients receiving medical benefits or assistance under any federal health care program (including Medicare and Medicaid) in a non-discriminatory manner.

b. The criteria set forth in Section 15.5(a), as well as the requirement to make representations regarding compliance with the criteria in the form and pursuant to the time intervals set forth above, are referred to as the “**Physician Interest Holder Eligibility Requirements.**”

c. An Entity Member may become a Member in accordance with the terms of this Agreement only if each of its Physician Interest Holders satisfies the Physician Interest Holder Eligibility Requirements.

d. The SCA Member may require any Member that is not an Entity Member or Physician Interest Holder to transfer his, her or its Units to the SCA Member or the Company for the Fair Market Value Transfer Price.

15.6 Confidentiality. Each Member shall, and shall cause each agent or principal thereof, to keep secret and confidential, all information acquired relating to the following (all such information being hereinafter referred to as “**Confidential Business Information**”): (a) the financial condition and other information relating to the business of the Company, including, without limitation, its rates for services, its operations and contracts, and its business plans and arrangements; (b) the systems, products, plans, services, marketing, sales, administration and management procedures, trade relations or practices, techniques and practices heretofore or hereafter acquired, developed and/or used by the Company; and (c) in connection with the Company’s patients, providers, clients, customers, suppliers, vendors, lenders, independent contractors, and payors, the provisions and terms of any agreements or proposed agreements between the Company and any of such individuals or entities. No Member shall at any time disclose any such Confidential Business Information to any person, firm, corporation, association or other entity, or use the same in any manner other than in connection with operating the business and affairs of the Company or the Center; provided, however, a Member may disclose Confidential Business Information to a bona fide, potential third-party purchaser of any interest in the Company, if the purchase is to be made in accordance with any applicable provisions hereof and if such third party has executed a confidentiality agreement acceptable to the Board of Managers pursuant to which such third party has agreed to keep the Confidential Business Information strictly confidential. Subject to the foregoing proviso, no Member shall under any circumstances use Confidential Business Information in any way the Board of Managers reasonably believes is detrimental to the Company or the Center. Notwithstanding the foregoing, the term “**Confidential Business Information**” shall not include the following: any information which was independently developed by a party without the use of the Confidential Business Information; any

information which is or becomes available in the public domain during the term of this Agreement other than through a breach of this Agreement or other agreement with the Company or the Center; any information which is ordered to be released by requirement of a governmental agency or court of law; any information provided to a party's professional advisers (i.e., attorneys and accountants); and any information independently made lawfully available to a party as a matter of right by a third party. Each Member agrees that these confidentiality covenants shall apply while a Person is a Member and also at all times thereafter.

XVI. BOARD OF MANAGERS' TRANSACTIONS AND LIABILITY

16.1 Permitted Transactions of the SCA Member.

a. The SCA Member may engage in or possess interests in business ventures other than the Company, of every nature and description, independently or with others, including, but not limited to, the operation of other health care facilities and neither the Company nor the Members shall have any right by virtue of this Agreement in or to such independent ventures or to the income or profits derived therefrom.

b. The fact that the SCA Member is directly or indirectly interested in or connected with any person who renders or performs a service to the Company, or any person from whom the Company may borrow money, shall not prohibit the Company from engaging in any transaction with such person or create any duty or legal justification additional to that which would exist if such person were not so related to the Company, and neither the Company nor any other Member shall have any right in or to any income or profits derived from such transaction by such person.

16.2 Liability of the Managers to the Members and the Company. The Managers shall not be required to devote all of its time or business efforts to the affairs of the Company but shall devote so much of its time and attention to the Company as is reasonably necessary and advisable to manage the affairs of the Company to the best advantage of the Company. The Managers shall not be liable to the Members because any taxing authorities disallow or adjust any deductions, allocations or credits in the Company income tax returns. Furthermore, the Managers shall not have any personal liability for the repayment of capital contributions of the Members. No amendment of this Section shall be binding on any Person or change the rights of such Person hereunder who is or was a Manager without such Person's approval.

16.3 Exculpation. Neither the Managers nor any officer of the Company (each a "Responsible Party"), shall be liable, responsible or accountable in damages or otherwise to the Company or any Members for any action taken or failure to act (even if such action or failure to act constituted the gross negligence of such Responsible Party) on behalf of the Company within the scope of the authority conferred on or permitted to any such Responsible Party by this Agreement or by law, unless such act or omission was performed or omitted fraudulently, with gross negligence or as an act of willful misconduct. The provisions of this Agreement, to the extent that they expand, restrict or eliminate the duties and liabilities of any Responsible Party otherwise existing at law or in equity, are agreed by the Members to expand, restrict or eliminate to that extent such other duties and liabilities of such Responsible Party to the fullest extent permitted by applicable law. A Responsible Party will not be liable to the Company or any Members for breach of contract or breach of duties (including fiduciary duties) of such Responsible Party, except that nothing herein will limit or eliminate any liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing. However, in no event will any Responsible Party be liable to the Company or any other Members for any breach of fiduciary duty or implied contractual covenant of good faith and fair dealing,

to the extent arising hereunder, for such Responsible Party's good faith reliance on the provisions of this Agreement.

16.4 Indemnification. The Company shall indemnify and hold harmless to the fullest extent permitted by law each Responsible Party from and against any loss, expense, damage or injury suffered or sustained by it by reason of any acts, omissions or alleged acts or omissions (even if such acts or omissions constituted the gross negligence of such Responsible Party) arising out of its activities on behalf of the Company or in furtherance of the interests of the Company, including, but not limited to, any judgment, award, settlement, attorney's fees and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim, if the acts, omissions or alleged acts or omissions upon which such actual or threatened action, proceeding or claim is based were for a purpose reasonably believed by the Responsible Party to be in, or not opposed to, the interests of the Company and were not performed or omitted fraudulently, with gross negligence or as an act of willful misconduct, and were not in violation of the express terms of this Agreement. In no event will any Member be required to make any contribution to the Company that may be necessary for the Company to satisfy its indemnity obligation hereunder. No amendment of this Section shall be binding on any Person or change the rights of such Person hereunder who is or was a Manager without such Person's approval.

16.5 Return of Capital Contribution. Anything in this Agreement to the contrary notwithstanding, no Manager shall be individually liable for the return of the Capital Contributions of the Members, or any portion thereof, it being expressly understood that any such return shall be made solely from Company assets.

XVII. MISCELLANEOUS

17.1 Notices. Except as otherwise provided in this Agreement, any notice, payment, demand, request or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be duly given by the applicable party if given to the applicable party at its address set forth below:

(a) If to the Company:

River Valley ASC, LLC
45 Salem Turnpike
Norwich, CT 06360
Attention: Board of Managers

or to such other address as the Board of Managers may from time to time specify by written notice to the Members; and

(b) If to a Member, at such Member's address set forth in the Company records, or to such other address as such Member may from time to time specify by written notice to the Board of Managers.

(c) Any such notice shall, for all purposes, be deemed to be given and received:

(i) if by hand, when delivered;

(ii) if given by nationally recognized and reputable overnight delivery service, the business day on which the notice is actually received by the party; or

(iii) if given by certified mail, return receipt requested, postage prepaid, three business days after posted with the United States Postal Service.

17.2 Section Captions. Section and other captions contained in this Agreement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

17.3 Severability. Every provision of this Agreement is intended to be severable. If any term or provision of this Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

17.4 Right to Rely Upon the Authority of the Board of Managers. No person dealing with the Board of Managers shall be required to determine its authority to make any commitment or undertaking on behalf of the Company, nor to determine any fact or circumstance bearing upon the existence of its authority. In addition, no purchaser of any property of the Company shall be required to determine the sole and exclusive authority of the Board of Managers to sign and deliver on behalf of the Company any instrument of transfer, or to see to the application or distribution of revenues or proceeds paid or credited in connection therewith, unless such purchasers shall have received written notice from the Company affecting the same.

17.5 Governing Law. The laws of the State of Connecticut shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto, without giving effect to any conflicts-of-laws provisions.

17.6 Waiver of Action for Partition. Each Member irrevocably waives during the term of the Company and during the period of its liquidation following any dissolution, any right to maintain any action for partition with respect to any of the assets of the Company.

17.7 Counterpart Execution. This Agreement may be executed in one or more counterparts all of which together shall constitute one and the same Agreement. Electronically delivered signature pages shall be treated as originals.

17.8 Parties in Interest. Except as otherwise provided in this Agreement, this Agreement shall be binding upon the parties hereto and their successors, heirs, devisees, assigns, legal representatives, executors and administrators.

17.9 Construction of Pronouns. The feminine or neuter of the words "he," "his" and "him" used herein shall be automatically deemed to have been substituted for such words where appropriate to the particular Member executing this Agreement.

17.10 Integrated Agreement. This Agreement and the agreements referred to herein constitute the entire understanding and agreement among the parties hereto with respect to the subject matter hereof, and there are no agreements, understandings, restrictions, representations or warranties among the parties other than those set forth herein or herein provided for.

17.11 Force Majeure. If any of the parties hereto is delayed or prevented from fulfilling any of its obligations under this Agreement by Force majeure, said party shall not be liable under this Agreement for said delay or failure. "Force majeure" shall mean any cause beyond the reasonable control of a party, including, but not limited to, act of God, act or omission of civil or military authorities of a state or nation, fire, strike, flood, riot, war, delay of transportation or any other act or omission beyond the reasonable control of a party.

17.12 Schedules and Exhibits. Each Schedule and Exhibit to this Agreement is incorporated herein for all purposes.

17.13 Benefit/Assignment. Subject to 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 nothing contained herein shall negate or diminish the restrictions on transfer set forth in this Agreement. This Agreement is intended solely for the benefit of the parties hereto and is not intended to, and shall not, create any enforceable third party beneficiary rights.

17.14 Waiver. Failure by any party to enforce any of the provisions hereof for any length of time shall not be deemed a waiver of its rights set forth in this Agreement. Such a waiver may be made only by an instrument in writing signed by the party sought to be charged with the waiver. No waiver of any condition or covenant of this Agreement shall be deemed to imply or constitute a further waiver of the same or any other condition or covenant, and nothing contained in this Agreement shall be construed to be a waiver on the part of the parties of any right or remedy at law or in equity or otherwise.

17.15 Business Day. Should any due date hereunder fall on a Saturday, Sunday or legal holiday, then such due date shall be deemed timely if given on the first business day following such Saturday, Sunday or legal holiday.

17.16 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO DEMAND THAT ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE RELATIONSHIPS OF THE PARTIES HERETO BE TRIED BY JURY. THIS WAIVER EXTENDS TO ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY ARISING FROM ANY SOURCE INCLUDING, BUT NOT LIMITED TO, THE CONSTITUTION OF THE UNITED STATES OR ANY STATE THEREIN, COMMON LAW OR ANY APPLICABLE STATUTE OR REGULATIONS. EACH PARTY HERETO ACKNOWLEDGES THAT IT IS KNOWINGLY AND VOLUNTARILY WAIVING ITS RIGHT TO DEMAND TRIAL BY JURY.

17.17 Language Construction. The language in all parts of this Agreement shall be construed, in all cases, according to its fair meaning, and not for or against any party hereto. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

[Signatures appear on following pages.]

IN WITNESS WHEREOF, this Second Amended and Restated Operating Agreement has been executed as of the date first above written.

MEMBERS:

SCA-RIVER VALLEY, LLC

By: _____

Name: Richard L. Sharff, Jr.

Title: Vice President

Daniel Glenney, M.D.

Nicole Arcand, M.D.

Patricia Stuart, M.D.

John Pagnozzi, M.D.

William Culviner, M.D.

Steven Green, M.D.

Stephen Rouse, M.D.

Jerilyn Allen, M.D.

Gregory Lesnik, M.D.

David Boisoneau, M.D.

Darren Courtright, DPM

Frank Dellacono, M.D.

Shri Verma, M.D.

Richard Martin, M.D.

Pamela Connors, M.D.

Edward Tarka, DPM

Stephen Scarangela, M.D.

Vinod Pathy, M.D.

Peter Famiglietti, M.D.

Raymond Gaito, M.D.

David Coletti, M.D.

John Wesolek, M.D.

William Kaufold, M.D.

Dana Woods, M.D.

Schedule A

RIVER VALLEY ASC, LLC

SCHEDULE OF MEMBERS

MEMBER	UNITS OWNED	PERCENTAGE OF OWNERSHIP INTEREST
Daniel Glenney, MD	2.8733 Units	2.4825%
Nicole Arcand, MD	2.8733 Units	2.4825%
Patricia Stuart, MD	2.8733 Units	2.4825%
John Pagnozzi, MD	2.8733 Units	2.4825%
William Culviner, MD	2.3736 Units	2.0508%
Steven Green, MD	2.8733 Units	2.4825%
Stephen Rouse, MD	2.8733 Units	2.4825%
Jerilyn Allen, MD	2.3736 Units	2.0508%
Gregory Lesnik, MD	2.3736 Units	2.0508%
David Boisoneau, MD	2.8733 Units	2.4825%
Darren Courtright, DPM	1.9988 Units	1.7270%
Frank Dellacono, MD	2.8733 Units	2.4825%
Shri Verma, MD	2.8733 Units	2.4825%
Richard Martin, MD	2.8733 Units	2.4825%
Pamela Connors, MD	2.4985 Units	2.1587%
Edward Tarka DPM	0.5447 Units	0.4706%
Stephen Scarangela MD	1.2492 Units	1.0794%
Vinod Pathy MD	0.5247 Units	0.4533%
Peter Famiglietti MD	0.5247 Units	0.4533%
Raymond Gaito MD	0.5247 Units	0.4533%
David Coletti MD	0.4997 Units	0.4317%
John Wesolek MD	0.4997 Units	0.4317%
William Kaufold MD	0.4997 Units	0.4317%
Dana Woods MD	0.4997 Units	0.4317%
SCA-River Valley, LLC	60.5000 Units	60.5000%
TOTAL	115.7400 Units	100%

Schedule B

Grandfathered Relationships

Dr. Famiglietti:

- Serving as Section Chief/ Medical Director for Lawrence & Memorial Hospital and receiving compensation therefore
- Serving in administrative/educational positions with UConn and/or Quinnipiac Medical schools
- Serving in administrative/ educational positions with the Connecticut Society of Eye Physicians and/or the Connecticut State Medical Society

Richard Martin, M.D.: The following codes are for procedures performed in office (which is not a licensed facility) and for which no facility fee is charged.

07240 Full Bony IMP
07241 Ext Diff Full Bony
D7280 Exposure & Bracket
D7.283 Bracket
07285 Biopsy Hard Tissue
07286 Biopsy Soft Tissue
D7310 Alveoplasty
D7320 Alveoplasty
06010 Implant
20680 Removal of implant
20902 Onlay Graft
D4263 Synthetic Graft
D4265 Membrane
11400 Exc. Ben. Lesion trunk, arm, leg >.5cm
11401 >.6-1.0cm
11402 1.1-2.0cm
11403 2.1-3.0 cm
11404 3.1-4.0 cm
11406 >4.0 cm
11420 Exc. Ben. Lesion scalp, neck, hands, feet>.5cm
11421 >.6-1.0cm
11422 L1-2.0cm
11423 2.1-3.0 cm
11426 >4.0 cm
11440 Exc. Lesion face, eyelids, nose lips>.5cm
11441 >.6-1.0cm
11442 1.1-2.0cm
11443 2.1-3.0 cm
11446 >4.0 cm
11600 Exc. Mal, Lesion trunk, arm, leg >.5cm
11601 >.6-1.0cm
11602 1.1-2.0cm
11603 2.1-3.0 cm
11604 3.1-4.0 cm
11606 >4.0 cm
11620 Exc. Mal. Lesion scalp, neck, hands, feet>.5cm

11621 >.6-1.0cm
11622 1.1-2.0cm
11623 2.1-3.0 cm
11624 3.1-4.0 cm
11626 >4.0 cm
11640 Exc. Mal Lesion face, eyelids, nose lips>.5cm
11641. >.6-1.0cm
11642 1.1-2.0cm
44643 2.1-3.0 cm
11644 3.1-4.0 cm
11646 >4.0 cm
15780 Dermabrasion
15781 Dermabrasion face
15782 Dermabrasion, non face
15783 Dermabrasion, superficial
15786 Abrasion, single lesion
15787 Abrasion each add. Lesion
15819 Cervicoplasty
15820 Blepharoplasty lower lid
15821 Blepharoplasty lower lid, extensive pad
15822 Blepharoplasty upper lid
15823 Blepharoplasty upper lid, excessive skin
35825 Facelift
15830 Panniculectomy
15832 Thigh Lift
15836 Brachioplasty with Liposuction
15847 Abdominoplasty with Liposuction
15850 Removal of sutures under anesthesia
15876 Liposuction, head & neck
15877 Liposuction, trunk
15878 Liposuction, upper extremity
15879 Liposuction, lower extremity
21011 Sub q biopsy < 2cm
21012 Sub q biopsy >2cm
21013 Sub q biopsy, scalp, subfascial <2 cm
21014 Sub q biopsy, scalp, subfascial >2 cm
21015 Res. Tumor malignant <2cm
21016 Res. Tumor malignant >2cm
40800 I & D Mouth
40801 I & D Complex
40808 Biopsy
40810 Exc. Lesion w/o repair
40812 Exc. Lesion simple repair
40814 Exc. Lesion complex repair
40819 Frenectomy labial/buccal
40820 Laser ablation
41010 Frenectomy Lingual
41100 Biopsy tongue ant 2/3
41105 Biopsy tongue post 1/3
41108. Biopsy Floor of mouth

41110 Exc lesion tongue w/o closure
41112 Exc lesion tongue w/ closure 2/3
41113 Exc lesion tongue w/ closure 1/3
41820 Gingivectomy
D7140 Non Sx Exo
D7210 Surgical Exo
D7220 Soft Tissue Impaction
07230 Partial Bony Imp
12031 Int Rep. trunk, arm, leg 25cm or less
12032 2.6-7.5 cm
12034 7.6-12.5 cm
12035 12.6-20cm
12036 20.1-30.0 cm
12037 over 30 cm
12041 Int rep scalp, neck, hands, feet>.5cm
12042 2.6-7.5 cm
12044 7.6-12.5 cm
12045 12.6-20cm
12046 20.1-30.0 cm
12047 over 30 cm
12051 Int rep. face, eyelids, nose lips>.5cm
12052 2.6-5 cm
12053 5.1-7-5 cm
12054 7.6-12.5 cm
12055 12.6-20.0c
12056 20.1-30.0 cm
12057 over 30 cm
13100 Complex repair trunk 1.1-2.5 cm
13101 2.6-7.5 cm
13102 add 5cm
13120 Complex repair scalp, arms, legs 1.1-25 cm
13121 2.6-7.5 cm
13122 add 5cm
13131 Complex repair forehead, cheek, chin mouth 1.1-2.5 cm
13132 2.6-7.5 cm
131a3 add 5cm
13150 complex repair lids, nose ears, lips 1.1-2.5 cm
13151 1.1-2.5
13152 2.6-7.5 cm
13153 add 5cm
42100 Biopsy Palate
42104 Exc Lesion w/o closure
42106 with simple primary closure
42107 w flap closure

Dr. David Boisoeneau and Dr. Frank Dellacono

indirect laryngoscopy 31505
fiberoptic laryngoscopy 31575

nasal endoscopy 31231
sinus debridement 31237
control epistaxis 30901/3/5
nasal foreign body removal 30300
fine needle aspiration 10021
drain tonsil abcess 42700
remove salivary stone 42330
remove ear wax 69210
debridement infected skin 11000
foreign body ear 69200
mastoid bowl cleaning 69220/2
incision ear drum 69420
insertion PE tube 69433
patching tympanic membrane 69610
use operating microscope 69990
Epley maneuver 95992

Drs. Rouse, Green, Allen and Culviner

PROCEDURE CODE

10021	OFF PROC
10060	OFF PROC
10061	OFF PROC
10120	OFF PROC
10121	OFF PROC
10140	OFF PROC
10160	OFF PROC
11100	OFF PROC
11101	OFF PROC
11200	OFF PROC
11201	OFF PROC
11300	OFF PROC
11301	OFF PROC
11302	OFF PROC
11305	OFF PROC
11306	OFF PROC
11307	OFF PROC
11308	OFF PROC
11310	OFF PROC
11311	OFF PROC
11312	OFF PROC
11313	OFF PROC
11400	OFF PROC
11401	OFF PROC
11402	OFF PROC

11403	OFF PROC
11420	OFF PROC
11421	OFF PROC
11422	OFF PROC
11423	OFF PROC
11440	OFF PROC
11441	OFF PROC
11442	OFF PROC
11443	OFF PROC
11444	OFF PROC
11446	OFF PROC
11601	OFF PROC
11602	OFF PROC
11603	OFF PROC
11604	OFF PROC
11606	OFF PROC
11620	OFF PROC
11621	OFF PROC
11622	OFF PROC
11623	OFF PROC
11624	OFF PROC
11626	OFF PROC
11640	OFF PROC
11641	OFF PROC
11642	OFF PROC
11643	OFF PROC
11644	OFF PROC
11646	OFF PROC
12001	OFF PROC
12002	OFF PROC
12011	OFF PROC
12013	OFF PROC
12014	OFF PROC
12015	OFF PROC
17000	OFF PROC
17003	OFF PROC
17106	OFF PROC
20670	OFF PROC
21011	OFF PROC
21012	OFF PROC
21013	OFF PROC
30000	OFF PROC
30020	OFF PROC
30100	OFF PROC
31231	OFF PROC
31237	OFF PROC

31575	OFF PROC
31579	OFF PROC
40490	OFF PROC
40500	OFF PROC
40800	OFF PROC
40808	OFF PROC
40810	OFF PROC
40812	OFF PROC
40819	OFF PROC
40820	OFF PROC
41000	OFF PROC
41010	OFF PROC
41100	OFF PROC
41105	OFF PROC
41108	OFF PROC
41110	OFF PROC
41116	OFF PROC
41825	OFF PROC
42000	OFF PROC
42100	OFF PROC
42104	OFF PROC
42106	OFF PROC
42299	OFF PROC
42300	OFF PROC
42330	OFF PROC
42400	OFF PROC
42405	OFF PROC
42650	OFF PROC
42700	OFF PROC
42800	OFF PROC
42804	OFF PROC
42806	OFF PROC
64612	OFF PROC
69000	OFF PROC
69005	OFF PROC
69020	OFF PROC
69090	OFF PROC
69100	OFF PROC
69105	OFF PROC
69110	OFF PROC
69210	OFF PROC
69540	OFF PROC
69990	OFF PROC
92504	OFF PROC
92511	OFF PROC
95992	OFF PROC

Dr. John Pagnozzi

11008	46020-46083
11770-11772	46910
13160	45300
15002-15879	
19300-19307	
11900-11983	
14000-14350	
17311-17999	
19260-19298	
19316-19499	

Dr. Nicole Arcand:

10140
10121
10120
10160
11010
11012
11042
11044
11730
11750
12001
12031
12041
20005
20520
20525
20550
20600
20605
20610
20670
20680
20950
23500
23600
23620
24650
24670
25560
25605

25622
26010
26418
26600
26605
26720
26750
26755
26951
27516
27530
27750
27752
27760
27762
27780
27786
27808
27810
27818
27824
28400
28430
28450
28470-28525
28665
28635
28675
28825
37618
97605

Dr. Gregory Lesnik:

30100	14040
30110	92553
31231	92557
31575	92567
31515	92533
92613	A4550
92625	92532
92610	92531
69210	95992
69220	14040
42809	69436
30300	J3301

69200
30901
11100
11101
11200
11201
10060
15240
69801

EXHIBIT E

MANAGEMENT AGREEMENT

See attached

MANAGEMENT AGREEMENT

RIVER VALLEY ASC, LLC

THIS MANAGEMENT AGREEMENT (this “Agreement”) is made and entered into as of November 1, 2016 (the “Effective Date”), by and between **SURGICAL CARE AFFILIATES, LLC**, a Delaware limited liability company (the “Manager”), and **RIVER VALLEY ASC, LLC**, a Connecticut limited liability company (the “Owner”).

RECITALS:

WHEREAS, the Owner owns and operates an ambulatory surgery center located at 45 Salem Turnpike, Norwich, Connecticut known as “River Valley Ambulatory Surgery Center” (the “Center”); and

WHEREAS, the Owner and the Manager each desire that the Owner engage the Manager to assist with the management of the Center and to provide certain non-medical services to the Center, pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises, which are hereby incorporated into this Agreement as an integral part hereof and not as mere recitals hereto, and of the promises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

I. SCOPE OF ENGAGEMENT

1.1 **Provision of Services.** The Owner hereby retains the Manager for the purpose of rendering management, administration, purchasing services and support as described and set forth on Exhibit A hereto (the “Management Services”) and the cash management services as described and set forth in Article II hereto (the “Cash Management Services” and, collectively with the Management Services, the “Services”), subject to the goals, policies, objectives and directives established by the Owner, all of which shall be consistent with applicable state and federal law, as well as the requirements of any applicable accrediting bodies. The Manager shall be responsible for providing only the Services described herein and set forth on Exhibit A. The Manager shall not be responsible for the provision of any other items or services; provided that if the Owner requests any additional items or services, and the Manager agrees to provide such items or services, the Owner shall pay the Manager a fair market value fee for such items or services, such fee to be determined by the Manager in good faith.

1.2 **Standard of Performance.** The Manager shall perform all Services for the account of and as agent of the Owner. The Manager shall perform the Services using commercially reasonable best efforts. The Manager’s provision of the Services shall be subject to the control of the Owner, which shall have final authority in all matters relating to the Center’s operations.

1.3 **Exclusive Authority; Right to Subcontract.** The Manager shall have the exclusive right and authority to perform all of the Services described herein. The Owner shall not perform, or contract with any person or entity other than the Manager to perform, any of the Services, or any services similar to the Services, on its behalf. The Manager shall have the right to subcontract with any other persons or entities, including any affiliate of the Manager, for the provision of any of the Services; provided, however, that the Manager shall remain obligated to the Owner under this Agreement for any such subcontracted Services. Any third-party costs of additional services (i.e., those services outside of the Manager’s obligations under this Agreement) requested by the Owner to be provided shall be billed without mark-up and paid by the Owner.

1.4 Authority. The Manager shall have the right to act as the agent of the Owner and/or the Center in the procuring of licenses, permits and other approvals, the payment and collection of accounts and in all other activities necessary, appropriate or useful to the Manager in the carrying out of its duties as specified under this Agreement. The Manager shall have the further authority, without approval of the Owner, to enter into any third-party contract on behalf of the Owner the expense of which is either (i) included in the Owner's budget; or (ii) not more than \$50,000.00, subject to the approval requirements set forth in the Owner's Operating Agreement. The Manager shall be authorized to make withdrawals from the Owner's operating account to pay all costs and expenses incurred in the operation of the Center, including payment of the Management Fees (so long as such fees are not under dispute by Owner), and to fulfill all other terms of this Agreement.

1.5 Power of Attorney. The Owner hereby appoints the Manager and any subcontractor designated by the Manager, as its attorney-in-fact for the limited purpose of performing the functions described in this Agreement, including, without limitation, the authority to (a) take all steps necessary and appropriate to supervise and oversee the submission, processing and collection of all claims for payment from patients and third-party payors, including the Medicare and Medicaid programs, for professional services rendered by the Owner; (b) endorse all checks made payable to the Owner in connection with the professional services rendered by the Owner; (c) supervise and oversee the remittance of any collections from patients and third-party payors, including the Medicare and Medicaid programs; and (d) participate in any proceeding before any governmental agency arising out of the operation of the Center.

1.6 Legal Compliance; Licensing. The Owner, with the assistance of the Manager, shall comply with any and all federal, state and local statutes, regulations, rules, orders or other requirements that the Owner is responsible for undertaking which affect the Center and/or its operations. The Owner, with the assistance of the Manager, shall obtain and maintain all licenses and accreditations as are necessary for the provision of medical and health care services and the operation of an ambulatory surgery center.

1.7 Retained Authority. Nothing in this Agreement is intended to delegate to the Manager any of the powers, duties or responsibilities vested exclusively in the Owner by law.

II. CASH MANAGEMENT SERVICES

2.1 Cash Management Service. The Manager shall maintain one or more accounts (each an "SCA Account", and collectively, the "SCA Accounts") at a bank or other financial institution (the "Depository Institution"). The Owner shall maintain an account at a bank or other financial institution (the "Company Account") into which the Owner shall deposit its funds (the "Company Funds") pursuant to this Article II. The Manager shall transfer the Company Funds from the Company Account to one or more SCA Accounts each day other than a Saturday, Sunday, or other holiday of the Depository Institution (each a "Business Day"), or at such other regular intervals as may be determined from time to time by the Manager (each, a "Transfer", and collectively, the "Transfers"). The Owner hereby authorizes the Manager to transfer all of the Company Funds to one or more SCA Accounts each Business Day or at such other regular intervals as may be determined from time to time by the Manager. The Manager will use the Company Funds to make disbursements on the Owner's behalf in its capacity as Manager (the "Disbursements"). The services provided by Manager pursuant to this Article II are collectively referred to as the "Cash Management Service."

2.2 Duty of Care. The Owner acknowledges that the Company Funds may be commingled with other funds deposited in the SCA Accounts by the Manager (the "SCA Account Funds") and may be transferred among SCA Accounts or other accounts or investments of the Manager. Notwithstanding the foregoing, the Manager shall treat the Company Funds, including any such funds so commingled, with the same degree of ordinary care that it exercises over its own account funds, and shall maintain records of all

Transfers made from the Company Account to one or more SCA Accounts and all Disbursements made from each SCA Account on the Owner's behalf, such that the Manager can readily track and account for the Company Funds. Manager shall provide to the Owner, upon reasonable request, a data sheet that details all such deposits and transfers of the Company Funds. Subject to the Owner's right to review and audit, and in the absence of manifest error or fraud, the books and records of the Manager shall be final and definitive with respect to the amounts of such Transfers, Disbursements and the balance of the Company Funds remaining after payment of the Advances pursuant to this Article II (the "**Company Fund Balance**"). The Owner agrees to comply with the terms of this Article II and any related Manager or Depository Institution procedures governing the Cash Management Service, including, without limitation, the Transfers.

2.3 Company Account Deposits. The Owner shall deposit its cash receipts, checks and other items, and any other available cash of Owner each Business Day to the Company Account. The Owner acknowledges that the availability of the Company Funds and the balance of the Company Account is subject to the Depository Institution's funds availability policies and deposit account agreements (the "**Depository Institution Account Agreements**") and may be subject to set-off or charge back, such as for returned items.

2.4 Transfers. The Owner agrees that Transfers may be initiated by the Manager or Depository Institution and may be made via zero balance account ("**ZBA**") arrangement, automated clearing house ("**ACH**") transfer, or such other method of transfer or sweep as the Manager may determine from time to time. The Owner agrees to sign such authorizations and follow such procedures that may be required by the Manager or Depository Institution from time to time to facilitate Transfers.

2.5 Authorization to Conduct Banking Activities. The Owner hereby authorizes the Manager to conduct banking activities (the "**Banking Activities**") on behalf of the Owner in accordance with the normal and customary processes utilized by the Manager in the ordinary course of the Owner's business. Such Banking Activities include opening and closing bank accounts in the name of the Owner and contracting for banking services, including merchant services and the withdrawal of funds by check or electronic means. The Owner shall take such actions and institute such procedures as the Manager from time to time may reasonably request to enable the Manager to conduct such banking activities on behalf of the Owner, and to enable the Owner to participate in the Cash Management Service to the same extent as though Owner were a wholly-owned subsidiary of the Manager. Such actions may include adopting such resolutions as may be requested from time to time by the Manager to authorize the Manager to conduct the Banking Activities.

2.6 Application of Funds. Upon the closing of the financial books of the Owner each month, the Manager agrees to apply the Company Funds to balances owed to the Manager by the Owner for payment of operating expenses of the Owner, including the Disbursements and the payment of any Management Fee owed to the Manager pursuant to this Agreement and any other fees or expenses related to the operation and maintenance of the Cash Management Services or the SCA Accounts that are properly allocable to the Owner (the operating expenses, Disbursements, Management Fee and other banking fees, collectively, the "**Advances**"). In the event that the Owner disputes any amounts due under this Agreement in accordance with the terms of the Agreement, no Company Funds shall be applied to satisfy such claimed amounts until such dispute has been resolved by the Owner and the Manager, or if the Owner and the Manager cannot resolve such dispute, as determined by a final, non-appealable and binding ruling of a court or (if applicable) arbitrator.

2.7 Overdraft Line of Credit. In connection with the Cash Management Services, the Manager may, upon approval of Supermajority of the Board of Manager of the Owner (as defined in the Operating Agreement of the Owner) and on the terms and conditions hereinafter set forth, provide the Owner with an

interest-bearing line of credit for working capital requirements up to a maximum borrowing line established by the Manager from time to time (the "Overdraft Line of Credit").

a. Manner of Borrowing. Loans under the Overdraft Line of Credit shall be made in the sole discretion of the Manager by means of the Manager's payment of the Advances of the Owner in excess of the Company Funds Balance.

b. Method of Payment. Payments to the Manager of outstanding amounts under the Overdraft Line of Credit shall be made (a) upon the closing of the financial books each month to the extent of the positive Company Fund Balance; provided, however, that all outstanding amounts under Overdraft Line of Credit shall be immediately due and payable upon the termination of this Agreement or (b) within thirty (30) days of a written demand for such payment delivered to the Owner.

c. Security. To secure payment and performance of any and all obligations of the Owner to the Manager under the Overdraft Line of Credit and any costs and expenses incurred by the Manager to enforce the security interest granted herein, the Owner hereby grants to the Manager a continuing security interest in and lien upon all of Owner's rights, title and interest in, to and in (a) the Company Account, (b) the Company Funds, (c) accounts, including contract rights, (d) general intangibles, and (e) all cash and non-cash proceeds and products thereof (collectively, the "Collateral"). Owner authorizes the filing of one or more financing statements covering the Collateral in form satisfactory to the Manager, and without Owner's signature where authorized by law. The Owner agrees to take such other actions, at the Owner's expense, as might be requested for the perfection, continuation and assignment, in whole or in part, of the security interests granted herein and to assure and preserve the Manager's intended priority position. Notwithstanding the foregoing, the Manager's security interest in the Collateral granted hereunder shall at all times be subordinate to the interest of any senior lender of the Owner.

d. Events of Default. If any of the following events shall occur, then, and in any such event, the Manager may, by notice to the Owner, declare the Overdraft Line of Credit and all interest thereon to be forthwith due and payable and may, without notice to the Company, terminate immediately the Overdraft Line of Credit:

- i. The Owner should fail to pay the principal of, or interest on, any borrowings under the Overdraft Line of Credit within ten (10) days of the receipt of notice of such requested payment; or provided that an Event of Default shall not occur in such failure to pay outstanding amounts by the Owner are due to the actions or omission of the Manager or its affiliates; or
- ii. Any representation or warranty made or deemed made by the Owner in this Agreement shall prove to have been incorrect in any material respect on or as of the date made or deemed made; or
- iii. The Owner shall fail to perform or observe any term, covenant or agreement contained in this Agreement, or the Owner's governing documents (e.g. partnership agreement, operating agreement, etc.) on its part to be performed or observed, which failure shall continue for more than thirty (30) days; or
- iv. The Owner (1) shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as such debts become due; or (2) shall make an assignment for the benefit of creditors, petition or apply to any tribunal for the

appointment of a custodian, receiver, or trustee for it or a substantial part of its assets; or (3) shall commence any proceeding under any bankruptcy, reorganization, arrangements, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; or (4) shall have any such petition or application filed or any such proceeding commenced against it in which an order for relief is entered or adjudication or appointment is made; or (5) by an act or omission shall indicate its consent to, approval of, or acquiescence in any such petition, application, or proceeding, or order for relief, or the appointment of a custodian, receiver or trustee for all or any substantial part of its properties; or (6) shall suffer any such custodianship, receivership, or trusteeship; or

- v. One or more judgments, decrees or orders for the payment of money in excess of Twenty-Five Thousand Dollars (\$25,000.00) in the aggregate shall be rendered against the Owner and such judgments, decrees, or orders shall continue unsatisfied and in effect for a period of sixty (60) consecutive days without being vacated, discharged, satisfied or stayed or bonded pending appeal; or
- vi. This Agreement expires or is terminated; or
- vii. Any party hereto shall have given the other party notice of its intention to terminate this Agreement.

2.8 Interest. Upon the closing of the financial books of the Owner each month ("Closing Month") the Manager shall determine the average Company Fund Balance for the month prior to the Closing Month ("Average Monthly Company Fund Balance"). In the event the Average Monthly Company Fund Balance is a positive number, then the Owner will receive interest income on such positive amount at the average monthly interest rate of the primary SCA Account into which Company Funds are transferred. If the Average Monthly Company Fund Balance is a negative number as a result of borrowings under the Overdraft Line of Credit or otherwise, the Company will be charged interest at a variable rate equal to the prime lending rate plus one percent (1.0%), as announced by a bank or other financial institution selected by the Manager from time to time.

III. TERM

3.1 Term. The term of this Agreement shall commence as of the Effective Date and shall continue in full force and effect for an initial term of five (5) years (the "**Initial Term**"). At the end of the Initial Term, this Agreement shall automatically renew for successive five (5) year terms (each a "**Renewal Term**") and together with the Initial Term, the "**Term**"). Either party shall have the right to terminate this Agreement at any time that the Manager or its affiliates ceases to own any equity interest in the Owner.

3.2 Termination Upon Default. Notwithstanding the provisions in the foregoing paragraphs, upon ninety (90) days' prior written notice, or ten (10) days' prior written notice upon a payment default, either party (the "**Terminating Party**") shall have the right to terminate this Agreement upon a material breach of this Agreement by the other party (the "**Breaching Party**"). In the event termination is for an alleged material breach other than a payment default, such notice shall describe in detail the basis upon which the Terminating Party believes such termination is justified. Upon receipt of such notice, the Breaching Party shall have ninety (90) days, or ten (10) days with respect to a payment default, during which to attempt to cure such alleged breach under this Agreement, and upon such cure being effected, the Terminating Party's rights to terminate shall cease and this Agreement will continue in full force and effect; provided, however, that the Breaching Party shall only be entitled to cure two (2) payment defaults in any

one (1) calendar year; provided, further, that in the event a Breaching Party has a third payment default in any one (1) calendar year, the Terminating Party shall be entitled to terminate this Agreement immediately upon written notice to the Breaching Party. Furthermore, if the Breaching Party has diligently attempted to effect such a cure of a breach, other than a payment default, within such ninety (90) day period but cannot complete such cure because of the failure of a third party (such as a governmental agency) to act within such period, then the Breaching Party shall have a reasonable time beyond such ninety (90) day period to complete its cure of the alleged breach, but no more than one hundred eighty (180) days.

3.3 Termination Upon Bankruptcy. Either party may terminate this Agreement immediately, upon written notice to the other party, (i) if the other party appoints or consents to the appointment of a receiver, trustee or liquidator of such party or of all or a substantial part of its assets, files a voluntary petition in bankruptcy, makes a general assignment for the benefit of creditors, files a petition or an answer seeking reorganization or arrangements with creditors or to take advantage of any insolvency law, or (ii) if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating such party bankrupt or insolvent, and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) days.

3.4 Payment Upon Termination. Upon termination of this Agreement, the Owner shall owe the Manager the full uncontested amount of any fees owing and/or earned or accrued pursuant to the terms hereof, up through and including the date of termination, including all outstanding principal and interest of the Overdraft Line of Credit as set forth in Article II, and any sums of money owed by the Owner to the Manager, including expenses reimbursable hereunder, shall be paid within thirty (30) days following the date of termination. The Manager shall owe and pay immediately to the Owner the amount of the Company Fund Balance, if any, under Article II. Upon termination hereof, the Manager's obligations to perform services hereunder shall cease completely; provided, however, that the Owner and the Manager shall perform such matters as are reasonably necessary, and requested in good faith by either party, to wind up their activities under this Agreement.

3.5 Suspension of Services. Notwithstanding the foregoing, the Manager shall have the right to suspend the provision of services under this Agreement in the event that the Owner fails to pay any of the compensation, fees or costs payable or reimbursable pursuant to Article IV as and when due and such suspension of service shall not be a default by the Manager.

IV. FEE FOR SERVICES

4.1 Reimbursement of Expenses. The Owner shall reimburse the Manager for amounts paid by the Manager during the Term of this Agreement to vendors on behalf of Owner for supplies and equipment, tax return preparation, insurance premiums paid by the Manager for the coverages described in Article VIII hereof, legal fees incurred on behalf of Owner, staffing expenses in accordance with Article V, other services if indicated on Exhibit A as not included in the Management Fee and reasonable out-of-pocket expenses incurred by the Manager in connection with travel, lodging and meals of Manager personnel who make on-site visits to the Center; provided that, (a) such expenses are either included in the operating budget of the Owner or pre-approved by the Owner in accordance with the provisions of the Owner's Operating Agreement; (b) Manager shall submit receipts to the Center evidencing such expenses upon request; and (c) such expenses shall not exceed \$15,000.00 annually. Except for costs associated with the Employees, such costs shall not include an allocation of Manager's management team salaries, benefits or its central business office overhead. If the Owner requests that the Manager provide services to the Owner or for the Center which are not described on Exhibit A, the Manager may charge a reasonable additional fee for such services.

4.2 Fees. The Owner shall pay the Manager for rendering the Management Services and the Cash Management Services a fee equal to three percent (3%) of the Center's annual Net Revenue (as defined below), plus reimbursement of direct expenses incurred by Manager on behalf of the Center (the "**Management Fee**"). "**Net Revenue**" shall mean total patient revenues and other operating revenue (including the proceeds of claims under business interruption insurance policies) minus contractual allowances, provision for bad debt, charity care, condemnation awards, proceeds of claims under casualty insurance policies, proceeds from a sale or debt refinancing, and other capital transactions outside the ordinary course of business, each as determined pursuant to generally accepted accounting principles ("**GAAP**"), as consistently applied by the Manager, on an accrual basis of accounting. Notwithstanding anything herein to the contrary, the Management Fee shall not exceed Three Hundred Thousand Dollars (\$300,000.00) per year (the "**Maximum Annual Amount**"), prorated for partial years; provided, however, that the Maximum Annual Amount shall be increased by one and one-half percent (1.5%) on each anniversary of the Effective Date of the Agreement.

4.3 Terms of Payment. The Owner shall pay the Manager the Management Fee and any expenses reimbursable hereunder monthly no later than the thirtieth (30th) day of the month following the month in which the Management Fee was earned or the applicable expense was incurred. All amounts payable to the Manager pursuant to this Agreement that are not paid on or before the date such payments are due shall bear interest of six percent (6%) per year, unless waived by the Manager.

V. STAFFING

5.1 Authority over Employees. During the Term of this Agreement, the Manager shall make available to the Owner the services of all employees reasonably necessary to staff and operate the Center. The parties acknowledge and agree, however, that as of the date of this Agreement, all employees at the Center are employed by the Owner (the "**Existing Employees**"). The parties will use their best efforts to transition the Existing Employees to become employees of the Manager on or about January 1, 2017, and in accordance with the terms set forth in the Membership Interest Purchase Agreement by and among the Manager, SCA-River Valley, LLC, the Owner, the members of the Owner, and Merritt Healthcare Holdings, LLC, dated as of October 31, 2016 (the "**Purchase Agreement**"). Any Existing Employee who declines an offer of employment from the Manager (which offer is consistent with the provisions of the Purchase Agreement) shall be terminated by the Owner, unless otherwise agreed to by the Owner and the Manager. The Manager shall employ any new employees assigned to the Center on or after the commencement of this Agreement, except as otherwise agreed by the Owner and the Manager (any such new employees and the Existing Employees are referred to herein collectively as the "**Employees**"). Subject to Section 5.3 below, the Manager shall have the right to terminate the employment of an Employee and to hire such additional individuals as Employees as the Manager determines is reasonably necessary from time to time. Furthermore, the Manager shall have the right to control and direct the Employees as to the performance of duties and as to the means by which such duties are performed.

5.2 Payment for Employees. The Owner shall promptly fund or, as appropriate, reimburse the Manager for all expenses incurred by the Manager, determined in accordance with GAAP with respect to the Employees. Such expenses shall include, but are not limited to, compensation, amounts required to provide employee benefits, federal and state taxes on wages, unemployment compensation premiums and workers' compensation premiums, each as determined in accordance with GAAP. Manager may also obtain, at Owner's expense, commercially reasonable employment practices liability coverage with respect to the Employees.

5.3 Approval of Employees. Upon reasonable grounds, and after giving the Manager appropriate notice and an opportunity to discipline an Employee, the Owner may require the Manager to immediately cause any Employee to no longer provide services at the Center, whereupon, the Manager shall

cause such Employee to cease to provide service at the Center; provided, however, that the Manager shall not be required to remove any Employee from providing services at the Center as described herein if, in the Manager's reasonable judgement, and in consultation with the Manager's legal advisors, the Manager believes that removing such Employee would violate applicable law.

VI. INDEPENDENT CONTRACTOR STATUS

Notwithstanding any provision contained herein to the contrary, each of the Owner and the Manager understand and agree that the parties hereto intend to act and perform as independent contractors and that, therefore, neither the Owner nor the Manager is an employee, partner, joint venturer, or, except as explicitly provided for herein, agent of the other.

VII. OWNERSHIP OF INTELLECTUAL PROPERTY; ACCESS TO INFORMATION

7.1 Intellectual Property. During the Term of this Agreement, the Owner and its employees and agents will have access to and become acquainted with confidential information, intellectual property and trade secrets of the Manager, including, without limitation, information and data relating to payor contracts and accounts, clients, billing practices and procedures, business analytics, techniques and methods, strategic plans, operations and related data, program and scheduling systems, manuals, computer software and other information, in whatever form, provided by the Manager in the performance of its obligations hereunder ("**Manager Intellectual Property**"), and the Manager and its employees and agents may have access to proprietary information and intellectual property developed by or for the Owner ("**Owner Intellectual Property**") (Manager Intellectual Property and Owner Intellectual Property may be referred to collectively herein as "**Intellectual Property**"). All Intellectual Property is the property of its original owner and shall be proprietary information protected under the Uniform Trade Secrets Act and other applicable state and federal law. Neither the Manager nor the Owner shall disclose, and each shall cause their respective affiliates, employees, contractors, and any other agents not to disclose to any person or entity, directly or indirectly, either during the Term of this Agreement or at any time thereafter, any Intellectual Property, or use any Intellectual Property other than in the course of meeting such party's obligations under this Agreement. Notwithstanding the foregoing, the Manager shall have the right to use any technical or business expertise obtained during the course of its engagement hereunder in connection with its management of any other facility.

7.2 Social Security Act. To the extent required by Section 1861(v)(1)(i) of the Social Security Act, each party shall, upon proper request, allow the United States Department of Health and Human Services, the Comptroller General of the United States, and their duly authorized representatives access to this Agreement and to all books, documents, and records necessary to verify the nature and extent of costs and services provided by either party under this Agreement, at any time during the Term of this Agreement and for an additional period of four (4) years after the last date services are furnished under this Agreement. If either party carries out any of its duties under this Agreement through a permitted subcontract or similar permitted agreement between it and an individual or organization related to it, that party shall require that a clause be included in such agreement to the effect that until the expiration of four (4) years after the furnishing of services pursuant to such agreement, and to the extent required by Section 1861(v)(1)(i) of the Social Security Act, the related organization will make available, upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States, or any other duly authorized representatives, all agreements, books, documents and records of said related organization that are necessary to verify the nature and extent of the costs of services provided by that agreement.

7.3 Access to Information. Subject to the confidentiality provisions herein, each party shall have access to all applicable records and information, including, but not limited to, documents prepared in connection with the performance of procedures at the Center hereunder ("**Records**"), in order to perform

any necessary billing, to conduct utilization review or quality assurance activities, or to prepare the defense of a lawsuit in which those Records may be relevant. Subject to the confidentiality provisions herein, the Manager and its employees and agents, as applicable to their respective duties, will be given reasonable access to the Center and their records, offices and facilities, in order that the Manager and its employees may carry out their obligations hereunder. Notwithstanding anything herein to the contrary, all Records prepared in connection with the care and services rendered to patients at the Center shall be and remain the property of the Owner and shall be treated as confidential pursuant to applicable federal and state law.

7.4 Privilege. The parties agree that any applicable attorney-client, accountant-client or other legal privilege shall not be deemed waived by virtue of this Agreement.

VIII. INSURANCE AND INDEMNIFICATION

8.1 Required Coverages.

a. During the Term of this Agreement, the Manager shall obtain on behalf of the Owner, on commercially reasonable terms and conditions, all at the Owner's sole cost and expense, the following commercially reasonable insurance coverages:

- i. Workers' compensation coverage with statutory limits and Employer's Liability coverage with minimum limits of \$1,000,000 per accident for bodily injury by accident, \$1,000,000 policy limit by disease, and \$1,000,000 per employee for bodily injury by disease;
- ii. Professional and comprehensive general liability insurance covering the Owner, the Manager, and the Employees in an amount at least equal to \$1,000,000 per occurrence, \$3,000,000 in the annual aggregate and upon commercially reasonable terms and conditions, and excess insurance above professional and comprehensive general liability insurance in an amount equal to at least \$4,000,000 per occurrence and \$4,000,000 in the annual aggregate; and
- iii. Property and casualty insurance covering the Owner against loss of or physical damage to the Center and the tangible assets used in connection with the operation of the Center.

b. The Manager shall maintain comprehensive general liability insurance covering the Manager in an amount at least equal to \$1,000,000 per occurrence and \$3,000,000 in the annual aggregate and on commercially reasonable terms and conditions, all at the Manager's sole cost and expense, with a commercial carrier acceptable to both parties.

8.2 Indemnification by the Owner. The Owner hereby agrees to indemnify and hold the Manager, its affiliates and owners, and their respective officers, directors, agents, owners and affiliates (each a "**Manager Indemnified Party**") harmless from and against any and all claims, actions, liabilities, losses, costs and expenses of any nature whatsoever, including reasonable attorneys' fees and other costs of investigating and defending any such claim or action (a "**Loss**"), which may be asserted against any Manager Indemnified Party, in connection with (a) the operation of the Center and the Owner, other than with respect to any Loss incurred by reason of Manager's gross negligence or willful misconduct, and (b) the acts or omissions of the Owner, its medical staff, agents or employees, or the Employees, in each case other than with respect to any Loss which was incurred by reason of Manager's gross negligence or willful misconduct. This Section 8.2 shall constitute the sole obligation of the Owner with respect to any Loss and

any claims arising out of this Agreement and/or the relationship created hereby, whether such claim is based in contract, tort, fraud or otherwise.

8.3 Indemnification by the Manager. The Manager hereby agrees to indemnify and hold harmless the Owner, its affiliates and owners, and their respective officers, directors, employees agents, owners and affiliates (each an “**Owner Indemnified Party**”) from and against any and all Losses which may be asserted against any Owner Indemnified Party as a result of the gross negligence or willful misconduct of the Manager in connection with the performance by the Manager of its duties hereunder. This Section 8.3 shall constitute the sole obligation of the Manager with respect to any Loss and any claims arising out of this Agreement, the services provided by the Manager and/or the relationship created hereby, whether such claim is based in contract, tort, fraud or otherwise. For the avoidance of doubt, this Section 8.3 shall not be the Owner’s sole remedy for any Loss related to Manager’s breach of this Agreement.

8.4 Acts of the Employees and Medical Staff. Any omission or action taken by any employee of the Manager working primarily at the Center, including, without limitation, the Employees, shall not constitute action taken or omitted by or on behalf of the Manager for purposes of this Agreement, and the Owner Indemnified Parties shall not be entitled to indemnification for any Loss resulting from such act or omission. Notwithstanding the foregoing, any omission or action taken by any employee of the Manager that is outside the scope of employment and taken at the specific direction of the Manager shall constitute action taken or omitted by or on behalf of the Manager for purposes of this Agreement and the Owner Indemnified Parties shall be entitled to seek indemnification for any Loss resulting from such act or omission. Further, in no event shall the Manager be liable under this Agreement for any act of professional malpractice committed by any Medical Staff Physician (as hereinafter defined), or other member of a Center’s medical staff.

IX. MEDICAL STAFF

The Owner shall admit physicians (the “**Medical Staff Physicians**”) to the medical staff of the Center to render the surgical and other medical services at the Center, and the Owner shall be responsible for credentialing of all Medical Staff Physician applicants; provided, however, that the Manager shall provide administrative support in connection with such credentialing process, including the application process, scheduling of meetings of the appropriate committees of the medical staff, and communicating with the applicants.

X. HIPAA

The parties will enter into a Business Associate Agreement substantially in the form of Exhibit B hereto, with such changes and revisions as the parties agree.

XI. NOTICES

All notices, demands, requests and other communications or documents required or permitted to be provided under this Agreement shall be provided in writing and shall be given to the applicable party at its address set forth below or such other address as the party may later specify for that purpose by notice to the other party:

If to the Manager:

Surgical Care Affiliates, LLC
569 Brookwood Village, Suite 901
Birmingham, AL 35209
Attention: General Counsel

If to the Owner: River Valley ASC, LLC
45 Salem Turnpike
Norwich, CT 06360
Attention: Vice President

With a copy to: McGuireWoods LLP
201 North Tryon Street Suite 3000
Charlotte, NC 28202
Attention: Bart Walker

Each notice shall, for all purposes, be deemed given and received:

if by hand, when delivered;

if given by nationally recognized and reputable overnight delivery service, the Business Day on which the notice is actually received by the party; or

if given by certified mail, return receipt requested, postage prepaid, five (5) Business Days after posted with the United States Postal Service.

XII. MISCELLANEOUS

12.1. Authority. Each individual signing this Agreement warrants that such execution has been duly authorized by the party for which he is signing. The execution and performance of this Agreement by each party has been duly authorized by all applicable laws and regulations and all necessary corporate action, and this Agreement constitutes the valid and enforceable obligation of each party in accordance with its terms.

12.2. Agreement. This Agreement supersedes any and all prior agreements, either oral or written, between the parties with respect to the subject matter of this Agreement (including any term sheet or similar agreement or document relating to the transactions contemplated hereby). This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and no party shall be entitled to benefits other than those specified herein.

12.3. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Connecticut without regard to its conflicts of law principles.

12.4. Interpretation. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, the feminine or the neuter gender shall include the masculine, feminine and neuter. The term "**person**" means any individual, corporation, partnership, trust or other entity. No provision of this Agreement shall be interpreted for or against either party hereto on the basis that such party drafted such provision, each party having participated equally in the drafting hereof, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

12.5. Headings. The headings used in this Agreement have been inserted for convenience and do not constitute provisions to be construed or interpreted in connection with this Agreement.

12.6. Counterparts. This Agreement may be executed in two (2) or more counterparts with the same effect as if all parties hereto had signed the same document. All counterparts shall be constructed together and shall constitute one agreement. Electronically-transmitted signatures on this Agreement shall

be deemed to be original signatures for all purposes. Signature pages transmitted electronically shall be treated as originals.

12.7 Amendments. This Agreement may be modified or amended only by a written instrument duly executed by each of the parties hereto.

12.8 Waiver. Failure by any party to enforce any of the provisions hereof for any length of time shall not be deemed a waiver of its rights set forth in this Agreement. Such a waiver may be made only by an instrument in writing signed by the party sought to be charged with the waiver. No waiver of any condition or covenant of this Agreement shall be deemed to imply or constitute a further waiver of the same or any other condition or covenant, and nothing contained in this Agreement shall be construed to be a waiver on the part of the parties of any right or remedy at law or in equity or otherwise.

12.9 Business Days. If any due date contained herein falls on a Saturday, Sunday or legal holiday, the due date shall be deemed to be the following Business Day.

12.10 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO DEMAND THAT ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE RELATIONSHIPS OF THE PARTIES HERETO BE TRIED BY JURY. THIS WAIVER EXTENDS TO ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY ARISING FROM ANY SOURCE INCLUDING, BUT NOT LIMITED TO, THE CONSTITUTION OF THE UNITED STATES OR ANY STATE THEREIN, COMMON LAW OR ANY APPLICABLE STATUTE OR REGULATIONS. EACH PARTY HERETO ACKNOWLEDGES THAT IT IS KNOWINGLY AND VOLUNTARILY WAIVING ITS RIGHT TO DEMAND TRIAL BY JURY.

12.11 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law, (a) such provisions 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 hereof, (c) the remaining provisions 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 herefrom; and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

12.12 Compliance with Laws. The parties agree to conduct their relationship in full compliance with all applicable state, federal and local laws and regulations, including, but not limited to, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)). The parties agree that no part of this Agreement shall be construed to induce or encourage the referral of patients or the purchase of health care services or supplies. The parties acknowledge that there is no requirement under this Agreement or any other agreement between the Manager or any affiliate thereof and the Owner that any party refer any patients to any health care provider or purchase any health care goods or services from any source. Additionally, no payment under this Agreement is in return for the referral of patients, if any, or in return for purchasing, leasing or ordering services from the Manager or any of its affiliates. The parties may refer patients to any company or person providing services and will make such referrals, if any, consistent with professional medical judgment and the needs and wishes of the relevant patients.

12.13 No Conflict of Interest. It is hereby acknowledged that the Manager and its affiliated companies are currently in the business of owning and operating ambulatory surgery centers and hospitals and other health facilities, and providing management services and related services to other entities apart from the services that the Manager will provide to the Center under this Agreement. Nothing in this

Agreement shall prohibit the Manager or any of its affiliated companies from owning ambulatory surgery centers or other health facilities or from providing such management services or related services or other activities.

12.14 Survival. Articles VII, VIII (except Section 8.1), XI and XII and the Owner's obligation to pay the Manager pursuant to Section 3.5 shall survive the termination of this Agreement.

12.15 Changes in Law. To the extent that changes in law or regulation or definitive changes in the construction of law or regulation articulated by an appropriate regulatory entity, court of law or a mutually acceptable opinion of counsel require the restructuring of the relationship between the parties established by this Agreement, the parties shall negotiate in good faith to amend this Agreement and otherwise restructure their relationship in order to effectuate their mutually agreed upon purposes

12.16 Force Majeure. If any of the parties hereto is delayed or prevented from fulfilling any of its obligations under this Agreement by "Force Majeure" (as defined below), said party shall not be liable under this Agreement for said delay or failure. "Force majeure" shall mean any cause beyond the reasonable control of a party, including, but not limited to, act of God, act or omission or civil or military authorities of a state or nation, fire, strike, flood, riot, war, delay of transportation or any other act or omission beyond the reasonable control of a party.

12.17 Assignment. The Manager may not assign this Agreement without the prior written consent of the Owner, except that such consent shall not be required for an assignment to any person or entity that is wholly owned, directly or indirectly, by the Manager, which shall not include unaffiliated third parties, including but not limited to hospitals, physician groups or surgery center management companies. The Owner may not assign this Agreement without the prior written consent of the Manager. The sale of (i) fifty percent (50%) or more of the assets or equity of the Owner during the term of this Agreement or (ii) any assets or equity of the Owner to a hospital, surgery center or any other provider (or affiliate of a provider) that provides outpatient surgical services (or to any physician who is an employee, owner, joint venture partner or provider of any administrative/ consulting/management services to such an entity) is deemed an assignment requiring the prior written consent of the Manager. All of the terms, provisions, covenants, conditions and obligations of this Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Management Agreement as of the Effective Date.

MANAGER:

SURGICAL CARE AFFILIATES, LLC

By: _____

Name: Richard L. Sharff, Jr.

Title: Executive Vice President

OWNER:

RIVER VALLEY ASC, LLC

By: _____

Name: _____

Title: _____

Exhibit A

MANAGEMENT SERVICES

NOTE: In addition to describing the services provided by the Manager in consideration of its Management Fee, this Exhibit A sets forth certain common services obtained by the Manager from third party vendors, with the expense of such vendor services being passed through by the Manager to the Owner (and Manager oversight of vendor included in Management Fee). This Exhibit also identifies certain services which are not covered by the Management Fee.

Service	Included in Management Fee	Not Included in Management Fee	Comments
Financial Services Support			
Bank Relations/Reconciliations	X		SCA to establish accounts at designated bank
Arranging for Equipment Financing	X		
Accounting	X		SCA to prepare monthly statements, excluding audit costs
Coordination and Administration of Tax Returns & K-1 Preparation		X	Tax preparation fee not included in Management Fee
General Tax Matters – Annual Reports/Property/Franchise		X	External fees passed through to Owner
Financial Benchmarking	X		Comparison with other SCA facilities
Budget Preparation	X		
Receive Charge Master File & Download into Owner System	X		
Governmental and Work Comp Payor Contracting	X		
Third Party Payor and State and Federal Agency Contracting	X		
Contractual Adjustment Analysis/ AR Review Potential Payer Liability	X		
Business Office Assessment & Training	X		
Deposit/dispense funds for Center's operating expenses	X		
Maintain books, journals, ledgers, check register, payroll records	X		
Establish receivables, credit, collection practices	X		
Process invoices / Accounts Payable	X		
Process payroll from timesheet summaries	X		
Establish and oversee billing procedures	X		

Service	Included in Management Fee	Not Included in Management Fee	Comments
FINANCIAL REPORTING – Monthly / Profit & Loss	X		
Accounting close cycle	X		
Risk Management/Insurance			
Insurance Program Oversight and Consultation	X		
Claim Coordination and Administration		X	Pass-through expense included in premium allocation.
Risk Management Education	X		As needed
IT Systems			
Help Desk: Tier 1 & 2		X	Included in pass through IT fee
Secure Email/Exchange		X	Included in pass through IT fee
Anti-Virus		X	Included in pass through IT fee
Microsoft Office Applications		X	Included in pass through IT fee
Windows OS (Operating System)		X	Included in pass through IT fee
Data Storage		X	Included in pass through IT fee
DBA (database support)		X	Included in pass through IT fee
Network Support		X	Included in pass through IT fee
Security Support		X	Included in pass through IT fee
Windows Server Support		X	Included in pass through IT fee
Data Backups		X	Included in pass through IT fee
Internet		X	Included in pass through IT fee
Software License Compliance Monitoring		X	Included in pass through IT fee
Software Vendor Coordination and Troubleshooting		X	Included in pass through IT fee: Support limited to specified software
Website Development and Maintenance		X	If applicable
RightFax		X	If applicable
Management/Billing/ Collections/ Admitting/Scheduling/Systems		X	Third party software licensing fees passed through to Owner
Purchasing/Materials Management Systems		X	Third party vendor fee passed through to Owner
Compliance			
Corporate Compliance Training and Audit Program	X		
HIPAA Training and Audit Program	X		
Clinical Support			
Benchmarking Quality Data	X		

Service	Included in Management Fee	Not Included in Management Fee	Comments
Accreditation Survey Preparation	X		Excludes travel expenses and incidental costs
Policy and Procedure Resources	X		
Staffing and Productivity Evaluation	X		
OR Efficiency Performance	X		
Measure Development and Benchmarking	X		
CMS Survey Preparation	X		Excludes travel expense and incidental costs
Patient Satisfaction Survey Ongoing		X	Expense of survey administration passed to Owner
Patient Satisfaction Survey Analysis and Benchmarking	X		
Physician Satisfaction Survey Annually		X	Expense of survey administration passed to Owner
Physician Satisfaction Survey Analysis and Benchmarking	X		
DON Leadership training	X		Excludes travel expenses and incidental costs
Medical record system implementation	X		
Human Resources Guidance			
Benefits Administration	X		
Payroll Administration and Processing		X	Licensing expenses from third party payroll vendor passed to Owner
Annual Employee Engagement Survey Processing		X	Cost from vendor to administer survey passed to Owner
Employee Satisfaction Survey Analysis and Benchmarking	X		
Employee Handbook Updates	X		
Human Resources Guidance	X		
401k Plan Administration/ Testing/5500's	X		
Employee Education Program	X		
Materials Management Support			
GPO Contracting and Coordination	X		
Distributor Contracting and Coordination	X		
Vendor Contracting	X		
Vendor Pricing Monitoring Against Negotiated Rates	X		
Product Selection and Pricing Review	X		

Service	Included in Management Fee	Not Included in Management Fee	Comments
Capital Equipment Evaluation and Negotiation	X		
Implant Cost Reduction Program	X		
Materials System Assessment and Support	X		
Preference Card Review and Physician Feedback Program	X		
Other Operational Support			
Local Operational Support: Administrative Support, On-Site Visits	X		
Staffing Review, Productivity Monitoring	X		
Regular Monitoring & Action Plan for SCA Vitals	X		
Contract Negotiations for Professional Services	X		
Board Communications and Attendance	X		
Partner Relations Management	X		
Annual Extension of Practice Safe Harbor Certifications (if applicable)		X	Additional annual base fee, plus hourly charges in the event that a partner challenges a determination; any necessary external legal fees passed through to Owner
Physician Recruitment/Business Development			
The Manager will provide physician recruitment/business development resource to work directly with the Owner to take a lead role in pursuing growth opportunities in collaboration with the Center's physicians		X	Allocable portion of salaries, wages and benefits of the Manager's employee, based on percentage of time spent working with the Center as compared to total time spent working with other projects, are pass through cost to the Owner -- see detail on following page. Owner may terminate the Physician Recruitment/Business Development Service, without cause, upon 120 days' prior written notice. Manager shall provide the Board of Owner with periodic reports upon request detailing the Physician Recruitment/ Business Development services provided.

Cost Allocation to the Center for Physician Recruitment/Business Development Services

Allocation	Days/mo.	SWB/mo.	Est. Expense/mo.	Monthly Fixed Total	Annual Fixed Total	Variable Incentive (Self-Funded)
15%	3-4	\$1,300	\$225	\$1,300	\$18,300	Facility Incentive averages 5-10K annually

- **Assumptions:**
- 15% allocation is based on the amount of time a sales resource will spend each month recruiting for the Center. Actual time and cost allocations should be adjusted based on the Owner's desired amount of time and the cost of the specific teammate being assigned. Average (and ideal) minimum time considered should be (20%), which correlates to (1) day a week of recruitment.
- Fixed cost is based on salary and benefit cost for the sales resource assigned to that territory based on the 15% allocation.
- Estimated travel and entertainment expense is based on historical averages. All entertainment expenses will be pre-approved by Owner.
- Variable compensation is structured to provide an incentive for the sales representative to attract and recruit high quality new physicians and new cases to the Center.

Exhibit B

BUSINESS ASSOCIATE AGREEMENT

(See attached.)

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (this "Agreement"), dated November 1, 2016 (the "Effective Date"), is entered into by and between **RIVER VALLEY ASC, LLC** ("Covered Entity"), which operates a healthcare facility located in Norwich, Connecticut (the "Center") and **SURGICAL CARE AFFILIATES, LLC**, a Delaware limited liability company ("Business Associate") (individually, a "Party" and collectively, the "Parties"), and supersedes and amends any prior Business Associate Agreement, and any amendments thereto between the Parties.

RECITALS

WHEREAS, Covered Entity and Business Associate have entered into, or are entering into, or may subsequently enter into, agreements or other documented arrangements (collectively, the "Business Arrangements"), including, but not limited to, a Management Agreement, dated November 1, 2016, pursuant to which Business Associate may create, receive, maintain, or transmit data for or from Covered Entity that constitutes Protected Health Information to perform services ("Services") on behalf of Covered Entity; and

WHEREAS, Covered Entity is or may be subject to the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), and the implementing regulations set forth at 45 CFR Parts 160, 162, and 164 (the "HIPAA Regulations"); and

WHEREAS, to the extent required by the HIPAA Regulations and applicable state law, Business Associate is or may be directly subject to certain privacy and security obligations and penalty provisions of the HIPAA Regulations and state law.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the Parties, intending to be legally bound, agree as follows:

I. DEFINITIONS

Capitalized terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in the HIPAA Regulations. "PHI" shall have the same meaning as the term "Protected Health Information" in 45 CFR 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity. "Electronic PHI" shall have the same meaning as the term "Electronic Protected Health Information" in 45 CFR 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity. "Unsecured PHI" shall have the same meaning as the term "Unsecured Protected Health Information" in 45 CFR 164.402, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.

II. EFFECT OF AGREEMENT

The Parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Parties to comply with HIPAA, the HITECH Act, the HIPAA Regulations, and applicable state law.

III. BUSINESS ASSOCIATE OBLIGATIONS

- (A) **Permitted Uses and Disclosures:** Business Associate shall not use and disclose PHI other than as expressly permitted or required by this Business Associate Agreement or as Required by Law. Except as otherwise limited in this Business Associate Agreement, Business Associate is permitted to use and disclose PHI as follows:
- (i) Business Associate may use and disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Business Arrangements, provided that use or disclosure would not violate the HIPAA Regulations if done by Covered Entity.
 - (ii) Business Associate may use and disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate (collectively, "Business Associate's Operations"), provided that Business Associate may only disclose PHI for Business Associate's Operations if the disclosure is Required By Law or Business Associate obtains reasonable assurances, evidenced by a written contract, from the recipient that the recipient will: (1) hold such PHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the recipient or as Required By Law; and (2) notify Business Associate of any instance of which the recipient becomes aware in which the confidentiality of such PHI has been breached without unreasonable delay.
 - (iii) Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).
 - (iv) Business Associate may use PHI to create information that is de-identified in accordance with 45 CFR 164.514.
 - (v) Business Associate may use and disclose PHI as otherwise permitted by law, provided that such use or disclosure would not violate the HIPAA Regulations if done by Covered Entity directly and provided that Covered Entity gives its prior written consent.
 - (vi) To the extent Covered Entity notifies Business Associate of a restriction request granted by Covered Entity that would limit Business Associate's use or disclosure of PHI, Business Associate will comply with the restriction.
 - (vii) To the extent Business Associate is authorized to make disclosures directly to health plans, Business Associate shall not disclose PHI 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, as required by 42 USC 17935(a).
 - (viii) Notwithstanding anything herein to the contrary, Business Associate shall not use or disclose PHI for purposes of marketing or fundraising, as defined in the HIPAA Regulations, the HITECH Act, and applicable state law.
 - (ix) Notwithstanding anything herein to the contrary, Business Associate shall not sell or receive remuneration, directly or indirectly, in exchange for PHI; provided,

however, that this prohibition shall not be construed to limit or otherwise affect payment by Covered Entity to Business Associate for services provided pursuant to the Business Arrangements.

- (B) **Compliance:** Business Associate shall be directly responsible for full compliance with the applicable requirements of the HIPAA Regulations to the same extent as Covered Entity. To the extent Business Associate is to carry out an obligation of Covered Entity under the HIPAA Regulations, Business Associate shall comply with the requirements of the HIPAA Regulations that apply to Covered Entity in the performance of such obligation.
- (C) **Minimum Necessary:** Business Associate represents that the PHI requested, used, or disclosed by Business Associate shall be the minimum amount necessary to carry out the purposes of the Business Arrangements. To the extent the requirements of 45 CFR 164.502(b) apply, Business Associate will limit all of its uses and disclosures of, and requests for, PHI (1) when practical, to the information making up a Limited Data Set, and (2) in all other cases, to the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure, or request.
- (D) **Business Associate Agents:** Business Associate shall ensure that each agent or subcontractor that creates, receives, maintains, or transmits PHI on behalf of Business Associate agrees in writing to the same restrictions and conditions that apply to Business Associate pursuant to this Business Associate Agreement.
- (E) **Appropriate Safeguards; Security:** Business Associate shall use and maintain reasonable and appropriate administrative, technical, and physical safeguards to prevent uses and disclosures of PHI other than as permitted in this Business Associate Agreement. In addition, Business Associate agrees to comply with the applicable requirements of 45 C.F.R. Part 164 Subpart C with respect to Electronic PHI and any guidance issued by the Secretary of the Department of Health and Human Services.
- (F) **Access to Records:** Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to Covered Entity, or to the Secretary of the Department of Health and Human Services, for purposes of determining compliance with the HIPAA Regulations.
- (G) **Improper Access, Use, or Disclosure; Security Incident; Breach:** Business Associate shall promptly report to Covered Entity in writing any access, use, or disclosure of PHI not permitted by this Business Associate Agreement, any Security Incident, and any Breach of Unsecured PHI of which it becomes aware or which it discovers without unreasonable delay.
 - (i) A Breach shall be treated as discovered by Business Associate as of the first day on which such Breach is known to Business Associate, or by exercising reasonable diligence would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach if the Breach is known by, or by exercising reasonable diligence would have been known to, any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate.

- (ii) Any report of Breach required by this section shall include the information specified in 45 CFR 164.410.
 - (iii) Business Associate shall promptly provide Covered Entity with updates of information concerning the details of any unauthorized access, use, or disclosure of PHI, Security Incident, or Breach.
 - (iv) Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Business Associate Agreement, a Security Incident, or a Breach of Unsecured PHI.
 - (v) It is the sole responsibility of Covered Entity to notify individuals of any Breach of Unsecured PHI. Business Associate shall cooperate with Covered Entity in the provision of any such notification.
 - (vi) Notwithstanding Business Associate's obligation to notify Covered Entity of any Security Incident, the Parties acknowledge and agree that this Section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which no additional notice to Covered Entity shall be required. "Unsuccessful Security Incidents" shall include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, so long as no such incident results in unauthorized access, use, or disclosure of Electronic PHI.
 - (vii) Business Associate shall report to Covered Entity in writing any security incident or breach of personal information for which applicable state law may require notification or other action by either Business Associate or Covered Entity. Any such report shall be made in accordance with the requirements of the relevant state law.
- (H) **Access to PHI; Amendment of PHI:** To the extent that the Parties mutually agree in writing that PHI is part of a Designated Record Set, and that such Designated Record Set (or a portion thereof) is to be maintained by Business Associate, as set forth and agreed to in **Schedule A:**
- (i) Business Associate shall, within ten (10) days after a written request from Covered Entity, provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to such PHI to Covered Entity or, as directed by the Covered Entity, to an Individual in order to meet the requirements of 45 CFR 164.524.
 - (ii) If the requested PHI is maintained electronically, Business Associate shall provide a copy of the PHI in the form and format requested by the Individual, if it is readily producible, or, if not, in a readable electronic form and format agreed to by Covered Entity and the Individual.
 - (iii) In the event that any individual requests access to PHI directly from Business Associate, Business Associate shall immediately and in no event later than ten (10)

days of receiving such request forward the request to Covered Entity. Any denials of access to the PHI requested shall be the responsibility of Covered Entity.

- (iv) Business Associate shall, within ten (10) days after a written request from Covered Entity, make amendments to such PHI as directed or agreed to by Covered Entity in accordance with the requirements of 45 CFR 164.526.
 - (v) In the event that a request for an amendment is delivered directly to Business Associate, Business Associate shall immediately and in no event later than ten (10) days of receiving such request forward the request to Covered Entity.
- (I) **Accounting**: Business Associate shall document such disclosures of PHI and information related to such disclosures and, within ten (10) days after Covered Entity's written request, shall provide to Covered Entity or to an Individual, in the time and manner designated by Covered Entity, information collected in accordance with this section, as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. In the event that a request for an accounting is delivered directly to Business Associate, Business Associate shall immediately and in no event later than ten (10) days of receiving such request forward the request to Covered Entity.

IV. **COVERED ENTITY'S OBLIGATIONS**

- (A) **Notice of Privacy Practices**: Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any subsequent changes to such notice of privacy practices.
- (B) **Changes in Access by Individual**: Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.
- (C) **Restrictions on Use and Disclosure of PHI**: Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522.

V. **TERMINATION**

- (A) **Term**: The Term of this Agreement shall be effective as of the Effective Date and shall remain in effect until termination of the Business Arrangements; provided, however, that certain obligations shall survive termination of this Agreement as set forth in Section V(C).
- (B) **Termination for Cause**: Covered Entity may immediately terminate this Agreement in the event that Business Associate materially breaches any provision of this Agreement. In its sole discretion, Covered Entity may permit Business Associate the ability to cure or take substantial steps to cure such material breach to Covered Entity's satisfaction within thirty (30) days after receipt of written notice from Covered Entity. If termination pursuant to this section is infeasible, Covered Entity shall report the breach to the Secretary of the Department of Health and Human Services.
- (C) **Return or Destruction of PHI**: Upon termination, if feasible, Business Associate shall return or destroy, at no cost to Covered Entity, all PHI that Business Associate still

maintains in any form and shall retain no copies of such information. Prior to doing so, Business Associate further agrees to recover any PHI in the possession of its subcontractors or agents. If it is infeasible to return or destroy PHI, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction of PHI infeasible and Business Associate shall continue to extend the protections of this Agreement to such PHI, and limit further use of such PHI solely to those purposes that make the return or destruction of such PHI infeasible. The provisions of this section shall survive the expiration or termination of this Business Associate Agreement.

VI. MISCELLANEOUS

- (A) **Amendment to Comply with Law:** The Parties acknowledge that it may be necessary to amend this Business Associate Agreement to comply with modifications to HIPAA, the HITECH Act, the HIPAA Regulations, and applicable state law, including but not limited to statutory or regulatory modifications or interpretations by a regulatory agency or court of competent jurisdiction. The Parties agree to use good faith efforts to develop and execute any amendments to this Business Associate Agreement as may be required by any such modifications.
- (B) **Amendment:** This Business Associate Agreement may be amended or modified only in writing signed by the Parties.
- (C) **Assignment:** Notwithstanding anything in the Business Arrangements to the contrary, neither Party may assign this Business Associate Agreement, in whole or in part, without the prior written consent of the other Party; provided, however, that Business Associate may assign this Business Associate Agreement without the consent of the other Party to an affiliate or in conjunction with a merger, reorganization, consolidation, change of control or sale of all or substantially all of its assets. Subject to the requirements of this paragraph, this Business Associate Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the Parties.
- (D) **No Third Party Beneficiaries; Agency Relationship:** Nothing expressed or implied in this Business Associate Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever. Nothing in this Business Associate Agreement shall be construed to create any agency relationship between the parties.
- (E) **Governing Law:** This Business Associate Agreement shall be governed by and construed in accordance with the substantive law of the state in which the Center is located without regard to conflicts of laws principles.
- (F) **Paragraph Headings:** The paragraph headings in this Business Associate Agreement are for convenience only. They form no part of this Business Associate Agreement and shall not affect its interpretations.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

COVERED ENTITY:

RIVER VALLEY ASC, LLC

By: _____

Name: _____

Title: _____

BUSINESS ASSOCIATE:

SURGICAL CARE AFFILIATES, LLC

By: _____

Name: Richard L. Sharff, Jr.

Title: Executive Vice President

SCHEDULE A

Identification of Designated Record Set

As contemplated in Section III(H), the Parties agree to the provision marked below:

- The PHI that Business Associate creates, receives, maintains, or transmits from or on behalf of Covered Entity, or has access to, in the course of providing services pursuant to the Business Arrangements constitutes a Designated Record Set (or a part thereof), and such Designated Record Set (or portion thereof) shall be maintained by Business Associate.

- The PHI that Business Associate creates, receives, maintains, or transmits from or on behalf of Covered Entity, or has access to, in the course of providing services pursuant to the Business Arrangements DOES NOT constitute a Designated Record Set (or a part thereof), and NO such Designated Record Set (or portion thereof) shall be maintained by Business Associate.

EXHIBIT F

MANAGEMENT TERMINATION AGREEMENT

See attached

MUTUAL TERMINATION OF MANAGEMENT AGREEMENT

THIS MUTUAL TERMINATION OF MANAGEMENT AGREEMENT (the “**Agreement**”) is entered into as of November 1, 2016 (the “**Effective Date**”), by and between **MERRITT HEALTHCARE HOLDINGS NORWICH, LLC**, a Delaware limited liability company (“**Merritt**”), and **RIVER VALLEY ASC, LLC**, a Connecticut limited liability company (the “**Company**”).

WITNESSETH:

WHEREAS, Merritt and the Company are parties to that certain Management Services Agreement dated November 30, 2012 (the “**Management Agreement**”), pursuant to which Merritt provides certain management services to the Company in connection with its operation of an ambulatory surgery center located at 45 Salem Turnpike, Norwich, Connecticut (the “**Center**”); and

WHEREAS, the Company, its members (collectively, the “**Members**”), SCA-River Valley, LLC (“**Buyer**”), Merritt Healthcare Holdings, LLC, and Surgical Care Affiliates, LLC (“**SCA**”) have entered into that certain Membership Interest Purchase Agreement dated as of even date herewith (the “**Purchase Agreement**”), pursuant to which the Members have agreed to sell to Buyer, and Buyer has agreed to purchase from the Members, an aggregate sixty and one-half percent (60.5%) membership interest in the Company (the “**Transaction**”); and

WHEREAS, effective as of the Phase I Closing, the Company will enter into a management agreement with SCA, pursuant to which SCA will manage the day-to-day operations of the Center; and

WHEREAS, as a condition precedent to the closing of the Transaction, the Company and Merritt have agreed to terminate the Management Agreement.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Capitalized terms not otherwise defined in this Agreement shall have the meanings ascribed to such terms in the Purchase Agreement.
2. Merritt and the Company hereby acknowledge and agree that the Management Agreement shall terminate, effective as of the Phase I Closing Date, and that neither Merritt, on the one hand, nor the Company or the Center, on the other hand, shall have any obligations under the Management Agreement following the Phase I Closing Date, except for any rights or obligations related to periods prior to the Phase I Closing Date. Merritt further acknowledges that all fees accrued under the Management Agreement have been paid in full.
3. This Agreement may not be modified except in writing executed by all parties hereto.
4. This Agreement constitutes the entire agreement of the parties hereto and supersedes all prior agreements and representations with respect to the subject matter hereof.
5. This Agreement may be executed in two or more counterparts, each of which shall be considered an original, and all of which, taken together, shall be deemed one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

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

**MERRITT HEALTHCARE HOLDINGS
NORWICH, LLC**

By: _____

Name: _____

Title: _____

RIVER VALLEY ASC, LLC

By: _____

Name: _____

Title: _____

EXHIBIT G

OWNER RESTRICTIVE COVENANT

See attached.

OWNERS RESTRICTIVE COVENANT

THIS OWNERS RESTRICTIVE COVENANT (this "Agreement") is entered into effective as of October 31, 2016, by and between **SCA-RIVER VALLEY, LLC** ("Buyer"), and the undersigned parties (each an "Owner" and collectively, the "Owners").

WHEREAS, River Valley ASC, LLC, a Connecticut limited liability company (the "Company"), owns and operates River Valley Ambulatory Surgery Center located in Norwich, Connecticut (the "Center");

WHEREAS, the Owners are all of the members of Merritt Healthcare Holdings, LLC, a Delaware limited liability company ("Merritt");

WHEREAS, Merritt is the sole member of Merritt Healthcare Holdings Norwich, LLC, a Delaware limited liability company ("MHH-Norwich");

WHEREAS, pursuant to that certain Membership Interest Purchase Agreement dated as of October 31, 2016 (the "Purchase Agreement"), by and among Buyer, the Company, all of the members of the Company (including MHH-Norwich), Merritt and Surgical Care Affiliates, LLC ("SCA"), MHH-Norwich has agreed to sell, and Buyer has agreed to purchase from MHH-Norwich, 24.250 units representing a 20.9521% membership interest in the Company;

WHEREAS, MHH-Norwich has agreed to refrain from certain activities that are competitive with Company in the operation of the Center, as set forth in Article X of the Purchase Agreement;

WHEREAS, pursuant to Section 10.7 of the Purchase Agreement, MHH-Norwich has agreed to cause each individual with a direct or indirect ownership interest in MHH-Norwich to execute a restrictive covenant in a form substantially similar to MHH-Norwich's covenants contained in Article X of the Purchase Agreement;

WHEREAS, each Owner Member will receive, directly or indirectly, through Owner's indirect ownership interest in MHH-Norwich, the benefit of the Purchase Price paid by Buyer to MHH-Norwich under the Purchase Agreement; and

WHEREAS, as contemplated in the Purchase Agreement and as an inducement to Buyer to consummate the transactions contemplated by the Purchase Agreement, each Owner has agreed to the provisions contained in this Agreement and each Owner acknowledges that if each Owner did not enter into this Agreement, the consideration paid by Buyer to MHH-Norwich under the Purchase Agreement would be reduced.

NOW THEREFORE, in consideration of the mutual promises contained herein and in the Purchase Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned parties agree as follows:

AGREEMENT:

1. **Definitions.** Capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement.

2. **Restrictive Covenant.**

2.1 Restrictive Covenants. Each Owner agrees that he shall not, directly or indirectly, do any of the following within twenty-five (25) miles from the address of the Center (the "Restricted Area"). For purposes of clarification, the Owners may engage in the following activities outside of the Restricted Area. Further, for the avoidance of doubt, the advisory activity by the Owners in the areas of mergers and acquisition is outside the scope of this restrictive covenant.

(a) Partner with (as joint venturers or common owners of any facility, including an ambulatory surgery center, a hospital, or an office-based or practice-based facility or operating site or room that provides any of the services offered by the Company (each a "Competing Facility")), induce or attempt to induce any officer, director or employee of the Company, or any physician or other health care professional who has an ownership or investment interest in the Company, in each case as of the Phase I Closing Date, to withdraw from the ownership or employ of the Company or the Center or adversely alter such individual's relationship with the Company or the Center, for a period of four (4) years following the Phase I Closing Date, provided that no advertisement in a newspaper, on the Internet, or other publication of general circulation and no admission to a medical staff of such individuals as a result of any such advertisement or without solicitation or inducement shall be prohibited by this Section 2.1(a) (but entering into any other arrangement with any officer, director, physician or other health care professional as a result of any such advertisement shall be prohibited);

(b) Partner with (as joint venturers or common owners of any Competing Facility), induce or attempt to induce any physician who has an ownership or investment interest, in each case as of the Phase I Closing Date in any of the SCA facilities set forth on Schedule 10.2 of the Purchase Agreement to withdraw from the ownership or employ of such SCA facility or facilities or adversely alter such individual's relationship with such SCA facility or facilities, for a period of three (3) years following the Phase I Closing Date, provided that no advertisement in a newspaper, on the Internet, or other publication of general circulation and no admission to a medical staff of such individuals as a result of any such advertisement or without solicitation or inducement shall be prohibited by this Section 2.1(b) (but entering into any other arrangement as a result of any such advertisement shall be prohibited); or

(c) Partner with (as joint venturers or common owners of any Competing Facility) or induce or attempt to induce any member of the Center's medical staff, in each case as of the Phase I Closing Date to withdraw from the medical staff or employ of the Center or adversely alter such individual's relationship with the Company or the Center, for a period of three (3) years following the Phase I Closing Date, provided that no advertisement in a newspaper, on the Internet, or other publication of general circulation and no admission to a medical staff of such individuals as a result of any such advertisement or without solicitation or

inducement shall be prohibited by this Section 2.1(c) (but entering into any other arrangement as a result of any such advertisement shall be prohibited).

2.2 *Equitable Remedy.* Each Owner acknowledges that the restrictions contained in Section 2.1 are reasonable and necessary to protect the legitimate interests of Buyer and that any violation of such restrictions may result in irreparable injury to the Company and Buyer. In addition to any other remedy or remedies to which Buyer may be entitled in law or in equity, Buyer shall be entitled to preliminary and permanent injunctive relief for a violation of Section 2.1 without having to prove actual damages or to post a bond, and Buyer shall also be entitled to an equitable accounting of all earnings, profits and other benefits arising from such violation. Each Owner hereby waives any objections on the grounds of improper jurisdiction or venue to the commencement of an action in the State of Connecticut and agrees that effective service of process may be made upon him by mail under the provisions of Section 3(i).

2.3 *Judicial Determination.* If a court should hold that the restrictions set forth in Section 2.1 are unenforceable because they are unreasonable, then to the extent permitted by law, the court may prescribe the longest duration for the applicable restricted period and/or the largest radius or area for the restricted area that is reasonable and the parties agree to accept such determination subject to their rights of appeal. Nothing herein stated shall be construed as prohibiting Buyer from pursuing any other remedy or remedies available for such breach or threatened breach, including recovery of damages from a breaching Owner or injunctive relief.

2.4 *Extension of Restricted Period.* If an Owner is in violation of Section 2.1 at any time, then the applicable restricted period shall be extended for a period of time equal to the period during which said violation or violations occurred, solely with respect to such Owner. If Buyer seeks injunctive relief from said violation in court, then the running of the applicable restricted period with respect to that Owner shall be suspended during the pendency of said proceeding, including all appeals. This suspension shall cease upon the entry of a final judgment in the matter, not subject to further appeal.

3. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Connecticut, without giving effect to any choice or conflict of law provision or rule (whether of the State of Connecticut or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Connecticut.

(b) The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

(c) The covenants contained herein on the part of each Owner shall be construed as independent agreements and the existence of any claim or cause of action by any Owner shall not constitute a defense to the enforcement of such covenants by Buyer.

(d) This Agreement may be amended or modified only with the written consent of all of the parties hereto.

(e) This Agreement shall be binding on the parties and their respective successors and permitted assigns. No Owner shall assign this Agreement without the written consent of Buyer.

(f) No waiver of any term, provision, or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such term, provision, or condition or as a waiver of any other term, provision or condition of this Agreement.

(g) The headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties, and shall not in any way affect the meaning or interpretation of this Agreement.

(h) This Agreement may be executed 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. In addition, the parties may execute a counterpart of this Agreement and transmit their signatures via facsimile or electronic transmission, and such signature received via facsimile or electronic transmission shall have the same force and effect as an original.

(i) Any notice, demand, or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered, when received by receipted overnight delivery, or five (5) days after being deposited in the United States mail, with postage prepaid thereon, certified or registered mail, return receipt requested, addressed as follows:

If to an Owner: c/o Merritt Healthcare Holdings, LLC
75 Danbury Road, #B5
Ridgefield, CT 06877

If to Buyer: SCA-River Valley, LLC
c/o Surgical Care Affiliates, LLC
569 Brookwood Village, Suite 901
Birmingham, Alabama 35209
Attention: General Counsel

or to such other address, and to the attention of such other person or officer as any party may designate, with copies thereof to the respective counsel thereof as notified by such party.

SIGNATURE PAGE FOLLOWS

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

BUYER:

SCA-RIVER VALLEY, LLC

By: _____
Richard L. Sharff, Jr.
Vice President

OWNERS:

Matthew Searles

Richard Searles

William F. Mulhall

RIVER VALLEY ASC, LLC

a Connecticut Limited Liability Company

AMENDED AND RESTATED OPERATING AGREEMENT

DATED: February 1, 2014

RIVER VALLEY ASC, LLC

AMENDED AND RESTATED OPERATING AGREEMENT

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Exhibits

- Exhibit A Members
- Exhibit B Form of Joinder Agreement
- Exhibit C Form of Management Services Agreement
- Exhibit D Form of Medical Directorship Agreement

RIVER VALLEY ASC, LLC

AMENDED AND RESTATED OPERATING AGREEMENT

This Amended and Restated Operating Agreement is made and entered into as of the 1st day of February, 2014 (the "Effective Date"), by and among River Valley ASC, LLC (the "Company"), and the persons identified as Members in Exhibit A, which is incorporated herein by reference. Except as otherwise provided, the capitalized terms used in this Agreement shall have the meanings set forth in Article I hereof.

RECITALS

WHEREAS, the Company was formed as a limited liability company under the laws of the State of Connecticut by the filing on or about the 27th day of July, 2012, of the Articles with the Secretary of State of Connecticut;

WHEREAS, the Company and its Members entered into that certain Operating Agreement dated November 30, 2012 ("Original Operating Agreement");

WHEREAS, the Company owns and operates an ambulatory surgery center in the Norwich, Connecticut area and is operating under the name River Valley ASC, LLC;

WHEREAS, the Company established two classes of Members: (1) a Class B Member class, comprised of Merritt Healthcare Holdings Norwich, LLC; and (2) a Class A Member class, comprised of certain physicians practicing in the New London County service area;

WHEREAS, the Company now wishes to amend and restate the Original Operating Agreement to make revisions to add new Members and revise Exhibit 1 accordingly, to add Sections 10.5 and 13.19 and to make such other changes as may be necessary; and

WHEREAS, the Members shall own all of the membership interests in the Company.

NOW, THEREFORE, in consideration of the mutual covenants herein expressed, and for other valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I
Definitions

The following defined terms used in this Agreement shall have the meanings specified below:

"Accredited Investor" shall mean a Person who (1) is a natural person whose individual net worth, or joint net worth with his or her spouse, exceeds One Million Dollars (\$1,000,000) (exclusive of primary residence); (2) is a natural person who had an individual income (not including his or her spouse's income) in excess of Two Hundred Thousand Dollars (\$200,000) in each of the two most recent years, or joint income with his or her spouse in excess of Three Hundred Thousand Dollars (\$300,000) in each of those years, and who reasonably expects

reaching the same income level in the current year; or (3) is a director or executive officer of the Company or a member of its Board of Managers.

“Act” shall mean the Connecticut Limited Liability Company Act in effect at the time of the initial filing of the Articles, and as thereafter amended from time to time.

“Adjusted Capital Account Deficit” shall mean, with respect to any Member, the deficit balance, if any, in such Member’s aggregate Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

(a) Credit to such Capital Account any amounts that such Member is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to Regulations Section 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) Debit to such Capital Account the items described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

The foregoing definition is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

“Adjusted Capital Contribution” shall mean a Member’s aggregate Capital Contribution to the Company reduced by all distributions made to such Member under Article VI.

“Adverse Terminating Event” shall have the meaning set forth in Section 4.3(a) hereof.

“Affiliated Person” or “Affiliate” shall mean, with reference to a specified Person, (a) any member of such Person’s Immediate Family (as defined herein); (b) any Person who owns directly or indirectly ten percent (10%) or more of the beneficial ownership in such Person; (c) any one or more Legal Representatives (as defined herein) of such Person and/or the Legal Representative of any Persons referred to in the preceding clauses (a) or (b); or (d) any entity in which any one or more of such Person and/or the Persons referred to in the preceding clauses (a), (b) or (c) owns directly or indirectly ten percent (10%) or more of the beneficial ownership.

“Agreement” shall mean this Operating Agreement as it may be amended, supplemented, or restated from time to time.

“Applicable Federal Rate” shall mean the Applicable Federal Rate as that term is defined in Code Section 1274(d)(1), whether the short-term, mid-term or long-term rate, as the case may be, as published from time to time by the United States Secretary of the Treasury.

“Approval of the Board” and any grammatical variation thereof, shall mean the written consent, approval or vote in favor of Managers representing a majority of the Manager votes as calculated pursuant to Section 7.2(a) hereof.

“Articles” shall mean the Articles of Organization creating the Company, as they may, from time to time, be amended in accordance with the Act.

“Bankruptcy” shall mean any of the following:

(a) If any Member shall file a voluntary petition in bankruptcy, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state, or other statute or law relating to bankruptcy, insolvency, or other relief for debtors, or shall file any answer or other pleading admitting or failing to contest the material allegations of any petition in bankruptcy or any petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief filed against such Member, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver, conservator, or liquidator of such Member or of all or any substantial part of such Member's properties or such Member's interest in the Company (the term "acquiesce" as used herein includes but is not limited to the failure to file a petition or motion to vacate or discharge any order, judgment, or decree within thirty days after such order, judgment or decree);

(b) If a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against any Member seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state, or other statute or law relating to bankruptcy, insolvency, or other relief for debtors and such Member shall acquiesce in the entry of such order, judgment, or decree, or if any Member shall suffer the entry of an order for relief under Title 11 of the United States Code and such order, judgment, or decree shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or if any trustee, receiver, conservator, or liquidator of any Member or of all or any substantial part of such Member's properties or such Member's interest in the Company shall be appointed without the consent or acquiescence of such Member and such appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive); or

(c) If any Member shall make an assignment for the benefit of creditors or take any other similar action for the protection or benefit of creditors.

"Board" or "Board of Managers" shall refer collectively to the persons elected or appointed to serve as Managers in accordance with this Agreement and any Person who becomes an additional, substitute or replacement Manager as permitted by this Agreement, in each such Person's capacity as a Manager of the Company.

"Book Value" shall mean, with respect to any asset of the Company, such asset's adjusted basis for federal income tax purposes, except that:

(a) The initial Book Value of any asset contributed by a Member of the Company shall be the gross fair market value of such asset (reduced for any liabilities to which it is subject or which the Company assumes), as such value is determined and for which credit is given to the contributing Member under this Agreement;

(b) The Book Values of all assets of the Company shall be adjusted to equal their respective gross fair market values, as determined by Approval of the Board, at and as of the following times:

- (i) The acquisition of an additional or new interest in the Company by a new or existing Member in exchange for other than a de minimis Capital Contribution by such Member, if the Board, acting by Approval, reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Members;
- (ii) The distribution by the Company to a Member of more than a de minimis amount of any asset of the Company (including cash or cash equivalents) as consideration for all or any portion of an interest in the Company, if the Board, acting by Approval, reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Members; and
- (iii) The liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g).

(c) The Book Value of the assets of the Company shall be increased (or decreased) to reflect any adjustment to the adjusted basis of such assets pursuant to Section 734(b) or Section 743(b) of the Code, but only to the extent such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Book Value shall not be adjusted pursuant to this clause (c) to the extent that the Board, acting by Approval, determines that an adjustment pursuant to the immediately preceding clause (b) is necessary or appropriate in connection with the transaction that would otherwise result in an adjustment pursuant to this clause (c).

If the Book Value of an asset has been determined or adjusted pursuant to the preceding clauses (a), (b) or (c), such Book Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits or Losses.

"Capital Account" shall mean a capital account maintained and adjusted in accordance with the Code and the Regulations, including the Regulations under Section 704(b) and (c) of the Code. The Capital Account of each Member shall be:

(a) Credited with all payments made to the Company by such Member on account of Capital Contributions (and as to any property other than cash or a promissory note of the contributing Member, the agreed (as indicated by the Approval of the Board) fair market value of such property, net of liabilities secured by such property and assumed by the Company or subject to which such contributed property is taken) and by such Member's allocable share of Profits and items in the nature of income and gain of the Company;

(b) Charged with the amount of any distributions to such Member (and as to any distributions of property other than cash or a promissory note of a Member or the Company, by the agreed fair market value of such property, net of liabilities secured by such property and assumed by such Member or subject to which such distributed property is taken), and by such

Member's allocable share of Losses and items in the nature of losses and deductions of the Company;

(c) Adjusted simultaneously with the making of any adjustment to the Book Value of the Company's assets pursuant to the definition thereof, to reflect the aggregate net adjustments to such Book Value as if the Company recognized Profit or Loss equal to the respective amount of such aggregate net adjustments immediately before the event causing such adjustments; and

(d) Otherwise appropriately adjusted to reflect transactions of the Company and the Members.

"Capital Contribution" shall mean the amount of cash and the value of any other property contributed to the Company by a Member.

"Center" shall mean the ambulatory surgery center owned and operated by the Company in Norwich, Connecticut.

"Class A Member" shall mean any Member holding Class A Units in the Company, in each such Member's capacity as a holder of Class A Units. Except as otherwise indicated herein, Class A Units shall be held only by physicians who meet the Physician Member Requirements set forth in Section 2.3 hereof and who qualify as Eligible Physicians as defined in Section 2.4(b) hereof.

"Class B Member" shall mean any Member holding Class B Units in the Company, in each such Member's capacity as a holder of Class B Units. Class B Units shall be held only by persons and entities that do not meet the Physician Member Requirements as defined in Section 2.4(b) hereof and by a bona fide ambulatory surgery center management company as determined by the Board of Managers.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"Confidential Information" shall mean any and all policies, procedures, contracts, quality assurance techniques, plans, market studies, projections, pro formas, managed care initiatives, strategies, utilization management, physician lists, patient records, credentialing, financial, statistical and other information of the Company, including (but not limited to) information embodied on magnetic tape, computer software or any other medium for the storage of information, together with all notes, analyses, compilations, studies or other documents prepared by the Company or others on behalf of the Company containing or reflecting such information. Confidential Information does not include information that:

- (a) was lawfully made available to or known by third person on a non-confidential basis prior to disclosure by a Member;
- (b) is or becomes publicly known through no wrongful act of a Member; or
- (c) is received by a Member from a third party other than in breach of confidence.

“Consent of the Members” except as otherwise indicated herein, shall mean the written consent, approval or vote in favor of Members holding at least eighty percent (80%) of the total number of Units then issued and outstanding, including the affirmative written consent, approval or vote of at least one (1) Class B Member.

“Depreciation” shall mean, for each year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such year or other period, except that if the Book Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount that bears the same relationship to the Book Value of such asset as the depreciation, amortization or other cost recovery deduction computed for tax purposes with respect to such asset for such period bears to the adjusted tax basis for such asset, or if such asset has a zero adjusted tax basis, Depreciation shall be determined with reference to the initial Book Value of such asset using any reasonable method selected by Approval of the Board, but not less than depreciation allowable for tax purposes for such year.

“Disability” means the inability of a Class A Member by reason of mental or physical illness, disease or injury, to perform his or her usual and customary professional duties with a standard of care that would be exercised by a reasonable professional with the same medical practice, including performing outpatient surgical procedures, for a minimum period of six (6) consecutive months or six (6) months cumulatively in any twelve (12) month period, as determined by a physician mutually agreeable to Board and the Member in question.

“Formula Amount” shall be calculated by multiplying the Company’s annual EBITDA (annual net operating income, excluding extraordinary gains and losses, calculated before deduction of interest, taxes, depreciation and amortization) by a number (the “Multiple”), which shall be three (3), then subtracting the Company’s outstanding long-term debt, including equipment lease financing obligations, as of the date of the Terminating Event, determined in accordance with generally accepted accounting principles. For this purpose, the EBITDA of the Company shall be based on the average of the EBITDA of the Company for the two (2) calendar years immediately prior to the year in which the Terminating Event occurs. For example, if the Terminating Event occurs in 2012, the Formula Amount shall be calculated using the average of 2011’s and 2010’s EBITDA multiplied by the Multiple, then subtracting the Company’s outstanding long-term debt as of the date of the Terminating Event.

“Immediate Family” with respect to any individual, means his or her ancestors, spouse, siblings, issue, spouses of issue, any trust principally for the benefit of any one or more of such individuals, his or her estate, and any entity beneficially owned by such individuals or trusts for their principal benefit.

“Joinder Agreement” means the acknowledgment by a Member that it is bound by all of the terms and conditions of this Agreement, such acknowledgement to be substantially in the form of Exhibit B hereto.

“Legal Representative” shall mean, with respect to any individual, a duly appointed executor, administrator, guardian, conservator, personal representative or other legal representative appointed as a result of the death, minority or incompetency of such individual.

“Losses” shall have the meaning provided below under the heading “Profits and Losses.”

“Manager” shall refer to each Person named as a Manager in this Agreement and any Person who becomes an additional, substitute or replacement Manager as permitted by this Agreement, in each such Person’s capacity as a Manager of the Company.

“Management Agreement” shall mean an agreement between the Company and a party undertaking obligations substantially similar to those of the Manager set forth in the form of Management Agreement attached hereto as Exhibit C. As of the Effective Date, the Company will enter into a Management Agreement in the form attached hereto as Exhibit C with Merritt.

“Medical Directorship Agreement” shall mean an agreement between the Company and a party undertaking obligations substantially similar to those of the Medical Director set forth in the form of Medical Directorship Agreement attached hereto as Exhibit D. As of the Effective Date, the Company will enter into a Medical Directorship Agreement in the form attached hereto as Exhibit D with the Medical Director of the Company.

“Member” shall mean any Person named as a Member in this Agreement and any Person who becomes an additional, substitute or replacement Member as permitted by this Agreement, in each such Person’s capacity as a Member of the Company.

“Member Minimum Gain” shall mean “partner nonrecourse debt minimum gain” as that term is defined in Regulations Section 1.704-2(i)(2).

“Member Nonrecourse Debt” shall mean “partner nonrecourse debt” or “partner nonrecourse liability” as those terms are defined in Regulations Section 1.704-2(b)(4).

“Member Nonrecourse Deductions” shall mean “partner nonrecourse deductions” as that term is defined in Regulations Section 1.704-2(i)(1).

“Merritt” shall mean Merritt Healthcare or an affiliate under the control of Matthew Searles, William Mulhall and Richard Searles.

“Minimum Gain” shall have the meaning given in Regulations Section 1.704-2(d).

“Net Operating Cash Flow of the Company” shall mean the Company’s taxable income or loss arising in the ordinary course of its business activities, increased by tax-exempt interest and by depreciation and any other deductions that do not involve cash expenditures, and decreased by principal payments, capital expenditures (other than those made from borrowings), and any other nondeductible cash expenditures.

“Non-Adverse Terminating Event” shall have the meaning set forth in Section 4.3(b) hereof.

"Nonrecourse Deductions" shall have the meaning given in Regulations Section 1.704-2(b)(1).

"Person" or "Party" shall mean any natural person, partnership (whether general or limited), limited liability company, trust, estate, association or corporation.

"Profits and Losses" shall mean, for each year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this provision shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this provision, shall be subtracted from such taxable income or added to such loss;

(c) Gain or loss from a disposition of property of the Company with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Book Value of such property, rather than its adjusted tax basis;

(d) In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there shall be taken into account the Depreciation on the assets for such fiscal year or other period; and

(e) Any items that are separately allocated pursuant to Sections 6.5 and/or 6.6 that otherwise would have been taken into account in calculating Profits and Losses pursuant to the above provisions shall not be taken into account and, as the case may be, shall be added to or deducted from such amounts so as to be not part of the calculation of the Profits or Losses.

If the Company's taxable income or loss for such year, as adjusted in the manner provided above, is a positive amount, such amount shall be the Company's Profits for such year; and if negative, such amount shall be the Company's Losses for such year.

"Reasonable Reserves" shall mean such amount as the Board, acting by Approval, shall deem reasonably necessary to meet the foreseeable liabilities or obligations of the Company taking into consideration historic costs as well as reasonably projected cash flow, and including, but not limited to, (i) the normal expenses of the operation and management of its activities, as such liabilities and obligations become due and payable, and (ii) the expenses of any redemptions pursuant to the provisions of this Agreement.

"Regulations" shall mean the Regulations promulgated under the Code, and any successor provisions to such Regulations, as such Regulations may be amended from time to time.

“Retirement” shall mean a Class A Member who is a physician ceases to practice medicine and publicly announces such retirement or, if he or she does not publicly announce such retirement, the Board of Managers, acting by Approval, determines in its reasonable discretion that such person practices medicine or ambulatory surgical procedures on a less than substantially full-time basis (ie: less than 35 hours per week for at least 40 weeks per year).

“Terminating Capital Transaction” shall mean a sale or other disposition of all or substantially all of the assets of the Company.

“Terminating Event” shall mean any event upon which the redemption of a Member occurs as described in Article IV hereof.

“Transfer” and any grammatical variation thereof shall refer to any sale, exchange, issuance, redemption, assignment, distribution, encumbrance, hypothecation, gift, pledge, retirement, resignation, transfer or other withdrawal, disposition or alienation in any way as to any interest as a Member. Transfer shall specifically, without limitation of the above, include assignments and distributions resulting from death, incompetency, Bankruptcy, liquidation and dissolution.

“Unit” shall mean a unit or share of ownership interest in the Company. The interest of each Unit in the Company shall be equal to one (1) divided by the total number of Units then authorized and outstanding of all classes (including, but not limited to, Class A Units and Class B Units).

“Unit Proportion” shall mean the number of Units held by a Member divided by all of the Units then issued and outstanding.

The definitions set forth in the Act shall be applicable, to the extent not inconsistent herewith, to define terms not defined herein and to supplement definitions contained herein.

ARTICLE II **Organizational Powers and Membership**

2.1 Organization. The Board of Managers shall file such articles, certificates and documents as appropriate to comply with the applicable requirements for the operation of a limited liability company in accordance with the laws of any jurisdictions in which the Company shall conduct business and shall continue to do so as long as the Company conducts business therein. By Approval of the Board, the Company may establish places of business within and without the State of Connecticut, as and when required by its business and in furtherance of its purposes set forth in Section 2.2 hereof, and may appoint agents for service of process in all jurisdictions in which the Company shall conduct business.

2.2 Purposes and Powers of the Company. The Company is organized (i) for the general purposes of operating the Center in the Norwich, Connecticut area and engaging in other activities in connection therewith that are necessary or beneficial to the Center, and (ii) engaging in any other lawful business activity permitted under the Act consistent with the foregoing. To that end, the Company, subject to the terms of this Agreement, may engage in any kind of activity and perform and carry out contracts of any kind necessary or incidental to

the accomplishment of the purposes of the Company, so long as said activities and contracts may be lawfully carried out or performed by a limited liability company under the laws of the State of Connecticut.

2.3 Permissible Relationships. The Members understand that the Company's and the Center's operations are subject to various state and federal laws regulating permissible relationships between the Members and entities such as the Company, including, without limitation, the Federal Fraud and Abuse laws under 42 U.S.C. § 1320a-7aa (the "Civil Monetary Penalties"), 42 U.S.C. § 1320a-7b(b) (the "Anti-kickback Law"), and 42 U.S.C. § 1395nn (the "Stark Act"). It is the intent of the parties that the Company operate in a manner consistent with the foregoing statutes. Accordingly, each Member represents and warrants that such Member: (i) has not received loans for the purpose of investing in the Center from the Company or from any investor in the Company; (ii) has not been barred or suspended from participation in the Medicare and/or Medicaid programs; (iii) if a Class A Member, shall derive at least one-third (1/3) of his or her medical practice income from all sources for the previous fiscal year or previous twelve (12)-month period from his or her own performance of procedures that are ambulatory surgical procedures as appears on the list of ASC Covered Procedures issued by the Center for Medicare and Medicaid Services, or, in the case of Dr. Richard Martin ("Martin"), are procedures that are performed in an operating room and which do not require an overnight stay; (iv) if a Class A Member, shall perform at least one-third (1/3) of such physician's procedures that require or can be performed at an ambulatory surgery center at the Center; (v) if a Class A Member, shall fully inform each patient, prior to referring patients to the Center, of his or her investment interest in the Center; and (vi) if a Class A Member, shall treat patients receiving medical benefits or assistance under any federal health care program in a nondiscriminatory manner. These requirements are referred to herein as the "Physician Member Requirements".

(a) The Board of Managers, acting in its sole discretion after consultation with the Company's legal counsel but subject to the approval requirements set forth in Section 7.4, shall be able to waive a Member's compliance with the one-third (1/3) tests set forth in Sections 2.3(iii) and (iv) hereof (the "One-Third Tests"), if such Member is constrained from complying with such tests due to such Member's or the Center's exclusion from managed care contracts or other reasons; provided, such Member is using best efforts to comply with such tests and the Board of Managers believes that the Member is not indirectly referring patients to the Center. The intent of the One-Third Tests and the other requirements set forth in this Section 2.3 is to help the Company to substantially comply with the safe harbor for ambulatory surgical centers promulgated by the Office of Inspector General. For a waiver to be granted, the Member must be acting in good faith to comply with the Physician Requirements. Further, the Board of Managers may request from each Member such information as it deems necessary to assess compliance by such Class A Member with the Member Requirements set forth above.

(b) The Members also acknowledge that the Stark Act, the regulations promulgated thereunder and similar Connecticut laws and regulations may restrict the Center (as presently formed) from providing "designated health services" (as defined by the Stark Act) or other services to patients referred by the Members. The Center shall not provide "designated health services." If, in the future, any of the services that the Center provides are deemed to be "designated health services," such services shall be provided by the Center only if such services

may be provided in compliance with one or more exceptions to the ban on self-referrals set forth in the Stark Act, the regulations promulgated thereunder, and all other statutes and/or regulations relating thereto. Furthermore, if the owner of a Member is a pension plan, trust or other entity, all of the owners and beneficiaries of such pension plan, trust or other entity who are practicing physicians shall also comply with the Federal Fraud and Abuse Laws, the regulations promulgated thereunder and similar Connecticut laws and regulations. All physicians who are Members of the Company, either directly or indirectly, shall remain authorized to perform services at the Center for as long as such physician is a Member of the Company.

2.4 Membership.

(a) Reference is hereby made to the fact that there shall initially be two (2) authorized classes of Members of the Company: Class A Members and Class B Members. All Members shall have (based on Units held) the same economic rights. The Members, acting as Members, shall have no right to act for or bind the Company. The initial Class A Members and the initial Class B Members are identified in Exhibit A hereto.

(b) No Person shall be eligible to become a Class A Member (or remain a Class A Member, as applicable) unless the following eligibility requirements are satisfied: (1) such Class A Member shall be a physician, licensed and registered, in good standing, to practice medicine in the State of Connecticut; (2) such Class A Member shall abide by all of the Physician Member Requirements set forth in Section 2.3 hereof and the Eligible Physician requirements of this Section 2.4(b); (3) such Class A Member shall maintain an active practice of medicine in New London County, and if able to refer patients to the Center for services, shall be able to perform surgical services at the Center; (4) such Class A Member shall maintain active privileges at the Center and at least one hospital within fifteen (15) miles of the Center; (5) under applicable law, such Class A Member's ownership shall not disqualify (and, without further action, would not disqualify) the Company or the Center from engaging in operations as a Medicare-certified ambulatory surgery center for any reason, or from having such Class A Member perform cases at the Center; and (6) such Class A Member shall have in effect at all relevant times a professional liability insurance policy, covering his or her activities at the Center, with coverage limits of not less than \$1 million per occurrence and \$3 million annual aggregate. A physician who meets such requirements may be referred to herein as an "Eligible Physician." No Person shall be eligible to become a Class B Member unless it is a bona fide ambulatory surgery center management company as determined by the Board of Managers.

ARTICLE III

Capital Contributions and Liability of Members

3.1 Capital Accounts. A separate Capital Account shall be maintained for each Member, including any Member who shall hereafter acquire an interest in the Company.

3.2 Capital Contributions.

(a) Each Member's initial Capital Contribution shall be made to the Company upon such Member's execution of this Agreement and the amount of such Capital Contribution,

and any additional Capital Contributions, shall be memorialized and set forth on Exhibit A attached hereto, which Exhibit A may be updated from time to time.

(b) Loans. Except with the Consent of the Members, no Member or Manager shall be entitled, obligated or required to make any loan to or any Capital Contribution to the Company in addition to such Member's initial Capital Contribution made pursuant to Section 3.2(a) above. No loan made to the Company by any Member or Manager shall constitute a Capital Contribution to the Company for any purpose.

(c) Additional Capital Contributions. The Members shall be required to make additional Capital Contributions only upon the Consent of the Members. Once such an additional Capital Contribution is properly approved, the Board shall set a reasonable due date for payment of the required amounts. In the event a Member fails to contribute approved additional Capital Contributions by the due date, then the amount due for the individual Member shall accrue simple interest as determined by the Board plus an additional penalty as determined by the Board per thirty (30) day period (with the interest and additional penalty accrual both commencing as of the first day after the due date). If the amount due for an individual Member is not paid by the sixtieth (60th) day following the due date, the Board shall have the option, at its sole discretion to either (i) dilute the Member's membership interests in the Company (and the interest and penalties shall remain owing by the Member for solely such sixty (60) period) or (ii) permit the Member to retain such Member's then current membership interests and continue to accrue interest and penalties until the amount due is paid; provided that if the Board elects option (ii) and the Member does not pay the amount due in full (including all interest and penalties) by the date that is six (6) months following the due date, then the Member's membership interests in the Company shall be diluted (and the interest and penalties shall remain owing by the Member for solely the initial sixty (60) period). The Board's decision whether to exercise option (i) or (ii) above shall not be based on the volume or value of referrals by the Member to the Company or its Affiliates.

3.3 No Withdrawal of or Interest on Capital. Except as otherwise provided in this Agreement, (i) no Member shall have any right to demand and receive property of the Company in exchange for all or any portion of such Member's Capital Contribution or Capital Account, and (ii) no interest or preferred return shall accrue or be paid on any Capital Contribution or Capital Account.

3.4 Liability of Members. No Member, in his, her or its capacity as a Member, shall have any liability to restore any negative balance in his, her or its Capital Account or to contribute to, or in respect of, the liabilities or the obligations of the Company, or to restore any amounts distributed from the Company, except as may be required specifically under this Agreement, the Act or other applicable law. Except to the extent otherwise provided by law or as indicated herein, in no event shall any Member, in his, her or its capacity as a Member, be personally liable for any liabilities or obligations of the Company.

3.5 Guarantees. If nonrecourse financing for the Company is unavailable or insufficient, it is hereby agreed and acknowledged that, upon the Approval of the Board, each Member shall be required to guarantee debt of the Company, solely on a pro-rata (based on ownership) and several basis, and in an amount to be agreed upon by the Board of Managers;

provided, however, that the aggregate debt to which such personal liabilities relate, not including the initial financing, shall not exceed \$50,000 without the Consent of the Members. The Members hereto acknowledge that as of the date of this Agreement the Company has or will secure commercial financing from Farmington Bank in excess of \$50,000 and such Members agree that upon execution of this Agreement, the Consent of Members shall be deemed given without the need for further action. Each Member further agrees to execute and deliver such agreements and instruments as the Company may require with respect to such Member's guarantee. In the event a Member fails to provide required guarantees, such Member's percentage ownership in the Company shall be diluted in proportion to such required guarantees; provided, however, the Board may elect not to dilute such Member with the Consent of the Members.

3.6 Managers as Members. Managers are required to hold a membership interest in the Company in order to serve as a Manager.

3.7 Additional Members. Additional Members may be admitted to the Company only upon the Consent of the Members, including the terms of admission, and by execution and delivery by the new Member of the required Capital Contribution (as determined by the Board of Managers) and execution and delivery of such other documents, instruments and items as the Members may require. All issuances shall be structured such that (i) the amount paid for Units is not less than the fair market value of the Units, (ii) payments are made in cash, and (iii) the issuance of Units does not take into account the potential volume or value of referrals to the Center by the Member.

ARTICLE IV **Members and Membership Units**

4.1 Classification of Members. There shall be two (2) classes of Members of the Company: a Class A Member class and a Class B Member class. All Members shall have (based on their Unit Proportion) the same economic rights. In the event that, pursuant to the terms of this Agreement or otherwise, any Class A Units are Transferred to a Class B Member, or any Class B Units are Transferred to a Class A Member, such Units, upon the consummation of such Transfer, shall automatically be deemed Units of the class of the transferee.

4.2 Withdrawal of a Member. Except in connection with a Non-Adverse Terminating Event, (i) no Class A Member may withdraw or resign from the Company at any time prior to the earlier of (1) the seventh (7th) anniversary of the date on which the Class A Member became a Member of the Company or (2) the Retirement of such member and (ii) no Class B Member may withdraw or resign from the Company at any time prior to the seventh (7th) anniversary of such Class B Member becoming a Member of the Company. If a Member withdraws or resigns as a Member in violation of this Section 4.2, such Member hereby agrees that such withdrawal or resignation will constitute a breach of this Agreement and an Adverse Terminating Event. The Company may offset any damages due to such a breach against any amounts otherwise distributable to such Member in addition to any remedies otherwise available to the Company. No assessment of damages shall account for or be based on the volume or value of business generated by such Member.

4.3 Redemption of a Member. Terminating Events are divided for purposes of differentiating the Company's redemption obligations to the Member according to which type of Terminating Event occurs as follows:

- (a) For purposes of this Agreement, an "Adverse Terminating Event" means:
 - (i) With respect to any Member:
 - (aa) the improper Transfer (or attempt to Transfer) of Units;
 - (bb) the conviction of any felony;
 - (cc) any material breach of this Agreement;
 - (dd) any event of Bankruptcy;
 - (ee) the exclusion, suspension or debarment from participation in the Medicare or Medicaid programs;
 - (ff) Retirement of a Class A Member before the seventh (7th) anniversary of becoming a Class A Member;
 - (gg) resignation or withdrawal of a Class A Member prior to the earlier of (1) the seventh (7th) anniversary of such Class A Member becoming a Member of the Company or (2) such Class A Member's Retirement; or
 - (hh) resignation or withdrawal of a Class B Member prior to such Member's seventh (7th) anniversary of becoming a Member, unless such resignation or withdrawal is deemed a Non-Adverse Terminating Event pursuant to 4.3(b) hereof.
 - (ii) With respect to a Class A Member, in addition to Section 4.3(a)(i) above:
 - (aa) the failure of a Class A Member to meet or continue to meet any of the Physician Member Requirements set forth in Section 2.3 hereof or any of the Eligible Physician requirements set forth in Section 2.4(b) hereof;
 - (bb) revocation or suspension of a license to practice medicine or any other license required by any health care licensing authority in the State of Connecticut; or
 - (cc) the failure to maintain active, unrestricted staff privileges at the Center and at a minimum of one (1) hospital within fifteen (15) miles of the Center.

means: (b) For purposes of this Agreement, a "Non-Adverse Terminating Event"

(i) With respect to any Member:

(aa) the resignation or withdrawal of a Member subsequent to such Member's seventh (7th) anniversary of becoming a Member; provided, however, that such withdrawal or resignation does not occur within one (1) year before or after the occurrence of an Adverse Terminating Event relating to such Member. Any withdrawal or resignation by a Member that occurs within a one (1) year period before or after the occurrence of an Adverse Terminating Event relating to such Member shall be deemed an Adverse Terminating Event;

(ii) With respect to a Class A Member, in addition to Section 4.3(b)(i) above:

(aa) death at any time;

(bb) Disability at any time;

(cc) adjudication of incompetence at any time;

(dd) Retirement subsequent to such Class A Member's seventh (7th) anniversary of becoming a Member;

(ee) completely and fully terminating the practice of medicine within a twenty five (25) mile radius of the Center; or

(ff) without cause termination of a Class A Member's membership in the Company and resulting redemption of a Class A Member's Membership Units upon Consent of the Members.

(c) Each Terminating Event, if subject to cure, shall trigger termination only after written notice is provided of the Terminating Event, and if a cure has not been made of the Terminating Event, within sixty (60) days after such notice was provided.

(d) If a Terminating Event shall occur with respect to any Member, the Company shall be required to purchase the Member's Units. Written notice shall be provided within one (1) year after the Company has received actual knowledge (meaning knowledge of a majority of the Board of Managers excluding the party suffering the Terminating Event without knowledge of one Manager being imputed to the other Managers) of the occurrence of such Terminating Event (hereinafter the "Company Notice"). No Member subject to a Terminating Event shall vote, as a Member or Manager, in any action related to the Company's exercise of its

right to redeem such Member's Units hereunder and such Member's vote shall be discounted for the purposes of determining whether voting or consent thresholds are met.

(e) Notwithstanding the provisions of Section 4.3(d) above, if a Non-Adverse or Adverse Terminating Event shall occur with respect to any Class A Member, then prior to exercising its right to redeem such Class A Member's Units pursuant to Section 4.3(d), the Company shall provide written notice of the Terminating Event to the other Class A Members and permit the other Class A Members to first purchase the Class A Units at issue upon the same terms and conditions as are available to the Company hereunder. Any unpurchased Class A Units shall be available for redemption by the Company.

(f) Notwithstanding the provisions of Section 4.3(d) above, if a Non-Adverse or Adverse Terminating Event shall occur with respect to any Class B Member, then prior to exercising its right to redeem such Class B Member's Units pursuant to Section 4.3(d), the Company shall provide written notice of the Terminating Event to the other Class B Members and permit the other Class B Members to first purchase the Class B Units at issue upon the same terms and conditions as are available to the Company hereunder. Any unpurchased Class B Units shall be available for redemption by the Company.

(g) If any Member's Units are purchased because of the occurrence of an Adverse Terminating Event, the amount to be paid for the Units owned by such Member shall be equal to the balance of the departing Member's Capital Account, discounted by fifty percent (50%) (the "Adverse Purchase Price").

(h) If a Non-Adverse Terminating Event shall occur with respect to any Member, the amount to be paid for such Units owned by such Member shall be equal to the Formula Amount multiplied by the Member's Unit Proportion (the "Non-Adverse Purchase Price"). The Non-Adverse Purchase Price and the Adverse Purchase Price may be referred to herein collectively as the "Purchase Price".

(i) All calculations shall be handled by the Company's regularly retained accountants, and such calculations shall, absent manifest error, be final and binding upon all parties to this Agreement. All Members acknowledge and agree that the Formula Amount is intended to provide a reasonable agreed-upon amount to handle redemptions in a manner that will minimize disputes and appraisal-related costs and expenses regarding valuation of Units for purposes of redemption, and all Members waive any and all rights to contest the use of the Formula Amount for any and all purposes in lieu of an appraisal or other method. The Board of Managers, in its sole discretion, and with the Consent of the Members, shall have the ability to adjust the Multiple used in the Formula Amount based on its assessment of the market conditions for surgery centers on an annual basis or whenever determined; provided, once adjusted, the Multiple may not be adjusted for the next twelve (12) months; provided, further, the Multiple may not be adjusted after a Terminating Event has occurred with regard to the Member. Rather, the Multiple shall remain the Multiple in effect up to such date.

(j) Payments for Units hereunder, whether an Adverse Purchase Price or a Non-Adverse Purchase Price, shall be made as follows: twenty-five percent (25%) on the initial payment date, which shall be within one hundred twenty (120) days after the Company Notice

(such date being the "Purchase Date"), provided however in the event that the Purchase Price has not been determined during such one hundred twenty (120) day period, the matter shall be determined in accordance with Section 13.15 hereof, and twenty-five percent (25%) of the Purchase Price on each of the anniversaries of the Purchase Date with interest on the outstanding principal balance accruing at five percent (5%). If the Company has purchased any Units pursuant to this Section 4.3, payments may be delayed at the direction of the Company to the extent that the Company has insufficient assets as provided by law to make any such payments. Notwithstanding any such delay in the payment of amounts due, the Member's rights as a Member shall cease on the Purchase Date. Aggregate payments to be made by the Company in connection with Terminating Events shall not exceed seven and one half percent (7.5%) of the Company's collected revenues. If payments are so restricted, payments shall be made in proportion to amounts owed to all Members then being redeemed. In sum, notwithstanding the provisions of this Article IV, the Company shall not be required to make payments to former Members pursuant to this Section 4.3 that, in the aggregate, would exceed seven and one half percent (7.5%) of the aggregate collections of the Company for any such period. If the aggregate amount of payments otherwise due to former Members pursuant to this Section 4.3 would reasonably be expected to exceed this limitation in any calendar year or portion thereof, with the Approval of the Board, the Company shall pay such former Members, on a pro rata basis, based on the amount still owed to such Members, payments totaling seven and one half percent (7.5%) of the Company's anticipated aggregate collections for such period, and the balance of that period's payment obligations to such former Members shall be deferred to the following calendar year or years, until such amounts can be paid without violating such limitation with respect to any such year or years. Within thirty (30) days following the end of each calendar year, the Company shall make a pro rata adjusted payment to the former Members if and to the extent that actual aggregate collections during the prior year (or relevant portion thereof) have exceeded the anticipated amount.

ARTICLE V Additional Capital

5.1 Funding Capital Requirements.

(a) In the event that the Company requires additional funds to carry out its purposes, to conduct its business, or to meet its obligations, the Company may borrow funds from such lender(s), including Members and Managers, and on such terms and conditions as are Approved by the Board, all on such terms as reflect fair market value. It is specifically provided that (except as set forth in Section 3.2 or Section 7.4 hereof) no such terms or conditions shall impose any personal liability on any Member without the prior written consent of such Member.

(b) No Member or Manager shall be obligated to make any Capital Contributions or loans to the Company (except as provided in Section 3.2 hereof), or otherwise supply or make available any funds to the Company, even if the failure to do so would result in a default of any of the Company's obligations or the loss or termination of all or any part of the Company's assets or business; provided, failure to fund a properly approved additional Capital Contribution may result in the accrual of interest and financial penalties and/or dilution pursuant to Section 3.2 above.

5.2 Third Party Liabilities. The provisions of this Article V and the provisions of Article III hereof are not intended to be for the benefit of any creditor or other Person (other than a Member in such Member's capacity as a Member) to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) the Company or any of the Members. Moreover, notwithstanding anything contained in this Agreement to the contrary, including specifically, but without limitation, this Article V, no such creditor or other Person shall obtain any rights under this Agreement or shall, by reason of this Agreement, make any claim in respect of any debt, liability or obligation (or otherwise) against the Company or any Member.

ARTICLE VI
Distributions; Profits and Losses

6.1 Distribution of Company Funds - In General.

(a) Except as necessary to comply with Sections in this Article VI, all Net Operating Cash Flow of the Company over and above Reasonable Reserves shall be distributed at least quarterly to the Members on a pro rata basis, based on each Member's Unit Proportion. While the intent is to distribute substantially all available cash flow (minus reserves), in accordance with this Section 6.1, at a minimum the Company shall attempt to distribute at least the estimated amount (i.e., forty percent to forty-two percent (40%-42%) of Company net income) as is necessary for the Members to meet expected individual tax obligations related to Company income.

(b) Except as necessary to comply with certain of the following Sections in this Article VI, all other cash flow of the Company shall be distributed among the Members of the Company on a pro rata basis based on each Member's Unit Proportion as determined by Approval of the Board.

6.2 Distribution Upon Dissolution. Proceeds from a Terminating Capital Transaction and/or other amounts or assets available upon dissolution, and after payment of, or adequate provision for, the debts and obligations of the Company, shall be distributed and applied in the following priority:

(a) First, to fund reserves for liabilities not then due and owing and for contingent liabilities to the extent deemed reasonable by Approval of the Board, provided that, upon the expiration of such period of time as the Board, acting by Approval, shall deem advisable, the balance of such reserves remaining after payment of such contingencies shall be distributed in the manner hereinafter set forth in this Section 6.2; and

(b) Second, to the Members, an amount sufficient to reduce the Members' Capital Accounts to zero, in proportion to the positive balances in such Capital Accounts (after reflecting in such Capital Accounts all adjustments thereto necessitated by (i) all other Company transactions (distributions and allocations of Profits and Losses and items of income, gain, deduction and loss) and (ii) such Terminating Capital Transaction).

6.3 Distribution of Assets in Kind. No Member shall have the right to require any distribution of any assets of the Company in kind. If any assets of the Company are distributed in kind, such assets shall be distributed on the basis of their respective fair market values as determined by the Approval of the Board. Any Member entitled to any interest in such assets shall, unless otherwise determined by the Approval of the Board, receive separate assets of the Company and not an interest as tenant-in-common, with other Members so entitled, in each asset being distributed.

6.4 Allocation of Profits and Losses. After giving effect to the allocations set forth in Sections 6.5 and 6.6 hereof which affect the Members' distributive shares, Profits and Losses shall be allocated among the Members on a pro rata basis, in accordance with each such Member's Unit Proportion.

6.5 Required Regulatory Allocations.

(a) Limitation on and Reallocation of Losses. At no time shall any allocations of Losses, or any item of loss or deduction, be made to a Member if and to the extent such allocation would cause such Member to have, or would increase the deficit in, any Adjusted Capital Account Deficit of such Member at the end of any fiscal year. To the extent any Losses or items are not allocated to one or more Members pursuant to the preceding sentence, such Losses shall be allocated to the Members to which such losses or items may be allocated without violation of this Section 6.5(a).

(b) Minimum Gain Chargeback. If there is a net decrease in the Minimum Gain of the Company during any fiscal year, then items of income or gain of the Company for such fiscal year (and, if necessary, subsequent fiscal years) shall be allocated to each Member in an amount equal to such Member's share of the net decrease in the Minimum Gain, determined in accordance with Regulations Section 1.704-2(d)(1). A Member's share of the net decrease in the Minimum Gain of the Company shall be determined in accordance with Regulations Section 1.704-2(g). The items of income and gain to be so allocated shall be determined in accordance with Regulations Section 1.704-2(j)(2)(i).

(c) Nonrecourse Deductions. Nonrecourse Deductions for any fiscal year or other period (not including any Member Nonrecourse Deductions allocated pursuant to Section 6.5(d) below) shall be allocated among the Members on a pro rata basis, based on the proportion of Units then held by each such Member to the total number of Units then issued and outstanding. Solely for purposes of determining each Member's proportionate share of the "excess nonrecourse liabilities" of the Company, within the meaning of Regulations Section 1.752-3(a)(3), the Company Profits shall be allocated among the Members on a pro rata basis, based on the Member's Unit Proportion. The items of losses, deductions and Code Section 705(a)(2)(B) expenditures to be so allocated shall be determined in accordance with Regulations Section 1.704-2(j)(1)(ii).

(d) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any fiscal year or other period shall be allocated to the Member who bears the economic risk of loss with respect to the nonrecourse liability, as determined and defined under Regulations Section 1.704-2(b)(4), to which such Member Nonrecourse Deductions are attributable in

accordance with Regulations Section 1.704-2(i)(1). The items of losses, deductions and Code Section 705(a)(2)(b) expenditures to be so allocated shall be determined in accordance with Regulations Section 1.704-2(j)(1)(ii).

(e) Member Minimum Gain Chargeback. Notwithstanding any contrary provisions of this Article VI, other than Section 6.5(b) above, if there is a net decrease in Member Minimum Gain attributable to Member Nonrecourse Debt during any fiscal year, then each Member who has a share of such Member Minimum Gain, determined in accordance with Regulations Section 1.704-2(i), shall be allocated items of income and gain of the Company, determined in accordance with Regulations Section 1.704-2(j)(2)(ii), for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to each such Member's share of the net decrease in such Member Minimum Gain, determined in accordance with Regulations Section 1.704-2(i)(3) and 2(i)(5).

(f) Qualified Income Offset. If any Member unexpectedly receives an item described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of income and gain shall be allocated to each such Member in an amount and manner sufficient to eliminate, as quickly as possible and to the extent required by Regulations Section 1.704-1(b)(2)(ii)(d), the Adjusted Capital Account Deficit of such Member, provided that an allocation pursuant to this Section 6.5(f) shall only be made if and to the extent that such Member would have an Adjusted Capital Account Deficit after accounting for all other allocations provided for in this Article VI other than that described in this Section 6.5(f).

(g) Basis Adjustment. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to either of Code Sections 734(b) or 743(b) is required to be taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m), the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to said Section of the Regulations.

(h) Gross Income Allocation. If at the end of any Company fiscal year any Member has a Capital Account deficit that is in excess of the sum of the items to be credited to a Member's Capital Account under clause (a) of the definition of Adjusted Capital Account Deficit contained herein, then each such Member shall be allocated items of income and gain in the amount of such excess as quickly as possible provided that an allocation pursuant to this Section 6.5(h) shall only be made if and to the extent that such Member would have a Capital Account deficit in excess of such sum after accounting for all other allocations provided for in this Article VI other than that described in this Section 6.5(h). As among Members having such excess, if there are not sufficient items of income and gain to eliminate all such excess, such allocations shall be made in proportion to the amount of each Member's respective excess.

6.6 Curative Allocations. The allocations set forth in Section 6.5 hereof are intended to comply with certain requirements of Regulations Sections 1.704-1(b) and 1.704-2 and shall be interpreted consistently therewith. Such allocations may not be consistent with the manner in which the Members intend to divide Company distributions and make Profit and

Loss allocations. Accordingly, by Approval of the Board, after effecting the allocations required pursuant to Section 6.5 hereof, other allocations of Profits, Losses and items thereof shall be divided among the Members so as to prevent the allocations in Section 6.5 hereof from distorting the manner in which Company distributions will be divided among the Members pursuant to Sections 6.1 and 6.2 hereof. In general, the Members anticipate that this will be accomplished by specifically allocating other Profits, Losses and items of income, gain, loss and deduction among the Members so that the net amount of allocations under Section 6.5 hereof and allocations under this Section 6.6 to each such Member is zero. However, the Board shall have discretion to accomplish this result in any reasonable manner.

6.7 Tax Allocations and Book Allocations.

(a) Except as otherwise provided in this Section 6.7, for federal income tax purposes, each item of income, gain, loss and deduction shall, to the extent appropriate, be allocated among the Members in the same manner as its correlative item of "book" income, gain, loss or deduction has been allocated pursuant to the other provisions of this Article VI.

(b) In accordance with Code Section 704(c) and the Regulations thereunder, depreciation, amortization, gain and loss, as determined for tax purposes, with respect to any property whose Book Value differs from its adjusted basis for federal income tax purposes shall, for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Book Value, such allocation to be made by the Approval of the Board in any manner that is permissible under said Code Section 704(c) and the Regulations thereunder and the Regulations under Code Section 704(b).

(c) In the event the Book Value of any property of the Company is subsequently adjusted, subsequent allocations of income, gain, loss and deduction with respect to any such property shall take into account any variation between the adjusted basis of such asset for federal income tax purposes and its respective Book Value in the manner provided under Section 704(c) of the Code and the Regulations thereunder.

(d) Allocations pursuant to this Section 6.7 are solely for federal, state, and local income tax purposes, and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

6.8 General Allocation and Distribution Rules.

(a) For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Approval of the Board, using any permissible method under Code Section 706 and the Regulations thereunder. Except as otherwise provided in this Agreement, all items of income, gain, loss, and deduction shall be allocated among the Members in the same proportions as the allocations of Profits or Losses for the fiscal year in which such items are to be allocated.

(b) Upon the admission of a new Member or the Transfer of an interest, the new and old Members or the transferee and transferor shall be allocated shares of Profits and Losses and other allocations and shall receive distributions, if any, based on the portion of the fiscal year that the new or transferred Company interest was held by the new and old Members, or the transferor and transferee, respectively. For the purpose of allocating Profits and Losses and other allocations and distributions, (i) such admission or Transfer shall be deemed to have occurred on the first day of the month in which it occurs or, if such date shall not be permitted for allocation purposes under the Code or the Regulations, on the nearest date otherwise permitted under the Code or the Regulations, and (ii) if required by the Code or the Regulations, the Company shall close its books on an interim basis on the last day of the previous calendar month.

6.9 Tax Withholding. If the Company incurs a withholding tax obligation with respect to the share of income allocated to any Member, (a) any amount that is (i) actually withheld from a distribution that would otherwise have been made to such Member and (ii) paid over in satisfaction of such withholding tax obligation shall be treated for all purposes under this Agreement as if such amount had been distributed to such Member, and (b) any amount that is so paid over by the Company, but which exceeds the amount, if any, actually withheld from a distribution that would otherwise have been made to such Member, shall be treated as an interest-free advance to such Member. Amounts treated as advanced to any Member pursuant to this Section 6.9 shall be repaid by such Member to the Company within thirty (30) days after the Board, acting by Approval of the Board, give notice to such Member making demand therefore. Any amounts so advanced and not timely repaid by such Member shall bear interest, commencing on the expiration of said thirty (30) day period, compounded monthly on unpaid balances, at an annual rate equal to the lowest Applicable Federal Rate as of such expiration date. The Company shall collect any unpaid amounts so advanced from any Company distributions that would otherwise be made to such Member.

6.10 Tax Matters Partner. Merritt will act as the "Tax Matters Partner" (as defined in Code Section 6231) of the Company. The Tax Matters Partner is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including, without limitation, administrative and judicial proceedings (collectively, "Audits"), and to expend Company funds for professional services and costs associated therewith. The Members agree to cooperate with each other and to do or refrain from doing any and all things reasonably required to conduct such proceedings. The Company shall indemnify and hold harmless the Tax Matters Partner and its directors, officers, employees and agents from and against any loss, expense, damage or injury suffered or sustained by them by reason of any acts, omissions or alleged acts or omissions arising out of their activities on behalf of the Company as Tax Matters Partner, absent the gross negligence of the Tax Matters Partner. The Members specifically acknowledge that the Tax Matters Partner shall not be liable, responsible or accountable in damages or otherwise to the Company or any Member with respect to any action taken by the Tax Matters Partner with respect to an Audit, absent the gross negligence of the Tax Matters Partner.

ARTICLE VII
Management

7.1 Management of the Company. The overall management and control of the business and affairs of the Company shall be vested in the Board, acting by Approval of the Board. All management and other responsibilities not specifically reserved to the Members in this Agreement, or requiring Consent of the Members, shall be vested in the Board, and the Members shall have no voting rights except as specifically provided in this Agreement. The Board shall enter into a management services agreement with the Class B Members for the Class B Members to provide day-to-day management and administrative services to the Company in accordance with the Management Services Agreement attached as Exhibit C hereto. Each Manager shall devote such time to the affairs of the Company as is reasonably necessary for performance by such Manager of such Member's duties, provided such Manager shall not be required to devote full time to such affairs.

7.2 Board of Managers. The business and affairs of the Company shall be managed by the Board of Managers (the "Board").

(a) Effective for all purposes on the date of this Agreement, the Board of Managers shall be comprised of four (4) representatives elected by the Class A Members and one (1) representative appointed by the Class B Members. Unless otherwise terminated for cause, for so long as Martin is a Class A Member, he shall have the right to appoint one (1) of the Managers otherwise elected by the Class A Members for a period of six (6) years commencing on the Effective Date of this Agreement, and shall have no vote in electing the remaining three (3) Class A Managers for such six (6) year period.

(b) Each Manager elected or appointed to the Board shall have the right to sit on the Board and to vote as a Manager. Unless terminated sooner, each Manager shall serve a one (1) year term, which term shall automatically renew for successive one (1) year terms, until such Manager's successor is duly elected. In any action taken by the Board, each Manager shall have one vote.

(c) The powers of the Board shall be exercised subject to the Member protections indicated in Section 7.4.

(d) There shall be at least four (4) regular meetings of the Board per annum and at least one (1) regular meeting of the Members per annum. The Managers or Members, as applicable, may provide by resolution, the time and place for the holding of this or additional meetings. Written notice of such resolution shall be provided to all Managers and Members, as applicable. Special meetings of the Board of Managers may be called at the request of any Manager upon ten (10) days advance written notice to all of the other Managers. The time, place and purpose or purposes for such special meetings shall be stated in the notice of such meeting. A special meeting of the Board of Managers may be mandatory upon Approval of the Board. Special meetings of the Members may be called at the request of any Member upon ten (10) days advance written notice to all of the other Members. The time, place and purpose or purposes for such special meetings shall be stated in the notice of such meeting. A special meeting of the Members may be mandatory upon Approval of the Board. The Members and Managers may

participate in regular or special meetings by, or through the use of, any means of communication by which all participants may simultaneously hear and speak to each other, such as by conference telephone. Any participant in a meeting by such means shall be deemed present in person at such meeting.

(e) A majority of the Managers shall constitute a quorum at any meeting of the Board of Managers as long as a Manager from each Member class is present. Members representing a majority of Units shall constitute a quorum at any meeting of the Members as long as a representative of each Member class is present in person or by proxy.

(f) A Manager who is unable to attend a meeting may provide a proxy to a Manager to attend in such Manager's place, and such proxy shall have power to vote in place of the absent Manager in addition to the proxy's vote. Email notification to the other Managers shall be considered an appropriate form of proxy or such other form as designated by the Board.

(g) A Class A Manager's status as Manager may be terminated at any time, with or without cause, upon the consent of the holders of at least seventy-five (75%) of Class A Units. Notwithstanding the foregoing, Martin may not be terminated during his six (6) year initial term as Manager without cause. For purposes of the foregoing sentence only, "cause" shall mean gross negligence or reckless disregard in the fulfillment of his duties as a Manager. During such six (6) year initial term as Manager, Martin shall receive written notice of the basis for termination at least thirty (30) days prior to any vote by the Class A Members to terminate his status as Manager and be given reasonable opportunity to cure the deficiencies noted during that time. In the event that any Class A Manager ceases to serve as Manager (whether by reason of termination as Member or by vote of the Class A Members, resignation, removal or any other cause), thereby creating a vacancy in the position of Class A Manager, the Class A Members shall elect a successor Class A Manager to fill such vacancy by a vote of the holders of a majority of Class A Units then issued and outstanding.

(h) A Class B Manager's status as Manager may be terminated at any time, with or without cause, upon the consent of the holders of a majority of Class B Units. In the event that any Class B Manager ceases to serve as Manager (whether by reason of resignation, removal or any other cause), thereby creating a vacancy in the position of Class B Manager, the Class B Members shall elect a successor Class B Manager to fill such vacancy by vote of the holders of a majority of Class B Units then issued and outstanding.

(i) The election of Managers shall be conducted at any duly convened meeting of the applicable class of Members. Termination of a Manager pursuant to Section 7.2(f) or (g) hereof shall be conducted as follows: Any Class A or B Member (as applicable) may call a special meeting of the Class A or B Members for purpose of calling for the termination of a Class A or B Manager pursuant to Section 7.2(f) or (g). At such special meeting, the Class A or B Members (as applicable) shall vote on the termination of the Manager in question. Consistent with and subject to Section 7.2(f) and (g) hereof, the Class A or B Members shall elect a successor Manager to fill such vacancy.

7.3 Manner of Exercise of Board's Authority. All responsibilities granted to the Board under this Agreement shall be exercised by the Board as a body, and no Manager, acting

alone and without prior Approval of the Board, shall have the authority to act on behalf of the Board or the Company. All management authority is vested in the Board, and no Member shall have any authority to act on behalf of the Board or the Company, unless such Member has been elected as a Manager and is acting solely in such capacity pursuant to this Section 7.3. Subject to the restrictions set forth in Section 7.4 hereof, actions that the Board may take include (but are not limited to) the following:

(a) Perform or cause to be performed all of the Company's obligations under any agreement to which the Company is a Party, including without limitation, any obligations of the Company or otherwise in respect of any indebtedness secured in whole or in part by, or by lien on, or security interest in, any asset(s) of the Company;

(b) Employ, engage, retain or deal with any Persons to act as employees, agents, brokers, accountants, lawyers or in such other capacity as may be necessary or desirable;

(c) Appoint individuals to act as officers of the Company and delegate to such individuals such authority to act on behalf of the Company and such duties and functions as would normally be delegated to officers of a corporation holding similar offices;

(d) Adjust, compromise, settle or refer to arbitration any claim in favor of or against the Company or any of its respective assets, make elections in connection with the preparation of any federal, state and local tax returns of the Company, and institute, prosecute, and defend any legal action or any arbitration proceeding;

(e) Acquire and enter into any contract of insurance necessary or proper for the protection of the Company and/or any Member and/or any Manager, including without limitation, to provide the indemnity described in Section 7.8 hereof or any portion thereof;

(f) Establish a record date and amount for any distribution to be made under Article VI;

(g) Make technical amendments to this Agreement or the Articles; and

(h) Perform any other act that the Board may deem necessary or desirable for the Company as well as the Company's business.

7.4 Restrictions. Notwithstanding any other provision in this Agreement to the contrary, the Board shall not take any of the following actions without the Consent of the Members:

(a) Authorize, create, designate, determine or issue any new class of Units of the Company, issue new or existing Units of the Company, or securities convertible into Units of the Company, issue options or warrants to purchase Units of the Company, approve the Transfer of any Units, or approve the admission of a Member;

(b) Enter into any transaction or agreement, including, without limitation, any settlement or compromise of a claim, with a Member or departing Member or an Affiliate;

(c) Authorize the merger, consolidation or similar combination with any other entity, or authorize the sale of all or substantially all of the assets of the Company;

(d) Approve a recapitalization, reclassification, reorganization, split or other similar event affecting the Units of the Company;

(e) Effect any Bankruptcy, dissolution or liquidation event with regard to the Company;

(f) Borrow money or otherwise obtain credit or other financial accommodations, or mortgage, pledge or otherwise dispose of all or any part of the business of the Company and/or all or any part of the assets of the Company with net book value;

(g) Enter into, renew, amend or terminate any arrangement or agreement with any management company, consulting company, medical director or other senior employee or executive of the Company, but not including the renewal, amendment or termination of the Management Services Agreement;

(h) Approve expenditures in excess of Twenty-Five Thousand Dollars (\$25,000);

(i) With regard to staff privileges of the Center, close or limit the staff privileges of the Center, approve policies and procedures, approve medical staff bylaws and changes thereto and approve termination of privileges;

(j) Except for technical amendments that may be made by the Board pursuant to Section 7.3, amend this Agreement, or the Articles;

(k) Require additional Capital Contributions in any amount or require a Member to provide debt guarantees of the Company (except as provided in Section 3.5);

(l) Waive any Member obligations (the Member requesting the waiver shall not be entitled to vote), approve the Company's exercise of redemption options set forth in Section 4.3 or adjust the Multiple used in the Formula Amount;

(m) Sell, lease or acquire any real property;

(n) Dissolve the Company;

(o) Develop additional locations for the Center or change the location of the Center; and

(p) Terminate a Class A Member's membership in the Company pursuant to Section 10.5 hereof.

7.5 Binding the Company. Any action taken by a Manager as a Manager of the Company with prior Approval of the Board, or, where so required, of the Members, shall bind the Company and any other Managers and shall be deemed to be the action of the Company.

7.6 Compensation of Managers and Members. Except with respect to the Management Services Agreement referenced in Section 7.1, and the Medical Director Services Agreement referenced in Section 7.9, no direct or indirect payment shall be made by the Company to any Manager, Member, or officer of the Company, or to any Affiliate of any Manager, Member, or officer of the Company, for such Manager's, Member's, or officer's services as a Manager, Member, or officer. Each Manager and officer shall be entitled to reimbursement from the Company, as the case may be, for all reasonable expenses incurred by such Manager or officer in managing and conducting the business and affairs of the Company.

7.7 Contracts with Affiliated Persons. Subject to the Consent of the Members pursuant to Section 7.4 hereof, the Company may enter into one or more agreements, leases, contracts or other arrangements for the furnishing to or by the Company, as the case may be, of goods, services or space with any Member, Manager, or Affiliated Person, and may pay compensation thereunder for such goods, services or space; provided, in each case the amounts payable thereunder are reasonably comparable to those that would be payable to unaffiliated Persons under similar agreements, and if the determination of such amounts is made in good faith it shall be conclusive absent manifest error.

7.8 Other Activities. Subject to any other restrictions set forth in this Agreement, the Members, Managers and any Affiliates of any of them may engage in and possess interests in other business ventures and investment opportunities of every kind and description, independently or with others as long as they do not violate Article X hereof.

7.9 Medical Director. The Company shall have a Medical Director acceptable to the Board who will perform the duties and responsibilities assigned from time to time by the Board in accordance with the Medical Director Services Agreement. The initial Medical Director shall be Martin who shall hold such position for a period of two (2) years pursuant to the terms of the Medical Director Agreement.

ARTICLE VIII **Officers**

8.1 Number; Appointment; Resignation. The Company shall have a President, a Treasurer, a Secretary, and such other officers as the Board may in its discretion create. Each officer shall be appointed by the Board, except as expressly set forth herein, and shall hold office until he or she resigns or is terminated by the Board pursuant to this Article VIII.

Any officer may resign by delivering his or her written resignation to the Company at its office, or to the Board, and 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.

8.2 Same Person Holding Two or More Offices. To the extent permitted by the Act, any two or more of the offices referred to in this Articles VIII may be filled by the same person.

8.3 Officers Eligibility. Except as otherwise provided by the Act, any person shall be eligible for election to be an officer of the Company as long as they are a Member or Manager.

8.4 Removal of Officers. Any officer may be removed by the Board, acting by Approval, with or without cause.

8.5 President. The President shall be selected by the majority vote of the Class B Members, and such selection must be confirmed by a majority of the Board of Managers prior to taking office, with such confirmation not to be unreasonably withheld. The President shall be the chief executive officer of the Company and shall, subject to the provisions set forth hereinafter, have the authority to oversee such administrative activities and to take such administrative actions as shall be customary for a chief executive officer. The President shall perform such additional duties as may be delegated to him or her by the Board or as may be imposed by law. It shall be the duty of the President, and he or she shall have the power to see to it, that all orders and resolutions of the Board are carried into effect. The President, as soon as reasonably possible after the close of each fiscal year, shall submit to the Board a report of the operation of the Company for such year and a statement of its affairs, and he or she shall, from time to time, report to the Board all matters within his or her knowledge that the interests of the Company may require to be brought to its notice.

8.6 Treasurer. The Treasurer shall be selected by the majority vote of the Class B Members, and such selection must be confirmed by a majority of the Board of Managers prior to taking office, with such confirmation not to be unreasonably withheld. The Treasurer shall, subject to the supervision and control of the Board, have custody of the funds and of all the valuable papers of the Company. He or she shall keep the accounts of the Company in a clear manner, and he or she shall, at all times, when requested by the Board, exhibit a true statement of the affairs of the Company. He or she shall, if required by the Board, give a bond for the faithful discharge of his or her duties, at the expense of the Company, with satisfactory sureties in such penal sum as the Board may determine, if so required by the Board. Except as the Board may otherwise order, he or she shall sign and/or endorse all promissory notes, bills, checks, drafts, trade acceptances, and bankers' acceptances, and he or she may execute all deeds, mortgages, reports, contracts, agreements, and other legal documents of the Company, but the Board may authorize any other officer or officers, or agent or agents, to sign any obligations, instruments, or papers on behalf of the Company, and/or may limit the authority of the Treasurer in any of said matters. The Treasurer shall perform such other duties as may be delegated to him or her by the Board or as may be imposed by law.

8.7 Secretary. The Secretary shall be selected by the majority vote of the Class B Members, and such selection must be confirmed by a majority of the Board of Managers prior to taking office, with such confirmation not to be unreasonably withheld. The Secretary shall keep the records of the Company, of its Members, and of its Managers, and he or she shall perform such duties and have such powers additional to the foregoing as the Board shall designate.

ARTICLE IX
Fiscal Matters

9.1 **Books and Records.** The Company shall keep complete and accurate books and records of the Company. Financial statements and records shall be prepared using the accrual method of accounting. Such books and records shall all be maintained and updated monthly, and shall be available, in addition to any documents and information required to be furnished to the Members under the Act, at an office of the Company for examination and copying by any Member, or such Member's duly authorized representative, upon reasonable request therefore and at the expense of such Member. The Company shall keep at its registered office all items required pursuant to the Act. Within one hundred twenty (120) days after the end of each fiscal year of the Company and thirty (30) days after the end of each fiscal month of the Company, the Board of Managers will make available to each Member unaudited, internally prepared financial statements that shall contain a balance sheet as of the end of the applicable period and a statement of income for such period, prepared on a basis consistent with generally accepted accounting principles (in the case of year-end financial statements, historically by month and compared to budgeted performance and the prior year's performance).

9.2 **Bank Accounts.** Bank accounts and/or other accounts of the Company shall be maintained at a financial institution selected by the Board of Managers. Withdrawals and all other activity with respect to such accounts shall be conducted on such signature or signatures as determined by Approval of the Board. Any and all records with respect to such bank accounts and/or other accounts, including, but not limited to, copies of any checks written on such account or records or other withdrawal activity, shall be available at an office of the Company for examination and copying by any Member, or such Member's duly authorized representative, upon reasonable request therefore and at the expense of such Member. Alternately, copies of such records shall be sent by the Company to any Member, or such Member's duly authorized representative, upon reasonable request therefore and at the expense of such Member.

9.3 **Fiscal Year.** The fiscal year of the Company shall end on December 31 of each year.

ARTICLE X
Transfer and Redemption of Units
and Admission of New Members

10.1 **Restriction on Transfers.** Notwithstanding anything contained herein to the contrary, no Member may Transfer or otherwise dispose of or encumber all or any portion of such Member's Units except in accordance with provisions of this Article X. A Transfer of a Unit is permissible only if approved with Consent of the Members, which approval shall not be unreasonably withheld, conditioned or delayed. No Transfer of a Unit, or any portion thereof, shall be made if such Transfer, or the transferee's, as the case may be, ownership of such Unit, would:

- (a) result in a violation of the Anti-kickback Statute or the Stark Act;

(b) result by itself, or in combination with any other previous Transfers, in the termination of the Company as a partnership for federal income tax purposes;

(c) result in the violation of the Securities Act of 1933 ("Securities Act") or any other applicable federal or state laws;

(d) be a violation of or a default (or an event that, with notice or the lapse of time or both, would constitute a default) under, or result in an acceleration of any indebtedness under, any note, mortgage, loan agreement or similar instrument or document to which the Company is a party;

(e) result in or create a "prohibited transaction" or cause the Company or a Member to be or become a "party in interest," as such terms are defined in section 3(3) of ERISA, or a "disqualified person," as defined in section 4975 of the Code, with respect to any "plan," as defined in section 3(14) of ERISA and/or section 4975 of the Code; or result in or cause the Company or any Member to be liable for tax under Chapter 42 of the Code;

(f) be a Transfer to an individual who is not legally competent or who has not achieved such Member's majority under the law of the state (excluding trusts for the benefit of minors); or

(g) cause the Company or any Member (other than the transferee) to be subject to any excise tax pursuant to Chapter 42A of Subtitle D of the Code.

10.2 Transfer of Class A Member Units. Following the seventh year anniversary of a Class A Member becoming a Member and so long as a Class A Member is not subject to an Adverse Terminating Event under Section 4.3, if such Class A Member (the "Transferor") desires to transfer, assign or sell all or any portion of his or her Units (the "Offered Units") to a physician that meets the credentialing requirements of the Center and Sections 2.3 and 2.4 (the "Transferee"), the Transferor shall obtain from the Transferee a bona fide written offer to purchase the Offered Units, stating the terms and conditions upon which the purchase is to be made and the consideration offered therefor (the "Offer"). The Transferor shall give notice to the Company and the remaining Member(s) of his or her intention to sell, furnishing a copy of the entire Offer (the "Notice"). In such event:

Within thirty (30) days of the receipt of Notice (the "Class A Member Option Period"), each Class A Member other than the Transferor may exercise an option to purchase the Offered Units upon the same terms and conditions and for the same consideration stated in the Offer, on a basis pro rata to their Unit Proportion (or on a basis pro rata to the interest of those Class A Members exercising this option to purchase.) The Class A Members shall exercise such options by giving written notice both to the Transferor and each other Member within the Member Option Period. Should a Class A Member fail to give written notice within the Member Option Period, the Class A Member shall be deemed to have waived such option.

In the event any Class A Member shall not have exercised his or her option to purchase the Offered Units, each Class A Member who exercises in full its option pursuant to Section 10.2 above may, within ten (10) days after the expiration of the Class A Member Option Period (the

“Over-Allotment Period”), exercise an option to purchase the remaining Offered Units upon the terms and conditions and for the same consideration stated in the Offer. In the case of a single Member, his or her option shall be to purchase all of the remaining Offered Units. In the case of two or more other Members, each such other Member’s option shall be to purchase the amount all such other Members may determine by agreement among themselves, or if they cannot agree, by one or more successive allocations in the proportion that the Membership Units owned by each of the eligible other Members bears to the total Membership Units owned by all such eligible other Members. Such other Members shall exercise such options by giving written notice both to the Transferor and each other Member within the Over-Allotment Period. Should a Class A Member fail to give written notice within the Over-Allotment Period, the Class A Member shall be deemed to have waived such option.

10.3 Transfer of Members’ Units to the Company. If the Members do not exercise their options to purchase all of the Offered Units, the Company, within thirty (30) days beginning on the earlier of the expiration of the Over-Allotment Period or the date the Company receives written notice from each Class A Member other than the Transferor waiving their options (the “Company Option Period”), may exercise an option to purchase the remaining Offered Units proposed to be sold by the Transferor, upon the terms and conditions and for the same consideration stated in the Offer. The Company, at the direction of the Board of Managers, shall exercise such option by giving written notice both to the Transferor and each other Member within the Company Option Period. Should the Company fail to give written notice within such Company Option Period, the Company shall be deemed to have waived such option.

10.4 Transfer of Members’ Units to a new Member. If the right of first refusal options set forth in Section 10.2 and Section 10.3 above are forfeited or waived, then within ten (10) days after the expiration of the last option period granted above, the Transferor may transfer the Offered Units to the Transferee named in the Notice upon the terms specified therein, provided (i) such Transferor has provided the Notice set forth in Section 10.2, (ii) such transfer, sale or assignment is in compliance with the Securities Act of 1933, as amended (the “Securities Act”), and all applicable state securities laws, and, if requested by the Board, such Transferor has delivered an opinion of such Transferor’s counsel to the Company, in form and substance reasonably satisfactory to the Company, to the effect that such transfer is either exempt from the requirements of the Securities Act and the applicable securities laws of any state or that such registration requirements have been complied with, (iii) the Board approves such transfer, sale or assignment, (iv) the proposed transfer, assignment or sale is made in compliance with this Article X, and (v) the Transferee executes a joinder to this Operating Agreement and agrees in writing to be bound by the terms hereof. Upon the satisfaction of the conditions set forth in the preceding sentence and the making of the assignment, the Company will cause Exhibit A hereto to be amended in accordance with Section 13.9 hereof and the assignee will become a Member holding the Membership Interest so assigned.

10.5 No Cause Redemption of Class A Member. Subject to the requirements of Section 4.3 hereof, a Class A Member’s Membership Units may be redeemed without cause and his/her status as a Member terminated upon Consent of the Members.

10.6 Acceptance of Operating Agreement. Any transferee must sign a Joinder to this Agreement in the form attached hereto agreeing to be bound by all terms hereof prior to such Transfer being deemed effective. The Units of a Member and any interest of such Member's spouse in such Units shall remain subject to this Agreement regardless of the termination, for any reason, of the marital relationship of any Member and the Member's spouse. During the marriage of the Member and such Member's spouse, such Member's obligations to sell or offer to sell Units pursuant to this Agreement shall include any interest of such Member's spouse in the Units. Any Units Transferred in contravention of this Agreement shall be void of all voting, inspection and other rights with respect to the pledgee/transferee, and any such Transfer shall be null and void ab initio and shall be considered an Adverse Terminating Event, and shall be subject to purchase by Company pursuant to Section 4.3(c) of this Agreement.

10.7 Irreparable Harm. Each Member specifically acknowledges that a breach of Section 10.1 hereof would cause the Company and the Members to suffer immediate and irreparable harm that could not be remedied by the payment of money. Notwithstanding the arbitration provisions otherwise contained herein, in the event of a breach or threatened breach by a Member of the provisions of Section 10.1 hereof, the Company or other Members shall be entitled to injunctive relief to prevent or end such breach, without the requirement to post bond. Nothing herein shall be construed to prevent the Company or other Members from pursuing any other remedies available to it for such breach or such threatened breach, including the recovery of damages, reasonable attorneys' fees and expenses.

10.8 Assignee of a Member's Membership Units. If a Member Transfers all or any portion of his, her or its Units (whether voluntarily, involuntarily or by operation of law, including, but not limited to, the death, divorce, Disability, Retirement, or Bankruptcy of a Member) without the Consent of the Members and a Person acquires such Units, (but is not subsequently admitted as a substituted Member pursuant to the terms of this Agreement) such Person shall:

- (a) be treated as an assignee of such Member's Units, as provided in the Act and shall not be treated as a Member of the Company (unless the provisions of Section 10.4 have been met);
- (b) have no right to participate in the business and affairs of the Company or to exercise any rights of a Member under this Agreement or the Act;
- (c) share in distributions from the Company with respect to the transferred Units on the same basis as the transferring Member previously had; and
- (d) be required to transfer the Units to the Company in accordance with the redemption provisions set forth in Article IV hereof relating to Terminating Events.

10.9 Admission of Transferees. Subject to a Transfer permitted by Section 10.1 hereof, and subject to Connecticut state law, a transferee (not already a Member) may be admitted to the Company as a substitute Member only with the prior written Consent of the Members.

10.10 Obligations of Permitted Transferees. In the case of any approved Transfer or disposition of Units, the transferee shall execute and deliver the Joinder Agreement agreeing to be bound by this Agreement as a Member and such additional agreements or instruments as the Board may require. Any permitted transferee of Units shall receive and hold such Units subject to this Agreement and all of the restrictions, obligations and rights created hereunder, and the Members and each transferee shall be bound by their obligations under this Agreement with respect to each subsequent transferee.

10.11 Noncompetition. During the term of a Class A Member's membership in the Company and for a period of two (2) years thereafter, other than through the Company, no Class A Member nor any of his or her Affiliates shall, without the prior written Approval of the Board, directly or indirectly, own, manage, operate, control or participate in any manner in the ownership, management, operation or control of, or serve as a partner, employee, principal, agent, consultant or otherwise contract with, or have any financial interest in, or aid or assist any other person or entity that operates a facility (including an ambulatory surgery center, a hospital, or an office-based or practice-based facility or operating site or room that provides any of the services offered by the Company) to provide outpatient surgical services within twenty-five (25) miles from the address of the Center). Further, a Class A Member may not provide services of the type provided by the Center in his or her office if the Class A Member's office, or other entity with which the Class A Member has a compensation relationship or in which the Class A Member has ownership interest, is accredited, licensed or Medicare-certified or such entity or Class A Member receives a facility fee or technical fee or a site-of-service differential in connection with performing surgery at such location; provided, however, that the foregoing shall not prohibit a Class A Member from performing those procedures listed below such Class A Member's name on Schedule 10.11 attached hereto. Furthermore, notwithstanding the foregoing, nothing in this Section 10.11 shall prohibit a Class A Member from providing medical staff governance, administrative or similar services at a hospital provided the Class A Member receives no compensation for such services.

10.12 Confidential Information. Each Member acknowledges that the Confidential Information is valuable property of the Company and undertakes that for so long as he, she or it is a Member, and thereafter until such information otherwise becomes publicly available other than through breach of this Section 10.12, shall:

- (a) treat the Confidential Information as secret and confidential;
- (b) not disclose (directly or indirectly, in whole or in part) the Confidential Information to any third party except with the prior written consent of Company;
- (c) not use (or in any way appropriate) the Confidential Information for any purpose other than the performance of the business of the Company and otherwise in accordance with the provisions of this Agreement;
- (d) recognize and acknowledge that the Company's trade secrets and other Confidential Information or proprietary information, as they may exist from time to time, are valuable, special and unique assets of the Company's business. Accordingly, during the term of the Company, each Member shall hold in strict confidence and shall not, directly or indirectly,

disclose or reveal to any person, or use for his, her or its own personal benefit or for the benefit of anyone else, any trade secrets, confidential dealings or other Confidential Information or proprietary information of any kind, nature or description (whether or not acquired, learned, obtained or developed by a Member alone or in conjunction with others) belonging to or concerning the Company, or any of its customers or clients or others with whom they now or hereafter have a business relationship, except: (i) with the prior written consent of all of the other Members; (ii) in the course of the proper performance of the Member's duties hereunder; or (iii) as required by applicable law or legal process. Each Member confirms that all such Confidential Information constitutes the exclusive property of the Company.

Given the secretive and competitive environment in which the Company does business, and the fiduciary relationship that the Members have with the Company, each Member agrees to promptly deliver to the Company, at any time when the Company so requests, all memoranda, notes, records, drawings, manuals and other documents (and all copies thereof and therefrom) in any way relating to the business or affairs of the Company or any of its customers and clients, whether made or compiled by such Member or furnished to it by the Company or any of its employees, customers, clients, consultants or agents, which such Member may then possess or have under his, her or its control. Each Member confirms that all such memoranda, notes, records, drawings, manuals and other documents (and all copies thereof and therefrom) constitute the exclusive property of the Company. Notwithstanding the foregoing paragraph or any other provision of this Agreement, each Member shall be entitled to retain any written materials received by such Member in his, her or its capacity as a Member;

(e) limit the dissemination of and access to the Confidential Information to such of the Company's and the Member's officers, directors, managers, employees, agents, attorneys, consultants, professional advisors or representatives as may reasonably require such information for the performance of Company business and ensure that any and all such persons observe all the obligations of confidentiality contained in this Section 10.12; and

(f) for benchmarking and financial purposes, the Class B Member may use and disclose Confidential Information as long as such is not specifically identifiable to the Company.

10.13 Nonsolicitation. During the term of a Class A Member's membership in the Company and for a period of two (2) years thereafter, no Class A Member nor any of his, her or its Affiliates shall employ or offer employment to any person who is employed by the Company or by the Class B Members or its Affiliates without the prior written approval of the Board or the Class B Members, depending on which entity employs the person. During the term of a Class B Member's membership in the Company and for a period of two (2) years thereafter, no Class B Member shall employ or offer employment to any person who is employed by the Company or by the Class A Members or its Affiliates without the prior written approval of the Board or the Class A Members, depending on which entity employs the person.

10.14 Additional Covenants.

(a) If a court of competent jurisdiction should declare this Article X, or any provision hereof, unenforceable because of any unreasonable restriction of duration, activity and/or geographical area, then the Parties hereby acknowledge and agree that such court shall have the express authority to reform this Agreement to provide for reasonable restrictions and/or grant the Company such other relief at law or in equity, reasonably necessary to protect the interests of the Company.

(b) Each Member specifically acknowledges that a breach of this Article X would cause the Company and other Members to suffer immediate and irreparable harm, which could not be remedied by the payment of money. In the event of a breach or threatened breach by a Member of any of the provisions of this Article X, the Company and the other Members shall be entitled to injunctive relief to prevent or end such breach, without the requirement to post bond, and shall be entitled to recover reasonable attorneys' fees and expenses. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedies available to it for such breach or such threatened breach, including the recovery of damages.

(c) Each Member warrants and represents that he, she or it:

- (i) is familiar with the confidentiality agreement, non-competition and non-solicitation agreements contained herein;
- (ii) has concluded that his, hers or its obligations and the Company's rights and remedies described herein, including, without limitation, the right to equitable relief contained herein, are reasonable;
- (iii) is fully aware of the duties, responsibilities, obligations and liabilities imposed by this Article X;
- (iv) acknowledges that the covenants contained herein are fair, reasonable and just, under the circumstances, and are not a penalty;
- (v) acknowledges that no registration statement is now on file with the U.S. Securities and Exchange Commission or any state securities commission with respect to any Units in the Company, and the Company has no obligation or current intention to register such Units under the federal Securities Act or similar state securities laws;
- (vi) acknowledges that the Units have not been registered under the Securities Act because the Company believes that the Units are not securities; provided, however, that in the event any federal or state securities commission fails to agree that the Units are not securities, then the Company intends to rely on Section 3(a)(11) of the Securities Act (i.e., the federal intrastate exemption) and other exemptions providing for issuance of securities not involving a

public offering, together with any corresponding exemptions of the Connecticut securities laws;

- (vii) is acquiring the Units for his, her or its own account, and not for resale; has not learned of the investment via publication or any advertising; is an Accredited Investor (subject to limited exceptions as agreed to by the Board of Managers and consistent with federal and state securities laws) and has business and financial expertise sufficient to understand the terms of the investment and to protect his, her or its own interests;
- (viii) acknowledges that the Company has relied upon the fact that the Units in the Company are to be held by the Members solely for investment and that the exemptions from registration under the Securities Act and corresponding state securities laws would be unavailable if the Units in the Company were acquired by a Member with a view to distribution;
- (ix) acknowledges that this Agreement does not conflict with or violate any other agreement to which the Member is party;
- (x) acknowledges that, notwithstanding any provision of this Agreement to the contrary, no Member may resell his, her or its Units within twelve (12) months of the purchase of such Units;
- (xi) acknowledges that the Member expects to be substantially involved in the operations of the Company, and does not expect a return on his, her or its investment due to the efforts of others; and
- (xii) acknowledges that entering into this Agreement will not require the Company to be bound by any other agreement (and does not violate any other Agreement) to which the Member is a party, such as a collective bargaining agreement, an anesthesia agreement or any other agreement.

ARTICLE XI **Dissolution and Termination**

11.1 Events Causing Dissolution. The Company shall be dissolved and its affairs wound up upon the first to occur of the following events, unless the Board approves the continuation of the Company (except with respect to Section 11.1(b) hereof):

- (a) The sale or other disposition of all or substantially all of the assets of the Company, unless the disposition is a transfer of assets of the Company in return for consideration other than cash and, by Approval of the Board, a determination is made not to distribute any such non-cash items to the Members;

- (b) The election for any reason to dissolve the Company made by the Consent of the Members;
- (c) Any consolidation or merger of the Company with or into any entity unless the Company is the resulting or surviving entity; or
- (d) Entry of a decree of judicial dissolution.

To the greatest extent permitted by law, no event (including without limitation the death, resignation, expulsion, bankruptcy, or dissolution of the Member) shall cause automatic dissolution of the Company. Further, upon Approval of the Board, any event giving rise to automatic dissolution shall not cause dissolution if the Board votes that it shall not cause dissolution (except with respect to Section 11.1(b) hereof).

11.2 Procedures on Dissolution. Dissolution of the Company shall be effective on the day on which the event occurs giving rise to the dissolution, but the Company shall not terminate until the Articles shall be canceled in the manner set forth in the Act. Notwithstanding the dissolution of the Company, prior to the termination of the Company as aforesaid, the business and the affairs of the Company shall be conducted so as to maintain the continuous operation of the Company pursuant to the terms of this Agreement. Upon dissolution of the Company, the Board, acting by Approval, or, if none, a liquidator elected by the Consent of the Members, shall liquidate the assets of the Company, apply and distribute the proceeds thereof under Article VI, and cause the termination of the Agreement.

ARTICLE XII **Indemnification**

12.1 Indemnification. Each Manager and officer (each, an "Indemnified Party") shall, in accordance with this Article XII, be indemnified and held harmless by the Company to the fullest extent permitted by then-current law from and against any and all losses, claims, damages, liabilities, expenses (including legal and other professional fees and disbursements), judgments, fines, settlements, and other amounts (collectively, the "Indemnification Obligations") arising from any and all claims, demands, actions, suits or proceedings (civil, criminal, administrative or investigative), actual or threatened, in which such Indemnified Party may be involved, as a party or otherwise, by reason of such Indemnified Party's service to, or on behalf of, or management of the affairs of, the Company, or rendering of advice or consultation with respect thereto, or which relate to the Company, its properties, business or affairs, whether or not the Indemnified Party continues to be a Manager or officer at the time any such Indemnification Obligation is paid or incurred. The Company shall also indemnify and hold harmless any Indemnified Party from and against any Indemnification Obligation suffered or sustained by such Indemnified Party by reason of any action or inaction of any employee, broker or other agent of such Indemnified Party, provided, that such employee, broker or agent was selected, engaged or retained by such Indemnified Party with reasonable care. The termination of a proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere, or its equivalent, shall not, of itself, create a presumption that such Indemnification Obligation resulted from the gross negligence, willful misconduct or bad faith of such Indemnified Party. Expenses (including legal and other professional fees and

disbursements) incurred in any proceeding will be paid by the Company, as incurred, in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of such Indemnified Party to repay such amount if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified by the Company as authorized hereunder.

12.2 Indemnification Not Exclusive. The indemnification provided by this Article XII shall not be deemed to be exclusive of any other rights to which each Indemnified Party may be entitled under any agreement, or as a matter of law, or otherwise, both as to action in such Indemnified Party's official capacity and to action in another capacity, and shall continue as to such Indemnified Party who has ceased to have an official capacity for acts or omissions during such official capacity or otherwise when acting at the request of the Board of Managers, or any Person granted authority thereby, and shall inure to the benefit of the heirs, successors and administrators of such Indemnified Party.

12.3 Insurance on Behalf of Indemnified Party. The Board of Managers shall have the power but not the obligation to purchase and maintain insurance on behalf of each Indemnified Party, at the expense of the Company, against any liability that may be asserted against or incurred by him or her in any such capacity, whether or not the Company would have the power to indemnify the Indemnified Parties against such liability under the provisions of this Agreement.

12.4 Indemnification Limited by Law. Notwithstanding any of the foregoing to the contrary, the provisions of this Article XII shall not be construed so as to provide for the indemnification of an Indemnified Party for any liability to the extent (but only to the extent) that such indemnification would be in violation of applicable law or that such liability may not be waived, modified or limited under applicable law, but shall be construed as to effectuate the provisions of this Article XII to the fullest extent permitted by law.

12.5 Word Meanings. No repeal or modification of this Article XII shall adversely affect any right of an Indemnified Party existing hereunder at the time of such repeal or modification. Notwithstanding Section 13.3, each Indemnified Party shall be deemed a third party beneficiary of the provisions of this Article XII.

ARTICLE XIII **General Provisions**

13.1 Notices. Any and all notices under this Agreement shall be effective (a) on the fifth (5th) business day after being sent by registered or certified mail, return receipt requested, postage prepaid, or (b) on the first business day after being sent by express mail, telecopy, facsimile or commercial expedited delivery service providing a receipt for delivery. All such notices in order to be effective shall be addressed, if to the Company at its principal office, or if to a Member at the last address of record on the Company books, and copies of such notices shall also be sent to the last address for the recipient that is known to the sender, if different from the address so specified. A Member may change its address for purposes of this Agreement by giving the other Members notice of such change in the manner heretofore provided for the giving of notices.

13.2 Word Meanings. The words "herein," "hereinafter," "hereinbefore," "hereof" and "hereunder" as used in this Agreement refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. All section references, except as otherwise provided herein, are to sections of this Agreement.

13.3 Binding Provisions; Third Party Beneficiaries. Subject to the restrictions on transfers set forth herein, the covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the parties hereto, their heirs, legal representatives, successors and assigns. Except as set forth in Section 12.5, nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto, and their respective successors and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

13.4 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Connecticut including the Act, as interpreted by the courts of the State of Connecticut, notwithstanding any rules regarding choice of law to the contrary.

13.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall comprise one and the same instrument. Delivery of a copy of this Agreement or such other document bearing an original signature by facsimile transmission, by electronic mail in "portable document format" ("pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signature.

13.6 Limited Liability. The liability of each Member shall be limited as set forth in this Agreement, the Act and other applicable law. Except as otherwise set forth herein, no Member is liable for any debts, obligations or liabilities of the Company or each other, whether arising in tort, contract or otherwise, solely by reason of being a Member, or acting (or omitting to act) in such capacities or participating (as an employee, consultant, contractor or otherwise) in the conduct of the business of the Company, except that a Member shall remain personally liable for the payment of such Member's Capital Contribution and as otherwise set forth in this Agreement, the Act and other applicable law. Notwithstanding the foregoing, each Manager shall perform such Manager's duties in accordance with the provisions hereof. A Manager who so performs such duties shall not have any liability by reason of being or having been a Manager. No Manager shall be liable to the Company or any Member for any loss or damage sustained by the Company or any Member, unless a judgment or other final adjudication adverse to such Manager establishes that such Manager's acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that such Manager personally gained in fact a financial profit or other advantage to which such Manager was not legally entitled. Without limiting the generality of the preceding sentence, a Manager does not in any way guaranty the return of any Capital Contribution to a Member from the operations of the Company.

13.7 Separability of Provisions. Each provision of this Agreement shall be considered separable. If for any reason any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement that are valid, and if for any reason any provision or provisions herein would cause the Members to be liable for or bound by the obligations of the Company, such provision or provisions shall be deemed void and of no effect.

13.8 Section Titles. Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

13.9 Amendments. This Agreement may be amended or modified only by Approval of the Board and the Consent of the Members in accordance with Sections 7.3 or 7.4 hereof.

13.10 Entire Agreement and Incorporation of Recitals. This Agreement embodies the entire agreement and understanding between the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter. The recitals set forth in the beginning of this Agreement are hereby specifically incorporated into this Agreement.

13.11 Waiver of Partition. Each Member agrees that irreparable damage would be done to the Company if any Member brought an action in court to dissolve the Company. Accordingly, each Member agrees that he, she or it shall not, either directly or indirectly, take any action to require partition or appraisal of the Company or of any of the assets or properties of the Company, and notwithstanding any provisions of this Agreement to the contrary, each Member (and his, her or its successors and assigns) accepts the provisions of this Agreement as his, her or its sole entitlement on termination, dissolution and/or liquidation of the Company and hereby irrevocably waives any and all rights to maintain any action for partition or to compel any sale or other liquidation with respect to his, her or its interest in, or with respect to, any assets or properties of the Company. Each Member further agrees that he, she or it will not petition a court for the dissolution, termination or liquidation of the Company.

13.12 Survival of Certain Provisions. The Members acknowledge and agree that Section 10.12, Section 13.19, and any other provision of this Agreement that by its function must survive, shall survive the dissolution and termination of the Company.

13.13 No Impairment. The Company shall not amend, modify or repeal any provision of the Articles or this Agreement in any manner that would alter or change the rights, preferences, privileges or powers of, or the restrictions provided for the benefit of, any class of Member without the express prior written consent of such class of Member in each and every such instance; nor shall the Company, through any reorganization, transfer of assets, merger, dissolution, issue, sale or distribution of Units or any other voluntary action, avoid or seek to avoid the observance or performance of any terms of this Agreement for the benefit of any class of Members, without the express prior written consent of affected class of Members in each and every such instance as set forth in Section 7.4. The Company shall in good faith take any and all actions that are necessary or appropriate in order to protect the rights of all of the Members.

13.14 Specific Performance or Injunctive Relief. The Members and the Company hereby declare that it is impossible to measure in money the damages that may accrue to one or more of them by reason of the failure of a Party to perform any of its obligations hereunder. Therefore, if any Party hereto shall institute any action or proceeding to enforce the provisions of this Agreement, any person (including the Company) against whom such action or proceeding is brought hereby waives the claim or defense therein that such Party has or may have an adequate remedy at law and agrees not to urge in any such action or proceeding that such a remedy exists. Furthermore, any Party seeking to enforce the provisions of this Agreement shall have the right to specific performance, injunctive or other equitable relief without the requirement to post bond.

13.15 Dispute Resolution; Limited Renegotiation; Binding Arbitration. Except for disputes relating to breaches of Sections 10.10, 10.11, 10.12 and as provided in Section 10.13, all disputes shall be resolved under the following provisions of this Agreement.

This Agreement shall be construed to be in accordance with any and all federal and state statutes, including Medicare, Medicaid and all federal and state rules, regulations, principles and interpretations applicable to the Company and the Members, and the relationships among them. It is the intent of this Section 13.15 to set forth a procedure so that if certain legal developments occur, or certain circumstances arise in which the Board of Managers should become internally deadlocked, a procedure will be in place that will bring the terms of this Agreement back into legal compliance and/or resolve a Board of Managers deadlock while preserving, to the extent possible, the economic and governance relationships set forth here.

In the event there is any dispute among the parties or there is any legal development, including, without limitation, a change in (or the interpretation of) Medicare, Medicaid or other federal or state statutes, rules, regulations, principles or interpretations, that renders any of the material terms of this Agreement unlawful or unenforceable (including any services rendered or compensation to be paid hereunder), or a definitive judicial or State of Connecticut interpretation of Connecticut law that substantially affects the legal operation of the Company in an adverse manner (collectively a "Negative Legal Development"), or any circumstance in which the Board itself is deadlocked in its decision-making hereunder and cannot take action (a "Deadlock Event") and the Deadlock Event is likely to lead to irreparable harm to the Company, any Member affected by such Negative Legal Development or such Deadlock Event shall have the immediate right, upon notice to the other Members (the "Notice"), to initiate the renegotiation of the affected term or terms of this Agreement, so as to remedy the impact of the Negative Legal Development or to seek resolution of the Deadlock Event, each in a manner that substantially maintains the then-existing economic and governance relationships of the Members, if it is legal to accomplish the change while maintaining substantially such economic and governance relationship.

If the Parties are not able to renegotiate the terms of the Agreement affected by the Negative Legal Development or resolve the Deadlock Event on a mutually satisfactory basis within ninety (90) days after the Notice, the Parties must submit the issue (the "Dispute") to mediation and binding arbitration pursuant to the procedure set forth below.

- (i) Mediation; Binding Arbitration. Any Dispute between the Parties relating to this Agreement must first be submitted to non-binding mediation in accordance with procedures agreed upon by the Parties. If the Dispute is not resolved through mediation within ninety (90) days of the initial request for mediation, or within a time frame mutually agreed upon by the Parties, the Dispute must then be submitted for binding arbitration as follows in Subsections (b) through (d) below.
- (ii) Pre-Arbitration Procedure.
- (a) Any Dispute shall be submitted to arbitration by notifying the other Party or Parties, as the case may be, hereto in writing of the submission of such Dispute to arbitration (the "Arbitration Notice"). The Party delivering the Arbitration Notice shall specify therein, to the fullest extent then possible, its version of the facts surrounding the Dispute and the amount of any damages and/or the nature of any injunctive or other relief such Party claims.
- (b) The Party (or Parties, as the case may be) receiving such Arbitration Notice shall respond within sixty (60) days after receipt thereof in writing (the "Arbitration Response"), stating its version of the facts to the fullest extent then possible and, if applicable, its position as to damages or other relief sought by the Party initiating arbitration.
- (c) The Parties shall then endeavor, in good faith, to resolve the Dispute outlined in the Arbitration Notice and Arbitration Response. In the event the Parties are unable to resolve such Dispute within sixty (60) days after receipt of the Arbitration Response, the Parties shall submit the dispute to binding arbitration in accordance with the American Health Lawyers Association arbitration program (the "Service"). If the Parties are unable to agree on an arbitrator from a list provided by the Service within sixty (60) days after receipt of the Arbitration Response, each of the Parties shall, within sixty (60) days after receipt of the Arbitration Response, choose an arbitrator selector ("Selector"). The two (2) Selectors shall then have thirty (30) days to select an arbitrator from the Service's list who shall serve as the final arbitrator for the Dispute. (The arbitrator chosen by the Parties hereto or by the Selectors, as the case may be, shall hereinafter be referred to as the "Arbitrator"). The Arbitrator shall not be an Affiliate of any of the Parties hereto.

- (iii) Arbitration Rules. The arbitration shall be held in Norwich, Connecticut and shall proceed in accordance with procedures set forth by the Service in all other manners.
- (iv) Arbitrator's Award. The award of the Arbitrator shall be binding on the Parties and may be entered as a final judgment in a court of competent jurisdiction.

13.16 Other Disputes. All disputes relating to breaches of Sections 10.10, 10.11, 10.12 and 10.13 shall be resolved by a court of law with the site of venue in Norwich, Connecticut or the nearest jurisdictional venue.

13.17 Power of Attorney. Each Member hereby irrevocably constitutes and appoints the Board of Managers, acting through a Manager duly authorized by the Board of Managers or through another signatory duly authorized by the Board of Managers to act as its true and lawful attorney-in-fact and agent (with full power of substitution) with full power and authority in its name, place and stead to execute, swear to, acknowledge, deliver, file and record in the appropriate public office or offices, all as appropriate under the circumstances:

(a) this Agreement, and all certificates, agreements and other instruments and any amendment thereto, which the Board of Managers deems necessary or appropriate to qualify or continue the Company as a limited liability company under the Act or to reflect actions taken pursuant to this Agreement to issue amended and restated operating agreements; and

(b) all instruments relating to the admission of Members, including substituted or additional Members, after the approval required in accordance with this Agreement.

The appointment by all Members of the attorney-in-fact shall be deemed to be a power coupled with an interest and is irrevocable and the foregoing grant of authority: (i) shall survive the death, Bankruptcy, incompetence, dissolution or termination of existence of any or all of the Members; (ii) shall bind any person who becomes a substituted or additional Member pursuant to this Agreement; and (iii) shall continue to bind any Member who assigns the whole or any portion of its interest, except that where the assignee thereof has been Approved by the Board of Managers for admission to the Company as a substituted Member, then, as to such assigning Member, this power of attorney shall survive the delivery of such assignment for the sole purpose of enabling the Board of Managers to execute, acknowledge and file any instrument necessary to effect such substitution. Upon the request of the Board of Managers, the Members shall execute any certificate or other instrument with respect to which the attorney-in-fact could have invoked this power of attorney.

13.18 Waiver of Trial by Jury. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN CONNECTION WITH ANY ACTION OR PROCEEDING INSTITUTED UNDER OR RELATING TO THIS AGREEMENT, OR ANY OTHER DOCUMENT EXECUTED PURSUANT HERETO, OR IN CONNECTION WITH ANY COUNTERCLAIM RESULTING FROM ANY SUCH ACTION OR PROCEEDING.


13.19 Legal Representation by New Members' Counsel. Each Member hereby acknowledges and agrees that the law firm of Bershtein, Volpe & McKeon P.C. ("BVM") represents the New Members in connection with certain matters and that at the request of the New Members, BVM was retained by the Company specifically to provide advice and assistance in connection with the Operating Agreement of the Company and other Company matters (the "Reorganization Activities"). This Agreement, upon execution by the Members, confirms the agreement by each of them to waive any actual or potential conflicts of interest arising out of the Reorganization Activities because of BVM's representation of, respectively, the Company and the New Members, such waiver subject to canons of professional ethics governing the Members and their legal representatives. This also confirms that each of the Company and the New Members agree that this consent authorizes BVM to represent the New Members in the purchase by the New Members of their respective Membership Interests and the Company in connection with matters unrelated to the New Members. Following the Closing Date, the Company and the New Members acknowledge and agree that this consent authorizes BVM to represent the Company only and that such representation of the Company may result in BVM becoming adverse to one or more of the New Members.

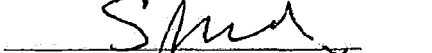
Signature Page Follows


IN WITNESS WHEREOF, the Members hereto have executed this Agreement under seal as of the day and year first above written.


CLASS A MEMBERS:

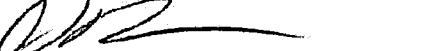

Richard Martin, MD, DMD



Steven Green, MD



Steve Rouse, MD

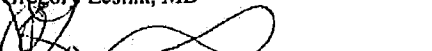

Jerilyn Allen, MD



William Culvener, MD

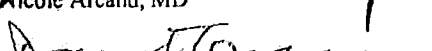

David Boisjourn, MD

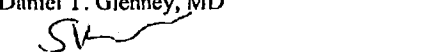

Frank DeFiacano, MD



Gregory Lesnik, MD

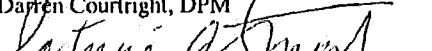

John Pagnozzi, MD



Nicole Arcand, MD

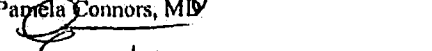

Daniel T. Glenney, MD


Shri Verma, MD


Darren Courtright, DPM



Patricia Stuart, MD


Pamela Connors, MD


Edward M. Tarka, DPM

CLASS B MEMBERS:

Merritt Healthcare Holdings Norwich, LLC


By:

Its:

**EXHIBIT A
MEMBERSHIP UNITS**

NAMES AND ADDRESSES OF MEMBERS	TOTAL CAPITAL CONTRIBUTION	NUMBER OF MEMBERSHIP UNITS AND CURRENT PERCENTAGE MEMBERSHIP
<u>Class A Members</u>		
Richard Martin, MD, DMD	\$ 31,442	5.75/5.4199%
Steven Green, MD	\$ 34,687	5.75/5.4199%
Steve Rouse, MD	\$ 34,687	5.75/5.4199%
Jerilyn Allen, MD	\$ 28,654	4.75/4.4773%
William Culviner, MD	\$ 28,654	4.75/4.4773%
David Boisoeneau, MD	\$ 34,687	5.75/5.4199%
Frank Dellacano, MD	\$ 34,687	5.75/5.4199%
Gregory Lesnik, MD	\$ 28,654	4.75/4.4773%
John Pagnozzi, MD	\$ 34,687	5.75/5.4199%
Nicole Arcand, MD	\$ 34,687	5.75/5.4199%
Daniel T. Glenney, MD	\$ 34,687	5.75/5.4199%
Shri Verma, MD	\$ 34,687	5.75/5.4199%
Darren Courtright, DPM	\$ 24,130	4.00/3.7704%
Patricia Stuart, MD	\$ 34,687	5.75/5.4199%
Pamela Connors, MD	\$ 38,500	5.00/4.7130%
Edward M. Tarka, DPM	\$24,000	1.09/1.0274%
<u>Class A Total:</u>	<u>\$516,217</u>	<u>77.1417</u>
<u>Class B Member</u>		
Merritt Healthcare Holdings Norwich, LLC	\$146,287	24.25/22.8580%
<u>Class B Total:</u>	<u>\$146,287</u>	<u>24.25/100.00000%</u>
<u>Total:</u>	<u>\$662,504</u>	<u>106.09</u>

**EXHIBIT B
JOINDER TO
OPERATING AGREEMENT**

Reference is made to the Amended and Restated Operating Agreement of River Valley ASC, LLC, a Connecticut limited liability company (the "Company"), dated February 1, 2014, by and among the Members of the Company (the "Operating Agreement").

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned acknowledges and agrees that it is bound, as a Member of the Company, to all of the terms and conditions of the Operating Agreement, and further, the undersigned acknowledges the nature of the management services to be provided pursuant to the Management Agreement in the form attached to this Operating Agreement and hereby agrees with and covenants to the Company that the undersigned shall abide by the provisions of the Management Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Joinder as of the date set forth below.

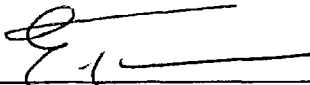
By: 
Name: _____
Its: _____
Date: 2/1/14

EXHIBIT C
MANAGEMENT SERVICES AGREEMENT

EXHIBIT D

MEDICAL DIRECTOR SERVICES AGREEMENT

SCHEDULE 10.11

PERMITTED PROCEDURES

Refer to attached list

EXECUTION VERSION

**FIRST AMENDMENT TO AMENDED AND RESTATED OPERATING AGREEMENT
RIVER VALLEY ASC, LLC**

THIS FIRST AMENDMENT TO AMENDED AND RESTATED OPERATING AGREEMENT (this "Amendment") is made and entered into as of November 1, 2016 (the "Amendment Effective Date"), by and among **SCA-RIVER VALLEY, LLC**, a Delaware limited liability company (the "SCA Member"), and those persons identified as Members in Exhibit A attached hereto and incorporated herein by reference.

RECITALS:

WHEREAS, the Company is governed by that certain Amended and Restated Operating Agreement dated February 1, 2014 (the "Operating Agreement"); and

WHEREAS, pursuant to that certain Membership Interest Purchase Agreement dated as of October 31, 2016 (the "Purchase Agreement"), the SCA Member purchased an aggregate forty-nine percent (49%) membership interest in the Company from the Class A Members and Merritt Healthcare Holdings Norwich, LLC ("Merritt"), including all of the issued and outstanding Units held by Merritt in the Company; and

WHEREAS, as of the Amendment Effective Date, the Company terminated that certain Management Agreement with Merritt Healthcare Holdings Norwich, LLC, and the Company entered into that certain Management Agreement between Surgical Care Affiliates, LLC ("SCA") and the Company (the "SCA Management Agreement"); and

WHEREAS, as required by the Purchase Agreement, the Members wish to amend the Operating Agreement as set forth herein.

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 hereby agree to amend the Operating Agreement as follows:

1. Capitalized Terms. Capitalized terms not otherwise defined in this Amendment shall have the meanings set forth in the Operating Agreement.
2. Substitute Member. The Members hereby consent to the admission of the SCA Member as a substitute member of the Company, and the SCA Member shall have all rights afforded to a Member under the Operating Agreement. The SCA Member shall execute and deliver to the Company a joinder to the Operating Agreement.
3. References to the Class B Member and Merritt. Any references in the Operating Agreement to "Merritt" or "Merritt Healthcare" shall be deleted and replaced with "the SCA Member." Any references to the "Class B Member" in the Operating Agreement shall be deemed to mean the SCA Member.
4. Waiver of Certain Rights. Only with respect to the transactions contemplated by the Purchase Agreement, the Class A Members hereby waive any and all rights of first refusal they may otherwise have under the Operating Agreement.

5. Exhibit A. Exhibit A (Membership Units) to the Operating Agreement shall be deleted in its entirety and replaced with a new Exhibit A (Membership Units), which is attached to this Amendment and incorporated herein by this reference.

6. Exhibit C. Exhibit C (Management Services Agreement) and all references thereto shall be deleted in their entirety.

7. Management Agreement. Any references in the Operating Agreement to the “Management Agreement” or the “Management Services Agreement” shall be deleted and replaced with the “SCA Management Agreement.”

8. Managers as Members. Section 3.6 (Managers as Members) shall be deleted and replaced with the following:

3.6 Managers as Members. Any Manager appointed by the Class A Members must hold a membership interest in the Company.

9. Withdrawal of a Member. It is the intent of the Members as of the Amendment Effective Date to remove from the Operating Agreement the concept that a Class A Member may withdraw from the Company after the seventh (7th) anniversary of the date on which such Class A Member became a Member, and such withdrawal will be treated as a Non-Adverse Terminating Event. Accordingly, the following changes shall be made to the Operating Agreement:

a. Section 4.2 shall be deleted and replaced with the following:

Section 4.2 Intentionally Omitted.

b. Sections 4.3(a)(i)(gg) and (hh) shall be deleted and replaced with the following:

(gg) the withdrawal of a Member, except as otherwise permitted by this Agreement.

(hh) Intentionally Omitted.

c. Section 4.3(b)(i)(aa) shall be deleted in its entirety and replaced with the following:

(aa) Intentionally Omitted.

10. Adverse Terminating Events. Section 4.3(a)(i)(cc) shall be deleted and replaced with the following:

(cc) any material breach of this Agreement by a Class A Member;

11. Tax Matters Partner. The following paragraph shall be added to the end of Section 6.10 (Tax Matters Partner):

Beginning on January 1, 2018, the Member then serving as Tax Matters Partner (or such other Member as selected by the Board of Directors) shall be designated as the “partnership representative” under Section 6223 of Chapter 63 of the Code (as in effect pursuant to the Bipartisan Budget Act of 2015, Pub L. No. 114-74 (the “**Bipartisan Budget Act**”), and shall be authorized to take any and all action required under the Code or Regulations, as in effect from time to time, to designate

itself the “partnership representative.” To the extent permitted by the Code and Regulations, the Member so designated as “partnership representative” shall be bound by the obligations and restrictions imposed on the tax matters partner pursuant to this Section 6.10. Upon the promulgation of Regulations implementing subchapter C of Chapter 63 of the Code (as revised by the Bipartisan Budget Act), the Members will evaluate and consider in good faith available options (including amendments to this Agreement) in order to preserve the allocation of responsibility and authority described in this Section 6.10 while conforming with the applicable provisions of the revised partnership audit procedures. The Member designated as the “partnership representative” shall be entitled to the same indemnification rights as provided to the Tax Matters Partner.

12. Offsets to Distributions. A new Section 6.11 (Offsets to Distributions) shall be added to the end of Article VI as follows:

6.11 Offsets to Distributions. Notwithstanding any other provisions of this Agreement, each Member hereby acknowledges and agrees that (i) the Company may, upon the written request of an Indemnified Member (as defined below), offset against a Member’s future distributions of profits from the Company an amount necessary to satisfy any unpaid indemnification obligations of such Member (the “**Indemnifying Member**”) to any other Member (the “**Indemnified Member**”) under the Purchase Agreement in accordance with the procedures set forth in the Purchase Agreement, and pay the amount so offset (the “**Offset Amount**”) to the Indemnified Member, and (ii) any Offset Amount paid to the Indemnified Member shall be applied against the amount of any Losses (as defined in the Purchase Agreement) payable by such Indemnifying Member to such Indemnified Member under Article XII of the Purchase Agreement and shall reduce, on a dollar-for-dollar basis, the remaining amount of any Losses payable by such Indemnifying Member to such Indemnified Member under Article XII of the Purchase Agreement. Upon receipt of a request for indemnification under Article XII of the Purchase Agreement, the Company will retain a portion of the Indemnifying Member’s future distributions otherwise owed to the Indemnifying Member, until such time as the claim for indemnification is fully and finally resolved.

13. Board of Managers. The following changes shall be made to Article VII:

a. Sections 7.3(b) (Employees) and 7.3(e) (Insurance) shall be deleted and replaced with the following:

7.3(b) Intentionally Omitted.
7.3(e) Intentionally Omitted.

b. Section 7.4(g) (Management Agreement) shall be deleted and replaced with the following:

7.4(g) Intentionally Omitted.

c. The following sentence shall be added to the end of Section 7.7 (Contracts with Affiliated Persons):

Notwithstanding anything herein to the contrary, the Members hereby consent to, approve and ratify the terms of the SCA Management Agreement and any cash management services provided by SCA pursuant to the SCA Management Agreement, and no further action or approval shall be required with respect to entering into such agreements or arrangements.

- d. A new Section 7.10 (Supermajority Board Approvals) shall be added to the end of Article VII as follows:

7.10 Supermajority Board Approvals. Notwithstanding any provision of this Agreement to the contrary, the Board shall not take any of the following actions without the approval of a majority of the Board, inclusive of the Manager appointed by the Class B Member:

- (a) Make any decisions regarding the hiring or firing of the Center's administrator;
- (b) Plan and adopt the Company's and the Center's annual operating budgets; and
- (c) Enter into, renew, amend or terminate any arrangement or agreement with any management company, consulting company, medical director or other senior employee or executive of the Company.

14. Contracts with Affiliated Persons. The following shall be added to the end of Section 7.7:

The Class A Members, upon vote of the Class A Members holding two-thirds (2/3) of the Units then held by Class A Members ("**Two-Thirds Physician Vote**") may provide SCA with notice of a breach of the SCA Management Agreement, and SCA shall have ninety (90) days to cure such breach. In the event SCA does not cure the breach within ninety (90) days of receipt of notice or in the event there is a dispute as to whether a breach occurred, the Class A Members, upon Two-Thirds Physician Vote, or the Board of Managers may initiate mediation to determine whether a breach occurred and, if so, what the damages are. If a dispute remains following the mediation, the Class A Members, upon Two-Thirds Physician Vote, or the Board of Managers may seek arbitration in accordance with Section 13.15(ii)(c) of this Agreement to determine whether a breach occurred and, if so, what the damages are; provided, however, that the award shall be limited to damages and not termination of the SCA Management Agreement. The mediation and arbitration costs and all reasonable expenses related to the mediation and arbitration (including reasonable legal fees) shall be paid by the Company.

15. Transfers by the SCA Member. The following new Section 10.14 (Transfers by the SCA Member) shall be added to the end of Article X:

10.14 Transfers by the SCA Member. Notwithstanding anything herein to the contrary, the SCA Member may freely Transfer Units held by it to an entity or entities that are wholly-owned, directly or indirectly, by SCA, and any such Transfer shall be deemed to comply with the requirements of this Article X.

16. Nonsolicitation. The following sentence shall be added to the end of Section 10.13:

Notwithstanding the foregoing, the Members expressly acknowledge and agree that, on or about January 1, 2017, SCA shall employ all of the personnel necessary for the operation of the Center, and such employment by SCA shall not violate the Class B Member's nonsolicitation covenant set forth in this Section 10.13.


17. Effect on Operating Agreement; General Provisions. Except as set forth in this Amendment, the terms and provisions of the Operating Agreement are hereby ratified and declared to be in full force and effect. This Amendment shall be governed by the provisions of the Operating Agreement; provided, however, to the extent that the terms of this Amendment and the Operating Agreement conflict, the terms of this Amendment shall control. The execution of this Amendment may occur in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. In addition, the parties may execute counterparts of this Amendment and transmit their signatures via facsimile or other electronic method, and such signatures received via facsimile or other electronic method shall have the same force and effect as an original. Captions and paragraph headings are used herein for convenience only, are not a part of this Amendment or the Operating Agreement as amended by this Amendment, and shall not be used in construing either document. On and after the date first written above, each reference in the Operating Agreement to "this Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference in the other documents and agreements relating to the Operating Agreement, shall mean and be a reference to the Operating Agreement as amended by this Amendment.

[Signature page follows]

IN WITNESS WHEREOF, this Amendment has been duly executed as of Amendment Effective Date.

SCA MEMBER:

SCA-RIVER VALLEY, LLC

By: 
Name: Richard L. Sharff, Jr.
Title: Vice President

CLASS A MEMBERS:

Jerilyn Allen, MD

Nicole Arcand, MD

David Boisoneau, MD

David Coletti, MD

Pamela Connors, MD

Darren Courtright, MD

William Culviner, MD

Frank Dellacono, MD

Peter Famiglietti, MD

Raymond Gaito, Jr., MD

Daniel Glenney, MD

[Signature Pages to First Amendment to Amended & Restated Operating Agreement]

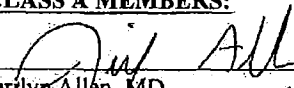
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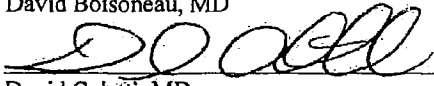
CLASS A MEMBERS:



Jerilyn Allen, MD

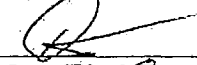


Nicole Arcand, MD

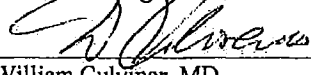
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David Coletti, MD

Pamela Connors, MD



Darren Courtright, MD

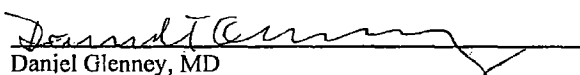


William Culviner, MD

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Daniel Glenney, MD

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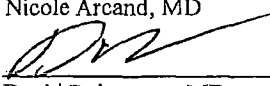
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Title: Vice President

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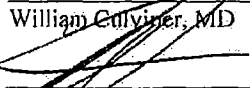
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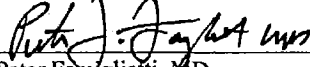
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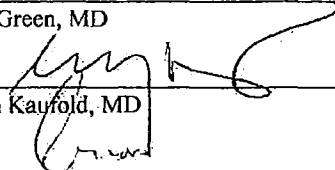
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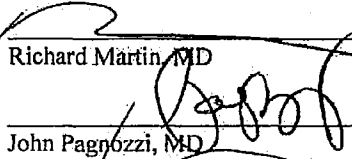
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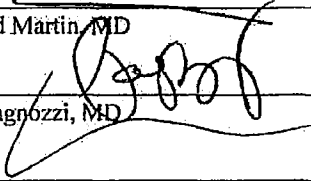


William Kaufold, MD

Gregory Lesnik, MD



Richard Martin, MD

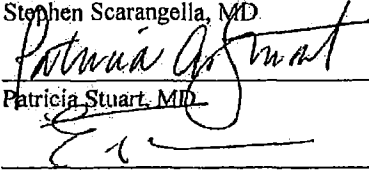


John Pagnozzi, MD

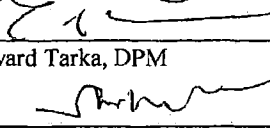
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Stephen Rouse, MD

Stephen Scarangella, MD

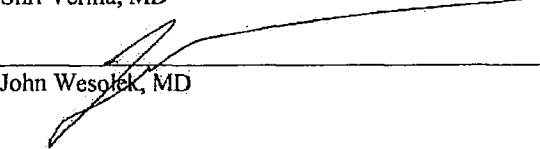


Patricia Stuart, MD



Edward Tarka, DPM

Shri Verma, MD



John Wesolek, MD

Dana Woods, MD

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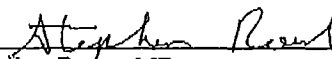
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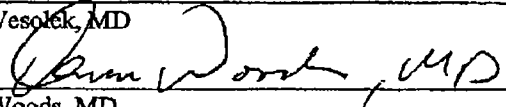
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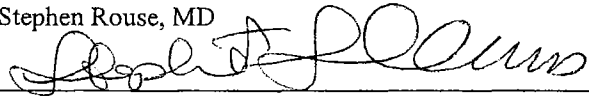
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Dana Woods, MD

[Signature Pages to First Amendment to Amended & Restated Operating Agreement]

EXHIBIT A

RIVER VALLEY ASC, LLC

MEMBERSHIP UNITS

MEMBER	UNITS OWNED	PERCENTAGE OF OWNERSHIP INTEREST
CLASS A MEMBERS		
Daniel Glenney, MD	3.7098 Units	3.2053%
Nicole Arcand, MD	3.7098 Units	3.2053%
Patricia Stuart, MD	3.7098 Units	3.2053%
John Pagnozzi, MD	3.7098 Units	3.2053%
William Culviner, MD	3.0646 Units	2.6478%
Steven Green, MD	3.7098 Units	3.2053%
Stephen Rouse, MD	3.7098 Units	3.2053%
Jerilyn Allen, MD	3.0646 Units	2.6478%
Gregory Lesnik, MD	3.0646 Units	2.6478%
David Boisoneau, MD	3.7098 Units	3.2053%
Darren Courtright, DPM	2.5807 Units	2.2298%
Frank Dellacono, MD	3.7098 Units	3.2053%
Shri Verma, MD	3.7098 Units	3.2053%
Richard Martin, MD	3.7098 Units	3.2053%
Pamela Connors, MD	3.2259 Units	2.7872%
Edward Tarka DPM	0.7032 Units	0.6076%
Stephen Scarangela MD	1.6129 Units	1.3936%
Vinod Pathy MD	0.6774 Units	0.5853%
Peter Famiglietti MD	0.6774 Units	0.5853%
Raymond Gaito MD	0.6774 Units	0.5853%

Exhibit A

MEMBER	UNITS OWNED	PERCENTAGE OF OWNERSHIP INTEREST
David Coletti MD	0.6452 Units	0.5574%
John Wesolek MD	0.6452 Units	0.5574%
William Kaufold MD	0.6452 Units	0.5574%
Dana Woods MD	0.6452 Units	0.5574%
CLASS B MEMBERS		
SCA-River Valley, LLC	56.7126 Units	49%
TOTAL	115.7400 Units	100%

Exhibit A

EXECUTION VERSION

THE MEMBERSHIP INTERESTS ISSUED UNDER THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 ("33 ACT") OR UNDER THE CONNECTICUT UNIFORM SECURITIES ACT, AS AMENDED ("STATE ACT"), AND MAY BE OFFERED OR SOLD BY A PURCHASER OF THE MEMBERSHIP INTERESTS ONLY (1) UPON REGISTRATION OF THE MEMBERSHIP INTERESTS UNDER THE '33 ACT AND THE STATE ACT OR PURSUANT TO AN EXEMPTION THEREFROM, AND (2) AFTER COMPLIANCE WITH ALL RESTRICTIONS ON TRANSFER OF MEMBERSHIP INTERESTS IMPOSED BY THIS AGREEMENT.

**SECOND AMENDED AND RESTATED
OPERATING AGREEMENT
OF
RIVER VALLEY ASC, LLC**

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**SECOND AMENDED AND RESTATED
OPERATING AGREEMENT
OF
RIVER VALLEY ASC, LLC**

This Second Amended and Restated Operating Agreement is made and entered into as of November 1, 2016, to be effective as of the Effective Date, by and among those persons who are or may become Members under the terms of this Agreement and each Interest Holder.

The parties hereto agree as follows:

This Agreement amends and restates in its entirety that certain Amended and Restated Operating Agreement of the Company dated February 1, 2014, as amended by that certain First Amendment to Amended and Restated Operating Agreement dated November 1, 2016.

I. DEFINITIONS

When used in this Agreement, the following terms shall have the meanings set forth below:

1.1 “**Act**” means the Connecticut Limited Liability Company Act, as amended from time to time.

1.2 “**Adjusted Capital Account**” means, with respect to any Member, such Member’s Capital Account as of the end of the relevant Allocation Period, after giving effect to the following adjustments:

(a) Credit to such Capital Account those amounts, if any, that such Member is deemed obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) Debit to such Capital Account the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

1.3 “**Adjusted Capital Account Deficit**” means, with respect to any Member, the deficit balance, if any, in such Member’s Adjusted Capital Account.

1.4 “**Adverse Buy/Sell Event**” means each Buy/Sell Event listed in Sections 10.5(b).

1.5 “**Adverse Event Purchase Price**” means fifty percent (50%) of the Fair Market Value Transfer Price.

1.6 “**Affiliate**” of a specified Person or entity shall mean a Person or entity that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person or entity specified. As used in this definition, the term “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such specified Person or entity, whether through ownership of voting securities, by contract or otherwise.

1.7 “**Agreement**” means this Second Amended and Restated Operating Agreement, as amended from time to time.

1.8 “**Allocation Period**” means, unless otherwise required pursuant to the Code and Regulations, the period commencing on the Effective Date and ending on the first December 31, (ii) any subsequent twelve (12) month period commencing on January 1 and ending on December 31, (iii) any portion of the period described in clauses (i) or (ii) for which the Company is required to allocate Profits, Losses and other items of Company income, gain, loss, deduction or other items pursuant to this Agreement, or (iv) any other period reasonably determined by the Board of Managers as appropriate for a closing of the Company’s books.

1.9 “**Articles**” has the meaning set forth in Section 2.1 hereof.

1.10 “**Assignee**” means a transferee of Units or any successor to a Member by operation of law, who has not, in either case, been admitted as a substitute Member.

1.11 “**Assignee Purchase Notice**” has the meaning set forth in Section 10.10 hereof.

1.12 “**Assignee Units**” has the meaning set forth in Section 10.10 hereof.

1.13 “**Available Cash Flow**” means all cash funds of the Company on hand at the end of each calendar month less (a) provision for payment of all outstanding and unpaid current cash obligations of the Company at the end of such month (including those which are in dispute); (b) provision for reserves and working capital for reasonably anticipated cash expenses and contingencies (which may include debt service on Company indebtedness and fees payable to the SCA Member or its Affiliates) as determined by the Board of Managers in its sole discretion; provided, however, that in no event shall the total amount of reserves and working capital exceed \$100,000 for purposes of calculating Available Cash Flow, unless otherwise approved by a Supermajority of the Board; (c) provisions for payment of any outstanding balance under the Overdraft Line of Credit; and (d) Sale Proceeds; provided, however, that proceeds described in subsection (d) are distributed separately under Section 8.11.

1.14 “**Benefit Plan Investor Ownership Limitation**” means Benefit Plan Investors own, in the aggregate, a twenty-five percent (25%) or greater interest in the Company without regard to any interest owned by the SCA Member and its Affiliates, or the ownership interest of any other Person who has discretionary control with respect to the assets of the Company or who provides investment advice to the Company for a fee.

1.15 “**Benefit Plan Investors**” shall have the meaning set forth in the ERISA Regulation set forth in 29 C.F.R. §2510.3-101(f)(2), as amended, or any successor regulation thereto.

1.16 “**Board**” or “**Board of Managers**” means the Managers, collectively, of the Company.

1.17 “**Buy/Sell Event**” has the meaning set forth in Section 10.5 hereof.

1.18 “**Buy/Sell Notice**” has the meaning set forth in Section 10.7 hereof.

1.19 “**Capital Account**” means, with respect to any Member, the capital account maintained by the Company for such Member in accordance with Section 6.8 of the Agreement.

1.20 “**Capital Call**” has the meaning set forth in Section 6.3 hereof.

1.21 “**Capital Contribution**” in respect of any Member or transferee of such Member means all property, tangible or intangible, contributed by such Member to the capital of the Company.

1.22 “**Center**” means the ambulatory surgery center located at 45 Salem Turnpike, Norwich, Connecticut.

1.23 “**Closing**” has the meaning set forth in Section 10.11 hereof.

1.24 “**Closing Payment**” has the meaning set forth in Section 10.11(b) hereof.

1.25 “**Code**” means the Internal Revenue Code of 1986, as amended, or any corresponding provisions of succeeding law in effect at such time.

1.26 “**Company**” means the limited liability company formed pursuant to this Agreement.

1.27 “**Company Percentage**” means, in the case of any Member, a fraction, stated as a percentage, with a numerator equal to the number of Units held by such Member and a denominator equal to the number of Units held by all Members.

1.28 “**Company Return**” means the U.S. Return of Partnership Income of the Company.

1.29 “**Competing Facility**” has the meaning set forth in Section 15.1 hereof.

1.30 “**Confidential Business Information**” has the meaning set forth in Section 15.6 hereof.

1.31 “**Covered Person**” means each Interest Holder, and each Member other than the SCA Member and its Affiliates.

1.32 “**Disability**” means inability or other failure of a Physician Interest Holder, by reason of mental or physical illness, disease or injury, to perform his or her usual and customary professional duties with a standard of care that would be exercised by a reasonable professional with the same medical practice, including performing outpatient surgical procedures, for a minimum period of six (6) consecutive months or six (6) months cumulatively in any twelve (12) month period, as determined by a Physician mutually agreeable to the Board of Managers and the Member in question.

1.33 “**Economic Risk of Loss**” has the meaning assigned to that term in Regulation Section 1.752-2(a).

1.34 “**EBITDA**” (a) means earnings before interest, taxes, depreciation and amortization for the applicable period, calculated as follows: the Net Income of the Company, plus the following, each determined in accordance with GAAP, without duplication and to the extent deducted from Net Income: (i) interest expense, (ii) federal, state and local income tax expense, (iii) depreciation and (iv) amortization of intangible assets and other non-cash charges; and (b) shall be calculated without regard to (i) any extraordinary gain or loss or (ii) any non-recurring or non-operating items related to activities outside the ordinary course of business.

1.35 “**Effective Date**” shall mean the date on which the Phase II Closing occurs, as that term is defined in the Purchase Agreement.

1.36 “**Entity Member**” means a professional association, professional corporation, partnership, limited liability company, corporation, trust, benefit plan or other such entity, other than the

SCA Member or its Affiliates, that is a Member. All Interest Holders of an Entity Member must be Physicians who meet the Physician Interest Holder Eligibility Requirements.

1.37 “**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended.

1.38 “**Estimated Purchase Price**” has the meaning set forth in Section 10.11(b) hereof.

1.39 “**Extension of Practice Requirements**” has the meaning set forth in Section 15.4(b).

1.40 “**Fair Market Value Transfer Price**” as of any date means the amount calculated according to the following formula: the product of EBITDA for the twelve (12) month period ending on the last day of the immediately preceding month as of such date multiplied by three (3), less any Interest Bearing Debt as of the last day of the immediately preceding month of such date.

1.41 “**Final Purchase Price**” has the meaning set forth in Section 10.11(b) hereof.

1.42 “**Fiscal Year**” means the period designated as such in Section 12.3 hereof.

1.43 “**Force majeure**” has the meaning set forth in Section 17.11 hereof.

1.44 “**GAAP**” means generally accepted accounting principles, as consistently applied by the Board of Managers.

1.45 “**Health Care Program Adverse Event**” means the suspension, debarment, exclusion or termination of a Physician Interest Holder from the Medicare or Medicaid programs or other federal or state health care programs, or the imposition of any civil monetary penalties or other punishment by a government program against a Physician Interest Holder.

1.46 “**Indemnified Member**” has the meaning set forth in Section 8.17 hereof.

1.47 “**Indemnifying Member**” has the meaning set forth in Section 8.17 hereof.

1.48 “**Interest Bearing Debt**” means the principal amount of any notes payable or other indebtedness of the Company, provided that such indebtedness is reflected on the balance sheet of the Company.

1.49 “**Interest Holder**” means a Person who (a) is a member, shareholder, partner or other owner (either directly or indirectly) of an Entity Member or (b) created, is a beneficiary or grantor of, or is the trustee of a trust that is a Member.

1.50 “**Interest Holder’s Proportionate Units**” means the number of Units held by an Entity Member that is attributable to an Interest Holder based on such Interest Holder’s (direct or indirect) ownership percentage interest in the Entity Member, which in the case of a Interest Holder described in (b) of Section 1.49 shall be deemed one hundred percent (100%) unless a lesser percentage is approved by the Board of Managers.

1.51 “**Manager**” means the Person or Persons so named as part of or elected to the Board of Managers pursuant to this Agreement.

1.52 “**Medical Executive Committee**” has the meaning set forth in Section 9.10 hereof.

1.53 “**Member**” means each Person designated as a Member of the Company on Schedule A hereto as of the Effective Date, including the SCA Member, or any other Person admitted as a Member of the Company in accordance with this Agreement or the Act. “**Members**” refers to such Persons as a group.

1.54 “**Member Nonrecourse Debt**” has the same meaning as the term “partner nonrecourse debt” set forth in Regulations Section 1.704-2(b)(4).

1.55 “**Member Nonrecourse Deductions**” has the same meaning as the term “partner nonrecourse deductions” set forth in Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2).

1.56 “**Net Book Value Purchase Price**” means fifty percent (50%) of the Tangible Net Book Value.

1.57 “**Net Income**” means net income (or loss), calculated in accordance with GAAP, which shall include a deduction of the annual management fees, and shall not include extraordinary and nonrecurring items (and corresponding tax consequences) and income or loss attributable to discontinued operations.

1.58 “**Non-Adverse Buy/Sell Event**” means any Buy/Sell Event that is not an Adverse Buy/Sell Event.

1.59 “**Non-Contributing Member**” has the meaning set forth in Section 6.3 hereof.

1.60 “**Note**” has the meaning set forth in Section 10.11(a).

1.61 “**Offset Amount**” has the meaning set forth in Section 8.17 hereof.

1.62 “**Outpatient Surgical Procedures**” has the meaning set forth in Section 15.4(b).

1.63 “**Overdraft Line of Credit**” has the meaning set forth in the Management Agreement.

1.64 “**Partnership Representative**” (i) for taxable years beginning on or prior to December 31, 2017, has the meaning of a “tax matters partner” set forth in Code Section 6231 and any comparable provisions of foreign, state and local income tax laws and (ii) for taxable years beginning after December 31, 2017, has the meaning of a “partnership representative” set forth in Section 6223(a) of the Code and any comparable provisions of foreign, state and local income tax laws.

1.65 “**Person**” means an individual, trust, estate, corporation, partnership, limited partnership, limited liability company, unincorporated association or other entity or association.

1.66 “**Physician**” means a Person defined as set forth in 42 U.S.C. §1395x(r) who is licensed to practice medicine in Connecticut.

1.67 “**Physician Interest Holder**” means (a) a Member who is a Physician or (b) an Interest Holder who is a Physician.

1.68 “**Physician Interest Holder Eligibility Requirements**” has the meaning set forth in Section 15.5(b).

1.69 “**Profits**” and “**Losses**” means, for each Allocation Period, an amount equal to the Company’s taxable income or loss for such Allocation Period, determined in accordance with Code

Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this Section 1.69 shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this Section 1.69 shall be subtracted from such taxable income or loss;

(c) If the book value of property is adjusted pursuant to Regulations Sections 1.704-1(b)(2)(iv)(f) or (e), such adjustment shall be taken into account as gain or loss from the disposition of an asset and, in lieu of depreciation as calculated for federal income tax purposes, subsequently such deductions shall be computed in accordance with Regulations Sections 1.704-1(b)(2)(iv)(g)(3) or 1.704-3(d)(2), as the case may be. Subsequent calculations of gain or loss resulting from the disposition of an asset for federal income tax purposes shall be computed by reference to its book value as reflected in Members' Capital Accounts rather than its adjusted tax basis;

(d) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or 743(b) is required to be taken into account in determining Capital Accounts as a result of a distribution other than in complete liquidation of a Member's interest in accordance with Regulations Section 1.704-1(b)(2)(iv)(m)(4), the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) from the disposition of the asset and shall be taken into account for purposes of computing Profits and Losses; and

(e) Any items which are specially allocated pursuant to Section 8.3, Section 8.4, Section 8.5 and Section 8.6 hereof shall not be taken into account in computing Profits or Losses.

The amounts of items of Company income, gain, loss, and deduction available to be specifically allocated pursuant to Section 8.3, Section 8.4, Section 8.5 and Section 8.6 hereof shall be determined by applying rules analogous to those set forth in Subparagraphs (a) through (e) above.

1.70 **"Purchase Agreement"** means that certain Membership Interest Purchase Agreement by and among the SCA Member, the Company, certain of the Members, Merritt Healthcare Holdings, LLC, Merritt Healthcare Holdings Norwich, LLC, and SCA, dated effective as of October 31, 2016.

1.71 **"Purchase Notice"** has the meaning set forth in Section 10.8 hereof.

1.72 **"Regulations"** means the Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

1.73 **"Regulatory Allocations"** has the meaning set forth in Section 8.6 hereof.

1.74 **"Repurchase Failure Notice"** has the meaning set forth in Section 10.12 hereof.

1.75 **"Repurchase Period"** has the meaning set forth in Section 10.12 hereof.

1.76 “**Responsible Party**” has the meaning set forth in Section 16.3 hereof.

1.77 “**Restricted Period**” means (a) in the case of a Member, the period commencing on the date he or she becomes a Member and ending on the second (2nd) annual anniversary of the date such Member is no longer a Member, and (b) in the case of an Interest Holder that is not directly a Member, means the period commencing on the date that he or she becomes an Interest Holder in an Entity Member and ending on the later of (i) the second (2nd) annual anniversary of the date such Interest Holder ceased to be an Interest Holder of the Entity Member, or (ii) the second annual anniversary of the date such Entity Member ceased to be a Member.

1.78 “**Retirement**” shall mean when a Physician Interest Holder ceases to practice medicine and publicly announces such retirement or, if he or she does not publicly announce such retirement, the Board of Managers shall have determined that such person no longer practices medicine or performs ambulatory surgical procedures on at least a substantially full-time basis (i.e., at least thirty-five (35) hours per week for at least forty (40) weeks per year).

1.79 “**Sale Proceeds**” means all proceeds of any sale, exchange, foreclosure, abandonment, financing or refinancing of capital assets of the Company, or from condemnation awards or casualty insurance claims, less applicable expenses and any debt paid or prepaid with the proceeds of or in connection with such transaction occurring upon the liquidation of the Company or sale of all or substantially all of the Company’s assets outside the ordinary course of business.

1.80 “**SCA**” means Surgical Care Affiliates, LLC, a Delaware limited liability company and the indirect owner of the SCA Member, and any successor entity.

1.81 “**SCA Member**” means SCA-River Valley, LLC, a Delaware limited liability company, and any successor entity.

1.82 “**Supermajority of the Board**” means the affirmative vote of four (4) of the five (5) Members of the Board.

1.83 “**Supermajority of the Members**” means a vote requiring the approval of (i) the SCA Member and (ii) the Members holding at least fifty percent (50%) of the Units then held by all Members other than the SCA Member.

1.84 “**Tangible Net Book Value**” means the net assets of the Company, less current and long-term liabilities and less any intangible asset that appears on the Company’s balance sheet, including, without limitation, goodwill, each determined in accordance with GAAP.

1.85 “**Tax Distribution**” has the meaning set forth in Section 8.10.

1.86 “**Tax Matters Partner**” means the party responsible for certain tax responsibilities for the Company as set forth in Section 9.8 hereof.

1.87 “**Transfer**” (and its derivations) means any involuntary or voluntary sale, lease, pledge, assignment, grant of a security interest, subcontract, dividend, merger, consolidation, gift or other disposition, direct or indirect, by operation of law or otherwise.

1.88 “**Unit**” means an interest as a Member in the capital and profit and losses of the Company. The Board of Managers, in its sole discretion, may increase the number of Units. Units may be offered and sold in fractional increments.

1.89 “**Withdrawing Member**” has the meaning set forth in Section 10.7.

1.90 “**Withdrawing Member’s Units**” has the meaning set forth in Section 10.11 hereof.

II. ORGANIZATION

2.1 Formation. The Company was previously formed as a limited liability company under and pursuant to the Act, by filing articles of organization (the “**Articles**”) with the Secretary of State of Connecticut. The parties desire to cause the Company to continue in effect in accordance with the terms of this Agreement. The Board of Managers shall cause any amendments to the Articles to be filed of record and in such places as required by the Act to protect the status of the Company as a limited liability company doing business in Connecticut and as otherwise required by law.

2.2 Name. The name of the Company is River Valley ASC, LLC. The business of the Company may be conducted under such other name as the Board of Managers may determine.

III. PRINCIPAL PLACE OF BUSINESS

3.1 Principal Place of Business. The principal place of business of the Company shall be located at the Center, or at such other place as the Board of Managers may from time to time designate.

3.2 Registered Office. The registered office of the Company shall be the address designated by the Board of Managers.

3.3 Registered Agent. The Registered Agent of the Company shall be CT Corporation.

IV. BUSINESS

The business to be conducted by the Company shall be to own and operate the Center, and to carry on any and all activities necessary, proper, convenient, or advisable in connection therewith.

V. TERM

The Company shall be perpetual, unless terminated earlier pursuant to Article XI of this Agreement.

VI. CAPITAL CONTRIBUTION AND CAPITAL ACCOUNTS OF MEMBERS

6.1 Capital Contribution of the SCA Member. The SCA Member, or its respective predecessors in interest, has previously made a Capital Contribution to the Company in exchange for its Units or has acquired its Units from another Member. The number of Units held by the SCA Member as of the Effective Date is set forth on Schedule A.

6.2 Capital Contributions of the Other Members. The Members other than the SCA Member, or their respective predecessors in interest, have previously made a Capital Contribution to the Company in exchange for Units or have acquired their Units from another Member. The number of Units held by each of the Members other than the SCA Member as of the Effective Date is set forth on Schedule A.

6.3 Additional Capital Contributions. In the event that the Board of Managers determines at any time (or from time to time) that additional funds are required by the Company for or in respect of its business or to pay any of its obligations, expenses, costs, liabilities or expenditures (including, without limitation, any operating deficits), then the Board of Managers may, in its reasonable discretion, and with

the approval of a Supermajority of the Members in accordance with Section 9.5(c) of this Agreement, require the Members to contribute additional capital to the Company in proportion to their Company Percentage ("**Capital Call**"). If any Member fails to contribute his, her or its pro rata share of any Capital Call within ten (10) days of receipt of written notice from the Board of Managers (a "**Non-contributing Member**"), the SCA Member may, if it has made its additional contribution hereunder make the additional contribution that such Non-contributing Member has failed to make in exchange for Units. Under such circumstances, the Board of Managers shall adjust the Company Percentage and Unit ownership of the Members to the extent necessary in accordance with the following formula: Each Member's adjusted Units shall be determined by multiplying the total outstanding Units times each Member's adjusted Company Percentage. Each Member's adjusted Company Percentage shall be equal to the quotient of (a) the sum of (i) the fair market value of the Company, as determined by the Board of Managers in good faith immediately prior to the applicable Capital Contribution, multiplied by each Member's Company Percentage at the time of the additional Capital Contribution, plus (ii) the amount, if any, of such Member's additional Capital Contribution actually contributed, divided by (b) the total fair market value of the Company, as determined by the Board of Managers in good faith immediately after the applicable Capital Contribution. The formula set out in the paragraph is summarized below for illustration purposes.

$$\frac{\text{Total Outstanding Units} \times ((\text{FMV Pre-contribution} \times \text{each Member's Company Percentage}) + \text{each Member's Capital Contribution})}{\text{FMV Post-Contribution.}}$$

The Board of Managers is hereby authorized to amend Schedule A to reflect the number of Units held by each Member in accordance with the terms of this Section.

6.4 Limited Liability. A Member shall not be bound by, or personally liable for, the expenses, liabilities or obligations of the Company, except as provided in the Act or as otherwise provided by applicable law. Notwithstanding the foregoing, in the event that SCA or a third party commercial lender requires a Member to guarantee the Company's obligations under a loan as a condition of financing and the Member agrees to do so, the Member shall be liable under the guaranty according to its terms.

6.5 Role of Members. Except as otherwise provided in this Agreement, no Member shall take part in or interfere in any manner with the conduct or control of the business of the Company and shall have no right or authority to act for or bind the Company.

6.6 Withdrawal of Capital Contributions. No Member shall have the right to withdraw or reduce his, hers or its Capital Contribution without the prior written consent of the Board of Managers. No Member shall have the right to demand or receive property other than cash in return for his, her or its Capital Contribution, and no Member shall have priority over any other Member, either as to the return of Capital Contributions or as to profits, losses or distributions.

6.7 Assessments and No Negative Capital Account Make-up. Other than as set forth in Section 6.3 hereof, Members will not be subject to additional assessments for contributions to the capital of the Company. Notwithstanding any other provision in this Agreement or any inference from any provision in this Agreement, no Member shall have an obligation to the Company, to the other Members or to third parties to restore a negative Capital Account balance during the existence of the Company or upon the dissolution or termination of the Company.

6.8 Creation and Maintenance of Capital Account. The Company shall establish and maintain a Capital Account for each Member for the full term of the Company. The Capital Account

shall be increased by such Member's Capital Contribution and allocations of Profits and items thereof to such Member and decreased by distributions and allocations of Losses and items thereof to such Member and otherwise maintained in accordance with the capital account maintenance rules of Regulations Section 1.704-1(b)(2)(iv). Upon occurrence of any of the events specified in Regulations Section 1.704-1(b)(2)(iv)(f)(5), the Company shall revalue all of its assets and adjust the Capital Accounts to reflect such revaluation unless the Board of Managers reasonably determines that such adjustments are not necessary or appropriate to reflect the relative economic interests of the Members in the Company; further, all of the rules of Regulations Section 1.704-1(b)(2)(iv)(f) shall be complied with upon any such revaluation and Capital Account adjustment. If the Board of Managers determines that it is prudent or necessary to modify the manner in which the Capital Accounts, or any debits or credits thereto, are computed in order to comply with such Regulations, the Board of Managers may require the Company to make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Member upon the dissolution of the Company. The Company shall make appropriate modifications required by the Board of Managers in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b).

6.9 Admission of Additional Members. The Company may admit additional Members upon the approval of, and on terms determined by, a Supermajority of the Board. Each additional Member shall deliver to the Board of Managers (a) a written agreement by the additional Member to be bound by all the terms and conditions of this Agreement, as amended from time to time, and (b) pay any additional capital that such additional Member has agreed to contribute. All such issuances shall be structured such that the amount paid for the Units is not less than fair market value, payments are made in cash and such that the issuance of Units does not take into account the potential value or volume of referrals to the Center of the additional Member.

6.10 Issuance of Replacement Units. In the event that the Company purchases the Units of any Member, such Units shall not cease to exist but shall remain available for the Company to resell. During the period after such Units are purchased by the Company and until they are resold, such Units shall not be deemed to be outstanding under this Agreement for any purposes (i.e., voting, receipt of distributions, etc.).

6.11 Redemption of Units from the SCA Member. In the event the Company redeems Units from the SCA Member in connection with an offering of Units to other Persons, the redemption price shall be equal to the gross proceeds received by the Company from the sale of Units in the offering, and the Company shall be responsible for any commission and fees associated with brokers or other third parties engaged by the Company.

VII. EXPENSES OF THE COMPANY

7.1 Organizational and Offering Expenses. All expenses incurred in connection with the formation of the Company and obtaining the Company's capital shall be paid by the Company.

7.2 Fees Receivable By An Affiliate of the SCA Member. The Company may contract with others, including Affiliates of the SCA Member, to perform services; provided, however, that contracts with Members of Affiliates of Members shall require approval by a Supermajority of the Board. Any such arrangements with Affiliates will be on terms that the Board of Managers believes to be fair and reasonable to the Company and generally not materially less favorable than could reasonably be realized with unaffiliated persons. In addition, Affiliates of the SCA Member will receive from the Company on the terms and conditions hereinafter set forth certain fees, which shall be in addition to the interest of the SCA Member in the Profit and Loss and Available Cash Flow of the Company. As of the Effective Date of this Agreement, arrangements with Affiliates of the SCA Member include, but are not limited to a

management agreement by and between SCA and the Company dated as of November 1, 2016 (the “**Management Agreement**”), pursuant to which SCA provides (i) management services and staffing for the Center in exchange for the consideration set forth therein, and (ii) certain cash management services to the Company. Each Member hereby approves, consents to, and ratifies all the foregoing arrangements.

7.3 Breach of Management Agreement. The Members other than the SCA Member (the “**Physician Members**”), upon vote of the Physician Members holding two-thirds (2/3) of the Units then held by Physician Members (“**Two-Thirds Physician Vote**”) may provide SCA with notice of a breach of the Management Agreement, and SCA shall have ninety (90) days to cure such breach. In the event SCA does not cure the breach within ninety (90) days of receipt of notice or in the event there is a dispute as to whether a breach occurred, the Physician Members, upon Two-Thirds Physician Vote, or the Board of Managers may initiate mediation to determine whether a breach occurred and, if so, what the damages are. If a dispute remains following the mediation, the Physician Members, upon Two-Thirds Physician Vote, or the Board of Managers may seek arbitration to determine whether a breach occurred and, if so, what the damages are; provided, however, that the award shall be limited to damages and not termination of the Management Agreement. The mediation and arbitration shall occur in Norwich, Connecticut. The mediation and arbitration costs and all reasonable expenses related to the mediation and arbitration (including reasonable legal fees) shall be paid by the Company.

7.4 Other Arrangements with Affiliates. Subject to Section 9.5, the Company may enter into agreements with Members or Affiliates of any Member, including, without limitation, the Management Agreement and a medical director agreement, and may extend, renew, amend, or modify such agreements in any respect, provided such actions are commercially reasonable and generally on such terms not materially less favorable than could reasonably be obtained with an unaffiliated third person and approved by a Supermajority of the Board.

VIII. ALLOCATION OF INCOME AND LOSS; CASH DISTRIBUTIONS

8.1 Profits. After giving effect to the special allocations set forth in Sections 8.3 through and including 8.8 for each Fiscal Year or other Allocation Period, Profits for each Fiscal Year or other Allocation Period shall be allocated as follows:

a. First, to the Members in proportion to and to the extent of the amount equal to the remainder, if any, of (i) the cumulative Losses allocated to each such Member (or such Member’s predecessor in interest) pursuant to Section 8.2(b) for all prior Fiscal Years or other Allocation Periods, over (ii) the cumulative Profits allocated to each such Member (or such Member’s predecessor in interest) pursuant to this Section 8.1(a) for all prior Fiscal Years or other Allocation Periods.

b. Second, in accordance with the Members’ Company Percentages.

8.2 Losses. After giving effect to the special allocations set forth in Sections 8.3 through and including 8.8 for each Fiscal Year or other Allocation Period, Losses for each Fiscal Year or other Allocation Period shall be allocated as follows:

a. First, in accordance with the Members’ Company Percentages.

b. Second, the Losses allocated pursuant to Section 8.2(a) shall not exceed the maximum amount of Losses that can be so allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any Fiscal Year or other Allocation Period. In the event that some but not all of the Members would have Adjusted Capital Account Deficits as a

consequence of the allocation of Losses pursuant to Section 8.2(b), the limitation set forth in this Section 8.2(b) shall be applied on a Member by Member basis and those Losses not allocable to a Member as a result of such limitation shall be allocated to the other Members in accordance with the positive balances in such Members' Adjusted Capital Accounts so as to allocate the maximum permissible losses to each Member under Regulations Section 1.704-1(b)(2)(ii)(d). Notwithstanding the first sentence of this Section 8.2(b), if no Member has a positive balance in its Adjusted Capital Account, then allocations of Losses that create an Adjusted Capital Account Deficit shall be permitted and such allocations of Losses shall be made to the Members in amounts in proportion to their Company Percentages.

8.3 Compliance with Treasury Regulations. The provisions of this Article VIII are intended to comply with Regulations Sections 1.704-1(b), 1.704-2, 1.704-3 and any successor regulations, and shall be defined and interpreted consistently with this intention and the Company shall make such special allocations reasonably determined necessary by the Board of Managers for the allocations of income and loss to be respected for federal income tax purposes pursuant to Regulations Section 1.704-1(b) and 1.704-2. This Article VIII is specifically intended to comply with the "alternate test for economic effect" under Regulations Section 1.704-1(b)(2)(ii) and thus all of the requirements necessary to comply with such test, including a qualified income offset, are incorporated herein by reference. In addition, the provisions in Regulations Section 1.704-2 pertaining to minimum gain chargebacks and non-recourse deductions are incorporated herein by reference.

8.4 Nonrecourse Deductions. Nonrecourse Deductions (as such term is defined in Regulations Section 1.704-2(b)) shall be specially allocated to and among the Members in accordance with their Company Percentages.

8.5 Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Allocation Period shall be specially allocated to the Member who bears the Economic Risk of Loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1). If more than one Member bears the Economic Risk of Loss with respect to Member Nonrecourse Debt, Member Nonrecourse Deductions attributable thereto shall be allocated between or among such Members in accordance with the ratios in which they share such Economic Risk of Loss.

8.6 Corrective Allocations. The allocations provided in Sections 8.3, 8.4 and 8.5 above (the "**Regulatory Allocations**") are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations may be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss, or deduction pursuant to this Section 8.6. Therefore, notwithstanding any other provision of this Article VIII (other than the Regulatory Allocations), the Board of Managers may make such offsetting special allocations of Company income, gain, loss, or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to Sections 8.1, 8.2, 8.7, and 8.8, or as otherwise necessary to eliminate the economic distortions created by such Regulatory Allocations. In exercising its discretion under this Section 8.6, the Board of Managers shall take into account future Regulatory Allocations under the minimum gain chargeback and partner minimum gain chargeback incorporated into this Agreement by Section 8.3 that, although not yet made, are likely to offset other Regulatory Allocations previously made under Section 8.4 and under the allocation of partner nonrecourse debt incorporated herein by Section 8.3.

8.7 Allocations in Event of Recharacterization or Imputed Interest Transactions. In the event that any otherwise deductible payment made by the Company to a Member or an Affiliate of a Member is recharacterized as a distribution from the Company, then the Member which is deemed to have received the distribution shall be allocated items of Company income or gain for such Fiscal Year or other Allocation Period (and, if necessary for subsequent Fiscal Years) in an amount equal to the distribution. In addition, if, pursuant to the Code or Regulations, a Member recognizes imputed interest income as a result of a transaction between such Member and the Company, such Member shall be allocated any related Company deduction for such imputed interest.

8.8 Allocations Upon Liquidation. After giving effect to any allocations required by Sections 8.3, 8.4, 8.5, 8.6, and 8.7 upon the liquidation of the Company (and in any Fiscal Year prior to the year in which the Company liquidates if the Board of Managers reasonably determines it necessary or appropriate to do so in order to achieve the objectives set forth in this Section 8.8), all items of income, gain, loss, and deduction shall be allocated among the Members to cause the ending Capital Account balance of each Member to equal, as near as reasonably practicable, an amount equal to the distribution that is anticipated to be distributed to each such Member under Sections 8.10 and 8.11, assuming for purposes of this Section 8.8 that all such distributions pursuant to Sections 8.10 and 8.11 were made pro rata among the Members in accordance with their respective Company Percentages. If the items of Company income, gain, loss and deduction for the Fiscal Year in which the liquidation occurs are not sufficient to cause the ending Capital Account balance of each Member to equal such amount, the Company shall, to the extent permitted by Law, amend its income tax returns (including IRS Form 1065, "U.S. Return of Partnership Income") so as to cause the ending Capital Account of each Member to equal such amount. Such allocations shall be made among the Members according to the following ratio: (i) the difference between each Member's Capital Account and the amount of the anticipated distribution under Sections 8.10 and 8.11 (assuming such distribution pursuant to Sections 8.10 and 8.11 was pro rata among the Members in accordance with their respective Company Percentages) over (ii) the sum of such differences for all Members. Thereafter, all remaining items of income, gain, loss and deduction shall be allocated among the Members in accordance with their Company Percentages.

8.9 Tax Allocations: Code Section 704(c). Income, gain, loss and deduction as computed for income tax purposes with respect to Company property subject to Code Section 704(c) shall be allocated in accordance with said Code Section and/or Regulations Section 1.704-1(b)(4)(i), as the case may be, using any reasonable method specified in Regulations Section 1.704-3(b). Allocations pursuant to this Section 8.9 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any person's Capital Account or share of Profits and Losses, other items, or distributions pursuant to any provision of this Agreement.

8.10 Distributions of Available Cash Flow. Subject to Article VII, the Company shall distribute the Available Cash Flow to the Members pro rata in accordance with their respective Company Percentages. Such distributions shall be made in monthly installments within fifteen (15) days after the end of each month, or at such other time or times as the Board of Managers shall deem practicable. Notwithstanding the foregoing, at a minimum the Company shall attempt to distribute to each of the Members, at least fifteen (15) days prior to the date on which a Physician Interest Holder is required to pay estimated federal income tax, an amount necessary for the Members to pay their estimated federal and state income tax obligations related to Company income (such amount, a "**Tax Distribution**"); provided, however, that all Tax Distributions shall be pro rata among the Members in accordance with their respective Company Percentages. If a distribution is in connection with the liquidation of the Company, such distribution shall be made in accordance with the penultimate sentence of Section 11.2. At the reasonable request of any Member, the Center's administrator shall provide such Member with an accounting of the Company's collection and payment activities.

8.11 Distributions of Sale Proceeds. Subject to the penultimate sentence in Section 11.2, the Company shall distribute any Sale Proceeds less provision for reserves and working capital for reasonably anticipated cash expenses and contingencies (which may include debt service on Company indebtedness and fees payable to SCA, the SCA Member or any of their Affiliates) as determined by the Board of Managers in its reasonable discretion. Such distribution shall be made in accordance with each Member's Company Percentage. Such distribution shall be made as soon after the receipt by the Company of Sale Proceeds as the Board of Managers deems practicable. Notwithstanding anything to the contrary above, in the event that the Company sells its assets for a combination of cash and notes, the Members, including the SCA Member, shall be entitled to (a) their proportionate share of the remaining cash required to be distributed under this Section, and (b) an undivided interest in each note received by the Company and shall be paid their proportionate share of principal and interest on such notes as the purchaser pays such amounts. If a distribution of Sale Proceeds is in connection with the liquidation of the Company, such distribution shall be made in accordance with the penultimate sentence of Section 11.2.

8.12 Consequences of Distributions. Upon the determination to distribute funds in any manner expressly provided in this Article VIII, made in good faith, the Board of Managers shall not incur any liability on account of such distribution, even though such distribution may have resulted in the Company retaining insufficient funds for the operation of its business which insufficiency resulted in loss to the Company or necessitated the borrowing of funds by the Company.

8.13 Tax Credits. Tax credits for any Fiscal Year or other Allocation Period shall be allocated among the Members in accordance with the Members' Company Percentages. Such allocations shall not be taken into account in computing any Member's Capital Account balance.

8.14 Member Admission Date. A purchaser of Units shall become a Member (a) with respect to Units sold by the Company on the date that both (i) his, her or its Capital Contribution is received by the Company, and (ii) the Board of Managers accepts such purchaser's subscription by signing the appropriate signature line of such purchaser's subscription agreement or (b) with respect to substitute Members purchasing Units in accordance with Article X hereof, on the date that the Board of Managers consents in writing to such Transfer of Units.

8.15 Allocation of Profits, Losses and Distribution In Respect of Units Transferred. If one or more Units are transferred or issued during any Fiscal Year of the Company, items of income, gain, loss, deduction and credit attributable to such Unit(s) for such Fiscal Year shall be divided and allocated between the transferor and the transferee based on the time each such party was, according to the books and records of the Company, the owner of record of the Unit(s) transferred during the year in which the transfer or issuance occurs. For this purpose, the transferor shall be deemed not to be a Member as of the date the transfer actually occurs, and the transferee shall, for these purposes, be deemed to be a Member as of the like day. Distributions of Available Cash Flow in respect of Units shall be divided between the transferor and the transferee for the quarter in which such transfer occurs based on the time during such quarter each such party was, according to the books and records of the Company, the owner of record of the Unit(s) transferred during the period in which the transfer occurs. All other distributions by the Company shall be distributed to the Persons holding Units on the date of the distribution. As in the case of allocations, the transferor shall be deemed not to be a Member as of the date that the transfer actually occurs, and the transferee shall, for these purposes, be deemed to be Member as of the like day. The Managers and the Company shall incur no liability for making distributions in accordance with the provisions of the preceding sentence whether or not the Managers or the Company have knowledge or notice of any transfer of ownership of any Unit(s).

8.16 Tax Obligations Pursuant to the Purchase Agreement. The Members acknowledge the Purchase Agreement imposes on the Members and the Company certain obligations with respect to the

preparation and filings of tax returns and the payment of taxes, including, without limitation, (i) an obligation to make a timely election under Section 754, (ii) an obligation to use the interim closing method and the calendar day convention specified in Regulations Section 1.706-4 with respect to the "Phase I Closing Date" and "Phase II Closing Date" (as such terms are defined in the Purchase Agreement), and (iii) an obligation regarding the allocation of items income, gain, loss, deduction and credit of the Company with respect to taxable periods or portions thereof ending on or before the Phase I Closing Date, and the taxable period or portion thereof beginning immediately after the Phase I Closing Date and ending on and including the Phase II Closing Date. Notwithstanding any other provision of this Agreement, the Members hereby agree the Company shall to take all actions required to be taken by it pursuant to the terms of the Purchase Agreement, and this Agreement shall interpreted in a manner consistent therewith.

8.17 Offsets to Distributions. Notwithstanding any other provisions of this Agreement, each Member hereby acknowledges and agrees that (i) the Company may, upon the written request of an Indemnified Member (as defined below) after following the procedures contained in the Purchase Agreement regarding offsets, offset against a Member's future distributions of profits from the Company an amount necessary to satisfy any unpaid indemnification obligations of such Member (the "**Indemnifying Member**") to any other Member (the "**Indemnified Member**") under the Purchase Agreement, and pay the amount so offset (the "**Offset Amount**") to the Indemnified Member, and (ii) any Offset Amount paid to the Indemnified Member shall be applied against the amount of any Losses (as defined in the Purchase Agreement) payable by such Indemnifying Member to such Indemnified Member under Article XII of the Purchase Agreement and shall reduce, on a dollar-for-dollar basis, the remaining amount of any Losses payable by such Indemnifying Member to such Indemnified Member under Article XII of the Purchase Agreement. Upon receipt of a request for indemnification under Article XII of the Purchase Agreement, the Company will retain a portion of the Indemnifying Member's future distributions otherwise owed to the Indemnifying Member, until such time as the claim for indemnification is fully and finally resolved.

IX. RIGHTS, POWERS AND OBLIGATIONS OF THE BOARD OF MANAGERS

9.1 Establishment of Board of Managers. The Company shall be "manager-managed" as defined in the Act and the business and affairs of the Company shall be managed by the Board of Managers. The number of Managers on the Board of Managers shall be five (5). Three (3) Managers shall be appointed by the SCA Member and two (2) Managers shall be appointed by the Members other than the SCA Member holding an aggregate Company Percentage that is in excess of fifty percent (50%) of the aggregate Company Percentage held by all Members other than the SCA Member. A Manager is not required to be a resident of any particular state. Unless authorized to do so by this Agreement or the Board of Managers, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. The Managers shall only act collectively as the Board of Managers and no individual Manager shall have the right or authority to act independently on behalf of the Company unless prior approval or authorization has been given by the Board of Managers. The initial Managers shall be as follows:

SCA Managers

Thomas Chadwick
Brian Nicholls
Dan Sweatman

Physician Managers

Rick Martin, M.D.
Frank Dellacano, M.D.

9.2 Powers. Except for situations in which the approval of the Members is expressly required by this Agreement or by non-waiveable provisions of applicable law, the management and

control of the Company and its business and affairs shall rest exclusively with the Board of Managers, which shall have all the rights and powers which may be possessed by a "manager" pursuant to the Act, and such additional rights and powers as are otherwise conferred by law or are necessary, advisable or convenient to the discharge of its duties under this Agreement. Without limiting the generality of the foregoing, the Board of Managers may, subject to Section 9.5, at the cost, expense and risk of the Company:

- a. Spend the capital and Net Income of the Company in the exercise of any rights or powers possessed by the Board of Managers hereunder;
- b. Prepare and approve ordinary and capital budgets of the Company for each Fiscal Year;
- c. Operate the Center, acquire leasehold improvements at the Center, and enter into agreements containing such terms, provisions and conditions as the Board of Managers in its discretion shall approve provided, however that any agreements with any Member or an Affiliate of a Member shall require the approval of Supermajority of the Board;
- d. Purchase from or through others contracts of liability, casualty and other insurance which the Board of Managers deems advisable for the protection of the Company or for any purpose convenient or beneficial to the Company;
- e. Incur indebtedness for a Company purpose in accordance with an approved budget;
- f. Sell or otherwise dispose of, upon such terms and conditions as the Board of Managers may deem advisable, appropriate or convenient, any of the assets of the Company in the ordinary course;
- g. Invest in short-term debt obligations (including obligations of federal and state governments and their agencies, commercial paper and certificates of deposit of commercial banks, savings banks or savings and loan associations) and "money market" mutual funds, such funds as are temporarily not required for the purposes of the Company's operations;
- h. Delegate all or any of its duties hereunder and, in furtherance of any such delegation, appoint, employ or contract with any Person (including Affiliates of the SCA Member) for the transaction of the business of the Company, which persons may, under the supervision of the Board of Managers, act as consultants, accountants, attorneys, brokers, escrow agents or in any other capacity deemed by the Board of Managers necessary or desirable, and pay appropriate fees consistent with fair market value for such services to any of such persons;
- i. Amend this Agreement or any other document or record of the Company from time to time to reflect the withdrawal or admission of Members and any changes in the number of or types of Units or any changes in Company Percentage held by any Member arising from the increase in the number of Units, admission of new Members, transfer of any Units to or by such Member, any conversion of Company debt to Units and any changes in the amounts contributed or agreed to be contributed by a Member; and
- j. Make a decision to hire or terminate the administrator or business office manager of the Center; provided, however, that any such decision shall be made in consultation with all of the Managers.

9.3 Independent Activities. A Manager may, notwithstanding the existence of this Agreement, engage in whatever activities such Manager chooses, whether or not the same may be competitive with the Company, without having or incurring any obligation to offer any interest in such activities to the Company or any party hereto, and, as a material part of the consideration for the Manager's execution hereof and for the admission of such Member, each Member hereby waives, relinquishes and renounces any such right or claim of participation.

9.4 Duties. Each Manager shall manage and control the Company and its business and affairs to the best of such Manager's ability and shall use commercially reasonable efforts to carry out the business of the Company in accordance with applicable laws and regulations. Each Manager shall devote himself or herself to the business of the Company to the extent that he or she, in his or her discretion, deems necessary for the efficient carrying on thereof. Each Manager shall act as a fiduciary with respect to the safekeeping and use of the funds and assets of the Company.

9.5 Certain Limitations.

a. The Board of Managers shall not do or authorize any act which the manager of a limited liability company is prohibited from doing under Connecticut law.

b. Notwithstanding the rights provided in Section 9.2 above, the Board of Managers shall not, without obtaining the approval of a Supermajority of the Board, take any of the following actions:

(i) Offer or sell additional Units or increase the number of the Company's Units;

(ii) Make capital purchases in excess of One Hundred Thousand Dollars (\$100,000) outside of the Company's budget and outside of the ordinary course of business;

(iii) Admit new Members of the Company as set forth in Section 6.9;

(iv) Enter into, renew, amend or terminate any arrangement or agreement between the Company and any Member or Affiliate of any Member or change fees payable thereunder;

(v) Relocate the Center or terminate the Center's lease at any time other than the end of a lease term;

(vi) Approve the Transfer of Units, except for certain Transfers by the SCA Member, as contemplated by Section 10.16;

(vii) Modify the anesthesia coverage or anesthesiology services at the Center or select the anesthesia provider for the Center; provided, however that the Board will take the recommendation from the Medical Executive Committee regarding the hiring and terminating of anesthesia providers and making decisions regarding anesthesia policies;

(viii) Waive any Member obligations or approve the withdrawal of a Member from the Company;

(ix) Determine or establish the fair market value of the Company's assets upon the occurrence of any of the events specified in Regulations Section 1.704-1(b)(2)(iv)(f)(5);

(x) With respect to staff privileges of the Center, approve the credentialing requirements of the Center, close the staff privileges of the Center, approve all medical staff bylaws, manuals, policies and procedures and approve all medical staff terminations and privileges;

(xi) Determine whether there has been an occurrence of a Buy/Sell Event under Sections 10.5(a)(i), (a)(iii) and (b)(v), and Section 10.6; provided that with respect to determining whether a Buy/Sell Event has occurred with respect to the SCA Member under Section 10.6, only the approval of the two (2) Managers appointed by the Members other than the SCA Member shall be required;

(xii) Assign the Company's right to purchase a Withdrawing Member's or Interest Holder's Units to the SCA Member in accordance with Article X;

(xiii) Hire or terminate the director of nursing of the Center;

(xiv) Approve a total amount of reserves and working capital in excess of \$100,000.00, as contemplated by Section 1.13;

(xv) Make a decision to draw on the Overdraft Line of Credit as contemplated by the Management Agreement; and

(xvi) Make any of the decisions under Sections 11.1(a), (d), and (f), and 14.1(b).

c. Notwithstanding the rights provided in Section 9.2 above, the Board of Managers shall not, without obtaining the approval of a Supermajority of the Members, take any of the following actions:

(i) Sell or transfer all or substantially all of the Company's assets, provided that the Board of Managers may grant a security interest in the Company's assets in connection with a properly approved loan;

(ii) Liquidate or dissolve the Company as long as the Company is operating the Center;

(iii) Require any Member to make any additional Capital Contributions;

(iv) Substantially change the nature of the Company's business;

(v) Amend this Agreement, unless otherwise permitted pursuant to Article XIV;

(vi) Merge or consolidate the Company into another entity;

(vii) Make or file any election or take any other action that would result in the Company being classified as an association taxable as a corporation for federal income tax purposes;

(viii) Issue any Units in the Company in exchange for services rendered or to be rendered to or on behalf of the Company, or in exchange for a contribution of property other than cash;

(ix) Appoint the medical director.

9.6 Board of Manager Meetings.

a. Place; Waiver of Notice. Meetings of the Board of Managers may be held at such place or places as shall be determined from time to time by resolution of the Board of Managers. At all meetings of the Board of Managers, business shall be transacted in such order as shall from time to time be determined by resolution of the Board of Managers. Attendance of a Manager at a meeting of the Board of Managers shall constitute a waiver of notice of such meeting, except where a Manager attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

b. Notice of Meetings. Regular meetings of the Board of Managers shall be held at such times and at such places as shall be designated from time to time by resolution of the Board of Managers. Notice of such meeting shall not be required so long as members of the Board of Managers receive copies of each resolution pursuant to which the time and place of such meetings are set. Special meetings of the Board of Managers may be called on at least forty-eight (48) hours' Notice to each Manager by any other Manager. Such Notice need not state the purpose or purposes of, nor the business to be transacted at, such meeting, except as may otherwise be required by law or provided for in this Agreement.

c. Voting. Each Manager shall be entitled to one (1) vote. Any action authorized by this Agreement may be taken at a meeting at which a majority of the Managers are present. The affirmative vote of a majority of the Board of Managers entitled to vote on the matter and present at a properly called meeting shall constitute the act of the Board of Managers, unless a greater vote is required under this Agreement, by the Articles or the law.

d. Action by Written Consent or Telephone Conference. Any action permitted or required by the Act, the Articles or this Agreement to be taken at a meeting of the Board of Managers may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by the number of the Managers required to approve such action under the Act, the Articles or this Agreement. Notice of any such consent shall be given to all Managers. Such consent shall have the same force and effect as a vote at a meeting and may be stated as such in any document or instrument filed with any public official, public office or other state authority, and the execution of such consent shall constitute attendance or presence in person at a meeting of the Board of Managers. Subject to the requirements of this Agreement for notice of meetings, the Managers may participate in and hold a meeting of the Board of Managers by means of a conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other, and participation in such meeting shall constitute attendance and presence in person at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

e. Open Meetings. Unless the Board elects to go into executive session in its reasonable discretion, all Members shall receive notice of any meetings of the Board of Managers in accordance with this Section 9.6 and shall be permitted but not required to attend and observe, but not to vote at, such meetings of the Board of Managers.

9.7 Resignation, Removal and Replacement of a Manager. A Manager may at any time resign as a Manager of the Company by providing written notice to the other Managers. Any Manager appointed by the SCA Member may be removed by the SCA Member in its sole discretion, and any Manager appointed by the other Members pursuant to Section 9.1 may be removed by the Members other than the SCA Member holding an aggregate Company Percentage that is in excess of fifty percent (50%) of the aggregate Company Percentage held by all Members other than the SCA Member. In the event of such resignation or removal, (i) if the Manager was appointed by the SCA Member pursuant to Section 9.1, the SCA Member shall designate and appoint a replacement Manager as soon as reasonably practicable after such resignation or removal, or (ii) if the Manager was appointed by the Members other than the SCA Member pursuant to Section 9.1, a replacement Manager shall be appointed as soon as reasonably practicable after such resignation by the Members other than the SCA Member holding an aggregate Company Percentage that is in excess of fifty percent (50%) of the aggregate Company Percentage held by all Members other than the SCA Member.

9.8 Tax Matters Partner and Partnership Representative.

a. The SCA Member shall serve as the Tax Matters Partner and shall have the following duties, along with any other duties required by the Code, to the extent and in the manner provided by the Code:

(i) Furnish the name, address, profits interest and taxpayer identification number of each Member to the IRS;

(ii) Promptly inform each Member in writing of the administrative and judicial proceedings for the adjustment of any item required to be taken into account by a Member for income tax purposes; and

(iii) Within fifteen (15) days of receiving a notice of a Company audit or other correspondence from the IRS, forward a copy of such notice or correspondence to the Members, and promptly upon submitting any notice or correspondence to the IRS, deliver a copy of such notice or correspondence to the Members.

b. The Tax Matters Partner is hereby authorized, but not required, to:

(i) Enter into any settlement with the IRS with respect to any tax audit or judicial review, in which agreement the Tax Matters Partner may expressly state that such agreement shall bind the other Members, except that such settlement agreement shall not bind any Member who (within the time prescribed pursuant to the Code and regulations thereunder) files a statement with the IRS providing that the Tax Matters Partner shall not have the authority to enter into a settlement agreement on the behalf of such Member;

(ii) If a final administrative adjustment of a Company item required to be taken into account by a Member for tax purposes is mailed to the Tax Matters Partner, seek judicial review of such final adjustment, including the filing of a petition for readjustment with the Tax Court, the District Court of the United States for the district in

which the Company's principal place of business is located, or the United States Claims Court;

(iii) Intervene in any action brought by any other Member for judicial review of a final adjustment;

(iv) File a request for an administrative adjustment with the IRS at any time and, if any part of such request is not allowed by the IRS, file a petition for judicial review with respect to such request;

(v) Enter into an agreement with the IRS to extend the period for assessing any tax which is attributable to any item required to be taken into account by a Member for tax purposes, or an item affected by such item; and

(vi) File a petition as contemplated in Sections 6226(a) and/or 6228 of the Internal Revenue Code.

c. The Partnership Representative shall be the SCA Member or such Member as shall be appointed by the Board of Managers, as determined from time to time. The Partnership Representative shall be required to obtain the prior approval of Supermajority of the Board of Managers with respect to all material matters involved in any Tax audit, examination or investigation.

(i) The Partnership Representative shall have the full authority to take any and all actions approved by Supermajority approval of the Board of Managers, to the extent such actions are permitted to be taken by the Partnership Representative under the Code, (i) in connection with any audit, examination or investigation of the Company or any Company income tax return, and (ii) in connection with any and all administrative and judicial proceedings arising out of such audit, examination or investigation. The Partnership Representative shall keep the Board of Managers and the other Members informed of all administrative and judicial proceedings involving the Company or any Company return, and shall furnish promptly to each member of the Board of Managers, and to each Member if requested in writing, a copy of each notice or other communication received by the Partnership Representative from the Internal Revenue Service not otherwise sent directly to the other Member(s).

(ii) The Partnership Representative shall employ experienced tax advisors to represent the Company in connection with any audit or investigation of the Company by the Internal Revenue Service and in connection with all subsequent administrative and judicial proceedings arising out of such audit. The fees and expenses of such tax advisors shall be a Company expense and shall be paid by the Company. It shall be the responsibility of the Members (including any Member serving as Partnership Representative), at their own expense, to employ tax advisors to represent their respective separate interests.

(iii) The Members agree that, unless otherwise directed by Supermajority of the Board of Managers, the Company shall elect out of the application of Section 6221(a) of the Code (as amended by the Budget Act) for its first fiscal year beginning after December 31, 2017, and for each fiscal year thereafter, if possible. If such election out is impossible, the Members further agree that, unless otherwise directed by Supermajority of the Board of Managers, the Company will elect the application of Section 6226 of the

Code (as amended by the Budget Act) for its first fiscal year beginning after December 31, 2017, in the event that it receives a "notice of final partnership adjustment" that would otherwise permit the Internal Revenue Service to collect from the Company a deficiency of tax, for each relevant year. The Members covenant to take into account and report to the Internal Revenue Service any adjustment to their items for the reviewed year as notified to them by the Company in a statement furnished to them pursuant to Section 6226(a) of the Code (as amended by the Budget Act), in the manner provided in Section 6226(b) of the Code (as amended by the Budget Act), whether or not Members own any Units in the year of the Company's statement. Any Member which fails to report its share of such adjustments on its tax return for its taxable year including the date of the Company's statement as described immediately above shall indemnify and hold harmless the Company against any tax, interest and penalties collected by the Internal Revenue Service from the Company as a result of the Member's failure.

d. The Company shall indemnify and reimburse the Tax Matters Partner and Partnership Representative for all expenses, including legal and accounting fees, claims, liabilities, losses and damages incurred in connection with any administrative or judicial proceeding with respect to the tax liability of the Members and against any and all loss, liability, cost or expense, including judgments, fines, amounts paid in settlement and attorneys' fees and expenses, incurred by the Tax Matters Partner or Partnership Representative in any civil, criminal or investigative proceeding in which the Tax Matters Partner or Partnership Representative is involved or threatened to be involved solely by virtue of being Tax Matters Partner or Partnership Representative, except such loss, liability, cost or expense arising by virtue of the Tax Matters Partner's or Partnership Representative's fraud, gross negligence, malfeasance, breach of fiduciary duty or intentional misconduct.

9.9 Officers.

a. Number. The Company may have officers with such duties and responsibilities as the Board of Managers may determine from time to time. Any such officer serves at the pleasure of the Board of Managers. Any two (2) or more offices may be held by the same person. The officers need not be Members or residents of the State of Connecticut. As of the Effective Date, the initial officers shall be as follows:

President – Richard L. Sharff, Jr.

Vice President – Richard Martin, M.D.

b. Term of Office. Each officer shall hold office until the earlier of his or her death, removal or resignation.

c. Removal and Resignation. An officer serves at the pleasure of the Board of Managers and the Board of Managers may remove an officer at any time with or without cause. The Board of Managers may also eliminate any officer position at any time. The removal of an officer is without prejudice to the contractual rights of the officer, if any. Any officer may resign at any time and for any reason. In the event of a vacancy in any office because of death, resignation or removal, the Board of Managers shall elect a successor to such office.

d. Delegation. An officer may delegate some or all of the duties and powers of his office to other persons. An officer who delegates the duties or powers of an office remains

subject to the standard of conduct for an officer with respect to the discharge of all duties and powers so delegated.

e. Standard of Conduct. An officer shall discharge the duties of an office in good faith, in a manner the officer reasonably believes to be in the best interests of the Company and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. In discharging his or her duties, an officer is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by one or more officers or employees of the Company whom the officer reasonably believes to be reliable and competent in the matters presented or legal counsel, public accountants or other persons as to matters the officer reasonably believes are within the person's professional or expert competence. An officer is not acting in good faith if he or she has actual knowledge concerning the matter in question that makes reliance otherwise permitted unwarranted. An officer is not liable for action taken as an officer, or any failure to take any action if he or she performed the duties of his or her office in compliance with this subsection. A person exercising the principal functions of an office or to whom some or all of the duties and powers of an office are delegated is considered an officer for purposes of this section.

9.10 Medical Executive Committee. The Company shall also have a medical executive committee (the "**Medical Executive Committee**") comprised of one or more Physician Interest Holders who are members of the Center's medical staff and selected by a majority vote of the Physician Interest Holders who are members of the Center's medical staff. The exact number of individuals serving on the Medical Executive Committee shall be determined by the Board of Managers from time to time. The Medical Executive Committee shall be responsible for the general supervision of the Center's medical staff and making recommendations to the Center's governing body regarding patient care as described in the Center's medical staff bylaws as amended from time to time.

X. TRANSFER OF UNITS

10.1 In General. A Member, other than the SCA Member, may not Transfer any or all of the Units owned by him, her or it, or any interest in a Unit, unless he, she or it complies with the following conditions:

a. A Supermajority of the Board must consent to the Transfer. A Supermajority of the Board will not consent to any Transfer of any Unit or of an interest in a Unit or to the admission of any Person as a substitute Member if, in its opinion, such consent and/or substitution would result in (i) a violation of any applicable federal or state law pertaining to securities regulation, (ii) the admission of a Member who has been, or an Entity Member having any Physician Interest Holder who has been, subject to a Health Care Program Adverse Event, (iii) Benefit Plan Investors owning an aggregate interest in the Company in excess of the Benefit Plan Investor Ownership Limitation, or (iv) a violation of 42 U.S.C. §§1320a-7b(b).

b. The transferring Member and his, her or its purchaser, assignee or transferee must execute and deliver to the Board of Managers such instruments of transfer and assignment with respect to such transaction as are in a form and substance satisfactory to the Board of Managers.

c. Such Member must pay the Company a transfer fee which is sufficient to pay all reasonable expenses of the Company in connection with such transaction.

Any attempt to Transfer all or any part of a Member's Units that does not comply with the terms and conditions of this Agreement shall be void. In the event the Company is required to recognize a Transfer of all or any part of a Member's Units, the transferee of such Units shall have only those rights of an Assignee as described more fully in Section 10.4 hereof and shall have no right to become a Member of the Company or to exercise the assigning Member's governance rights unless such Assignee is admitted as a substitute Member in accordance with Section 10.3 of this Agreement.

10.2 Intentionally Omitted.

10.3 Substitute Members. A purchaser, assignee or transferee of a Unit from a Member (other than the SCA Member) shall become a substitute Member within the meaning of the Act if:

- a. A Supermajority of the Board consents to such person becoming a substitute Member;
- b. Such person executes and acknowledges such other instruments as the Board of Managers may deem necessary or advisable to effect the admission of such person as a substitute Member, including, without limitation, the written acceptance and adoption by such person of the provisions of this Agreement; and
- c. Such person pays a transfer fee to the Company that is sufficient to cover all reasonable expenses connected with the admission of such person as a substitute Member within the meaning of the Act.

The Board of Managers shall take all other steps which, in the opinion of the Board of Managers, are reasonably necessary to admit such person as a substitute Member under the Act. Notwithstanding the foregoing, and subject to the restrictions set forth in Section 10.16, a purchaser, assignee or transferee of a Unit from the SCA Member shall become a Member upon compliance with Section 10.3(b) above and no further action or approval shall be required.

10.4 Rights of Assignees. Except as otherwise provided in this Agreement, the only rights which an Assignee shall have are those rights associated with the right to receive distributions and allocations of Profits and Losses with respect to the Units held by the Assignee. The Assignee shall have no right to become a Member except as provided in Section 10.3. Any voting rights formerly incident to the Units held by an Assignee shall lapse unless and until the Assignee is admitted as a substitute Member under Section 10.3, and all computations of voting power for matters reserved to the Members shall be made only with respect to the Units held by Members.

10.5 Buy/Sell Events. If any of the buy/sell events listed in this Section 10.5 (each, a "Buy/Sell Event") occurs in relation to a Covered Person, the Company, upon approval of the Board of Managers, may require the affected Member to transfer his, her or its Unit(s) to either the Company or, upon approval of a Supermajority of the Board, the SCA Member. If the Buy/Sell Event occurs in relation to an Interest Holder of an Entity Member, the Board of Managers may require the Entity Member to repurchase the interest of the affected Interest Holder or to Transfer Units in accordance with the terms of Section 10.12. Notwithstanding the foregoing, and as contemplated by Section 9.5(b)(xi), the Board of Managers shall not act with respect to a Buy/Sell Event occurring under Sections 10.5(a)(i), (a)(iii) or 10.5(b)(v) without the approval of a Supermajority of the Board.

(a) Non Adverse Buy/Sell Events

(i) The Disability, death, or judicial determination of incompetence or incapacity of a Covered Person;

(ii) Any dissolution, insolvency, or the filing of a petition or suit under the bankruptcy laws by or against a Covered Person that is not dismissed within sixty (60) days;

(iii) Upon a determination by a Supermajority of the Board, following consultation with experienced health legal counsel, that (i) under state or federal regulations or laws, or any legal developments thereunder, as applied to the continued direct or indirect ownership and operation of ambulatory surgical centers generally, continued ownership by a Covered Person would adversely affect (or potentially adversely affect), in a manner reasonably deemed substantial by a Supermajority of the Board, the operations of the Company; or (ii) under state or federal regulations or laws, or any legal developments thereunder, as applied to the specific Units of any Covered Person, continued direct or indirect ownership by any Covered Person would adversely affect (or potentially adversely affect), in a manner deemed substantial by a Supermajority of the Board, the operations of the Company or any affected Covered Person;

(iv) A Physician Interest Holder fails to satisfy the Extension of Practice Requirements;

(v) The Retirement of any Physician Interest Holder;

(vi) The relocation of a Physician Interest Holder's medical practice to a location which is twenty-five (25) miles or more from the Center; or

(vii) Benefit Plan Investors owning an interest in the Company equal to or greater than the Benefit Plan Investor Ownership Limitation.

b. Adverse Buy/Sell Events

(i) Any voluntary or involuntary Transfer of all or any part of (i) a Member's Units, or any withdrawal by a Member, except as otherwise permitted by this Agreement, or (ii) an Interest Holder's ownership interest in an Entity Member;

(ii) Any material breach of this Agreement by a Covered Person, including, without limitation, (i) a breach of Section 15.1; (ii) a Physician Interest Holder's failure to continue to comply with the Physician Interest Holder's Eligibility Requirements (other than the Extension of Practice Requirements) or (iii) a Covered Person's failure to comply with the certification requirements in Section 15.4;

(iii) The failure of a Physician Interest Holder to obtain and maintain medical staff privileges at the Center; notwithstanding anything contained herein to the contrary, this Section 10.5(b)(iii) shall not be applied if the failure to maintain medical staff privileges is the result of events that are Non-Adverse Buy/Sell Events;

(iv) A Covered Person's default under a loan or other instrument in which the Covered Person has or granted a security interest in, or lien upon, such Covered Person's Units;

(v) A Covered Person's gross misconduct that in the reasonable opinion of a Supermajority of the Board adversely affects the Company or the operation of the Center (including, but not limited to, a Covered Person's mistreatment of employees or staff at the Center), which is not corrected within ten (10) days of written notice from the Board of Managers, or a Covered person's failure to adhere to the Company's policies and procedures, which is not corrected within ten (10) days of written notice from the Board of Managers;

(vi) The voluntary, involuntary, and/or permanent, suspension, revocation, termination, material limitation or cancellation of a Physician Interest Holder's license to practice medicine in the State of Connecticut;

(vii) The voluntary, involuntary, and/or permanent suspension, revocation, or non-renewal of a Physician Interest Holder's controlled substance registration certificate issued by the Drug Enforcement Administration;

(viii) The conviction of a Covered Person of a felony or crime of moral turpitude;

(ix) The occurrence of a Health Care Program Adverse Event with respect to a Covered Person;

(x) The failure of an Entity Member to cause all of its Interest Holders to execute a joinder to this Agreement;

(xi) The possession of a direct or indirect ownership interest in an Entity Member by an Interest Holder who is not a Physician who meets the Physician Interest Holder Eligibility Requirements; or

(xii) The dissociation of a Member from the Company as contemplated by the Act.

10.6 Adverse Buy/Sell Events Related to the SCA Member. Upon the occurrence of (a) a Health Care Program Adverse Event to the SCA Member, or (b) the dissolution, insolvency, or the filing of a petition or suit under the bankruptcy laws by or against the SCA Member that is not dismissed within sixty (60) days, the Members (other than the SCA Member), upon approval of the two (2) Managers appointed by the Members other than the SCA Member as contemplated by Section 9.5(b)(xi), shall have the option to purchase all, but not less than all, of the SCA Member's Units, pro rata, at the Adverse Event Purchase Price, for a period of thirty (30) days following notice by the SCA Member of the occurrence of either of the events under this Section 10.6(a) or (b). The Members, other than the SCA Member, shall pay the Adverse Event Purchase Price to the SCA Member in immediately available funds in one final payment at the closing of the purchase of such Units, which closing shall occur no later than sixty (60) days after the date on which the Members received notice of such event. Notwithstanding anything to the contrary contained herein, this Section 10.6 shall not be the sole remedy of the Company and the Members, other than the SCA Member, with respect to a breach of this Agreement by the SCA Member.

10.7 Notice. Upon the occurrence of a Buy/Sell Event, the Member to whom such Buy/Sell Event has occurred (the "**Withdrawing Member**") or his, her or its legal representative shall give notice of the Buy/Sell Event (the "**Buy/Sell Notice**") to the Board of Managers. If such an event has occurred with respect to an Interest Holder of an Entity Member, the Entity Member shall be responsible for

issuing the notice required by this Section 10.7. If the Withdrawing Member or Entity Member fails to give the Buy/Sell Notice, the Board of Managers may give the Buy/Sell Notice to the Withdrawing Member or the Entity Member. The issuance of a Buy/Sell Notice shall commence the procedures related to a Buy/Sell Event provided for in this Article X.

10.8 Purchase Option. The Company shall have the option to elect to purchase all of the Withdrawing Member's Units from such time as the Buy/Sell Event occurs until sixty (60) days following the Board of Managers' receipt of the Buy/Sell Notice. Upon approval of a Supermajority of the Board, the Company may assign its option to purchase all of the Withdrawing Member's Units to the SCA Member. The decision to cause the Company to exercise its option shall be made by the Board of Managers. To exercise an option to purchase such Units, the Company or the SCA Member, as the case may be, shall give the Withdrawing Member notice of its decision to purchase a Unit or Units (the "**Purchase Notice**") pursuant to this Section 10.8, which Purchase Notice shall specify (a) a summary of the basis for such determination, (b) a detailed description of the calculation and payment of the purchase price for such Unit(s) (pursuant to Section 10.11), and (c) whether the Company or the SCA Member (as applicable) shall purchase the Units. Unless agreed otherwise by the parties, the terms of the purchase shall be those set forth below in Section 10.11. If the Buy/Sell Event has occurred to an Interest Holder of an Entity Member, the provisions of Section 10.11 shall apply. All of the Members and Interest Holders acknowledge and agree that the decision not to exercise the rights provided hereunder after one Buy/Sell Event shall not be deemed a waiver of any rights relating to such Buy/Sell Event or to any subsequent Buy/Sell Event.

10.9 Benefit Plan Investors. Upon the occurrence of a Buy/Sell Event resulting from Benefit Plan Investors owning an interest in the Company in violation of the Benefit Plan Investor Ownership Limitation, the number of Units subject to the Buy/Sell Event shall be that number of Units necessary to cause the Benefit Plan Investor's ownership in the Company, in the aggregate, to not exceed the maximum permitted ownership as set forth in the Benefit Plan Investor Ownership Limitation. The Board of Managers, in its sole discretion, shall select the number of Units to be purchased from each Benefit Plan Investor to cause the ownership of Benefit Plan Investors to be less than the Benefit Plan Investor Ownership Limitation.

10.10 Additional Option to Purchase Units Held by Assignee. In the event a Buy/Sell Event occurs but neither the Company nor the SCA Member (if the Company's purchase option is assigned to the SCA Member as contemplated by Section 10.8) purchases the Member's Units pursuant to Section 10.8 and as a result of the Buy/Sell Event an Assignee holds the Units subject to such options, then until the Assignee is admitted as a substitute Member pursuant to Section 10.3 the Company and the SCA Member (if applicable) shall have the continuing option to purchase the Units held by such Assignee (the "**Assignee Units**"). The Company or the SCA Member (if applicable) may exercise its rights under this Section by providing notice (the "**Assignee Purchase Notice**") to the Assignee of its election to purchase the Assignee Units, which notice shall include (a detailed description of the calculation of the purchase price for such Assignee Unit(s) (as determined pursuant to Section 10.11 as if the Assignee were a Withdrawing Member as a result of a Non-Adverse Buy/Sell Event). Any purchase of Assignee Units pursuant to this Section shall be completed pursuant to the terms of Section 10.11 as if the Assignee were a Withdrawing Member as a result of a Non-Adverse Buy/Sell Event. The SCA Member shall have the right to assign the option to purchase the Assignee Units to an Affiliate or to other Members of the Company, in the event that a Supermajority of the Board approves the assignment of the Company's right to purchase Assignee Units to the SCA Member.

10.11 Closing of Purchase of Withdrawing Member's Unit(s) and Payment Terms. If the Company or the SCA Member, as applicable, is purchasing the Unit(s) of a Member (the "**Withdrawing Member's Unit(s)**") pursuant to Section 10.8 or 10.10, the closing (the "**Closing**") of the purchase of

such Unit(s) shall take place on the date agreed upon by the parties to the transfer. If the parties do not reach agreement on the date of Closing, the Company or the SCA Member, as applicable, shall set a date of Closing which shall occur no later than thirty (30) days after the Withdrawing Member's receipt of the Purchase Notice. The Board of Managers shall, at its sole option, determine the purchase price for the Unit(s) being sold utilizing one of the calculation methods specified in this Section which shall be calculated and paid as follows:

a. If the purchase of Units is triggered by a Non-Adverse Buy/Sell Event, the purchase price shall be the Fair Market Value Transfer Price set forth in the Purchase Notice (or the Assignee Purchase Notice, if applicable) multiplied by the Withdrawing Member's Company Percentage. The Company or the SCA Member, as the case may be, shall pay the Fair Market Value Transfer Price in immediately available funds in one final payment at the Closing, or at Company's or SCA Member's option, as applicable, by delivery of a promissory note bearing interest at the prime rate of interest as published in The Wall Street Journal, plus one percent (1%) with sixty (60) equal amortizable payments of principal and interest (the "Note"); or

b. In lieu of paying the Fair Market Value Transfer Price as of the date of Closing as set forth in Section 10.11(a) above, the Board of Managers may determine an initial estimated purchase price as of the date of the Closing (the "**Estimated Purchase Price**") by (i) determining the Fair Market Value Transfer Price as of the date of Closing and (ii) multiplying such Fair Market Value Transfer Price by the Withdrawing Member's Company Percentage. The Company or the SCA Member, as the case may be, shall pay at the Closing, in cash or immediately available funds, an initial payment equal to twenty percent (20%) of the Estimated Purchase Price (the "**Closing Payment**") to the Withdrawing Member. The Board of Managers shall then determine a final purchase price as of the date of the first annual anniversary of the Closing (the "**Final Purchase Price**") by (i) determining the Fair Market Value Transfer Price (except that the period used in the calculation of the purchase price shall be the twelve (12) month period subsequent to the Closing), and (ii) multiplying such Fair Market Value Transfer Price by the Withdrawing Member's Company Percentage as of the date of Closing. The Company or the SCA Member, as the case may be, shall pay, in cash or immediately available funds, the Final Purchase Price less the Closing Payment to the Withdrawing Member which shall be payable in one final payment within thirty (30) days after the determination of the Final Purchase Price or at the Company's or SCA Member's option, as applicable, by delivery of the Note in an amount equal to the Final Purchase Price less the Closing Payment. Aggregate payments to be made in connection with a Buy/Sell Event by the Company shall not exceed seven and one half percent (7.5%) of the Company's annual operating income for the then current Fiscal Year. If payments are so restricted, payment shall be made in proportion to amounts owed to all Members as a result of Buy/Sell Events and the balance of that Fiscal Year's payment obligations shall be deferred to the following Fiscal Year or Years, until such amounts can be paid without violating such limitation with respect to any such Fiscal Year or Years. Within thirty (30) days following the end of each Fiscal Year, the Company shall make an adjusted payment to the former Members if and to the extent that actual aggregate collections during the prior Fiscal Year (or relevant portion thereof) have exceeded the anticipated amount.

c. Notwithstanding anything contained herein to the contrary, when calculating the Final Purchase Price, the Board of Managers shall exclude any and all expenses or revenues attributable to cases referred to the Center by the Withdrawing Member from the calculations of the Final Purchase Price.

d. In connection with the purchase of Unit(s) pursuant to an Adverse Buy/Sell Event, other than a breach of Section 15.1, the purchase price shall be determined as of the last

day of the month preceding the Purchase Notice and shall be the Adverse Event Purchase Price multiplied by the Withdrawing Member's Company Percentage. The Company or the SCA Member, as the case may be, shall pay the purchase price to the Withdrawing Member, in immediately available funds in one payment within thirty (30) days after the determination of the purchase price or at the Company's or the SCA Member's option, as applicable, by delivery of the Note in an amount equal to the purchase price.

e. In connection with the purchase of Unit(s) pursuant to breach of Section 15.1 the purchase price shall be determined as of the last day of the month preceding the Purchase Notice and shall be the Net Book Value Purchase Price multiplied by the Withdrawing Member's Company Percentage. The Company shall pay the purchase price to the Withdrawing Member, in immediately available funds in one payment at Closing, or at the Company's option, by delivery of the Note in an amount equal to the purchase price.

f. Except as otherwise provided in Section 10.5(b)(iii), in the event a Buy/Sell Event qualifies as both an Adverse Buy/Sell Event and a Non Adverse Buy/Sell Event, the Buy/Sell Event shall be deemed to be an Adverse Buy/Sell Event.

g. At the Closing, the Withdrawing Member shall execute and deliver such assignments and other instruments as may be reasonably necessary to evidence and carry out the transfer of such Unit(s) to the Company or the SCA Member, as the case may be. The Board of Managers shall be entitled to adjust the Fair Market Value Transfer Price from time to time, at its reasonable discretion, if it is advised to do so by an independent third party healthcare appraiser and if such revisions will more closely align the Fair Market Value Transfer Price with the fair market value of the interests of other healthcare entities of comparable size and function.

h. Notwithstanding the foregoing, all obligations of the Withdrawing Member to the Company shall become immediately due and payable upon purchase of the Withdrawing Member's Unit(s). To the extent not previously taken into account pursuant to this Section 10.11, the purchase price shall be reduced by the amount of any such obligations.

10.12 Effect of a Buy/Sell Event Related to an Interest Holder of an Entity Member. If a Buy/Sell Event occurs regarding an Interest Holder of an Entity Member, the Board of Managers may, in its sole and absolute discretion, require the Entity Member to repurchase the Interest Holder's interest in the Entity Member pursuant to the terms of an Entity Member's Owners' Agreement (or similar agreement) of the Entity Member. If the Entity Member fails to repurchase the Interest Holder's interest in the Entity Member within sixty (60) days (the "**Repurchase Period**") of the Board of Managers' written demand, the Company shall have the option to purchase from the Entity Member the Interest Holder's Proportionate Units for an amount attributable to the Interest Holder's Proportionate Units and calculated in accordance with the applicable provisions of Section 10.11. Upon approval of a Supermajority of the Board, the Company may assign its option to purchase such Interest Holder's Proportionate Units to the SCA Member. If the Entity Member fails to repurchase the Interest Holder's interest in the Entity Member within the Repurchase Period, the Board of Managers or the SCA Member, as applicable, shall provide notice (the "**Repurchase Failure Notice**") to such Entity Member of the Entity Member's failure to repurchase the Interest Holder's interest in the Entity Member, which notice shall include (a) the calculation of the Interest Holder's Proportionate Units and (b) a detailed description of the calculation of the purchase price for such Unit(s) (as determined pursuant to Section 10.11 as if the Interest Holder were a Withdrawing Member). The Company or the SCA Member, as the case may be, may exercise its option by providing notice of its election to the Entity Member within the sixty (60) day period following the receipt of the Repurchase Failure Notice. Notwithstanding the foregoing provisions of this Section 10.12 to the contrary, (a) if a Buy/Sell Event occurs and the failure of the Entity Member

to repurchase such Interest Holder's interest in the Entity Member would result in the Company being (i) subject to a Health Care Program Adverse Event or (ii) in violation of applicable law, as determined by the Board of Managers, then either the Company or, upon approval of a Supermajority of the Board, the SCA Member, shall have the option to repurchase all Units owned by the Entity Member for an amount equal to the Net Book Value Purchase Price multiplied by the Entity Member's Company Percentage and (b) if the Company and an Entity Member have executed an Entity Member's Owner's Agreement and the terms of this Agreement conflict with the terms of the Entity Member's Owner's Agreement, the terms of the Entity Member's Owner's Agreement will govern. In addition, each Entity Member shall give the Board of Managers and the SCA Member written notice of any change in its Interest Holders.

10.13 Effect on Withdrawing Member's Interest. From the date of the exercise of an option to purchase following the occurrence of a Buy/Sell Event until the date of Closing, the Withdrawing Member shall have no right to vote his, her or its Units under this Agreement and the Withdrawing Member's Units will be excluded from any calculation of aggregate Units for purposes of any approval required of the Members under this Agreement. Without limiting the generality of any other provision of this Agreement, following Closing, the Withdrawing Member will have no rights in, or against, the Board of Managers, the Company or any Member other than the right to receive payment for his, her or its Units in accordance with this Article X.

10.14 No Dissolution or Termination. The admission, addition, removal, withdrawal, substitution or bankruptcy of any Member shall not dissolve or terminate the Company or otherwise be treated as a change of ownership or the formation of a new limited liability company. No Member shall have the right to have the Company dissolved or to have his, her or its Capital Contribution returned except as provided in this Agreement.

10.15 Liquidated Damages. The Members agree that in each of the circumstances where the purchase price to be paid for Units pursuant to this Agreement is less than the fair market value of the purchased Units, that the Company has been damaged by the circumstance giving rise to the less than fair market value purchase and that such difference between the fair market value and the purchase price is intended to compensate the party sustaining the damage, in part, for the damage sustained. The Members further agree that it is inherently difficult to determine with precision the amount of damages arising in such circumstances and that it is for this reason that the Members have provided for a specific dollar amount calculated as the difference between the fair market value of the Units and the purchase price to compensate the damaged party, in part, for the damages sustained. This provision is not intended to limit the damaged party's ability to recover the damages it receives as a result of the circumstance giving rise to the purchase hereunder.

10.16 Transfers by the SCA Member. Notwithstanding anything herein to the contrary, the SCA Member may freely Transfer Units held by the SCA Member to an entity or entities that are wholly owned, directly or indirectly, by SCA after providing prior written notice to the Members of such proposed Transfer of Units and provided that the Transfer complies with Sections 10.1(b) and (c); provided, however, that any proposed Transfer of Units by the SCA Member to unaffiliated third parties, including but not limited to hospitals, physician groups, or surgery center management companies, shall require the approval of a Supermajority of the Members; provided further that any proposed Transfer of Units by the SCA Member to new or existing Physician Interest Holders shall only require the approval of a Supermajority of the Board.

XI. DISSOLUTION AND WINDING UP OF THE COMPANY

11.1 Dissolution of the Company. In no event shall the death of any Member result in dissolution of the Company. The Company will be dissolved upon the following events:

- a. All or substantially all of the assets of the Company are sold, exchanged or otherwise transferred (unless a Supermajority of the Members have elected to continue the business of the Company, in which event the Company will continue until the Members elect to dissolve the Company);
- b. As determined by the Board of Managers and a Supermajority of the Members;
- c. The entry of a final judgment, order or decree of a court of competent jurisdiction adjudicating the Company to be bankrupt and the expiration without appeal of the period, if any, allowed by applicable law in which to appeal;
- d. The determination by a Supermajority of the Board that state or federal regulations or law, or any legal developments thereunder, as applied to the Company or to the Units of the Members, would adversely affect (or potentially adversely affect), in a manner deemed substantial by a Supermajority of the Board, the operations of the Company or the Members;
- e. The entry of a decree of judicial dissolution or the issuance of a certificate for administrative dissolution under the Act; or
- f. The determination by a Supermajority of the Board that the Center has not been operating for more than thirty (30) consecutive days.

11.2 Winding Up of the Company. Upon the dissolution of the Company, the Board of Managers shall take full account of the Company's assets and liabilities, and the assets shall be liquidated as promptly as is consistent with obtaining the fair value thereof. The proceeds therefrom, to the extent sufficient therefor, shall be applied and distributed as provided in the Act and this Agreement; provided, however, that after payment of or creating adequate reserves to provide for all Company debts, obligations and liabilities, the remaining Company assets, notwithstanding anything contained in this Agreement to the contrary, shall be distributed to the Members in accordance with their ending positive Capital Account balances after all allocations and any other Capital Account adjustments for the Fiscal Year are made. All Company assets shall be distributed by the later of (i) the last day of the tax year of the liquidation as defined in Regulations Section 1.704-1(b) or (ii) ninety (90) days after the liquidation; provided, however, if the Company creates reserves or holds installment obligations owed to Company, such amounts will be distributed as soon as practicable and in proportion to the Members' ending positive Capital Account balances.

XII. BOOKS OF ACCOUNT, ACCOUNTING, REPORTS, FISCAL YEAR, BANKING AND TAX ELECTION

12.1 Books of Account. The Company's books and records (including a current list of the names and addresses of all Members) and an executed copy of this Agreement, as currently in effect, shall be maintained at the principal office of the Company, and each Member shall have access thereto at all reasonable times. The books and records shall be kept by the Board of Managers using an appropriate method of accounting consistently applied and shall reflect all Company transactions and be appropriate and adequate for the Company's business. The Board of Managers shall also keep adequate federal income tax records using an appropriate method of accounting applied on a consistent basis.

12.2 Financial Reports. As soon as reasonably practicable after the end of each Fiscal Year, but not later than March 31 of the next succeeding year, an unaudited balance sheet of the Company as of the last day of such Fiscal Year and unaudited statements of income or loss of the Company for such year

shall be made available to each Member. In addition, the Company will make available to the Members unaudited quarterly summaries of its operations. All such financial statements shall be prepared on an accrual basis of accounting in accordance with GAAP, consistently applied. The Company shall also furnish to each Member not later than March 31 of each year whatever information may be necessary for Members to file their federal income tax returns. The Company will also make available to each Member upon request a copy or summary of all federal, state and/or local tax returns which are filed by the Company. The Company will make available to the Members any audited balance sheet of the Company, if one has been prepared.

12.3 Fiscal Year. The "**Fiscal Year**" of the Company shall be the calendar year except as otherwise required by the Code or Regulations.

12.4 Tax Election. Subject to the Section 8.16, (i) upon the transfer of an interest in the Company or in the event of a distribution of the Company's property, the Company may, but is not required to, elect pursuant to Code Section 754 to adjust the basis of the Company's property as allowed by Sections 734(b) and 743(b) thereof, and (ii) the Board of Managers shall have the sole authority and discretion to make such an election.

12.5 Tax Returns. The Board of Managers shall, for each Fiscal Year, file on behalf of the Company with the Internal Revenue Service a Company Return within the time prescribed by law (including any extensions) for such filing. The Board of Managers shall also file on behalf of the Company such state and/or local income tax returns as may be required by law.

XIII. POWER OF ATTORNEY

13.1 Appointment of Attorney-in-Fact. Each Member hereby makes, constitutes and appoints any Manager, and any officer of the Company, with full power of substitution and re-substitution, his, her or its agent and attorney-in-fact to file for record, and to sign, execute, certify and acknowledge any other instruments which may be required of the Company or of the Members by law to qualify or continue the Company under the Act, including, but not limited to, amendments to or cancellations of this Agreement, including any amendments necessary to substitute or add a Member or a Manager pursuant to this Agreement, or of the Certificate. Each Member authorizes such attorney-in-fact to take any further action which such attorney-in-fact shall consider reasonably necessary in connection with the foregoing, hereby giving such attorney-in-fact full power and authority to act to the same extent as if such Member were himself personally present. Notwithstanding anything to the contrary, the foregoing power of attorney does not authorize or empower any Manager to take any action that would otherwise require the approval of the Members.

13.2 Effect of Power. The power of attorney granted pursuant to Section 13.1 of this Agreement:

a. Is a special power of attorney coupled with an interest, is irrevocable, and shall survive the death, dissolution, insanity, or incapacity of the granting Member; and

b. May be exercised by such attorney-in-fact for each Member by listing all of the Members executing any agreement, certificate, instrument or document with the single signature of such attorney-in-fact as attorney-in-fact for all of them; and

c. Shall survive the delivery of an assignment by a Member of the whole or a portion of his interest in the Company, except that where the purchaser, transferee or assignee thereof is to be admitted as a substitute Member, the power of attorney shall survive the delivery

of such assignment for the sole purpose of enabling such attorney-in-fact to execute, acknowledge and file any agreement, certificate, instrument, or document necessary to effect such substitution.

XIV. AMENDMENTS AND VOTING

14.1 Amendments. Amendments to this Agreement may be proposed by the SCA Member or by Members holding an aggregate Company Percentage of greater than ten percent (10%).

a. A proposed amendment shall be adopted and effective as an amendment to this Agreement upon the approval of a Supermajority of the Members.

b. In addition to any amendments otherwise authorized herein, the Board of Managers may, upon approval of Supermajority of the Board, without obtaining the consent of the Members, amend this Agreement from time to time as follows:

(i) to cure any ambiguity, to correct or supplement any provision in this Agreement which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Agreement or the Certificate, as the case may be, which will not be inconsistent with the provisions of this Agreement or the Certificate as the case may be, provided that such amendment does not adversely affect the interests of the Members;

(ii) as necessary in the opinion of counsel to the Company for the allocations of taxable income and loss contained herein to be respected for federal income tax purposes, provided that no such amendment shall materially increase the obligations of the Members hereunder or materially dilute their rights under the Agreement;

(iii) upon advice of counsel that the operations of the Company are in violation of law, to cause this Agreement to comply with law; provided, however, such amendments shall not alter materially the economic objectives of the Company and, further, provided that any amendment to or deletion of any provision shall not in the opinion of a Supermajority of the Board materially reduce the economic return to the Members; or

(iv) Such that the SCA Member and SCA will be able to consolidate the financial results of operations and financial condition of the Company with the financial results of operation and financial condition of its ultimate parent under applicable requirements of GAAP, consistently applied, as such may change from time to time, as determined in the reasonable opinion of SCA's independent certified accountants; provided, however, that any such change does not have an adverse economic impact on the Members other than the SCA Member.

c. The Board of Managers may, without obtaining the consent of the Members, amend this Agreement to evidence the admission of additional or substitute Members admitted in accordance with the terms of this Agreement.

14.2 Meetings and Means of Voting. Meetings of the Members may be called by the Board of Managers, the SCA Member or by Physician Interest Holders holding at least thirty percent (30%) of the Units then held by all Physician Interest Holders. The call for any meeting called under this Section 14.2 shall state the nature of the business to be transacted. Notice of any such meeting shall be delivered by the Board of Managers within ten (10) days of its calling to all Members in the manner prescribed in

Section 17.1 of this Agreement and such meeting shall be held not less than fifteen (15) days nor more than sixty (60) days after such notice. Members may vote in person or by proxy at any such meeting. Whenever the vote or consent of Members is permitted or required under this Agreement, such vote or consent may be given at a meeting of Members or may be given in writing. For purposes of obtaining a written vote, the Board of Managers may require response within a specified time, but not less than thirty (30) days from the date notice is deemed to have been given, and failure to respond shall constitute a vote which is consistent with the Board of Managers' recommendation with respect to the proposal.

14.3 Voting Rights. Except as otherwise required by the Act, this Agreement does not grant to any Member the right to vote upon any matter not specifically provided for in this Agreement. Subject to the reserve powers of the Members set forth in this Agreement, the Board of Managers of the Company has complete right and power to control all management functions and decisions of the business and affairs of the Company.

XV. DUTIES OF COVERED PERSONS

15.1 Covenants of Covered Persons. Each Covered Person agrees that during the Restricted Period, other than through the Company, no Covered Person nor any of his or her Affiliates shall, without the prior written approval of the Board of Managers, directly or indirectly, own, manage, operate, control or participate in any manner in the ownership, management, operation or control of, or serve as a partner, employee, principal, agent, consultant or otherwise contract with, or have any financial interest in, or aid or assist any other person or entity that operates a facility (including an ambulatory surgery center, a hospital, or an office-based or practice-based facility or operating site or room that provides any of the services offered by the Company (each, a "**Competing Facility**")) to provide outpatient surgical services within twenty-five (25) miles from the address of the Center. Further, a Covered Person may not provide services of the type provided by the Center in his or her office if the Covered Person's office, or other entity with which the Covered Person has a compensation relationship or in which the Covered Person has an ownership interest, is accredited, licensed or Medicare-certified or such entity or Covered Person received a facility fee or technical fee or a site-of-service differential in connection with performing surgery at such location; provided, however, that the foregoing shall not prohibit a Covered Person from performing those procedures or administrative services listed beside such Covered Person's name on **Schedule B** attached hereto and incorporated herein by this reference. Furthermore, notwithstanding the foregoing, nothing in this Section 15.1 shall prohibit a Covered Person from providing medical staff governance, administrative or similar services at a hospital, provided that the Covered Person receives no compensation for such services.

a. Equitable Remedy. Each Covered Person acknowledges that the restrictions contained in this Section 15.1 are reasonable and necessary to protect the legitimate interests of the Company and that any violation of such restrictions would result in irreparable injury to the Company. In addition to any other remedy or remedies to which the Company may be entitled in law or in equity, the Company shall be entitled to preliminary and permanent injunctive relief for a violation or threatened violation of this Section 15.1 without having to prove actual damages or to post a bond, and the Company shall also be entitled to an equitable accounting of all earnings, profits and other benefits arising from such violation. Each Covered Person hereby waives any objections on the grounds of improper jurisdiction or venue to the commencement of an action in the State of Connecticut and agrees that effective service of process may be made upon him or her by mail under the provisions of Section 17.1.

b. Judicial Determination. If a court should hold that the restrictions set forth in Section 15.1 are unenforceable because they are unreasonable, then to the extent permitted by law, the court may prescribe the longest duration for the Restricted Period and/or the largest

radius or area for the restricted area that is reasonable and the parties agree to accept such determination subject to their rights of appeal. Nothing herein stated shall be construed as prohibiting the Company from pursuing any other remedy or remedies available for such breach or threatened breach, including recovery of damages from the Covered Person or injunctive relief.

c. Extension of Restricted Period. If a Covered Person is in violation of Section 15.1 at any time, then the Restricted Period shall be extended for a period of time equal to the period during which said violation or violations occurred. If the Company seeks injunctive relief from said violation in court, then the running of the Restricted Period shall be suspended during the pendency of said proceeding, including all appeals. This suspension shall cease upon the entry of a final judgment in the matter, not subject to further appeal.

d. Return of Purchase Price. In the event a former Covered Person violates the provisions of Section 15.1 after the date on which he, she or it has, directly or indirectly, Transferred his, her or its Units (which shall include a Transfer by an Interest Holder of his, her or its interest in an Entity Member), and the Company or the SCA Member purchased the Units or Interest Holder's Proportionate Units related to such former Covered Person, such Covered Person shall pay to the Company or the SCA Member, as the purchaser of such Units or Interest Holder's Proportionate Units as follows:

(i) If the former Covered Person was a Member, such former Covered Person shall pay the Company or the SCA Member, as applicable, an amount equal to the difference between (A) the greater of the purchase price received upon the Transfer of his, her or its Units or the fair market value of the Units on such date, as determined by the SCA Member and (B) the Net Book Value Purchase Price multiplied by the Withdrawing Member's Company Percentage as of the date of such Transfer;

(ii) If the former Covered Person was an Interest Holder, the Entity Member shall pay or shall cause such Interest Holder to pay the Company or the SCA Member, as applicable, an amount equal to the difference between (A) the greater of the purchase price received upon the Transfer of the Interest Holder's Proportionate Units related to such former Covered Person or the fair market value of the Interest Holder's Proportionate Units on such date, as determined by the SCA Member and (B) the Net Book Value Purchase Price multiplied by the portion of the Entity Member's Company Percentage attributable to the Interest Holder's Proportionate Units as of the date of such Transfer.

15.2 Medical Malpractice Insurance. Each Physician Interest Holder shall maintain and each Entity Member shall cause its Physician Interest Holders who are physicians on the medical staff of the Center to maintain medical malpractice insurance in accordance with the Center's medical staff bylaws.

15.3 Non-Discrimination. Each Physician Interest Holder shall treat, and each Entity Member shall cause its Physician Interest Holders to treat, the Center's patients receiving medical benefits or assistance under any Federal health care program in a nondiscriminatory manner.

15.4 Certification.

a. In order to assist the Board of Managers in determining whether each Physician Interest Holder is using the Center as an extension of his or her practice, each Physician Interest Holder shall certify in writing to the Company at such times as requested (provided no more frequently than once per calendar year) and in the then current written form as may be required

by the Board of Managers, with respect to the preceding twelve (12) months: (i) whether such Physician Interest Holder satisfied the Extension of Practice Requirements; (ii) whether such Physician Interest Holder has been subject to a Health Care Program Adverse Event; (iii) whether all patients referred to the Center by the Physician Interest Holder were fully informed of the Physician Interest Holder's ownership interest in the Company; and (iv) whether such Physician Interest Holder maintains medical malpractice insurance in accordance with the requirements set forth in the Center's medical staff bylaws. In addition, each Covered Person shall certify in writing to the Company at such times (provided no more frequently than once per calendar year) and in the current written form as may be required by the Board of Managers, with respect to the preceding twelve (12) months (i) whether such Covered Person has complied with the terms of this Agreement; (ii) whether such Covered Person is subject to a Buy/Sell Event and (iii) if an Entity Member, whether there have been any changes in its Interest Holders or the percentage of equity owned by the Interest Holders in the Entity Member within the previous twelve (12) month period.

b. **"Extension of Practice Requirements"** means the requirements that a Physician: (i) derive at least one-third (1/3) of his or her annual medical practice income (from all sources) from performing Outpatient Surgical Procedures, or procedures requiring an ambulatory surgery center or hospital operating room setting, or from providing anesthesia in connection with such procedures, and (ii) perform at least one-third (1/3) of his or her Outpatient Surgical Procedures or anesthesia procedures as applicable at the Center. For purposes of this definition, **"Outpatient Surgical Procedures"** shall mean those surgical procedures on the list of Medicare covered procedures for ambulatory surgery centers under applicable Medicare regulations in effect at the time a procedure is performed. The intent of the Extension of Practice Requirements is to ensure that each Physician Interest Holder is not serving as an indirect referral source with respect to the Center and that each Physician Interest Holder actively performs services at the Center. The Extension of Practice Requirements are intended to establish general standards for physicians based upon the Office of Inspector General safe harbors for surgery centers. The Board of Managers, acting in its sole discretion, may waive a Physician Interest Holder's compliance with all or a portion of the Extension of Practice Requirements if the Board of Managers reasonably believes that a Physician Interest Holder is acting in good faith to comply with the applicable statutes, including 42 U.S.C. §1320a-7b, and the Board of Managers reasonably believes that the Company will not be in violation of applicable law if such Physician Interest Holder continues to have a direct or indirect ownership interest in the Company.

15.5 Physician Interest Holder Eligibility Requirements.

a. All Physician Interest Holders must:

(i) Be licensed to practice medicine in the State of Connecticut;

(ii) Obtain and maintain medical staff privileges at the Center and at least one local hospital in New London County, Connecticut, except for William J. Kaufold, M.D., Dana P. Woods, M.D. and Stephen Scarangella, M.D., who shall be permitted to maintain medical staff privileges at at least one local hospital in Windham County, Connecticut;

(iii) At all times, be in compliance with paragraphs (A) through (C) of this subsection and affirm in writing, in connection with the initial acquisition of his or her Units and, thereafter, at such times (provided no more frequently than once per calendar

year) and in the written form as may be then be required by the Board of Managers from time to time:

(A) the Physician Interest Holder agrees to fully inform each patient referred to the Center by the Physician Interest Holder of his or her ownership interest in the Company;

(B) the Physician Interest Holder satisfies the Extension of Practice Requirements (or, if a new Physician Interest Holder, he or she satisfies component (i) of the Extension of Practice Requirements and expects to satisfy component (ii) of the Extension of Practice Requirements at the Center each year); and

(C) the Physician Interest Holder has treated patients receiving medical benefits or assistance under any federal health care program (including Medicare and Medicaid) in a non-discriminatory manner.

b. The criteria set forth in Section 15.5(a), as well as the requirement to make representations regarding compliance with the criteria in the form and pursuant to the time intervals set forth above, are referred to as the “**Physician Interest Holder Eligibility Requirements.**”

c. An Entity Member may become a Member in accordance with the terms of this Agreement only if each of its Physician Interest Holders satisfies the Physician Interest Holder Eligibility Requirements.

d. The SCA Member may require any Member that is not an Entity Member or Physician Interest Holder to transfer his, her or its Units to the SCA Member or the Company for the Fair Market Value Transfer Price.

15.6 Confidentiality. Each Member shall, and shall cause each agent or principal thereof, to keep secret and confidential, all information acquired relating to the following (all such information being hereinafter referred to as “**Confidential Business Information**”): (a) the financial condition and other information relating to the business of the Company, including, without limitation, its rates for services, its operations and contracts, and its business plans and arrangements; (b) the systems, products, plans, services, marketing, sales, administration and management procedures, trade relations or practices, techniques and practices heretofore or hereafter acquired, developed and/or used by the Company; and (c) in connection with the Company’s patients, providers, clients, customers, suppliers, vendors, lenders, independent contractors, and payors, the provisions and terms of any agreements or proposed agreements between the Company and any of such individuals or entities. No Member shall at any time disclose any such Confidential Business Information to any person, firm, corporation, association or other entity, or use the same in any manner other than in connection with operating the business and affairs of the Company or the Center; provided, however, a Member may disclose Confidential Business Information to a bona fide, potential third-party purchaser of any interest in the Company, if the purchase is to be made in accordance with any applicable provisions hereof and if such third party has executed a confidentiality agreement acceptable to the Board of Managers pursuant to which such third party has agreed to keep the Confidential Business Information strictly confidential. Subject to the foregoing proviso, no Member shall under any circumstances use Confidential Business Information in any way the Board of Managers reasonably believes is detrimental to the Company or the Center. Notwithstanding the foregoing, the term “**Confidential Business Information**” shall not include the following: any information which was independently developed by a party without the use of the Confidential Business Information; any

information which is or becomes available in the public domain during the term of this Agreement other than through a breach of this Agreement or other agreement with the Company or the Center; any information which is ordered to be released by requirement of a governmental agency or court of law; any information provided to a party's professional advisers (i.e., attorneys and accountants); and any information independently made lawfully available to a party as a matter of right by a third party. Each Member agrees that these confidentiality covenants shall apply while a Person is a Member and also at all times thereafter.

XVI. BOARD OF MANAGERS' TRANSACTIONS AND LIABILITY

16.1 Permitted Transactions of the SCA Member.

a. The SCA Member may engage in or possess interests in business ventures other than the Company, of every nature and description, independently or with others, including, but not limited to, the operation of other health care facilities and neither the Company nor the Members shall have any right by virtue of this Agreement in or to such independent ventures or to the income or profits derived therefrom.

b. The fact that the SCA Member is directly or indirectly interested in or connected with any person who renders or performs a service to the Company, or any person from whom the Company may borrow money, shall not prohibit the Company from engaging in any transaction with such person or create any duty or legal justification additional to that which would exist if such person were not so related to the Company, and neither the Company nor any other Member shall have any right in or to any income or profits derived from such transaction by such person.

16.2 Liability of the Managers to the Members and the Company. The Managers shall not be required to devote all of its time or business efforts to the affairs of the Company but shall devote so much of its time and attention to the Company as is reasonably necessary and advisable to manage the affairs of the Company to the best advantage of the Company. The Managers shall not be liable to the Members because any taxing authorities disallow or adjust any deductions, allocations or credits in the Company income tax returns. Furthermore, the Managers shall not have any personal liability for the repayment of capital contributions of the Members. No amendment of this Section shall be binding on any Person or change the rights of such Person hereunder who is or was a Manager without such Person's approval.

16.3 Exculpation. Neither the Managers nor any officer of the Company (each a "**Responsible Party**"), shall be liable, responsible or accountable in damages or otherwise to the Company or any Members for any action taken or failure to act (even if such action or failure to act constituted the gross negligence of such Responsible Party) on behalf of the Company within the scope of the authority conferred on or permitted to any such Responsible Party by this Agreement or by law, unless such act or omission was performed or omitted fraudulently, with gross negligence or as an act of willful misconduct. The provisions of this Agreement, to the extent that they expand, restrict or eliminate the duties and liabilities of any Responsible Party otherwise existing at law or in equity, are agreed by the Members to expand, restrict or eliminate to that extent such other duties and liabilities of such Responsible Party to the fullest extent permitted by applicable law. A Responsible Party will not be liable to the Company or any Members for breach of contract or breach of duties (including fiduciary duties) of such Responsible Party, except that nothing herein will limit or eliminate any liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing. However, in no event will any Responsible Party be liable to the Company or any other Members for any breach of fiduciary duty or implied contractual covenant of good faith and fair dealing,

to the extent arising hereunder, for such Responsible Party's good faith reliance on the provisions of this Agreement.

16.4 Indemnification. The Company shall indemnify and hold harmless to the fullest extent permitted by law each Responsible Party from and against any loss, expense, damage or injury suffered or sustained by it by reason of any acts, omissions or alleged acts or omissions (even if such acts or omissions constituted the gross negligence of such Responsible Party) arising out of its activities on behalf of the Company or in furtherance of the interests of the Company, including, but not limited to, any judgment, award, settlement, attorney's fees and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim, if the acts, omissions or alleged acts or omissions upon which such actual or threatened action, proceeding or claim is based were for a purpose reasonably believed by the Responsible Party to be in, or not opposed to, the interests of the Company and were not performed or omitted fraudulently, with gross negligence or as an act of willful misconduct, and were not in violation of the express terms of this Agreement. In no event will any Member be required to make any contribution to the Company that may be necessary for the Company to satisfy its indemnity obligation hereunder. No amendment of this Section shall be binding on any Person or change the rights of such Person hereunder who is or was a Manager without such Person's approval.

16.5 Return of Capital Contribution. Anything in this Agreement to the contrary notwithstanding, no Manager shall be individually liable for the return of the Capital Contributions of the Members, or any portion thereof, it being expressly understood that any such return shall be made solely from Company assets.

XVII. MISCELLANEOUS

17.1 Notices. Except as otherwise provided in this Agreement, any notice, payment, demand, request or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be duly given by the applicable party if given to the applicable party at its address set forth below:

(a) If to the Company:

River Valley ASC, LLC
45 Salem Turnpike
Norwich, CT 06360
Attention: Board of Managers

or to such other address as the Board of Managers may from time to time specify by written notice to the Members; and

(b) If to a Member, at such Member's address set forth in the Company records, or to such other address as such Member may from time to time specify by written notice to the Board of Managers.

(c) Any such notice shall, for all purposes, be deemed to be given and received:

(i) if by hand, when delivered;

(ii) if given by nationally recognized and reputable overnight delivery service, the business day on which the notice is actually received by the party; or

(iii) if given by certified mail, return receipt requested, postage prepaid, three business days after posted with the United States Postal Service.

17.2 Section Captions. Section and other captions contained in this Agreement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

17.3 Severability. Every provision of this Agreement is intended to be severable. If any term or provision of this Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

17.4 Right to Rely Upon the Authority of the Board of Managers. No person dealing with the Board of Managers shall be required to determine its authority to make any commitment or undertaking on behalf of the Company, nor to determine any fact or circumstance bearing upon the existence of its authority. In addition, no purchaser of any property of the Company shall be required to determine the sole and exclusive authority of the Board of Managers to sign and deliver on behalf of the Company any instrument of transfer, or to see to the application or distribution of revenues or proceeds paid or credited in connection therewith, unless such purchasers shall have received written notice from the Company affecting the same.

17.5 Governing Law. The laws of the State of Connecticut shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto, without giving effect to any conflicts-of-laws provisions.

17.6 Waiver of Action for Partition. Each Member irrevocably waives during the term of the Company and during the period of its liquidation following any dissolution, any right to maintain any action for partition with respect to any of the assets of the Company.

17.7 Counterpart Execution. This Agreement may be executed in one or more counterparts all of which together shall constitute one and the same Agreement. Electronically delivered signature pages shall be treated as originals.

17.8 Parties in Interest. Except as otherwise provided in this Agreement, this Agreement shall be binding upon the parties hereto and their successors, heirs, devisees, assigns, legal representatives, executors and administrators.

17.9 Construction of Pronouns. The feminine or neuter of the words "he," "his" and "him" used herein shall be automatically deemed to have been substituted for such words where appropriate to the particular Member executing this Agreement.

17.10 Integrated Agreement. This Agreement and the agreements referred to herein constitute the entire understanding and agreement among the parties hereto with respect to the subject matter hereof, and there are no agreements, understandings, restrictions, representations or warranties among the parties other than those set forth herein or herein provided for.

17.11 Force Majeure. If any of the parties hereto is delayed or prevented from fulfilling any of its obligations under this Agreement by Force majeure, said party shall not be liable under this Agreement for said delay or failure. "Force majeure" shall mean any cause beyond the reasonable control of a party, including, but not limited to, act of God, act or omission of civil or military authorities of a state or nation, fire, strike, flood, riot, war, delay of transportation or any other act or omission beyond the reasonable control of a party.

17.12 Schedules and Exhibits. Each Schedule and Exhibit to this Agreement is incorporated herein for all purposes.

17.13 Benefit/Assignment. Subject to 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 nothing contained herein shall negate or diminish the restrictions on transfer set forth in this Agreement. This Agreement is intended solely for the benefit of the parties hereto and is not intended to, and shall not, create any enforceable third party beneficiary rights.

17.14 Waiver. Failure by any party to enforce any of the provisions hereof for any length of time shall not be deemed a waiver of its rights set forth in this Agreement. Such a waiver may be made only by an instrument in writing signed by the party sought to be charged with the waiver. No waiver of any condition or covenant of this Agreement shall be deemed to imply or constitute a further waiver of the same or any other condition or covenant, and nothing contained in this Agreement shall be construed to be a waiver on the part of the parties of any right or remedy at law or in equity or otherwise.

17.15 Business Day. Should any due date hereunder fall on a Saturday, Sunday or legal holiday, then such due date shall be deemed timely if given on the first business day following such Saturday, Sunday or legal holiday.

17.16 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO DEMAND THAT ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE RELATIONSHIPS OF THE PARTIES HERETO BE TRIED BY JURY. THIS WAIVER EXTENDS TO ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY ARISING FROM ANY SOURCE INCLUDING, BUT NOT LIMITED TO, THE CONSTITUTION OF THE UNITED STATES OR ANY STATE THEREIN, COMMON LAW OR ANY APPLICABLE STATUTE OR REGULATIONS. EACH PARTY HERETO ACKNOWLEDGES THAT IT IS KNOWINGLY AND VOLUNTARILY WAIVING ITS RIGHT TO DEMAND TRIAL BY JURY.

17.17 Language Construction. The language in all parts of this Agreement shall be construed, in all cases, according to its fair meaning, and not for or against any party hereto. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

[Signatures appear on following pages.]

IN WITNESS WHEREOF, this Second Amended and Restated Operating Agreement has been executed as of the date first above written.

SCA MEMBER:

SCA-RIVER VALLEY, LLC

By: RLS
Name: Richard L. Sharff, Jr.
Title: Vice President

CLASS A MEMBERS:

Jerilyn Allen, MD

Nicole Arcand, MD

David Boisonneau, MD

David Coletti, MD

Pamela Connors, MD

Darren Courtright, MD

William Culviner, MD

Frank Dellacono, MD

Peter Famiglietti, MD

Raymond Gaito, Jr., MD

Daniel Glenney, MD

[Signature Pages to Second Amended & Restated Operating Agreement]

IN WITNESS WHEREOF, this Second Amended and Restated Operating Agreement has been executed as of the date first above written.

SCA MEMBER:

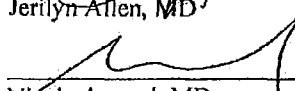
SCA-RIVER VALLEY, LLC

By: _____
Name: Richard L. Sharff, Jr.
Title: Vice President

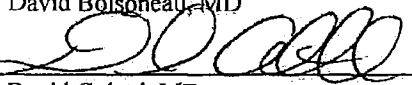
CLASS A MEMBERS:



Jerilyn Allen, MD

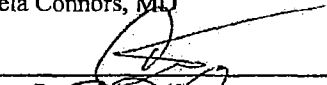


Nicole Arcand, MD

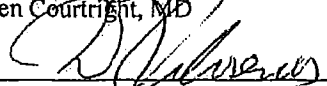
David Boisoneau, MD


David Coletti, MD

Pamela Connors, MD



Darren Courtright, MD

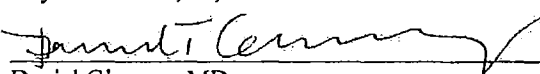


William Culviner, MD

Frank Dellacono, MD

Peter Famiglietti, MD

Raymond Gaito, Jr., MD



Daniel Glenney, MD

[Signature Pages to Second Amended & Restated Operating Agreement]

IN WITNESS WHEREOF, this Second Amended and Restated Operating Agreement has been executed as of the date first above written.

SCA MEMBER:

SCA-RIVER VALLEY, LLC

By: _____
Name: Richard L. Sharff, Jr.
Title: Vice President

CLASS A MEMBERS:

Jerilyn Allen, MD

Nicole Arcand, MD

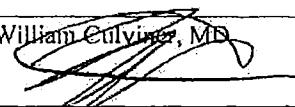


David Boisoneau, MD

David Coletti, MD

Pamela Connors, MD

Darren Courtright, MD



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Title: Vice President

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Nicole Arcand, MD

DB

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David Coletti, MD

Pamela Connors, MD

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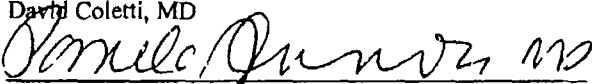
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William Kaufold, MD

Gregory Lesnik, MD

Richard Martin, MD

John Pagnozzi, MD

Vinod Pathy, MD

Stephen Rouse, MD

Stephen Scarangella, MD

Patricia Stuart, MD

Edward Tarka, DPM

Shri Verma, MD

John Wesolek, MD

Dana Woods, MD

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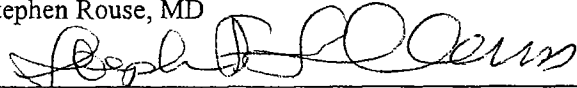
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Stephen Scarangella, MD

Patricia Stuart, MD

Edward Tarka, DPM

Shri Verma, MD

John Wesolek, MD

Dana Woods, MD

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Schedule A

RIVER VALLEY ASC, LLC

SCHEDULE OF MEMBERS

MEMBER	UNITS OWNED	PERCENTAGE OF OWNERSHIP INTEREST
Daniel Glenney, MD	2.8733 Units	2.4825%
Nicole Arcand, MD	2.8733 Units	2.4825%
Patricia Stuart, MD	2.8733 Units	2.4825%
John Pagnozzi, MD	2.8733 Units	2.4825%
William Culviner, MD	2.3736 Units	2.0508%
Steven Green, MD	2.8733 Units	2.4825%
Stephen Rouse, MD	2.8733 Units	2.4825%
Jerilyn Allen, MD	2.3736 Units	2.0508%
Gregory Lesnik, MD	2.3736 Units	2.0508%
David Boisoneau, MD	2.8733 Units	2.4825%
Darren Courtright, DPM	1.9988 Units	1.7270%
Frank Dellacono, MD	2.8733 Units	2.4825%
Shri Verma, MD	2.8733 Units	2.4825%
Richard Martin, MD	2.8733 Units	2.4825%
Pamela Connors, MD	2.4985 Units	2.1587%
Edward Tarka DPM	0.5447 Units	0.4706%
Stephen Scarangela MD	1.2492 Units	1.0794%
Vinod Pathy MD	0.5247 Units	0.4533%
Peter Famiglietti MD	0.5247 Units	0.4533%
Raymond Gaito MD	0.5247 Units	0.4533%
David Coletti MD	0.4997 Units	0.4317%
John Wesolek MD	0.4997 Units	0.4317%
William Kaufold MD	0.4997 Units	0.4317%
Dana Woods MD	0.4997 Units	0.4317%
SCA-River Valley, LLC	60.5000 Units	60.5000%
TOTAL	115.7400 Units	100%

Schedule B

Grandfathered Relationships

Dr. Famiglietti:

- Serving as Section Chief/ Medical Director for Lawrence & Memorial Hospital and receiving compensation therefore
- Serving in administrative/educational positions with UConn and/or Quinnipiac Medical schools
- Serving in administrative/ educational positions with the Connecticut Society of Eye Physicians and/or the Connecticut State Medical Society

Richard Martin, M.D.: The following codes are for procedures performed in office (which is not a licensed facility) and for which no facility fee is charged.

07240 Full Bony IMP
07241 Ext Diff Full Bony
D7280 Exposure & Bracket
D7.283 Bracket
07285 Biopsy Hard Tissue
07286 Biopsy Soft Tissue
D7310 Alveoplasty
D7320 Alveoplasty
06010 Implant
20680 Removal of implant
20902 Onlay Graft
D4263 Synthetic Graft
D4265 Membrane
11400 Exc. Ben. Lesion trunk, arm, leg >.5cm
11401 >.6-1.0cm
11402 1.1-2.0cm
11403 2.1-3.0 cm
11404 3.1-4.0 cm
11406 >4.0 cm
11420 Exc. Ben. Lesion scalp, neck, hands, feet>.5cm
11421 >.6-1.0cm
11422 L1-2.0cm
11423 2.1-3.0 cm
11426 >4.0 cm
11440 Exc. Lesion face, eyelids, nose lips>.5cm
11441 >.6-1.0cm
11442 1.1-2.0cm
11443 2.1-3.0 cm
11446 >4.0 cm
11600 Exc. Mal, Lesion trunk, arm, leg >.5cm
11601 >.6-1.0cm
11602 1.1-2.0cm
11603 2.1-3.0 cm
11604 3.1-4.0 cm
11606 >4.0 cm
11620 Exc. Mal. Lesion scalp, neck, hands, feet>.5cm

11621 >.6-1.0cm
11622 1.1-2.0cm
11623 2.1-3.0 cm
11624 3.1-4.0 cm
11626 >4.0 cm
11640 Exc. Mal Lesion face, eyelids, nose lips>.5cm
11641. >.6-1.0cm
11642 1.1-2.0cm
44643 2.1-3.0 cm
11644 3.1-4.0 cm
11646 >4.0 cm
15780 Dermabrasion
15781 Dermabrasion face
15782 Dermabrasion, non face
15783 Dermabrasion, superficial
15786 Abrasion, single lesion
15787 Abrasion each add. Lesion
15819 Cervicoplasty
15820 Blepharoplasty lower lid
15821 Blepharoplasty lower lid, extensive pad
15822 Blepharoplasty upper lid
15823 Blepharoplasty upper lid, excessive skin
35825 Facelift
15830 Panniculectomy
15832 Thigh Lift
15836 Brachioplasty with Liposuction
15847 Abdominoplasty with Liposuction
15850 Removal of sutures under anesthesia
15876 Liposuction, head & neck
15877 Liposuction, trunk
15878 Liposuction, upper extremity
15879 Liposuction, lower extremity
21011 Sub q biopsy < 2cm
21012 Sub q biopsy >2cm
21013 Sub q biopsy, scalp, subfascial <2 cm
21014 Sub q biopsy, scalp, subfascial >2 cm
21015 Res. Tumor malignant <2cm
21016 Res. Tumor malignant >2cm
40800 I & D Mouth
40801 I & D Complex
40808 Biopsy
40810 Exc. Lesion w/o repair
40812 Exc. Lesion simple repair
40814 Exc. Lesion complex repair
40819 Frenectomy labial/buccal
40820 Laser ablation
41010 Frenectomy Lingual
41100 Biopsy tongue ant 2/3
41105 Biopsy tongue post 1/3
41108. Biopsy Floor of mouth

41110 Exc lesion tongue w/o closure
41112 Exc lesion tongue w/ closure 2/3
41113 Exc lesion tongue w/ closure 1/3
41820 Gingivectomy
D7140 Non Sx Exo
D7210 Surgical Exo
D7220 Soft Tissue Impaction
07230 Partial Bony Imp
12031 Int Rep. trunk, arm, leg 25cm or less
12032 2.6-7.5 cm
12034 7.6-12.5 cm
12035 12.6-20cm
12036 20.1-30.0 cm
12037 over 30 cm
12041 Int rep scalp, neck, hands, feet>.5cm
12042 2.6-7.5 cm
12044 7.6-12.5 cm
12045 12.6-20cm
12046 20.1-30.0 cm
12047 over 30 cm
12051 Int rep. face, eyelids, nose lips>.5cm
12052 2.6-5 cm
12053 5.1-7-5 cm
12054 7.6-12.5 cm
12055 12.6-20.0c
12056 20.1-30.0 cm
12057 over 30 cm
13100 Complex repair trunk 1.1-2.5 cm
13101 2.6-7.5 cm
13102 add 5cm
13120 Complex repair scalp, arms, legs 1.1-25 cm
13121 2.6-7.5 cm
13122 add 5cm
13131 Complex repair forehead, cheek, chin mouth 1.1-2.5 cm
13132 2.6-7.5 cm
131a3 add 5cm
13150 complex repair lids, nose ears, lips 1.1-2.5 cm
13151 1.1-2.5
13152 2.6-7.5 cm
13153 add 5cm
42100 Biopsy Palate
42104 Exc Lesion w/o closure
42106 with simple primary closure
42107 w flap closure

Dr. David Boisoneau and Dr. Frank Dellacono

indirect laryngoscopy 31505
fiberoptic laryngoscopy 31575

nasal endoscopy 31231
sinus debridement 31237
control epistaxis 30901/3/5
nasal foreign body removal 30300
fine needle aspiration 10021
drain tonsil abcess 42700
remove salivary stone 42330
remove ear wax 69210
debridement infected skin 11000
foreign body ear 69200
mastoid bowl cleaning 69220/2
incision ear drum 69420
insertion PE tube 69433
patching tympanic membrane 69610
use operating microscope 69990
Epley maneuver 95992

Drs. Rouse, Green, Allen and Culviner

PROCEDURE CODE

10021	OFF PROC
10060	OFF PROC
10061	OFF PROC
10120	OFF PROC
10121	OFF PROC
10140	OFF PROC
10160	OFF PROC
11100	OFF PROC
11101	OFF PROC
11200	OFF PROC
11201	OFF PROC
11300	OFF PROC
11301	OFF PROC
11302	OFF PROC
11305	OFF PROC
11306	OFF PROC
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11308	OFF PROC
11310	OFF PROC
11311	OFF PROC
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11313	OFF PROC
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11403	OFF PROC
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12011	OFF PROC
12013	OFF PROC
12014	OFF PROC
12015	OFF PROC
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17003	OFF PROC
17106	OFF PROC
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21012	OFF PROC
21013	OFF PROC
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40808	OFF PROC
40810	OFF PROC
40812	OFF PROC
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42106	OFF PROC
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42800	OFF PROC
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42806	OFF PROC
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69000	OFF PROC
69005	OFF PROC
69020	OFF PROC
69090	OFF PROC
69100	OFF PROC
69105	OFF PROC
69110	OFF PROC
69210	OFF PROC
69540	OFF PROC
69990	OFF PROC
92504	OFF PROC
92511	OFF PROC
95992	OFF PROC

Dr. John Pagnozzi

11008	46020-46083
11770-11772	46910
13160	45300
15002-15879	
19300-19307	
11900-11983	
14000-14350	
17311-17999	
19260-19298	
19316-19499	

Dr. Nicole Arcand:

10140
10121
10120
10160
11010
11012
11042
11044
11730
11750
12001
12031
12041
20005
20520
20525
20550
20600
20605
20610
20670
20680
20950
23500
23600
23620
24650
24670
25560
25605

25622
26010
26418
26600
26605
26720
26750
26755
26951
27516
27530
27750
27752
27760
27762
27780
27786
27808
27810
27818
27824
28400
28430
28450
28470-28525
28665
28635
28675
28825
37618
97605

Dr. Gregory Lesnik:

30100	14040
30110	92553
31231	92557
31575	92567
31515	92533
92613	A4550
92625	92532
92610	92531
69210	95992
69220	14040
42809	69436
30300	J3301

69200
30901
11100
11101
11200
11201
10060
15240
69801

MANAGEMENT AGREEMENT

RIVER VALLEY ASC, LLC

THIS MANAGEMENT AGREEMENT (this “**Agreement**”) is made and entered into as of November 1, 2016 (the “**Effective Date**”), by and between **SURGICAL CARE AFFILIATES, LLC**, a Delaware limited liability company (the “**Manager**”), and **RIVER VALLEY ASC, LLC**, a Connecticut limited liability company (the “**Owner**”).

RECITALS:

WHEREAS, the Owner owns and operates an ambulatory surgery center located at 45 Salem Turnpike, Norwich, Connecticut known as “River Valley Ambulatory Surgery Center” (the “**Center**”); and

WHEREAS, the Owner and the Manager each desire that the Owner engage the Manager to assist with the management of the Center and to provide certain non-medical services to the Center, pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises, which are hereby incorporated into this Agreement as an integral part hereof and not as mere recitals hereto, and of the promises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

I. SCOPE OF ENGAGEMENT

1.1 **Provision of Services.** The Owner hereby retains the Manager for the purpose of rendering management, administration, purchasing services and support as described and set forth on Exhibit A hereto (the “**Management Services**”) and the cash management services as described and set forth in Article II hereto (the “**Cash Management Services**” and, collectively with the Management Services, the “**Services**”), subject to the goals, policies, objectives and directives established by the Owner, all of which shall be consistent with applicable state and federal law, as well as the requirements of any applicable accrediting bodies. The Manager shall be responsible for providing only the Services described herein and set forth on Exhibit A. The Manager shall not be responsible for the provision of any other items or services; provided that if the Owner requests any additional items or services, and the Manager agrees to provide such items or services, the Owner shall pay the Manager a fair market value fee for such items or services, such fee to be determined by the Manager in good faith.

1.2 **Standard of Performance.** The Manager shall perform all Services for the account of and as agent of the Owner. The Manager shall perform the Services using commercially reasonable best efforts. The Manager’s provision of the Services shall be subject to the control of the Owner, which shall have final authority in all matters relating to the Center’s operations.

1.3 **Exclusive Authority; Right to Subcontract.** The Manager shall have the exclusive right and authority to perform all of the Services described herein. The Owner shall not perform, or contract with any person or entity other than the Manager to perform, any of the Services, or any services similar to the Services, on its behalf. The Manager shall have the right to subcontract with any other persons or entities, including any affiliate of the Manager, for the provision of any of the Services; provided, however, that the Manager shall remain obligated to the Owner under this Agreement for any such subcontracted Services. Any third-party costs of additional services (i.e., those services outside of the Manager’s obligations under this Agreement) requested by the Owner to be provided shall be billed without mark-up and paid by the Owner.

1.4 Authority. The Manager shall have the right to act as the agent of the Owner and/or the Center in the procuring of licenses, permits and other approvals, the payment and collection of accounts and in all other activities necessary, appropriate or useful to the Manager in the carrying out of its duties as specified under this Agreement. The Manager shall have the further authority, without approval of the Owner, to enter into any third-party contract on behalf of the Owner the expense of which is either (i) included in the Owner's budget; or (ii) not more than \$50,000.00, subject to the approval requirements set forth in the Owner's Operating Agreement. The Manager shall be authorized to make withdrawals from the Owner's operating account to pay all costs and expenses incurred in the operation of the Center, including payment of the Management Fees (so long as such fees are not under dispute by Owner), and to fulfill all other terms of this Agreement.

1.5 Power of Attorney. The Owner hereby appoints the Manager and any subcontractor designated by the Manager, as its attorney-in-fact for the limited purpose of performing the functions described in this Agreement, including, without limitation, the authority to (a) take all steps necessary and appropriate to supervise and oversee the submission, processing and collection of all claims for payment from patients and third-party payors, including the Medicare and Medicaid programs, for professional services rendered by the Owner; (b) endorse all checks made payable to the Owner in connection with the professional services rendered by the Owner; (c) supervise and oversee the remittance of any collections from patients and third-party payors, including the Medicare and Medicaid programs; and (d) participate in any proceeding before any governmental agency arising out of the operation of the Center.

1.6 Legal Compliance; Licensing. The Owner, with the assistance of the Manager, shall comply with any and all federal, state and local statutes, regulations, rules, orders or other requirements that the Owner is responsible for undertaking which affect the Center and/or its operations. The Owner, with the assistance of the Manager, shall obtain and maintain all licenses and accreditations as are necessary for the provision of medical and health care services and the operation of an ambulatory surgery center.

1.7 Retained Authority. Nothing in this Agreement is intended to delegate to the Manager any of the powers, duties or responsibilities vested exclusively in the Owner by law.

II. CASH MANAGEMENT SERVICES

2.1 Cash Management Service. The Manager shall maintain one or more accounts (each an "SCA Account", and collectively, the "SCA Accounts") at a bank or other financial institution (the "Depository Institution"). The Owner shall maintain an account at a bank or other financial institution (the "Company Account") into which the Owner shall deposit its funds (the "Company Funds") pursuant to this Article II. The Manager shall transfer the Company Funds from the Company Account to one or more SCA Accounts each day other than a Saturday, Sunday, or other holiday of the Depository Institution (each a "Business Day"), or at such other regular intervals as may be determined from time to time by the Manager (each, a "Transfer", and collectively, the "Transfers"). The Owner hereby authorizes the Manager to transfer all of the Company Funds to one or more SCA Accounts each Business Day or at such other regular intervals as may be determined from time to time by the Manager. The Manager will use the Company Funds to make disbursements on the Owner's behalf in its capacity as Manager (the "Disbursements"). The services provided by Manager pursuant to this Article II are collectively referred to as the "Cash Management Service."

2.2 Duty of Care. The Owner acknowledges that the Company Funds may be commingled with other funds deposited in the SCA Accounts by the Manager (the "SCA Account Funds") and may be transferred among SCA Accounts or other accounts or investments of the Manager. Notwithstanding the foregoing, the Manager shall treat the Company Funds, including any such funds so commingled, with the same degree of ordinary care that it exercises over its own account funds, and shall maintain records of all

Transfers made from the Company Account to one or more SCA Accounts and all Disbursements made from each SCA Account on the Owner's behalf, such that the Manager can readily track and account for the Company Funds. Manager shall provide to the Owner, upon reasonable request, a data sheet that details all such deposits and transfers of the Company Funds. Subject to the Owner's right to review and audit, and in the absence of manifest error or fraud, the books and records of the Manager shall be final and definitive with respect to the amounts of such Transfers, Disbursements and the balance of the Company Funds remaining after payment of the Advances pursuant to this Article II (the "**Company Fund Balance**"). The Owner agrees to comply with the terms of this Article II and any related Manager or Depository Institution procedures governing the Cash Management Service, including, without limitation, the Transfers.

2.3 Company Account Deposits. The Owner shall deposit its cash receipts, checks and other items, and any other available cash of Owner each Business Day to the Company Account. The Owner acknowledges that the availability of the Company Funds and the balance of the Company Account is subject to the Depository Institution's funds availability policies and deposit account agreements (the "**Depository Institution Account Agreements**") and may be subject to set-off or charge back, such as for returned items.

2.4 Transfers. The Owner agrees that Transfers may be initiated by the Manager or Depository Institution and may be made via zero balance account ("**ZBA**") arrangement, automated clearing house ("**ACH**") transfer, or such other method of transfer or sweep as the Manager may determine from time to time. The Owner agrees to sign such authorizations and follow such procedures that may be required by the Manager or Depository Institution from time to time to facilitate Transfers.

2.5 Authorization to Conduct Banking Activities. The Owner hereby authorizes the Manager to conduct banking activities (the "**Banking Activities**") on behalf of the Owner in accordance with the normal and customary processes utilized by the Manager in the ordinary course of the Owner's business. Such Banking Activities include opening and closing bank accounts in the name of the Owner and contracting for banking services, including merchant services and the withdrawal of funds by check or electronic means. The Owner shall take such actions and institute such procedures as the Manager from time to time may reasonably request to enable the Manager to conduct such banking activities on behalf of the Owner, and to enable the Owner to participate in the Cash Management Service to the same extent as though Owner were a wholly-owned subsidiary of the Manager. Such actions may include adopting such resolutions as may be requested from time to time by the Manager to authorize the Manager to conduct the Banking Activities.

2.6 Application of Funds. Upon the closing of the financial books of the Owner each month, the Manager agrees to apply the Company Funds to balances owed to the Manager by the Owner for payment of operating expenses of the Owner, including the Disbursements and the payment of any Management Fee owed to the Manager pursuant to this Agreement and any other fees or expenses related to the operation and maintenance of the Cash Management Services or the SCA Accounts that are properly allocable to the Owner (the operating expenses, Disbursements, Management Fee and other banking fees, collectively, the "**Advances**"). In the event that the Owner disputes any amounts due under this Agreement in accordance with the terms of the Agreement, no Company Funds shall be applied to satisfy such claimed amounts until such dispute has been resolved by the Owner and the Manager, or if the Owner and the Manager cannot resolve such dispute, as determined by a final, non-appealable and binding ruling of a court or (if applicable) arbitrator.

2.7 Overdraft Line of Credit. In connection with the Cash Management Services, the Manager may, upon approval of Supermajority of the Board of Manager of the Owner (as defined in the Operating Agreement of the Owner) and on the terms and conditions hereinafter set forth, provide the Owner with an

interest-bearing line of credit for working capital requirements up to a maximum borrowing line established by the Manager from time to time (the "Overdraft Line of Credit").

a. Manner of Borrowing. Loans under the Overdraft Line of Credit shall be made in the sole discretion of the Manager by means of the Manager's payment of the Advances of the Owner in excess of the Company Funds Balance.

b. Method of Payment. Payments to the Manager of outstanding amounts under the Overdraft Line of Credit shall be made (a) upon the closing of the financial books each month to the extent of the positive Company Fund Balance; provided, however, that all outstanding amounts under Overdraft Line of Credit shall be immediately due and payable upon the termination of this Agreement or (b) within thirty (30) days of a written demand for such payment delivered to the Owner.

c. Security. To secure payment and performance of any and all obligations of the Owner to the Manager under the Overdraft Line of Credit and any costs and expenses incurred by the Manager to enforce the security interest granted herein, the Owner hereby grants to the Manager a continuing security interest in and lien upon all of Owner's rights, title and interest in, to and in (a) the Company Account, (b) the Company Funds, (c) accounts, including contract rights, (d) general intangibles, and (e) all cash and non-cash proceeds and products thereof (collectively, the "Collateral"). Owner authorizes the filing of one or more financing statements covering the Collateral in form satisfactory to the Manager, and without Owner's signature where authorized by law. The Owner agrees to take such other actions, at the Owner's expense, as might be requested for the perfection, continuation and assignment, in whole or in part, of the security interests granted herein and to assure and preserve the Manager's intended priority position. Notwithstanding the foregoing, the Manager's security interest in the Collateral granted hereunder shall at all times be subordinate to the interest of any senior lender of the Owner.

d. Events of Default. If any of the following events shall occur, then, and in any such event, the Manager may, by notice to the Owner, declare the Overdraft Line of Credit and all interest thereon to be forthwith due and payable and may, without notice to the Company, terminate immediately the Overdraft Line of Credit:

- i. The Owner should fail to pay the principal of, or interest on, any borrowings under the Overdraft Line of Credit within ten (10) days of the receipt of notice of such requested payment; or provided that an Event of Default shall not occur in such failure to pay outstanding amounts by the Owner are due to the actions or omission of the Manager or its affiliates; or
- ii. Any representation or warranty made or deemed made by the Owner in this Agreement shall prove to have been incorrect in any material respect on or as of the date made or deemed made; or
- iii. The Owner shall fail to perform or observe any term, covenant or agreement contained in this Agreement, or the Owner's governing documents (e.g. partnership agreement, operating agreement, etc.) on its part to be performed or observed, which failure shall continue for more than thirty (30) days; or
- iv. The Owner (1) shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as such debts become due; or (2) shall make an assignment for the benefit of creditors, petition or apply to any tribunal for the

appointment of a custodian, receiver, or trustee for it or a substantial part of its assets; or (3) shall commence any proceeding under any bankruptcy, reorganization, arrangements, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; or (4) shall have any such petition or application filed or any such proceeding commenced against it in which an order for relief is entered or adjudication or appointment is made; or (5) by an act or omission shall indicate its consent to, approval of, or acquiescence in any such petition, application, or proceeding, or order for relief, or the appointment of a custodian, receiver or trustee for all or any substantial part of its properties; or (6) shall suffer any such custodianship, receivership, or trusteeship; or

- v. One or more judgments, decrees or orders for the payment of money in excess of Twenty-Five Thousand Dollars (\$25,000.00) in the aggregate shall be rendered against the Owner and such judgments, decrees, or orders shall continue unsatisfied and in effect for a period of sixty (60) consecutive days without being vacated, discharged, satisfied or stayed or bonded pending appeal; or
- vi. This Agreement expires or is terminated; or
- vii. Any party hereto shall have given the other party notice of its intention to terminate this Agreement.

2.8 Interest. Upon the closing of the financial books of the Owner each month ("Closing Month") the Manager shall determine the average Company Fund Balance for the month prior to the Closing Month ("Average Monthly Company Fund Balance"). In the event the Average Monthly Company Fund Balance is a positive number, then the Owner will receive interest income on such positive amount at the average monthly interest rate of the primary SCA Account into which Company Funds are transferred. If the Average Monthly Company Fund Balance is a negative number as a result of borrowings under the Overdraft Line of Credit or otherwise, the Company will be charged interest at a variable rate equal to the prime lending rate plus one percent (1.0%), as announced by a bank or other financial institution selected by the Manager from time to time.

III. TERM

3.1 Term. The term of this Agreement shall commence as of the Effective Date and shall continue in full force and effect for an initial term of five (5) years (the "**Initial Term**"). At the end of the Initial Term, this Agreement shall automatically renew for successive five (5) year terms (each a "**Renewal Term**" and together with the Initial Term, the "**Term**"). Either party shall have the right to terminate this Agreement at any time that the Manager or its affiliates ceases to own any equity interest in the Owner.

3.2 Termination Upon Default. Notwithstanding the provisions in the foregoing paragraphs, upon ninety (90) days' prior written notice, or ten (10) days' prior written notice upon a payment default, either party (the "**Terminating Party**") shall have the right to terminate this Agreement upon a material breach of this Agreement by the other party (the "**Breaching Party**"). In the event termination is for an alleged material breach other than a payment default, such notice shall describe in detail the basis upon which the Terminating Party believes such termination is justified. Upon receipt of such notice, the Breaching Party shall have ninety (90) days, or ten (10) days with respect to a payment default, during which to attempt to cure such alleged breach under this Agreement, and upon such cure being effected, the Terminating Party's rights to terminate shall cease and this Agreement will continue in full force and effect; provided, however, that the Breaching Party shall only be entitled to cure two (2) payment defaults in any

one (1) calendar year; provided, further, that in the event a Breaching Party has a third payment default in any one (1) calendar year, the Terminating Party shall be entitled to terminate this Agreement immediately upon written notice to the Breaching Party. Furthermore, if the Breaching Party has diligently attempted to effect such a cure of a breach, other than a payment default, within such ninety (90) day period but cannot complete such cure because of the failure of a third party (such as a governmental agency) to act within such period, then the Breaching Party shall have a reasonable time beyond such ninety (90) day period to complete its cure of the alleged breach, but no more than one hundred eighty (180) days.

3.3 Termination Upon Bankruptcy. Either party may terminate this Agreement immediately, upon written notice to the other party, (i) if the other party appoints or consents to the appointment of a receiver, trustee or liquidator of such party or of all or a substantial part of its assets, files a voluntary petition in bankruptcy, makes a general assignment for the benefit of creditors, files a petition or an answer seeking reorganization or arrangements with creditors or to take advantage of any insolvency law, or (ii) if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating such party bankrupt or insolvent, and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) days.

3.4 Payment Upon Termination. Upon termination of this Agreement, the Owner shall owe the Manager the full uncontested amount of any fees owing and/or earned or accrued pursuant to the terms hereof, up through and including the date of termination, including all outstanding principal and interest of the Overdraft Line of Credit as set forth in Article II, and any sums of money owed by the Owner to the Manager, including expenses reimbursable hereunder, shall be paid within thirty (30) days following the date of termination. The Manager shall owe and pay immediately to the Owner the amount of the Company Fund Balance, if any, under Article II. Upon termination hereof, the Manager's obligations to perform services hereunder shall cease completely; provided, however, that the Owner and the Manager shall perform such matters as are reasonably necessary, and requested in good faith by either party, to wind up their activities under this Agreement.

3.5 Suspension of Services. Notwithstanding the foregoing, the Manager shall have the right to suspend the provision of services under this Agreement in the event that the Owner fails to pay any of the compensation, fees or costs payable or reimbursable pursuant to Article IV as and when due and such suspension of service shall not be a default by the Manager.

IV. FEE FOR SERVICES

4.1 Reimbursement of Expenses. The Owner shall reimburse the Manager for amounts paid by the Manager during the Term of this Agreement to vendors on behalf of Owner for supplies and equipment, tax return preparation, insurance premiums paid by the Manager for the coverages described in Article VIII hereof, legal fees incurred on behalf of Owner, staffing expenses in accordance with Article V, other services if indicated on Exhibit A as not included in the Management Fee and reasonable out-of-pocket expenses incurred by the Manager in connection with travel, lodging and meals of Manager personnel who make on-site visits to the Center; provided that, (a) such expenses are either included in the operating budget of the Owner or pre-approved by the Owner in accordance with the provisions of the Owner's Operating Agreement; (b) Manager shall submit receipts to the Center evidencing such expenses upon request; and (c) such expenses shall not exceed \$15,000.00 annually. Except for costs associated with the Employees, such costs shall not include an allocation of Manager's management team salaries, benefits or its central business office overhead. If the Owner requests that the Manager provide services to the Owner or for the Center which are not described on Exhibit A, the Manager may charge a reasonable additional fee for such services.

4.2 Fees. The Owner shall pay the Manager for rendering the Management Services and the Cash Management Services a fee equal to three percent (3%) of the Center's annual Net Revenue (as defined below), plus reimbursement of direct expenses incurred by Manager on behalf of the Center (the "**Management Fee**"). "**Net Revenue**" shall mean total patient revenues and other operating revenue (including the proceeds of claims under business interruption insurance policies) minus contractual allowances, provision for bad debt, charity care, condemnation awards, proceeds of claims under casualty insurance policies, proceeds from a sale or debt refinancing, and other capital transactions outside the ordinary course of business, each as determined pursuant to generally accepted accounting principles ("**GAAP**"), as consistently applied by the Manager, on an accrual basis of accounting. Notwithstanding anything herein to the contrary, the Management Fee shall not exceed Three Hundred Thousand Dollars (\$300,000.00) per year (the "**Maximum Annual Amount**"), prorated for partial years; provided, however, that the Maximum Annual Amount shall be increased by one and one-half percent (1.5%) on each anniversary of the Effective Date of the Agreement.

4.3 Terms of Payment. The Owner shall pay the Manager the Management Fee and any expenses reimbursable hereunder monthly no later than the thirtieth (30th) day of the month following the month in which the Management Fee was earned or the applicable expense was incurred. All amounts payable to the Manager pursuant to this Agreement that are not paid on or before the date such payments are due shall bear interest of six percent (6%) per year, unless waived by the Manager.

V. STAFFING

5.1 Authority over Employees. During the Term of this Agreement, the Manager shall make available to the Owner the services of all employees reasonably necessary to staff and operate the Center. The parties acknowledge and agree, however, that as of the date of this Agreement, all employees at the Center are employed by the Owner (the "**Existing Employees**"). The parties will use their best efforts to transition the Existing Employees to become employees of the Manager on or about January 1, 2017, and in accordance with the terms set forth in the Membership Interest Purchase Agreement by and among the Manager, SCA-River Valley, LLC, the Owner, the members of the Owner, and Merritt Healthcare Holdings, LLC, dated as of October 31, 2016 (the "**Purchase Agreement**"). Any Existing Employee who declines an offer of employment from the Manager (which offer is consistent with the provisions of the Purchase Agreement) shall be terminated by the Owner, unless otherwise agreed to by the Owner and the Manager. The Manager shall employ any new employees assigned to the Center on or after the commencement of this Agreement, except as otherwise agreed by the Owner and the Manager (any such new employees and the Existing Employees are referred to herein collectively as the "**Employees**"). Subject to Section 5.3 below, the Manager shall have the right to terminate the employment of an Employee and to hire such additional individuals as Employees as the Manager determines is reasonably necessary from time to time. Furthermore, the Manager shall have the right to control and direct the Employees as to the performance of duties and as to the means by which such duties are performed.

5.2 Payment for Employees. The Owner shall promptly fund or, as appropriate, reimburse the Manager for all expenses incurred by the Manager, determined in accordance with GAAP with respect to the Employees. Such expenses shall include, but are not limited to, compensation, amounts required to provide employee benefits, federal and state taxes on wages, unemployment compensation premiums and workers' compensation premiums, each as determined in accordance with GAAP. Manager may also obtain, at Owner's expense, commercially reasonable employment practices liability coverage with respect to the Employees.

5.3 Approval of Employees. Upon reasonable grounds, and after giving the Manager appropriate notice and an opportunity to discipline an Employee, the Owner may require the Manager to immediately cause any Employee to no longer provide services at the Center, whereupon, the Manager shall

cause such Employee to cease to provide service at the Center; provided, however, that the Manager shall not be required to remove any Employee from providing services at the Center as described herein if, in the Manager's reasonable judgement, and in consultation with the Manager's legal advisors, the Manager believes that removing such Employee would violate applicable law.

VI. INDEPENDENT CONTRACTOR STATUS

Notwithstanding any provision contained herein to the contrary, each of the Owner and the Manager understand and agree that the parties hereto intend to act and perform as independent contractors and that, therefore, neither the Owner nor the Manager is an employee, partner, joint venturer, or, except as explicitly provided for herein, agent of the other.

VII. OWNERSHIP OF INTELLECTUAL PROPERTY; ACCESS TO INFORMATION

7.1 Intellectual Property. During the Term of this Agreement, the Owner and its employees and agents will have access to and become acquainted with confidential information, intellectual property and trade secrets of the Manager, including, without limitation, information and data relating to payor contracts and accounts, clients, billing practices and procedures, business analytics, techniques and methods, strategic plans, operations and related data, program and scheduling systems, manuals, computer software and other information, in whatever form, provided by the Manager in the performance of its obligations hereunder ("**Manager Intellectual Property**"), and the Manager and its employees and agents may have access to proprietary information and intellectual property developed by or for the Owner ("**Owner Intellectual Property**") (Manager Intellectual Property and Owner Intellectual Property may be referred to collectively herein as "**Intellectual Property**"). All Intellectual Property is the property of its original owner and shall be proprietary information protected under the Uniform Trade Secrets Act and other applicable state and federal law. Neither the Manager nor the Owner shall disclose, and each shall cause their respective affiliates, employees, contractors, and any other agents not to disclose to any person or entity, directly or indirectly, either during the Term of this Agreement or at any time thereafter, any Intellectual Property, or use any Intellectual Property other than in the course of meeting such party's obligations under this Agreement. Notwithstanding the foregoing, the Manager shall have the right to use any technical or business expertise obtained during the course of its engagement hereunder in connection with its management of any other facility.

7.2 Social Security Act. To the extent required by Section 1861(v)(1)(i) of the Social Security Act, each party shall, upon proper request, allow the United States Department of Health and Human Services, the Comptroller General of the United States, and their duly authorized representatives access to this Agreement and to all books, documents, and records necessary to verify the nature and extent of costs and services provided by either party under this Agreement, at any time during the Term of this Agreement and for an additional period of four (4) years after the last date services are furnished under this Agreement. If either party carries out any of its duties under this Agreement through a permitted subcontract or similar permitted agreement between it and an individual or organization related to it, that party shall require that a clause be included in such agreement to the effect that until the expiration of four (4) years after the furnishing of services pursuant to such agreement, and to the extent required by Section 1861(v)(1)(i) of the Social Security Act, the related organization will make available, upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States, or any other duly authorized representatives, all agreements, books, documents and records of said related organization that are necessary to verify the nature and extent of the costs of services provided by that agreement.

7.3 Access to Information. Subject to the confidentiality provisions herein, each party shall have access to all applicable records and information, including, but not limited to, documents prepared in connection with the performance of procedures at the Center hereunder ("**Records**"), in order to perform

any necessary billing, to conduct utilization review or quality assurance activities, or to prepare the defense of a lawsuit in which those Records may be relevant. Subject to the confidentiality provisions herein, the Manager and its employees and agents, as applicable to their respective duties, will be given reasonable access to the Center and their records, offices and facilities, in order that the Manager and its employees may carry out their obligations hereunder. Notwithstanding anything herein to the contrary, all Records prepared in connection with the care and services rendered to patients at the Center shall be and remain the property of the Owner and shall be treated as confidential pursuant to applicable federal and state law.

7.4 Privilege. The parties agree that any applicable attorney-client, accountant-client or other legal privilege shall not be deemed waived by virtue of this Agreement.

VIII. INSURANCE AND INDEMNIFICATION

8.1 Required Coverages.

a. During the Term of this Agreement, the Manager shall obtain on behalf of the Owner, on commercially reasonable terms and conditions, all at the Owner's sole cost and expense, the following commercially reasonable insurance coverages:

- i. Workers' compensation coverage with statutory limits and Employer's Liability coverage with minimum limits of \$1,000,000 per accident for bodily injury by accident, \$1,000,000 policy limit by disease, and \$1,000,000 per employee for bodily injury by disease;
- ii. Professional and comprehensive general liability insurance covering the Owner, the Manager, and the Employees in an amount at least equal to \$1,000,000 per occurrence, \$3,000,000 in the annual aggregate and upon commercially reasonable terms and conditions, and excess insurance above professional and comprehensive general liability insurance in an amount equal to at least \$4,000,000 per occurrence and \$4,000,000 in the annual aggregate; and
- iii. Property and casualty insurance covering the Owner against loss of or physical damage to the Center and the tangible assets used in connection with the operation of the Center.

b. The Manager shall maintain comprehensive general liability insurance covering the Manager in an amount at least equal to \$1,000,000 per occurrence and \$3,000,000 in the annual aggregate and on commercially reasonable terms and conditions, all at the Manager's sole cost and expense, with a commercial carrier acceptable to both parties.

8.2 Indemnification by the Owner. The Owner hereby agrees to indemnify and hold the Manager, its affiliates and owners, and their respective officers, directors, agents, owners and affiliates (each a "**Manager Indemnified Party**") harmless from and against any and all claims, actions, liabilities, losses, costs and expenses of any nature whatsoever, including reasonable attorneys' fees and other costs of investigating and defending any such claim or action (a "**Loss**"), which may be asserted against any Manager Indemnified Party, in connection with (a) the operation of the Center and the Owner, other than with respect to any Loss incurred by reason of Manager's gross negligence or willful misconduct, and (b) the acts or omissions of the Owner, its medical staff, agents or employees, or the Employees, in each case other than with respect to any Loss which was incurred by reason of Manager's gross negligence or willful misconduct. This Section 8.2 shall constitute the sole obligation of the Owner with respect to any Loss and

any claims arising out of this Agreement and/or the relationship created hereby, whether such claim is based in contract, tort, fraud or otherwise.

8.3 Indemnification by the Manager. The Manager hereby agrees to indemnify and hold harmless the Owner, its affiliates and owners, and their respective officers, directors, employees agents, owners and affiliates (each an “**Owner Indemnified Party**”) from and against any and all Losses which may be asserted against any Owner Indemnified Party as a result of the gross negligence or willful misconduct of the Manager in connection with the performance by the Manager of its duties hereunder. This Section 8.3 shall constitute the sole obligation of the Manager with respect to any Loss and any claims arising out of this Agreement, the services provided by the Manager and/or the relationship created hereby, whether such claim is based in contract, tort, fraud or otherwise. For the avoidance of doubt, this Section 8.3 shall not be the Owner’s sole remedy for any Loss related to Manager’s breach of this Agreement.

8.4 Acts of the Employees and Medical Staff. Any omission or action taken by any employee of the Manager working primarily at the Center, including, without limitation, the Employees, shall not constitute action taken or omitted by or on behalf of the Manager for purposes of this Agreement, and the Owner Indemnified Parties shall not be entitled to indemnification for any Loss resulting from such act or omission. Notwithstanding the foregoing, any omission or action taken by any employee of the Manager that is outside the scope of employment and taken at the specific direction of the Manager shall constitute action taken or omitted by or on behalf of the Manager for purposes of this Agreement and the Owner Indemnified Parties shall be entitled to seek indemnification for any Loss resulting from such act or omission. Further, in no event shall the Manager be liable under this Agreement for any act of professional malpractice committed by any Medical Staff Physician (as hereinafter defined), or other member of a Center’s medical staff.

IX. MEDICAL STAFF

The Owner shall admit physicians (the “**Medical Staff Physicians**”) to the medical staff of the Center to render the surgical and other medical services at the Center, and the Owner shall be responsible for credentialing of all Medical Staff Physician applicants; provided, however, that the Manager shall provide administrative support in connection with such credentialing process, including the application process, scheduling of meetings of the appropriate committees of the medical staff, and communicating with the applicants.

X. HIPAA

The parties will enter into a Business Associate Agreement substantially in the form of Exhibit B hereto, with such changes and revisions as the parties agree.

XI. NOTICES

All notices, demands, requests and other communications or documents required or permitted to be provided under this Agreement shall be provided in writing and shall be given to the applicable party at its address set forth below or such other address as the party may later specify for that purpose by notice to the other party:

If to the Manager:	Surgical Care Affiliates, LLC 569 Brookwood Village, Suite 901 Birmingham, AL 35209 Attention: General Counsel
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If to the Owner: River Valley ASC, LLC
45 Salem Turnpike
Norwich, CT 06360
Attention: Vice President

With a copy to: McGuireWoods LLP
201 North Tryon Street Suite 3000
Charlotte, NC 28202
Attention: Bart Walker

Each notice shall, for all purposes, be deemed given and received:

if by hand, when delivered;

if given by nationally recognized and reputable overnight delivery service, the Business Day on which the notice is actually received by the party; or

if given by certified mail, return receipt requested, postage prepaid, five (5) Business Days after posted with the United States Postal Service.

XII. MISCELLANEOUS

12.1. Authority. Each individual signing this Agreement warrants that such execution has been duly authorized by the party for which he is signing. The execution and performance of this Agreement by each party has been duly authorized by all applicable laws and regulations and all necessary corporate action, and this Agreement constitutes the valid and enforceable obligation of each party in accordance with its terms.

12.2. Agreement. This Agreement supersedes any and all prior agreements, either oral or written, between the parties with respect to the subject matter of this Agreement (including any term sheet or similar agreement or document relating to the transactions contemplated hereby). This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and no party shall be entitled to benefits other than those specified herein.

12.3. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Connecticut without regard to its conflicts of law principles.

12.4. Interpretation. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, the feminine or the neuter gender shall include the masculine, feminine and neuter. The term "**person**" means any individual, corporation, partnership, trust or other entity. No provision of this Agreement shall be interpreted for or against either party hereto on the basis that such party drafted such provision, each party having participated equally in the drafting hereof, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

12.5. Headings. The headings used in this Agreement have been inserted for convenience and do not constitute provisions to be construed or interpreted in connection with this Agreement.

12.6. Counterparts. This Agreement may be executed in two (2) or more counterparts with the same effect as if all parties hereto had signed the same document. All counterparts shall be constructed together and shall constitute one agreement. Electronically-transmitted signatures on this Agreement shall

be deemed to be original signatures for all purposes. Signature pages transmitted electronically shall be treated as originals.

12.7 Amendments. This Agreement may be modified or amended only by a written instrument duly executed by each of the parties hereto.

12.8 Waiver. Failure by any party to enforce any of the provisions hereof for any length of time shall not be deemed a waiver of its rights set forth in this Agreement. Such a waiver may be made only by an instrument in writing signed by the party sought to be charged with the waiver. No waiver of any condition or covenant of this Agreement shall be deemed to imply or constitute a further waiver of the same or any other condition or covenant, and nothing contained in this Agreement shall be construed to be a waiver on the part of the parties of any right or remedy at law or in equity or otherwise.

12.9 Business Days. If any due date contained herein falls on a Saturday, Sunday or legal holiday, the due date shall be deemed to be the following Business Day.

12.10 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO DEMAND THAT ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE RELATIONSHIPS OF THE PARTIES HERETO BE TRIED BY JURY. THIS WAIVER EXTENDS TO ANY AND ALL RIGHTS TO DEMAND A TRIAL BY JURY ARISING FROM ANY SOURCE INCLUDING, BUT NOT LIMITED TO, THE CONSTITUTION OF THE UNITED STATES OR ANY STATE THEREIN, COMMON LAW OR ANY APPLICABLE STATUTE OR REGULATIONS. EACH PARTY HERETO ACKNOWLEDGES THAT IT IS KNOWINGLY AND VOLUNTARILY WAIVING ITS RIGHT TO DEMAND TRIAL BY JURY.

12.11 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law, (a) such provisions 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 hereof, (c) the remaining provisions 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 herefrom; and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

12.12 Compliance with Laws. The parties agree to conduct their relationship in full compliance with all applicable state, federal and local laws and regulations, including, but not limited to, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)). The parties agree that no part of this Agreement shall be construed to induce or encourage the referral of patients or the purchase of health care services or supplies. The parties acknowledge that there is no requirement under this Agreement or any other agreement between the Manager or any affiliate thereof and the Owner that any party refer any patients to any health care provider or purchase any health care goods or services from any source. Additionally, no payment under this Agreement is in return for the referral of patients, if any, or in return for purchasing, leasing or ordering services from the Manager or any of its affiliates. The parties may refer patients to any company or person providing services and will make such referrals, if any, consistent with professional medical judgment and the needs and wishes of the relevant patients.

12.13 No Conflict of Interest. It is hereby acknowledged that the Manager and its affiliated companies are currently in the business of owning and operating ambulatory surgery centers and hospitals and other health facilities, and providing management services and related services to other entities apart from the services that the Manager will provide to the Center under this Agreement. Nothing in this

Agreement shall prohibit the Manager or any of its affiliated companies from owning ambulatory surgery centers or other health facilities or from providing such management services or related services or other activities.

12.14 Survival. Articles VII, VIII (except Section 8.1), XI and XII and the Owner's obligation to pay the Manager pursuant to Section 3.5 shall survive the termination of this Agreement.

12.15 Changes in Law. To the extent that changes in law or regulation or definitive changes in the construction of law or regulation articulated by an appropriate regulatory entity, court of law or a mutually acceptable opinion of counsel require the restructuring of the relationship between the parties established by this Agreement, the parties shall negotiate in good faith to amend this Agreement and otherwise restructure their relationship in order to effectuate their mutually agreed upon purposes

12.16 Force Majeure. If any of the parties hereto is delayed or prevented from fulfilling any of its obligations under this Agreement by "Force Majeure" (as defined below), said party shall not be liable under this Agreement for said delay or failure. "Force majeure" shall mean any cause beyond the reasonable control of a party, including, but not limited to, act of God, act or omission or civil or military authorities of a state or nation, fire, strike, flood, riot, war, delay of transportation or any other act or omission beyond the reasonable control of a party.

12.17 Assignment. The Manager may not assign this Agreement without the prior written consent of the Owner, except that such consent shall not be required for an assignment to any person or entity that is wholly owned, directly or indirectly, by the Manager, which shall not include unaffiliated third parties, including but not limited to hospitals, physician groups or surgery center management companies. The Owner may not assign this Agreement without the prior written consent of the Manager. The sale of (i) fifty percent (50%) or more of the assets or equity of the Owner during the term of this Agreement or (ii) any assets or equity of the Owner to a hospital, surgery center or any other provider (or affiliate of a provider) that provides outpatient surgical services (or to any physician who is an employee, owner, joint venture partner or provider of any administrative/ consulting/management services to such an entity) is deemed an assignment requiring the prior written consent of the Manager. All of the terms, provisions, covenants, conditions and obligations of this Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Management Agreement as of the Effective Date.

MANAGER:

SURGICAL CARE AFFILIATES, LLC

By: 

Name: Richard L. Sharff, Jr.

Title: Executive Vice President

OWNER:

RIVER VALLEY ASC, LLC

By: _____

Name: _____

Title: _____

[Signature Page to Management Agreement]

IN WITNESS WHEREOF, the parties have executed this Management Agreement as of the Effective Date.

MANAGER:

SURGICAL CARE AFFILIATES, LLC

By: _____

Name: Richard L. Sharff, Jr.

Title: Executive Vice President

OWNER:

RIVER VALLEY ASC, LLC

By: _____

Name: *Frank DeLuca*

Title: *Medical Director*

[Signature Page to Management Agreement]

Exhibit A

MANAGEMENT SERVICES

NOTE: In addition to describing the services provided by the Manager in consideration of its Management Fee, this **Exhibit A** sets forth certain common services obtained by the Manager from third party vendors, with the expense of such vendor services being passed through by the Manager to the Owner (and Manager oversight of vendor included in Management Fee). This Exhibit also identifies certain services which are not covered by the Management Fee.

Service	Included in Management Fee	Not Included in Management Fee	Comments
Financial Services Support			
Bank Relations/Reconciliations	X		SCA to establish accounts at designated bank
Arranging for Equipment Financing	X		
Accounting	X		SCA to prepare monthly statements, excluding audit costs
Coordination and Administration of Tax Returns & K-1 Preparation		X	Tax preparation fee not included in Management Fee
General Tax Matters – Annual Reports/Property/Franchise		X	External fees passed through to Owner
Financial Benchmarking	X		Comparison with other SCA facilities
Budget Preparation	X		
Receive Charge Master File & Download into Owner System	X		
Governmental and Work Comp Payor Contracting	X		
Third Party Payor and State and Federal Agency Contracting	X		
Contractual Adjustment Analysis/ AR Review Potential Payer Liability	X		
Business Office Assessment & Training	X		
Deposit/dispense funds for Center's operating expenses	X		
Maintain books, journals, ledgers, check register, payroll records	X		
Establish receivables, credit, collection practices	X		
Process invoices / Accounts Payable	X		
Process payroll from timesheet summaries	X		
Establish and oversee billing procedures	X		

Service	Included in Management Fee	Not Included in Management Fee	Comments
FINANCIAL REPORTING – Monthly / Profit & Loss	X		
Accounting close cycle	X		
Risk Management/Insurance			
Insurance Program Oversight and Consultation	X		
Claim Coordination and Administration		X	Pass-through expense included in premium allocation.
Risk Management Education	X		As needed
IT Systems			
Help Desk: Tier 1 & 2		X	Included in pass through IT fee
Secure Email/Exchange		X	Included in pass through IT fee
Anti-Virus		X	Included in pass through IT fee
Microsoft Office Applications		X	Included in pass through IT fee
Windows OS (Operating System)		X	Included in pass through IT fee
Data Storage		X	Included in pass through IT fee
DBA (database support)		X	Included in pass through IT fee
Network Support		X	Included in pass through IT fee
Security Support		X	Included in pass through IT fee
Windows Server Support		X	Included in pass through IT fee
Data Backups		X	Included in pass through IT fee
Internet		X	Included in pass through IT fee
Software License Compliance Monitoring		X	Included in pass through IT fee
Software Vendor Coordination and Troubleshooting		X	Included in pass through IT fee: Support limited to specified software
Website Development and Maintenance		X	If applicable
RightFax		X	If applicable
Management/Billing/Collections/Admitting/Scheduling/Systems		X	Third party software licensing fees passed through to Owner
Purchasing/Materials Management Systems		X	Third party vendor fee passed through to Owner
Compliance			
Corporate Compliance Training and Audit Program	X		
HIPAA Training and Audit Program	X		
Clinical Support			
Benchmarking Quality Data	X		

Service	Included in Management Fee	Not Included in Management Fee	Comments
Accreditation Survey Preparation	X		Excludes travel expenses and incidental costs
Policy and Procedure Resources	X		
Staffing and Productivity Evaluation	X		
OR Efficiency Performance	X		
Measure Development and Benchmarking	X		
CMS Survey Preparation	X		Excludes travel expense and incidental costs
Patient Satisfaction Survey Ongoing		X	Expense of survey administration passed to Owner
Patient Satisfaction Survey Analysis and Benchmarking	X		
Physician Satisfaction Survey Annually		X	Expense of survey administration passed to Owner
Physician Satisfaction Survey Analysis and Benchmarking	X		
DON Leadership training	X		Excludes travel expenses and incidental costs
Medical record system implementation	X		
Human Resources Guidance			
Benefits Administration	X		
Payroll Administration and Processing		X	Licensing expenses from third party payroll vendor passed to Owner
Annual Employee Engagement Survey Processing		X	Cost from vendor to administer survey passed to Owner
Employee Satisfaction Survey Analysis and Benchmarking	X		
Employee Handbook Updates	X		
Human Resources Guidance	X		
401k Plan Administration/ Testing/5500's	X		
Employee Education Program	X		
Materials Management Support			
GPO Contracting and Coordination	X		
Distributor Contracting and Coordination	X		
Vendor Contracting	X		
Vendor Pricing Monitoring Against Negotiated Rates	X		
Product Selection and Pricing Review	X		

Service	Included in Management Fee	Not Included in Management Fee	Comments
Capital Equipment Evaluation and Negotiation	X		
Implant Cost Reduction Program	X		
Materials System Assessment and Support	X		
Preference Card Review and Physician Feedback Program	X		
Other Operational Support			
Local Operational Support: Administrative Support, On-Site Visits	X		
Staffing Review, Productivity Monitoring	X		
Regular Monitoring & Action Plan for SCA Vitals	X		
Contract Negotiations for Professional Services	X		
Board Communications and Attendance	X		
Partner Relations Management	X		
Annual Extension of Practice Safe Harbor Certifications (if applicable)		X	Additional annual base fee, plus hourly charges in the event that a partner challenges a determination; any necessary external legal fees passed through to Owner
Physician Recruitment/Business Development			
The Manager will provide physician recruitment/business development resource to work directly with the Owner to take a lead role in pursuing growth opportunities in collaboration with the Center's physicians		X	Allocable portion of salaries, wages and benefits of the Manager's employee, based on percentage of time spent working with the Center as compared to total time spent working with other projects, are pass through cost to the Owner -- see detail on following page. Owner may terminate the Physician Recruitment/Business Development Service, without cause, upon 120 days' prior written notice. Manager shall provide the Board of Owner with periodic reports upon request detailing the Physician Recruitment/ Business Development services provided.

Cost Allocation to the Center for Physician Recruitment/Business Development Services

Allocation	Days/mo.	SWB/mo.	Est. Expense/mo.	Monthly Fixed Total	Annual Fixed Total	Variable Incentive (Self-Funded)
15%	3-4	\$1,300	\$225	\$1,300	\$18,300	Facility Incentive averages 5-10K annually

• **Assumptions:**

- 15% allocation is based on the amount of time a sales resource will spend each month recruiting for the Center. Actual time and cost allocations should be adjusted based on the Owner's desired amount of time and the cost of the specific teammate being assigned. Average (and ideal) minimum time considered should be (20%), which correlates to (1) day a week of recruitment.
- Fixed cost is based on salary and benefit cost for the sales resource assigned to that territory based on the 15% allocation.
- Estimated travel and entertainment expense is based on historical averages. All entertainment expenses will be pre-approved by Owner.
- Variable compensation is structured to provide an incentive for the sales representative to attract and recruit high quality new physicians and new cases to the Center.

Exhibit B

BUSINESS ASSOCIATE AGREEMENT

(See attached.)

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (this "Agreement"), dated November 1, 2016 (the "Effective Date"), is entered into by and between **RIVER VALLEY ASC, LLC** ("Covered Entity"), which operates a healthcare facility located in Norwich, Connecticut (the "Center") and **SURGICAL CARE AFFILIATES, LLC**, a Delaware limited liability company ("Business Associate") (individually, a "Party" and collectively, the "Parties"), and supersedes and amends any prior Business Associate Agreement, and any amendments thereto between the Parties.

RECITALS

WHEREAS, Covered Entity and Business Associate have entered into, or are entering into, or may subsequently enter into, agreements or other documented arrangements (collectively, the "Business Arrangements"), including, but not limited to, a Management Agreement, dated November 1, 2016, pursuant to which Business Associate may create, receive, maintain, or transmit data for or from Covered Entity that constitutes Protected Health Information to perform services ("Services") on behalf of Covered Entity; and

WHEREAS, Covered Entity is or may be subject to the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), and the implementing regulations set forth at 45 CFR Parts 160, 162, and 164 (the "HIPAA Regulations"); and

WHEREAS, to the extent required by the HIPAA Regulations and applicable state law, Business Associate is or may be directly subject to certain privacy and security obligations and penalty provisions of the HIPAA Regulations and state law.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the Parties, intending to be legally bound, agree as follows:

I. DEFINITIONS

Capitalized terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in the HIPAA Regulations. "PHI" shall have the same meaning as the term "Protected Health Information" in 45 CFR 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity. "Electronic PHI" shall have the same meaning as the term "Electronic Protected Health Information" in 45 CFR 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity. "Unsecured PHI" shall have the same meaning as the term "Unsecured Protected Health Information" in 45 CFR 164.402, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.

II. EFFECT OF AGREEMENT

The Parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Parties to comply with HIPAA, the HITECH Act, the HIPAA Regulations, and applicable state law.

III. BUSINESS ASSOCIATE OBLIGATIONS

- (A) **Permitted Uses and Disclosures:** Business Associate shall not use and disclose PHI other than as expressly permitted or required by this Business Associate Agreement or as Required by Law. Except as otherwise limited in this Business Associate Agreement, Business Associate is permitted to use and disclose PHI as follows:
- (i) Business Associate may use and disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Business Arrangements, provided that use or disclosure would not violate the HIPAA Regulations if done by Covered Entity.
 - (ii) Business Associate may use and disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate (collectively, "Business Associate's Operations"), provided that Business Associate may only disclose PHI for Business Associate's Operations if the disclosure is Required By Law or Business Associate obtains reasonable assurances, evidenced by a written contract, from the recipient that the recipient will: (1) hold such PHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the recipient or as Required By Law; and (2) notify Business Associate of any instance of which the recipient becomes aware in which the confidentiality of such PHI has been breached without unreasonable delay.
 - (iii) Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).
 - (iv) Business Associate may use PHI to create information that is de-identified in accordance with 45 CFR 164.514.
 - (v) Business Associate may use and disclose PHI as otherwise permitted by law, provided that such use or disclosure would not violate the HIPAA Regulations if done by Covered Entity directly and provided that Covered Entity gives its prior written consent.
 - (vi) To the extent Covered Entity notifies Business Associate of a restriction request granted by Covered Entity that would limit Business Associate's use or disclosure of PHI, Business Associate will comply with the restriction.
 - (vii) To the extent Business Associate is authorized to make disclosures directly to health plans, Business Associate shall not disclose PHI 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, as required by 42 USC 17935(a).
 - (viii) Notwithstanding anything herein to the contrary, Business Associate shall not use or disclose PHI for purposes of marketing or fundraising, as defined in the HIPAA Regulations, the HITECH Act, and applicable state law.
 - (ix) Notwithstanding anything herein to the contrary, Business Associate shall not sell or receive remuneration, directly or indirectly, in exchange for PHI; provided,

however, that this prohibition shall not be construed to limit or otherwise affect payment by Covered Entity to Business Associate for services provided pursuant to the Business Arrangements.

- (B) **Compliance:** Business Associate shall be directly responsible for full compliance with the applicable requirements of the HIPAA Regulations to the same extent as Covered Entity. To the extent Business Associate is to carry out an obligation of Covered Entity under the HIPAA Regulations, Business Associate shall comply with the requirements of the HIPAA Regulations that apply to Covered Entity in the performance of such obligation.
- (C) **Minimum Necessary:** Business Associate represents that the PHI requested, used, or disclosed by Business Associate shall be the minimum amount necessary to carry out the purposes of the Business Arrangements. To the extent the requirements of 45 CFR 164.502(b) apply, Business Associate will limit all of its uses and disclosures of, and requests for, PHI (1) when practical, to the information making up a Limited Data Set, and (2) in all other cases, to the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure, or request.
- (D) **Business Associate Agents:** Business Associate shall ensure that each agent or subcontractor that creates, receives, maintains, or transmits PHI on behalf of Business Associate agrees in writing to the same restrictions and conditions that apply to Business Associate pursuant to this Business Associate Agreement.
- (E) **Appropriate Safeguards; Security:** Business Associate shall use and maintain reasonable and appropriate administrative, technical, and physical safeguards to prevent uses and disclosures of PHI other than as permitted in this Business Associate Agreement. In addition, Business Associate agrees to comply with the applicable requirements of 45 C.F.R. Part 164 Subpart C with respect to Electronic PHI and any guidance issued by the Secretary of the Department of Health and Human Services.
- (F) **Access to Records:** Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to Covered Entity, or to the Secretary of the Department of Health and Human Services, for purposes of determining compliance with the HIPAA Regulations.
- (G) **Improper Access, Use, or Disclosure; Security Incident; Breach:** Business Associate shall promptly report to Covered Entity in writing any access, use, or disclosure of PHI not permitted by this Business Associate Agreement, any Security Incident, and any Breach of Unsecured PHI of which it becomes aware or which it discovers without unreasonable delay.
 - (i) A Breach shall be treated as discovered by Business Associate as of the first day on which such Breach is known to Business Associate, or by exercising reasonable diligence would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach if the Breach is known by, or by exercising reasonable diligence would have been known to, any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate.

- (ii) Any report of Breach required by this section shall include the information specified in 45 CFR 164.410.
 - (iii) Business Associate shall promptly provide Covered Entity with updates of information concerning the details of any unauthorized access, use, or disclosure of PHI, Security Incident, or Breach.
 - (iv) Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Business Associate Agreement, a Security Incident, or a Breach of Unsecured PHI.
 - (v) It is the sole responsibility of Covered Entity to notify individuals of any Breach of Unsecured PHI. Business Associate shall cooperate with Covered Entity in the provision of any such notification.
 - (vi) Notwithstanding Business Associate's obligation to notify Covered Entity of any Security Incident, the Parties acknowledge and agree that this Section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which no additional notice to Covered Entity shall be required. "Unsuccessful Security Incidents" shall include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, so long as no such incident results in unauthorized access, use, or disclosure of Electronic PHI.
 - (vii) Business Associate shall report to Covered Entity in writing any security incident or breach of personal information for which applicable state law may require notification or other action by either Business Associate or Covered Entity. Any such report shall be made in accordance with the requirements of the relevant state law.
- (H) **Access to PHI; Amendment of PHI:** To the extent that the Parties mutually agree in writing that PHI is part of a Designated Record Set, and that such Designated Record Set (or a portion thereof) is to be maintained by Business Associate, as set forth and agreed to in **Schedule A:**
- (i) Business Associate shall, within ten (10) days after a written request from Covered Entity, provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to such PHI to Covered Entity or, as directed by the Covered Entity, to an Individual in order to meet the requirements of 45 CFR 164.524.
 - (ii) If the requested PHI is maintained electronically, Business Associate shall provide a copy of the PHI in the form and format requested by the Individual, if it is readily producible, or, if not, in a readable electronic form and format agreed to by Covered Entity and the Individual.
 - (iii) In the event that any individual requests access to PHI directly from Business Associate, Business Associate shall immediately and in no event later than ten (10)

days of receiving such request forward the request to Covered Entity. Any denials of access to the PHI requested shall be the responsibility of Covered Entity.

- (iv) Business Associate shall, within ten (10) days after a written request from Covered Entity, make amendments to such PHI as directed or agreed to by Covered Entity in accordance with the requirements of 45 CFR 164.526.
- (v) In the event that a request for an amendment is delivered directly to Business Associate, Business Associate shall immediately and in no event later than ten (10) days of receiving such request forward the request to Covered Entity.

- (I) **Accounting**: Business Associate shall document such disclosures of PHI and information related to such disclosures and, within ten (10) days after Covered Entity's written request, shall provide to Covered Entity or to an Individual, in the time and manner designated by Covered Entity, information collected in accordance with this section, as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. In the event that a request for an accounting is delivered directly to Business Associate, Business Associate shall immediately and in no event later than ten (10) days of receiving such request forward the request to Covered Entity.

IV. **COVERED ENTITY'S OBLIGATIONS**

- (A) **Notice of Privacy Practices**: Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any subsequent changes to such notice of privacy practices.
- (B) **Changes in Access by Individual**: Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.
- (C) **Restrictions on Use and Disclosure of PHI**: Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522.

V. **TERMINATION**

- (A) **Term**: The Term of this Agreement shall be effective as of the Effective Date and shall remain in effect until termination of the Business Arrangements; provided, however, that certain obligations shall survive termination of this Agreement as set forth in Section V(C).
- (B) **Termination for Cause**: Covered Entity may immediately terminate this Agreement in the event that Business Associate materially breaches any provision of this Agreement. In its sole discretion, Covered Entity may permit Business Associate the ability to cure or take substantial steps to cure such material breach to Covered Entity's satisfaction within thirty (30) days after receipt of written notice from Covered Entity. If termination pursuant to this section is infeasible, Covered Entity shall report the breach to the Secretary of the Department of Health and Human Services.
- (C) **Return or Destruction of PHI**: Upon termination, if feasible, Business Associate shall return or destroy, at no cost to Covered Entity, all PHI that Business Associate still

maintains in any form and shall retain no copies of such information. Prior to doing so, Business Associate further agrees to recover any PHI in the possession of its subcontractors or agents. If it is infeasible to return or destroy PHI, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction of PHI infeasible and Business Associate shall continue to extend the protections of this Agreement to such PHI, and limit further use of such PHI solely to those purposes that make the return or destruction of such PHI infeasible. The provisions of this section shall survive the expiration or termination of this Business Associate Agreement.

VI. MISCELLANEOUS

- (A) **Amendment to Comply with Law:** The Parties acknowledge that it may be necessary to amend this Business Associate Agreement to comply with modifications to HIPAA, the HITECH Act, the HIPAA Regulations, and applicable state law, including but not limited to statutory or regulatory modifications or interpretations by a regulatory agency or court of competent jurisdiction. The Parties agree to use good faith efforts to develop and execute any amendments to this Business Associate Agreement as may be required by any such modifications.
- (B) **Amendment:** This Business Associate Agreement may be amended or modified only in writing signed by the Parties.
- (C) **Assignment:** Notwithstanding anything in the Business Arrangements to the contrary, neither Party may assign this Business Associate Agreement, in whole or in part, without the prior written consent of the other Party; provided, however, that Business Associate may assign this Business Associate Agreement without the consent of the other Party to an affiliate or in conjunction with a merger, reorganization, consolidation, change of control or sale of all or substantially all of its assets. Subject to the requirements of this paragraph, this Business Associate Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the Parties.
- (D) **No Third Party Beneficiaries; Agency Relationship:** Nothing expressed or implied in this Business Associate Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever. Nothing in this Business Associate Agreement shall be construed to create any agency relationship between the parties.
- (E) **Governing Law:** This Business Associate Agreement shall be governed by and construed in accordance with the substantive law of the state in which the Center is located without regard to conflicts of laws principles.
- (F) **Paragraph Headings:** The paragraph headings in this Business Associate Agreement are for convenience only. They form no part of this Business Associate Agreement and shall not affect its interpretations.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

COVERED ENTITY:

RIVER VALLEY ASC, LLC

By: _____

Name: _____

Title: _____

BUSINESS ASSOCIATE:

SURGICAL CARE AFFILIATES, LLC

By: RLS _____

Name: Richard L. Sharff, Jr.

Title: Executive Vice President

[Signature Page to Business Associate Agreement]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

COVERED ENTITY:

RIVER VALLEY ASC, LLC

By: 

Name: Frank D. Lucas

Title: Board Member

BUSINESS ASSOCIATE:

SURGICAL CARE AFFILIATES, LLC

By: _____

Name: Richard L. Sharff, Jr.

Title: Executive Vice President

[Signature Page to Business Associate Agreement]

SCHEDULE A

Identification of Designated Record Set

As contemplated in Section III(H), the Parties agree to the provision marked below:

- The PHI that Business Associate creates, receives, maintains, or transmits from or on behalf of Covered Entity, or has access to, in the course of providing services pursuant to the Business Arrangements constitutes a Designated Record Set (or a part thereof), and such Designated Record Set (or portion thereof) shall be maintained by Business Associate.

- The PHI that Business Associate creates, receives, maintains, or transmits from or on behalf of Covered Entity, or has access to, in the course of providing services pursuant to the Business Arrangements DOES NOT constitute a Designated Record Set (or a part thereof), and NO such Designated Record Set (or portion thereof) shall be maintained by Business Associate.

EXHIBIT E

 RMT_02_112: Non-Discrimination in Treatment of Patients

Template: Policy & Procedure Combined
Version: 11/2/2016
Expiration Date: 11/2/2017
Approvers: McLean, Donna;
Administrators: George, Michelle;
Editors: George, Michelle;
Viewers: All Locations; User, Guest;
Folders: Professional Clinical Liability/General Liability (RMT_02); Risk Mgmt Policy Binder;

Department:

Risk Management

Replaces Document Number:

C-05-14 Non-Discrimination in Treatment of Patients and Grievance Procedures (along with *Attachment A: Statement of Non-Discrimination and How to File a Grievance*)

CMP_01_134: Non-Discrimination in Treatment of Patients and Grievance Procedures (along with *Attachment A: Statement of Non-Discrimination and How to File a Grievance*)

Purpose:

The purpose of this policy is to implement Section 1557 of the Patient Protection and Affordable Care Act (ACA) (42 U.S.C. 18116), which prohibits discrimination on the basis of race, color, national origin, sex, gender identity age, or disability in certain health programs and activities.

Section 1557 provides that, except as provided in Title I of the ACA, an individual shall not, on the grounds prohibited under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, or Section 504 of the Rehabilitation Act of 1973, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance or under any program or activity that is administered by an Executive Agency or any entity established under Title I of the ACA.

Summary of Changes:

The following is a **brief** summary of the changes that have been made to this document:

- **4/15/15:** Changed mailing address for SCA in policy.
- **1/18/16:** Moved from Compliance to Risk Management
- **10/17/16:** Combined policies **RMT_02_112** and **CMP_01_134**

Note that this is only a summary. It is your responsibility to read the full document to ensure you abide by the required elements.

Persons Affected:

This policy is applicable to all teammates, business associates (contractors, consultants, temporaries, volunteers, physicians, clinicians, and other workforce members at SCA), including all personnel affiliated with third parties.

These policies, procedures, and forms are compiled based on both legal and regulatory requirements as well as industry standard best practices. Persons are expected to use established practices and sound judgment in making decisions.

Policy Statement:

All patients seeking treatment at an SCA facility are to be treated with respect and dignity. Patients will not be denied treatment and other services and benefits offered by the facility based on race, color national origin, creed/religion, sex, gender identity, age, or disability. Any treatment determinations based on a person's physical status or diagnosis will be made on the basis of medical evidence and treatment capability and not on the basis of fear or prejudice. Services will be furnished based on the medical necessity and appropriateness of the admission or service as well as applicable requirements of federal and state law and regulations regarding the types of treatment that may appropriately be furnished at a particular facility.

The Administrator of each SCA facility is responsible for ensuring the non-discriminatory treatment of patients. The Grievance Procedure will be used for complaints of discrimination. The procedure and timeframes for resolution of grievances and complaints are described in the Grievance Procedure below. In addition, as stated in the Notice of Patient Rights and Responsibilities, an individual who files a complaint may pursue other remedies including filing a complaint with the Office for Civil Rights in the Department of Health and Human Services, which has federal responsibility for investigating discrimination complaints.

A) Designation of Responsible Teammate

Each facility shall designate at least one teammate to coordinate its efforts to comply with and carry out its responsibilities under this policy, including the investigation of any grievance communicated to the facility alleging noncompliance with this policy or alleging any action that would be prohibited by this policy. The responsible teammate can be referenced using various terms, including: Civil Rights Coordinator, Section 504 Coordinator, or Section 1557 Coordinator.

B) Adoption of Grievance Procedures

Each facility shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of grievances alleging any action that would be prohibited by this policy.

C) Nondiscrimination Provisions

Patients will not be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in the provision of any services provided by affiliates of SCA on the basis of race, color, national origin, sex, gender identity, age, or disability.

D) Specific Application of Nondiscrimination Provisions

1. Meaningful access for individuals with limited English proficiency.

- a. **General requirement.** A facility shall take reasonable steps to provide meaningful access to each individual with limited English proficiency ("LEP") eligible to be served or likely to be encountered in its health programs and activities.
- b. **Language assistance services requirements.** Language assistance services required under paragraph (a) of this section must be provided free of charge, be accurate and timely, and protect the privacy and independence of the individual with limited English proficiency.
- c. **Specific requirements for interpreter and translation services.** Subject to paragraph (a) of this section: (1) A facility shall offer a qualified interpreter to an individual with limited English proficiency when oral interpretation is a reasonable step to provide meaningful access for that individual with limited English proficiency; and (2) A facility shall use a qualified translator when translating written content in paper or electronic form.
- d. **Restricted use of certain persons to interpret or facilitate communication.** A facility shall not:
 1. Require an individual with limited English proficiency to provide his or her own interpreter;
 2. Rely on an adult accompanying an individual with limited English proficiency to interpret or facilitate communication, except:
 - i. In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter for the individual with limited English proficiency immediately available; or
 - ii. Where the individual with limited English proficiency specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult

- agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances;
3. Rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter for the individual with limited English proficiency immediately available; or
 4. Rely on staff other than qualified bilingual/multilingual staff to communicate directly with individuals with limited English proficiency.
- e. **Video remote interpreting services.** A facility that provides a qualified interpreter for an individual with limited English proficiency through video remote interpreting services in the facility's health programs and activities shall provide:
1. Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;
 2. A sharply delineated image that is large enough to display the interpreter's face and the participating individual's face regardless of the individual's body position;
 3. A clear, audible transmission of voices; and
 4. Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the video remote interpreting.
- f. **Acceptance of language assistance services is not required.** Nothing in this section shall be construed to require an individual with limited English proficiency to accept language assistance services.
2. **Effective communication for individuals with disabilities.**
- a. A facility shall take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others in health programs and activities, in accordance with the standards found at 28 CFR 35.160 through 35.164. Where the regulatory provisions referenced in this section use the term "public entity," the term "facility" shall apply in its place.
 - b. A facility shall provide appropriate auxiliary aids and services to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question.
3. **Accessibility standards for buildings and facilities.**
- a. Each facility or part of a facility that is constructed or altered by or on behalf of, or for the use of, the facility shall comply with the 2010 ADA Standards for Accessible Design, if the construction or alteration was commenced on or after July 18, 2016, except that if a facility or part of a facility in which services are provided that is constructed or altered by or on behalf of, or for the use of, the facility was not covered by the 2010 Standards prior to July 18, 2016, such facility or part of a facility shall comply with the 2010 Standards if the construction was commenced after January 18, 2018. Departures from particular technical and scoping requirements by the use of other methods are permitted where substantially equivalent or greater access to and usability of the facility is provided. All newly constructed or altered buildings or facilities subject to this section shall comply with the requirements for a "public building or facility" as defined in Section 106.5 of the 2010 Standards.
 - b. Each facility or part of a facility in which services are provided that is constructed or altered by or on behalf of, or for the use of, the facility in conformance with the 1991 Standards or the 2010 Standards shall be deemed to comply with the requirements of this section and with 45 CFR 84.23 (a) and (b), cross-referenced in § 92.101(b)(2)(i) with respect to those facilities, if the construction or alteration was commenced on or before July 18, 2016. Each facility or part of a facility in which services are provided that is constructed or altered by or on behalf of, or for the use of, the facility in conformance with the Uniform Federal Accessibility Standards shall be deemed to comply with the requirements of this section and with 45 CFR 84.23(a) and (b), cross-referenced in § 92.101(b)

(2)(i) with respect to those facilities, if the construction was commenced before July 18, 2016 and such facility was not covered by the 1991 Standards or 2010 Standards.

4. Accessibility of electronic and information technology.

- a. Facilities shall ensure that their services provided through electronic and information technology are accessible to individuals with disabilities, unless doing so would result in undue financial and administrative burdens or a fundamental alteration in the nature of the services. When undue financial and administrative burdens or a fundamental alteration exist, the facility shall provide information in a format other than an electronic format that would not result in such undue financial and administrative burdens or a fundamental alteration but would ensure, to the maximum extent possible, that individuals with disabilities receive the benefits or services of the health program or activity that are provided through electronic and information technology. This requirement includes activities such as an online appointment system and electronic billing.
- b. Facilities shall ensure that their health programs and activities provided through Web sites comply with the requirements of Title II of the ADA (in essence, 28 CFR 35.160 through 35.164).

5. Requirement to make reasonable modifications.

A facility shall make reasonable modifications to policies, practices, or procedures when such modifications are necessary to avoid discrimination on the basis of disability, unless the facility can demonstrate that making the modifications would fundamentally alter the nature of the health program or activity.

6. Equal program access on the basis of sex.

A facility shall provide individuals equal access to its services without discrimination on the basis of sex; and a facility shall treat individuals consistent with their gender identity, except that a facility may not deny or limit health services that are ordinarily or exclusively available to individuals of one sex, to a transgender individual based on the fact that the individual's sex assigned at birth, gender identity, or gender otherwise recorded is different from the one to which such health services are ordinarily or exclusively available.

7. Nondiscrimination on the basis of association.

A facility shall not exclude from participation in, deny the benefits of, or otherwise discriminate against an individual or entity in its health programs or activities on the basis of the race, color, national origin, sex, gender identity, age, or disability of an individual with whom the individual or entity is known or believed to have a relationship or association.

E) Notice requirements

- a. Each facility shall take appropriate initial and continuing steps to notify patients and members of the public of the following:
 1. The facility does not discriminate on the basis of race, color, national origin, sex, gender identity, age, or disability in its health programs and activities;
 2. The facility provides appropriate auxiliary aids and services, including qualified interpreters for individuals with disabilities and information in alternate formats, free of charge and in a timely manner, when such aids and services are necessary to ensure an equal opportunity to participate to individuals with disabilities;
 3. The facility provides language assistance services, including translated documents and oral interpretation, free of charge and in a timely manner, when such services are necessary to provide meaningful access to individuals with limited English proficiency;
 4. How to obtain the aids and services in paragraphs (a)(2) and (3) of this section;
 5. An identification of, and contact information for, the facility's Civil Rights Coordinator, if applicable;
 6. The availability of the grievance procedure and how to file a grievance, if applicable; and

7. How to file a discrimination complaint with OCR in the Department.
- b. Within 90 days of the effective date of this part, each facility shall:
 1. As described in paragraph (f)(1) of this section, post a notice that conveys the information in paragraphs (a)(1) through (7) of this section (see Attachment A); and
 2. As described in paragraph (g)(1) of this section, if applicable, post a nondiscrimination statement (see Attachment A) that conveys the information in paragraph (a)(1) of this section.
 - c. For use by covered entities, the Director shall make available, electronically and in any other manner that the Director determines appropriate, the content of a sample notice that conveys the information in paragraphs (a)(1) through (7) of this section, and the content of a sample nondiscrimination statement that conveys the information in paragraph (a)(1) of this section, in English and in the languages triggered by the obligation in paragraph (d)(1) of this section (translated resources are available from <http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/>).
 - d. Each facility shall:
 1. As described in paragraph (f)(1) of this section, post taglines in at least the top 15 languages spoken by individuals with limited English proficiency of the relevant State or States; and
 2. As described in paragraph (g)(2) of this section, if applicable, post taglines in at least the top two languages spoken by individuals with limited English proficiency of the relevant State or States. Translated resources are available from <http://www.hhs.gov/civil-rights/for-individuals/section-1557/translated-resources/>).
 - e. For use by covered entities, the Director shall make available, electronically and in any other manner that the Director determines appropriate, taglines in the languages triggered by the obligation in paragraph (d)(1) of this section.
 - f.
 1. Each facility shall post the notice required by paragraph (a) of this section and the taglines required by paragraph (d)(1) of this section in a conspicuously-visible font size:
 - i. In significant publications and significant communications targeted to beneficiaries, enrollees, applicants, and members of the public, except for significant publications and significant communications that are small-sized, such as postcards and tri-fold brochures;
 - ii. In conspicuous physical locations where the entity interacts with the public; and
 - iii. In a conspicuous location on the facility's Web site accessible from the home page of the facility's Web site.
 2. A facility may also post the notice and taglines in additional publications and communications.
 - g. Each facility shall post, in a conspicuously-visible font size, in significant publications and significant communications that are small-sized, such as postcards and tri-fold brochures:
 1. The nondiscrimination statement required by paragraph (b)(2) of this section; and
 2. The taglines required by paragraph (d)(2) of this section.
 - h. A facility may combine the content of the notice required in paragraph (a) of this section with the content of other notices if the combined notice clearly informs individuals of their civil rights under Section 1557 and this part.

IMPORTANT NOTE: Facilities are responsible for ascertaining whether any state-specific notifications are required to be made to patients or to any state agencies or government units. If such notifications are required, facilities are responsible for obtaining contact information for the respective state agency or government unit.

Procedure Steps:

A) Designation of Responsible Teammate

The Facility Administrator will be the Civil Rights Coordinator unless they have designated in writing that another facility leader will serve as the Coordinator.

B) Grievance Procedures

1. Patients who wish to file a complaint or grievance against SCA for violation of this policy must be given a copy of the **Statement of Non-Discrimination and How to File a Grievance (Attachment B)**. This explains the process for filing a written complaint or grievance with SCA or directly to the Office for Civil Rights.
2. Grievances must be submitted to the Civil Rights Coordinator within **60 days** of the date the person filing the grievance becomes aware of the alleged discriminatory action.
3. A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
4. The Civil Rights Coordinator (or her/his designee) shall conduct an investigation of the complaint. This investigation may be informal, but it will be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Civil Rights Coordinator will maintain the files and records of the facility Civil Rights Coordinator will take appropriate steps to preserve the confidentiality of files and records relating to grievances and will share them only with those who have a need to know.
5. The Civil Rights Coordinator will issue a written decision on the grievance, based on a preponderance of the evidence, no later than **30 days** after its filing, including a notice to the complainant of their right to pursue further administrative or legal remedies.
6. The person filing the grievance may appeal the decision of the Civil Rights Coordinator by writing to the facility Governing Board within 15 days of receiving the Civil Rights Coordinator's decision. The Governing Board shall issue a written decision in response to the appeal no later than 30 days after its filing.

The availability and use of this grievance procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, sex, gender identity, age or disability in court or with the U.S. Department of Health and Human Services, Office for Civil Rights. A person can file a complaint of discrimination electronically through the Office for Civil Rights Complaint Portal, which is available at: <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>, or by mail or phone at:

**U.S. Department of Health and Human Services,
200 Independence Avenue SW., Room 509F, HHH Building,
Washington, DC 20201.**

All written complaints or grievances relating to alleged discrimination under this policy must be forwarded within thirty (30) days of the incident to:

**Surgical Care Affiliates (SCA)
Attn: Legal Services Department - Grievance Review
569 Brookwood Village Suite 901
Birmingham, AL 35209**

The Legal Services Department will review the grievance and will review the written response to the complainant. The response must include a description of the steps taken to investigate the grievance and the findings of the review.

When appropriate, the Legal Services Department will require the completion of a corrective action plan by the facility. Corrective action may include, but is not limited to, reasonable modifications in policies, practices or

procedures when necessary to ensure appropriate access to items, services or accommodations in accordance with federal law.

C) Nondiscrimination Provisions

The facility will ensure that all patients or their personal representatives receive the **Notice of Patient Rights and Responsibilities**. This informs patients they have a right to, among other things:

- Access to treatment without regard to race, ethnicity, national origin, color, creed/religion, sex, gender identity, age, mental disability, or physical disability. Any treatment determinations based on a person's physical status or diagnosis will be made on the basis of medical evidence and treatment capability.
- Expect the facility to establish a process for prompt resolution of patients' grievances and to inform each patient whom to contact to file a grievance. Grievances/ complaints and suggestions regarding treatment or care that is (or fails to be) furnished may be expressed at any time.
- Exercise your rights without being subjected to discrimination or reprisal.

D) Specific Application of Nondiscrimination Provisions

1) Limited English Proficiency Procedures:

For SCA facilities the general guidelines below will be followed. In order to better determine a language someone is speaking, you may use **Attachment C** (See the **Attachments/Links** tab) of this policy to provide to the patient. **Attachment C** is from the Department of Commerce, Bureau of the Census. It is an "I Speak" Language Identification Flashcard and is written in 38 languages which can be used to identify the language spoken by an individual accessing services provided by federally assisted programs or activities.

Oral Interpretation

SCA will provide oral interpretation for treatment purposes. The Company has access, through its GPO, to a contract with Language Services Associates (LSA) to provide these services to facilities. Facilities must enroll in order to obtain services at the contracted pricing. To enroll, a facility must contact the SCO HelpDesk (1.866.643.0758 or scohelp@scasurgery.com) and the SCA Contract Specialist will sign off on the GPO designation form and connect the facility to contract # SV0920. The attached Client Agreement Letter will provide the pricing terms for the facility's records. It does not need to be completed. Additionally, state relay services can help facilities to provide communication access to telephone service for people who are deaf, deaf-blind, hard of hearing and speech disabled. These services allow hearing callers to communicate with text-telephone (TTY) users and vice versa through specially trained relay operators. Telecommunications Relay Services permit persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device to call persons with or without such disabilities.

To make using TRS as simple as possible, you can simply dial 711 to be automatically connected to a TRS operator. By dialing 711, both voice and TRS users can initiate a call from any telephone, anywhere in the United States.

Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and after an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the persons file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest should be considered. If the SCA teammate reasonably believes that the family member or friend is not competent or appropriate for any of these reasons, an alternate interpreter service should be provided to the LEP person.

Other patients will not be used to interpret, in order to ensure confidentiality of information and accurate communication.

Contracted Oral Interpretation Services and HIPAA: A facility is not required to obtain an individual's authorization to use or disclose protected health information (PHI) to contracted interpreting service providers.

However, if a facility has a contractual relationship with an interpreting service provider other than Language Services Associates, a Business Associate Agreement (BAA) must be obtained.

Written Materials

SCA facilities have an obligation to provide translation of written materials for LEP patients.

The translation language is: "You may request oral translation of the written materials that SCA is providing to you. This will be provided at no cost to you."

If a facility needs additional languages translated for the notice of patient rights', it can contact the SCO HelpDesk for assistance.

If a facility has any LEP language group that is 5% of admissions (applies to both inpatient and outpatient settings) or 1000 patients (whichever is less) eligible to be served or likely to be affected or encountered, then the facility should contact the SCO HelpDesk for assistance in obtaining vital document translations.

2) Sensory Impairment Procedures

FOR PERSONS WHO ARE DEAF AND HARD OF HEARING:

Each facility will offer alternatives to interpreters as long as the result is effective communication. Any alternative should be discussed with hearing impaired patients, especially those unaware that alternatives are permissible under the law. Acceptable alternatives may include note taking, written materials, lip reading, and electronic mail.

In the event that the person requests an interpreter or that the facility determines that the information should be given by another party, then the following alternatives are available depending upon the person's situation. Some persons who are deaf and hard of hearing may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the person who is deaf and hard of hearing will not be used as interpreters unless specifically requested by that individual and after an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the person's file. If the person who is deaf and hard of hearing chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest should be considered. If the SCA teammate reasonably believes that the family member or friend is not competent or appropriate for any of these reasons, an alternate interpreter service (a or b below) should be provided to the person who is deaf and hard of hearing.

Other patients will not be used to interpret, in order to ensure confidentiality of information and accurate communication.

- a. *Sign-language interpreter*: If a facility is unaware of a local sign-language interpreter, contact the Registry of Interpreters for the Deaf <https://myaccount.rid.org/Public/Search/Interpreter.aspx>.
- b. *Telecommunications device for the deaf (TDD)*: Each facility will produce written documentation indicating where the TDD is located, how to operate it, and the telephone number. If a facility does not have a TDD device, the facility can dial 711 to contact a Telecommunications Relay Service.

Depending upon the facility's technological equipment, the facility may choose to offer voice-to-text or video relay/remote interpretation.

FOR PERSONS WITH VISUAL IMPAIRMENTS:

For persons with visual impairments, the facility will provide a reader, who may be a member of the staff, who will read out loud to the patient the content of any written material concerning benefits, services, waivers of rights, and consent to treat forms. When a reader is provided the facility should have a witness to the reading of the documents and make a notation in the patient medical record regarding the materials that were read and witnessed.

OR

The facility may also provide large print, taped and Braille materials. The facility must also have written documentation as to what aids are available, where they are located, and how they are used.

FOR PERSONS WITH SPEECH IMPAIRMENTS:

The facility may use a combination of the methods above depending on the level and type of impairment. In any case, the facility should have written documentation indicating what written materials, typewriters, TDD and computers are available to facilitate communication with speech impaired persons.

3) Cognitive Disorder Procedures:

For persons with cognitive disorders, including learning disabilities, a facility will need to utilize various avenues, which would depend on the type and severity of the patient's disorder, to determine the manner in which to best communicate with the patient.

Examples of access features for individuals with cognitive disorders may include:

- Provision of reading services and/or verbal service descriptions, upon request.
- Depending upon the facility's technological equipment, the facility may offer voice-to-text or video relay/remote interpretation. The facility contacting a disability service organization such as local affiliates of The ARC of the US, United Cerebral Palsy, Easter Seals, National Association for Mental Illness, etc. that better understand individuals with disabilities' customer service needs and issues.

TRAINING/EDUCATION:

The Civil Rights Coordinators are responsible for ensuring that all teammates and applicable business associates are familiar with this policy.

Definitions:

Applicant means an individual who applies to participate in a health program or activity.

Auxiliary aids and services include:

1. Qualified interpreters on-site or through video remote interpreting (VRI) services, as defined in 28 CFR 35.104 and 36.303(b); note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunication products and systems, text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunication devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
2. Qualified readers; taped texts; recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs; large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
3. Acquisition or modification of equipment and devices; and
4. Other similar services and actions.

Department means the U.S. Department of Health and Human Services.

Director means the Director of the Office for Civil Rights (OCR) of the Department.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment, as defined and construed in the Rehabilitation Act, 29 U.S.C. 705(9)(B), which incorporates the definition of disability in the ADA, 42 U.S.C. 12102, as amended. Where this part cross-references regulatory provisions that use the term "handicap," "handicap" means "disability" as defined in this section.

Electronic and information technology means the same as "electronic and information technology," or any term that replaces "electronic and information technology," as it is defined in 36 CFR 1194.4.

Employee health benefit program means:

1. Health benefits coverage or health insurance coverage provided to employees and/or their dependents established, operated, sponsored or administered by, for, or on behalf of one or more employers, whether provided or administered by entities including but not limited to an employer, group health plan (as defined in the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1191b(a)(1)), third party administrator, or health insurance issuer.
2. An employer-provided or employer-sponsored wellness program;
3. An employer-provided health clinic; or
4. Long term care coverage or insurance provided or administered by an employer, group health plan, third party administrator, or health insurance issuer for the benefit of an employer's employees.

Health program or activity means the provision or administration of health related services, health-related insurance coverage, or other health related coverage, and the provision of assistance to individuals in obtaining health-related services or health-related insurance coverage. For an entity principally engaged in providing or administering health services or health insurance coverage or other health coverage, all of its operations are considered part of the health program or activity, except as specifically set forth otherwise in this part. Such entities include a hospital, health clinic, group health plan, health insurance issuer, physician's practice, community health center, nursing facility, residential or community-based treatment facility, or other similar entity. A health program or activity also includes all of the operations of a State Medicaid program, a Children's Health Insurance Program, and the Basic Health Program.

Individual with a disability means any individual who has a disability as defined for the purpose of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(B)–(F), as amended. Where this part cross-references regulatory provisions applicable to a "handicapped individual," "handicapped individual" means "individual with a disability" as defined in this section.

Individual with limited English proficiency means an individual whose primary language for communication is not English and who has a limited ability to read, write, speak, or understand English.

Language assistance services may include, but are not limited to:

1. Oral language assistance, including interpretation in non-English languages provided in-person or remotely by a qualified interpreter for an individual with limited English proficiency, and the use of qualified bilingual or multilingual staff to communicate directly with individuals with limited English proficiency;
2. Written translation, performed by a qualified translator, of written content in paper or electronic form into languages other than English; and
3. Taglines.

National origin includes, but is not limited to, an individual's, or his or her ancestor's, place of origin (such as country or world region) or an individual's manifestation of the physical, cultural, or linguistic characteristics of a national origin group.

On the basis of sex includes, but is not limited to, discrimination on the basis of pregnancy, false pregnancy, termination of pregnancy, or recovery therefrom, childbirth or related medical conditions, sex stereotyping, and gender identity.

Qualified bilingual/multilingual staff means a member of a facility's workforce who is designated by the facility to provide oral language assistance as part of the individual's current, assigned job responsibilities and who has demonstrated to the facility that he or she:

1. Is proficient in speaking and understanding both spoken English and at least one other spoken language, including any necessary specialized vocabulary, terminology and phraseology, and
2. Is able to effectively, accurately, and impartially communicate directly with individuals with limited English proficiency in their primary languages.

Qualified individual with a disability means, with respect to a health program or activity, an individual with a disability who, with or without reasonable modifications to policies, practices, or procedures, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of aids, benefits, or services offered or provided by the health program or activity.

Qualified interpreter for an individual with a disability.

1. A qualified interpreter for an individual with a disability means an interpreter who via a remote interpreting service or an onsite appearance:
 - i. Adheres to generally accepted interpreter ethics principles, including client confidentiality; and
 - ii. is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, terminology and phraseology.
2. For an individual with a disability, qualified interpreters can include, for example, sign language interpreters, oral transliterators (individuals who represent or spell in the characters of another alphabet), and cued language transliterators (individuals who represent or spell by using a small number of handshapes).

Qualified interpreter for an individual with limited English proficiency means an interpreter who via a remote interpreting service or an on-site appearance:

1. Adheres to generally accepted interpreter ethics principles, including client confidentiality;
2. has demonstrated proficiency in speaking and understanding both spoken English and at least one other spoken language; and
3. is able to interpret effectively, accurately, and impartially, both receptively and expressly, to and from such language(s) and English, using any necessary specialized vocabulary, terminology and phraseology.

Qualified translator means a translator who:

1. Adheres to generally accepted translator ethics principles, including client confidentiality;
2. has demonstrated proficiency in writing and understanding both written English and at least one other written non-English language; and
3. is able to translate effectively, accurately, and impartially to and from such language(s) and English, using any necessary specialized vocabulary, terminology and phraseology.

Recipient means any State or its political subdivision, or any instrumentality of a State or its political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, to whom Federal financial assistance is extended directly or through another recipient and which operates a health program or activity, including any subunit, successor, assignee, or transferee of a recipient.

Sex stereotypes means stereotypical notions of masculinity or femininity, including expectations of how individuals represent or communicate their gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics. These stereotypes can include the expectation that individuals will consistently identify with only one gender and that they will act in conformity with the gender-related expressions stereotypically associated with that gender. Sex stereotypes also include gendered expectations related to the appropriate roles of a certain sex.

Taglines mean short statements written in non-English languages that indicate the availability of language assistance services free of charge.

Enforcement:

Any teammate found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

Business associates found to have violated this policy may be subject to financial penalties, up to and including termination of contract.

SCA policies and procedures are confidential proprietary information that should not be disclosed to individuals outside SCA. All confidential or proprietary information should be protected against theft, loss, and unauthorized disclosure.

Review and Update:

This policy is to be reviewed annually to determine if the policy complies with current regulations and SCA practices. In the event that significant related changes occur, the policy will be reviewed and updated as needed.

Referenced Documentation:

References used within this document that also reside in policyIQ are located and can be accessed via the "**Attachments/Links**" tab.

Contact Information:







If you have questions or concerns regarding this policy, please use the following email link to contact the appropriate business area representative. Please also include the number and name of the policy you are referencing in your email:

policyIQ@scasurgery.com

Reviews and Approvals:

Reviewed by	Date
C. Scott Thompson	07/08/2009
C. Scott Thompson	12/20/2010
C. Scott Thompson	01/09/2013
C. Scott Thompson	03/19/2014
C. Scott Thompson	04/15/2015
Michelle George	01/18/2016
Michelle George, Scott Thompson	10/19/2016
Approved by	Date
Compliance Committee of SCA Board of Directors	February 2009
P&P Task Force	July 2009
Policy Advisory Review Committee (PARC)	November 2016

Attachments / Links

-  CMP_01_118: Communicating Effectively with Persons with Limited English Proficiency, Sensory Impairments, or Cognitive Disorders [ID: 13893]
-  RMT_02_113: Accessibility to SCA Facilities [ID: 14014]
-  Attachment A (Sample Notice) (14)
-  Attachment B (Grievance Procedure) (15)
-  Attachment C (I Speak Cards) (317)
-  Attachment D (Language Services Associates Agreement Letter) (256)

SCA Internal Use Only
ID: 14011

EXHIBIT F

LINE	Total Entity Description	FY 2015 Actual Results		FY 2017		FY 2018		FY 2019		FY 2020		FY 2021	
		Actual	Results	Projected	Incremental	Projected	Incremental	Projected	Incremental	Projected	Incremental	Projected	Incremental
A. OPERATING REVENUE													
1	Total Gross Patient Revenue	\$9,445,709	\$0	\$10,510,278	\$0	\$10,667,932	\$0	\$10,827,951	\$0	\$10,990,370	\$0	\$10,990,370	\$0
2	Less: Allowances	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
3	Less: Charity Care	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
4	Less: Other Deductions	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
5	Net Patient Service Revenue	\$9,445,709	\$0	\$10,510,278	\$0	\$10,667,932	\$0	\$10,827,951	\$0	\$10,990,370	\$0	\$10,990,370	\$0
6	Medicare	\$723,813	\$0	\$920,820	\$0	\$934,632	\$0	\$948,651	\$0	\$962,881	\$0	\$962,881	\$0
7	Medicaid	\$60,500	\$0	\$64,336	\$0	\$65,301	\$0	\$66,281	\$0	\$67,275	\$0	\$67,275	\$0
8	CHAMPUS & Tricare	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
9	Other	\$784,313	\$0	\$985,156	\$0	\$999,933	\$0	\$1,014,932	\$0	\$1,030,156	\$0	\$1,030,156	\$0
10	Total Government	\$784,313	\$0	\$985,156	\$0	\$999,933	\$0	\$1,014,932	\$0	\$1,030,156	\$0	\$1,030,156	\$0
11	Commercial Insurers	\$7,966,119	\$0	\$8,624,880	\$0	\$8,754,253	\$0	\$8,885,567	\$0	\$9,018,851	\$0	\$9,018,851	\$0
12	Uninsured	\$35,800	\$0	\$69,695	\$0	\$70,943	\$0	\$72,007	\$0	\$73,087	\$0	\$73,087	\$0
13	Workers Compensation	\$759,477	\$0	\$830,348	\$0	\$842,803	\$0	\$855,445	\$0	\$868,277	\$0	\$868,277	\$0
14	Other	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
15	Total Non-Government	\$8,661,396	\$0	\$9,525,122	\$0	\$9,667,999	\$0	\$9,813,019	\$0	\$9,960,215	\$0	\$9,960,215	\$0
Net Patient Service Revenue^a (Government/Non-Government)													
14	Less: Provision for Bad Debts	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
15	Net Patient Service Revenue less provision for bad debts	\$9,445,709	\$0	\$10,510,278	\$0	\$10,667,932	\$0	\$10,827,951	\$0	\$10,990,370	\$0	\$10,990,370	\$0
17	Net Assets Released from Restrictions	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
18	TOTAL OPERATING REVENUE	\$9,445,709	\$0	\$10,510,278	\$0	\$10,667,932	\$0	\$10,827,951	\$0	\$10,990,370	\$0	\$10,990,370	\$0
B. OPERATING EXPENSES													
1	Salaries and Wages	\$1,068,044	\$0	\$1,375,461	\$0	\$1,396,092	\$0	\$1,417,034	\$0	\$1,438,289	\$0	\$1,438,289	\$0
2	Fringe Benefits	\$325,515	\$0	\$404,607	\$0	\$410,677	\$0	\$416,837	\$0	\$423,089	\$0	\$423,089	\$0
3	Physicians Fees	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
4	Supplies and Drugs	\$972,607	\$0	\$1,144,754	\$0	\$1,161,925	\$0	\$1,179,354	\$0	\$1,197,045	\$0	\$1,197,045	\$0
5	Depreciation and Amortization	\$385,504	\$0	\$338,238	\$0	\$343,312	\$0	\$348,461	\$0	\$353,688	\$0	\$353,688	\$0
6	Provision for Bad Debts-Other ^b	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
7	Interest Expense	\$0	\$0	\$145,299	\$0	\$147,478	\$0	\$149,691	\$0	\$151,936	\$0	\$151,936	\$0
8	Malpractice Insurance Cost	\$50,021	\$0	\$50,021	\$0	\$50,771	\$0	\$51,533	\$0	\$52,306	\$0	\$52,306	\$0
9	Lease Expense	\$212,167	\$0	\$212,167	\$0	\$215,350	\$0	\$218,580	\$0	\$221,858	\$0	\$221,858	\$0
10	Other Operating Expenses	\$1,818,776	\$0	\$1,473,482	\$0	\$1,495,584	\$0	\$1,518,018	\$0	\$1,540,788	\$0	\$1,540,788	\$0
11	TOTAL OPERATING EXPENSES	\$4,832,634	\$0	\$5,144,029	\$0	\$5,221,189	\$0	\$5,299,507	\$0	\$5,379,000	\$0	\$5,379,000	\$0
12	INCOME/(LOSS) FROM OPERATIONS	\$4,613,075	\$0	\$5,366,249	\$0	\$5,446,743	\$0	\$5,528,444	\$0	\$5,611,371	\$0	\$5,611,371	\$0
13	NON-OPERATING INCOME	\$1,227	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
14	Income before provision for income taxes	\$4,614,302	\$0	\$5,366,249	\$0	\$5,446,743	\$0	\$5,528,444	\$0	\$5,611,371	\$0	\$5,611,371	\$0
15	Provision for income taxes ^c	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
16	NET INCOME	\$4,614,302	\$0	\$5,366,249	\$0	\$5,446,743	\$0	\$5,528,444	\$0	\$5,611,371	\$0	\$5,611,371	\$0
C. Retained Earnings, beginning of year													
17	Retained Earnings, beginning of year	(\$1,460,913)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
18	Retained Earnings, end of year	(\$634,848)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Principal Payments													
19	Principal Payments	\$843,294	\$0	\$714,642	\$0	\$744,629	\$0	\$774,277	\$0	\$843,913	\$0	\$843,913	\$0
D. PROFITABILITY SUMMARY													
1	Hospital Operating Margin	48.8%	0.0%	51.1%	0.0%	51.1%	0.0%	51.1%	0.0%	51.1%	0.0%	51.1%	0.0%
2	Hospital Non-Operating Margin	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
3	Hospital Total Margin	48.8%	0.0%	51.1%	0.0%	51.1%	0.0%	51.1%	0.0%	51.1%	0.0%	51.1%	0.0%
4	FTEs	39	0	39	0	39	0	39	0	39	0	39	0
E. VOLUME STATISTICS^d													
1	Inpatient Discharges	0	0	0	0	0	0	0	0	0	0	0	0
2	Outpatient Visits	2,360	0	3,444	0	3,496	0	3,548	0	3,601	0	3,601	0
3	TOTAL VOLUME	2,360	0	3,444	0	3,496	0	3,548	0	3,601	0	3,601	0

^aTotal amount should equal the total amount on cell line "Net Patient Revenue" Row 14.
^bProvide the amount of any transaction associated with Bad Debts not related to the provision of direct services to patients. For additional information, refer to FASB, No. 2011-07, July 2011.
^cProvide the amount of income taxes as defined by the Internal Revenue Services for for-profit entities.
^dProvide projected inpatient and/or outpatient statistics for any new services and provide actual and projected inpatient and/or outpatient statistics for any existing services which will change due to the proposal.

EXHIBIT G

RIVER VALLEY ASC, LLC
FINANCIAL STATEMENTS
YEAR ENDED DECEMBER 31, 2015

RIVER VALLEY ASC, LLC
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INDEPENDENT ACCOUNTANT'S REVIEW REPORT

To Board of Directors of
River Valley ASC, LLC
Norwich, CT

We have reviewed the accompanying financial statements of River Valley ASC, LLC, which comprise the statement of assets, liabilities, and members' deficiency - cash basis as of December 31, 2015, and the related statements of revenues, expenses and members' deficiency - cash basis and statement of cash flows - cash basis for the year then ended, and the related notes to the financial statements. A review includes primarily applying analytical procedures to management's financial data and making inquiries of management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial statements as a whole. Accordingly, we do not express such an opinion.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with the cash basis of accounting; this includes determining that the cash basis of accounting is an acceptable basis for the preparation of financial statements in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement whether due to fraud or error.

Accountant's Responsibility

Our responsibility is to conduct the review engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. Those standards require us to perform procedures to obtain limited assurance as a basis for reporting whether we are aware of any material modifications that should be made to the financial statements for them to be in accordance with the cash basis of accounting. We believe the results of our procedures provide a reasonable basis for our conclusion.

Accountant's Conclusion

Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in accordance with the cash basis of accounting.

Basis of Accounting

We draw attention to Note 2 of the financial statements, which describes the basis of accounting. The financial statements are prepared in accordance with the cash basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Our conclusion is not modified with respect to this matter.



RRC CPAs, P.C.
Orangeburg, NY

June 2, 2016

RIVER VALLEY ASC, LLC
STATEMENT OF ASSETS, LIABILITIES AND MEMBERS' DEFICIENCY - CASH BASIS
FOR THE YEAR ENDING DECEMBER 31, 2015

ASSETS

Current Assets		
Cash and Cash Equivalents	\$	<u>724,648</u>
Total Current Assets		724,648
Fixed Assets, Net of Accumulated Depreciation of \$2,901,771		1,523,425
Other Assets		
Goodwill, Net of Accumulated Amortization of \$98,885	375,610	
Organizational Costs, Net of Accumulated Amortization of \$193,647	<u>393,564</u>	
Total Other Assets		<u>769,174</u>
Total Assets		\$ <u>3,017,247</u>

LIABILITIES AND MEMBERS' DEFICIENCY

Current Liabilities		
Taxes Payable	\$	5,538
Current Portion of Loan Payable - Farmington Bank	652,394	
Current Portion of Capitalized Leases	<u>184,898</u>	
Total Current Liabilities		842,830
Long-Term Liabilities		
Long-Term Portion of Loan Payable - Farmington Bank	2,480,446	
Long-Term Portion of Capitalized Leases	<u>328,819</u>	
Total Long-Term Liabilities		<u>2,809,265</u>
Total Liabilities		3,652,095
Members' (Deficiency)		<u>(634,848)</u>
Total Liabilities and Members' (Deficiency)		\$ <u>3,017,247</u>

See accompanying notes and independent accountant's review report.

RIVER VALLEY ASC, LLC
STATEMENT OF REVENUES, EXPENSES AND MEMBERS' DEFICIENCY - CASH BASIS
FOR THE YEAR ENDING DECEMBER 31, 2015

Revenue		
Gross Revenues	\$ 9,445,709	
Interest Income	<u>1,227</u>	
Total Revenue		9,446,936
Cost of Service		
Clinical Salaries	1,068,044	
Medical Supplies	972,607	
Equipment Supplies, Repairs, Maintenance and Rentals	229,256	
Laundry and Linen	35,235	
Medical Gas and Waste Removal	<u>23,994</u>	
Total Cost of Service		<u>2,329,136</u>
Gross Profit		7,117,800
Operating Expenses		
Administrative Salaries	463,645	
Auto and Travel	9,471	
Bank Fees	13,849	
Billing Costs	14,358	
Cleaning and Janitorial	36,999	
Computer Related Expenses	64,109	
Dues and Subscriptions	9,598	
Employee Benefits and Payroll Taxes	325,515	
Insurance	50,021	
Interest	171,026	
Internet and Cable	7,017	
Leased Equipment - Office	12,532	
Legal and Professional	398,128	
Meals and Entertainment	273	
Meetings	2,208	
Office Expense and Supplies	44,215	
Payroll Expenses	7,237	
Postage and Delivery	15,312	
Rent and Occupancy Costs	212,167	
Repairs and Maintenance	29,085	

See accompanying notes and independent accountant's review report.

RIVER VALLEY ASC, LLC
STATEMENT OF REVENUES, EXPENSES AND MEMBERS' DEFICIENCY - CASH BASIS
FOR THE YEAR ENDING DECEMBER 31, 2015

Continued

Taxes	\$ 108,778	
Telephone	7,430	
Utilities	<u>115,021</u>	
 Total Operating Expenses		 <u>2,117,994</u>
 Net Profit Before Depreciation and Amortization		 4,999,806
 Depreciation and Amortization		
Depreciation	320,175	
Amortization	<u>65,329</u>	
 Total Depreciation and Amortization		 <u>385,504</u>
 Net Income		 \$ 4,614,302
 Members' Equity/(Deficiency)		
Beginning of Year (Deficiency)	\$ (1,460,913)	
Member Distributions	<u>(3,788,237)</u>	
Subtotal		<u>(5,249,150)</u>
 End of Year (Deficiency)		 <u>\$ (634,848)</u>

See accompanying notes and independent accountant's review report.

RIVER VALLEY ASC, LLC
STATEMENT OF CASH FLOWS - CASH BASIS
FOR THE YEAR ENDING DECEMBER 31, 2015

Cash Flows from Operating Activities:	
Net Income	\$ 4,614,302
Adjustments to reconcile net income to net cash provided by operating activities	
Depreciation and Amortization	385,504
(Increase) decrease in:	
Prepaid Payroll and Interest	38,119
Increase (decrease) in:	
Taxes Payable	<u>895</u>
Net Cash Provided by Operating Activities	5,038,820
Cash Flows from Investing Activities:	
Acquisition of Fixed Assets	<u>(46,584)</u>
Net Cash (Used in) Investing Activities	(46,584)
Cash Flows from Financing Activities:	
Principal Payments - Loan Payable - Farmington Bank	(664,045)
Principal Payments - Capital Lease Payable	(179,219)
Member Distributions	<u>(3,788,237)</u>
Net Cash (Used in) Financing Activities	<u>(4,631,501)</u>
Net Increase in Cash and Equivalents	360,735
Beginning of Year Cash and Cash Equivalents	<u>363,913</u>
End of Year Cash and Cash Equivalents	<u>\$ 724,648</u>

See accompanying notes and independent accountant's review report.

RIVER VALLEY ASC, LLC
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2015

NOTE 1 – ORGANIZATION, OPERATION AND BASIS OF PRESENTATION

River Valley ASC, LLC “the Company” was organized as a limited liability company under the laws of the State of Connecticut on July 26, 2012. Under the Connecticut statutes members of an LLC are protected from liabilities for acts and debts of the LLC. The Company operates as an ambulatory surgery center.

Management has assessed subsequent events through May 16, 2016 the date the financial statements were available to be issued.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting – The Company’s policy is to prepare its financial statements on the cash basis of accounting. Consequently, revenues are recognized when received rather than when earned, and certain expenses are recognized when cash is disbursed rather than when the obligation is incurred.

Cash and Cash Equivalents – All cash and money market accounts are reported as cash and equivalents.

Fixed Assets – The Company uses the straight-line method of depreciation over the following estimated useful lives:

Computer Equipment	3 years
Property and Equipment	5-7 years
Leasehold Improvements	15 years

Expenditures for major renewals and betterments that extend the useful lives of property and equipment are capitalized. Expenditures for maintenance and repairs are charged to expense as incurred.

Revenues - The Company’s primary source of income is from performing ambulatory surgery services.

Income Taxes – The Company is a limited liability company. Accordingly, under the Internal Revenue Code, all taxable income or loss flows through to its members. Therefore, no income tax expense or liability is recorded in the accompanying financial statements.

RIVER VALLEY ASC, LLC
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2015

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Uncertain Tax Positions – The Company is required to recognize measure, classify and disclose in the financial statements uncertain tax positions taken or expected to be taken in the Company’s tax returns. Management has determined that the Company does not have any uncertain tax positions and associated unrecognized benefits that materially impact the financial statements or related disclosures. Since tax matters are subject to some degree of uncertainty, there can be no assurance that the Company’s tax returns will not be challenged by the taxing authorities and that the Company or its members will not be subject to additional tax penalties, and interest as a result of such challenge. Generally, the Company’s tax returns remain open for federal income examination for three years from the date of filing and four years for Connecticut.

Use of Estimates – The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements, and the reported amount of revenue and expenses during the audit period. Actual results could differ from those estimates.

Fair Value Measurements – The Company adopted FASB ASC 820, *Fair Value Measurements and Disclosures*, for assets and liabilities measured at fair value on a recurring basis. The codification established a common definition for fair value to be applied to existing generally accepted accounting principles that requires the use of fair value measurements, establishes a framework for measuring fair value, and expands disclosure about such fair value measures.

FASB ASC 820 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Additionally, FASB ASC 820 requires the use of valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs. These inputs are prioritized as follows:

- Level 1 – Observable inputs such as quoted market prices in active markets for identical assets or liabilities
- Level 2 – Observable market-based inputs or unobservable inputs that are corroborated by market data
- Level 3 – Unobservable inputs for which there is little or no market data, which require the use of the reporting entity’s own assumptions

RIVER VALLEY ASC, LLC
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2015

NOTE 3 – CONCENTRATION OF CREDIT RISK

The Company maintains its cash balances at one financial institution. Accounts are insured by the Federal Deposit Insurance Corporation (FDIC) up to \$250,000 per depositor. At December 31, 2015, the Company's uninsured cash balances totaled approximately \$475,000.

NOTE 4 – OTHER ASSETS

Other assets are summarized by major classifications as follows:

Organizational Costs	\$ 587,211
Goodwill	474,495
Subtotal	<u>1,061,706</u>
Less: Accumulated Amortization	<u>(292,532)</u>
Net Value	<u>\$ 769,174</u>

NOTE 5 – FIXED ASSETS

Fixed assets are summarized by major classifications as follows:

Computer Equipment	\$ 225,625
Other Equipment	29,453
Furniture and Fixtures	44,858
Medical Equipment	1,679,468
Leasehold Improvements	<u>2,445,792</u>
Subtotal	4,425,196
Less: Accumulated Depreciation	<u>(2,901,771)</u>
Net Value	<u>\$ 1,523,425</u>

NOTE 6 – LONG TERM LIABILITIES

Loan Payable – Farmington Bank

On December 17, 2012 the Company received a construction/permanent loan from Farmington Bank in the amount of \$4,716,000. The balance of the loan at December 31, 2015 was \$3,132,840.

RIVER VALLEY ASC, LLC
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2015

NOTE 6 – LONG TERM LIABILITIES (CONTINUED)

The Company is able to draw on the construction loan for up to 15 months post January 2013 or through March 2014. Commencing with April 2014, the construction loan converted to a permanent loan. During the construction loan period, the outstanding principal balance will be charged interest only based upon LIBOR plus 250 basis points. During the permanent loan period, a fixed interest rate of 3.89%/annum will be charged on the outstanding principal. Principal will be amortized on a six year period with a balloon payment on the maturity date of January 1, 2021.

Principal maturities of the loan payable for each of the next five years are as follows:

<u>Year Ending</u> <u>December 31:</u>	
2016	\$ 516,054
2017	536,490
2018	557,736
2019	579,823
2020	602,785
Thereafter	339,952
TOTAL	<u>\$ 3,132,840</u>

Interest expense for the year ended December 31, 2015 was \$137,849.

Leases

The Company leases equipment under capital leases expiring in various years through 2018. The assets and liabilities under capital leases are recorded at the lower of the present value of the minimum lease payments or the fair value of the assets. The assets are amortized over the lower of their related lease terms or their estimated productive lives. Amortization of assets under capital leases is included in depreciation expense for 2015.

Following is a summary of equipment held under capital leases at December 31, 2015:

Medical Equipment	\$ 893,503
Less: Accumulated Amortization	<u>(670,126)</u>
	<u>\$ 223,377</u>

RIVER VALLEY ASC, LLC
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2015

NOTE 6 – LONG TERM LIABILITIES (CONTINUED)

Interest rates on capitalized leases vary from 4.0% to 8.4% and are imputed based on the lower of the Company's incremental borrowing rate at the inception of each lease or the lessor's implicit rate of return.

Minimum future lease payments under capital leases are approximated as follows:

Year Ending <u>December 31:</u>	
2016	\$ 207,304
2017	194,769
2018	135,497
TOTAL	<u>537,570</u>
Less: Interest Expense	(23,853)
CAPITAL LEASE PRINCIPAL	<u>\$ 513,717</u>

NOTE 7 – COMMITMENTS AND CONTINGENCIES

The Company leases its offices in Norwich, CT. On December 11, 2012, the Company entered into a 9 year lease beginning on May 1, 2013 and expiring April 30, 2022. In 2014, an amendment to the lease was signed negotiating the annual rental terms. There are two 5 year renewal options. Future minimum operating lease payments under the lease are as follows:

2016	\$ 145,172
2017	156,422
2018	167,734
2019	179,028
2020	188,079
Years 2021-2022	254,299
TOTAL	<u>\$ 1,090,734</u>

RIVER VALLEY ASC, LLC
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2015

NOTE 7 – COMMITMENTS AND CONTINGENCIES (CONTINUED)

The lease required the Company to pay as additional rent, cost of living, real estate taxes and common area maintenance costs. Accordingly, the total occupancy cost for 2015 was \$212,167.

The Company entered into a 15 year management agreement on November 30, 2012 for administrative services at the surgery center location. The annual management fee payable to manager for management services is \$75,000 annually, provided however, such management fee is offset by the manager's distributions as a class B member of the Company pursuant to the terms of the operating agreement.

SURGICAL CARE AFFILIATES, INC.
CONSOLIDATED BALANCE SHEETS
(In thousands, except par value amount)

	<u>DECEMBER 31,</u> 2015	<u>DECEMBER 31,</u> 2014
Assets		
Current assets		
Cash and cash equivalents	\$ 79,269	\$ 8,731
Restricted cash	26,116	24,073
Accounts receivable, net of allowance for doubtful accounts (2015 — \$17,045; 2014 — \$10,448)	129,659	100,529
Receivable from nonconsolidated affiliates	46,949	72,030
Prepays and other current assets	32,850	30,170
Current assets related to discontinued operations	19	1,959
Total current assets	314,862	237,492
Property and equipment, net of accumulated depreciation (2015 — \$99,678; 2014 — \$99,111).....	296,831	209,642
Goodwill.....	1,061,088	902,391
Intangible assets, net of accumulated amortization (2015 — \$48,495; 2014 — \$35,270).....	109,188	84,262
Deferred debt issue costs	7,472	5,383
Investment in and advances to nonconsolidated affiliates	216,111	194,610
Other long-term assets	1,787	4,311
Assets related to discontinued operations	59	9,344
Assets held for sale	408	—
Total assets (a).....	\$ 2,007,806	\$ 1,647,435
Liabilities and Equity		
Current liabilities		
Current portion of long-term debt.....	\$ 32,503	\$ 24,690
Accounts payable.....	37,419	31,717
Accrued payroll	37,802	29,199
Accrued interest.....	4,173	234
Accrued distributions.....	37,175	29,134
Payable to nonconsolidated affiliates.....	77,683	104,519
Other current liabilities	30,938	26,747
Current liabilities related to discontinued operations.....	368	2,280
Current liabilities held for sale.....	26	—
Total current liabilities	258,087	248,520
Long-term debt, net of current portion	858,044	665,119
Deferred income tax liability	44,339	131,020
Other long-term liabilities	31,587	19,683
Liabilities related to discontinued operations	28	683
Total liabilities (a)	1,192,085	1,065,025
Commitments and contingent liabilities (Note 17).....		
Noncontrolling interests — redeemable (Note 10).....	21,989	15,444
Equity		
Surgical Care Affiliates' equity		
Common stock, \$0.01 par value, 180,000 shares authorized, 39,690 and 38,648 shares outstanding, respectively.....	397	386
Additional paid in capital	442,678	419,088
Accumulated deficit	(60,814)	(176,135)
Total Surgical Care Affiliates' equity.....	382,261	243,339
Noncontrolling interests — non-redeemable	411,471	323,627
Total equity	793,732	566,966
Total liabilities and equity	\$ 2,007,806	\$ 1,647,435

(a) Our consolidated assets as of December 31, 2015 and December 31, 2014 include total assets of a variable interest entity ("VIE") of \$167.8 million and \$117.5 million, respectively, which can only be used to settle the obligations of the VIE. Our consolidated total liabilities as of December 31, 2015 and December 31, 2014 include total liabilities of the VIE of \$41.0 million and \$23.8 million, respectively, for which the creditors of the VIE have no recourse to us, with the exception of \$4.0 million and \$3.4 million of debt guaranteed by us at December 31, 2015 and December 31, 2014, respectively. See further description in Note 4, *Variable Interest Entities*.

See Notes to Consolidated Financial Statements.

SURGICAL CARE AFFILIATES, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share data)

	YEAR-ENDED DECEMBER 31,		
	2015	2014	2013
Net operating revenues:			
Net patient revenues	\$ 971,422	\$ 788,048	\$ 731,584
Management fee revenues	61,011	58,914	40,469
Other revenues	19,057	17,774	13,610
Total net operating revenues	1,051,490	864,736	785,663
Equity in net income of nonconsolidated affiliates	49,867	32,564	23,364
Operating expenses:			
Salaries and benefits	351,029	297,174	270,929
Supplies	221,392	177,853	170,174
Other operating expenses	161,854	124,870	127,701
Depreciation and amortization	66,225	52,663	41,450
Occupancy costs	36,480	29,390	25,544
Provision for doubtful accounts	17,195	14,051	14,208
Impairment of intangible and long-lived assets	625	610	—
Loss (gain) on disposal of assets	1,886	(232)	123
Total operating expenses	856,686	696,379	650,129
Operating income	244,671	200,921	158,898
Interest expense	42,111	32,785	60,202
HealthSouth option expense	11,702	—	—
Debt modification expense	5,032	—	—
Loss on extinguishment of debt	544	—	10,333
Interest income	(367)	(174)	(215)
(Gain) loss on sale of investments	(3,982)	(7,633)	12,330
Income from continuing operations before income tax expense	189,631	175,943	76,248
(Benefit) provision for income taxes	(84,778)	9,439	12,320
Income from continuing operations	274,409	166,504	63,928
Loss from discontinued operations, net of income tax expense	(784)	(9,355)	(9,330)
Net income	273,625	157,149	54,598
Less: Net income attributable to noncontrolling interests	(158,304)	(125,169)	(105,942)
Net income (loss) attributable to Surgical Care Affiliates	\$ 115,321	\$ 31,980	\$ (51,344)
Basic net income (loss) per share attributable to Surgical Care Affiliates:			
Continuing operations attributable to Surgical Care Affiliates	\$ 2.95	\$ 1.07	\$ (1.33)
Discontinued operations attributable to Surgical Care Affiliates	\$ (.02)	\$ (.24)	\$ (.29)
Net income (loss) per share attributable to Surgical Care Affiliates	\$ 2.93	\$ 0.83	\$ (1.62)
Basic weighted average shares outstanding	39,360	38,477	31,688
Diluted net income (loss) per share attributable to Surgical Care Affiliates:			
Continuing operations attributable to Surgical Care Affiliates	\$ 2.85	\$ 1.03	\$ (1.33)
Discontinued operations attributable to Surgical Care Affiliates	\$ (.02)	\$ (.23)	\$ (.29)
Net income (loss) per share attributable to Surgical Care Affiliates	\$ 2.83	\$ 0.80	\$ (1.62)
Diluted weighted average shares outstanding	40,734	39,958	31,688

See Notes to Consolidated Financial Statements.

SURGICAL CARE AFFILIATES, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(In thousands)

	2015	YEAR-ENDED DECEMBER 31, 2014	2013
Net income	\$ 273,625	\$ 157,149	\$ 54,598
Other comprehensive income:			
Unrealized income (loss) on interest rate swap	—	—	847
Amounts reclassified from accumulated other comprehensive loss	—	—	7,480
Total other comprehensive income	—	—	8,327
Comprehensive income	273,625	157,149	62,925
Comprehensive income attributable to noncontrolling interests	(158,304)	(125,169)	(105,942)
Comprehensive income (loss) attributable to Surgical Care Affiliates	<u>\$ 115,321</u>	<u>\$ 31,980</u>	<u>\$ (43,017)</u>

See Notes to Consolidated Financial Statements.

SURGICAL CARE AFFILIATES, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)

	YEAR-ENDED DECEMBER 31,		
	2015	2014	2013
Cash flows from operating activities			
Net income	\$ 273,625	\$ 157,149	\$ 54,598
Loss from discontinued operations	784	9,355	9,330
Adjustments to reconcile net income to net cash provided by operating activities			
Provision for doubtful accounts	17,195	14,051	14,208
Depreciation and amortization	66,225	52,663	41,450
Amortization of deferred issuance costs	1,352	2,954	3,891
Impairment of long-lived assets	625	610	—
Realized (gain) loss on sale of investments	(3,982)	(7,633)	12,330
Loss (gain) on disposal of assets	1,886	(232)	123
Equity in net income of nonconsolidated affiliates	(49,867)	(32,564)	(23,364)
Distributions from nonconsolidated affiliates	56,263	50,773	50,505
Deferred income tax	(86,185)	8,556	15,410
Stock compensation	8,519	4,126	2,724
Change in fair value and loss on de-designation of interest rate swap	336	485	8,314
Loss on extinguishment of debt	544	—	10,333
HealthSouth option expense	11,702	—	—
Payment of deferred interest	—	—	(14,785)
Debt call premium paid	—	—	(5,000)
(Increase) decrease in assets, net of business combinations			
Accounts receivable	(31,066)	(18,692)	(20,000)
Other assets	18,576	(66,709)	8,230
(Decrease) increase in liabilities, net of business combinations			
Accounts payable	(10,740)	4,709	3,679
Accrued payroll	6,476	2,404	6,143
Accrued interest	3,939	(213)	(13,263)
Other liabilities	(19,450)	34,261	9,064
Other	(332)	(722)	(251)
Net cash used in operating activities of discontinued operations	(3,219)	(4,750)	(8,085)
Net cash provided by operating activities	<u>263,206</u>	<u>210,581</u>	<u>165,584</u>
Cash flows from investing activities			
Capital expenditures	(44,760)	(37,304)	(36,838)
Proceeds from sale of business	6,884	2,711	1,276
Proceeds from disposal of assets	2,303	1,302	5,880
Proceeds from sale of equity interests of nonconsolidated affiliates	20,512	2,344	4,587
Proceeds from sale of equity interests of consolidated affiliates in deconsolidation transactions	—	2,375	2,069
Decrease in cash related to conversion of consolidated affiliates to equity interests	(37)	(30)	(116)
Net change in restricted cash	(1,543)	1,062	1,886
Net settlements on interest rate swap	(1,449)	(1,539)	(2,921)
Business acquisitions, net of cash acquired 2015 - \$2,711; 2014 - \$2,527; 2013 - \$6,131	(112,794)	(122,165)	(54,499)
Purchase of equity interests in nonconsolidated affiliates	(35,642)	(36,032)	(766)
Return of equity method investments in nonconsolidated affiliates	2,284	2,555	2,592
Other	(3,224)	(3,791)	—
Net cash provided by investing activities of discontinued operations	11,000	—	16
Net cash used in investing activities	<u>\$ (156,466)</u>	<u>\$ (188,512)</u>	<u>\$ (76,834)</u>

SURGICAL CARE AFFILIATES, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)

	YEAR-ENDED DECEMBER 31,		
	2015	2014	2013
Cash flows from financing activities			
Borrowings under line of credit arrangements and long-term debt, net of issuance costs	\$ 728,310	\$ 35,646	\$ 417,678
Payment of debt acquisition costs.....	(3,238)	—	(5,700)
Proceeds from issuance of shares pursuant to IPO, net of offering costs	—	—	171,877
Principal payments on line of credit arrangements and long-term debt.....	(614,468)	(31,083)	(527,634)
Principal payments under capital lease obligations	(9,042)	(8,225)	(7,552)
Distributions to noncontrolling interests of consolidated affiliates	(150,529)	(113,432)	(102,975)
Contributions from noncontrolling interests of consolidated affiliates.....	6,276	17,452	4,758
Proceeds from sale of equity interests of consolidated affiliates	5,933	5,593	7,864
Repurchase of equity interests of consolidated affiliates.....	(6,124)	(8,726)	(5,612)
Distributions to unit holders	—	—	(74,900)
Proceeds from teammate equity plans	12,054	5,820	453
Tax payments on options and awards	(5,409)	—	—
Other	—	(2,189)	—
Net cash used in financing activities	<u>(36,237)</u>	<u>(99,144)</u>	<u>(121,743)</u>
Change in cash and cash equivalents	70,503	(77,075)	(32,993)
Cash and cash equivalents at beginning of period	8,731	85,829	118,618
Cash and cash equivalents of discontinued operations at beginning of period	37	14	178
Less: Cash and cash equivalents of discontinued operations at end of period	(2)	(37)	26
Cash and cash equivalents at end of period.....	<u>\$ 79,269</u>	<u>\$ 8,731</u>	<u>\$ 85,829</u>
Supplemental cash flow information			
Cash paid during the year for interest	\$ 37,615	\$ 31,173	\$ 62,167
Cash paid during the year for income taxes	1,021	753	493
Supplemental schedule of noncash investing and financing activities			
Property and equipment acquired through capital leases and installment purchases	18,640	9,722	21,329
Goodwill attributable to sale of surgery centers.....	2,503	752	10,062
Net investment in consolidated affiliates that became equity method facilities.....	164	1,848	5,356
Noncontrolling interest associated with conversion of consolidated affiliates to equity method affiliates.....	1,750	3,886	747
Contributions (non-cash) from noncontrolling interests of consolidated affiliates	—	5,225	—
Accrued capital expenditures at end of period.....	3,976	3,457	2,341
Equity interest purchase in nonconsolidated affiliates via withheld distributions.....	5,259	—	—

See Notes to Consolidated Financial Statements.

ATTACHMENT V



Supplemental CON Application Form
Transfer of Ownership of a Health Care Facility
Conn. Gen. Stat. § 19a-638(a)(2)

Applicants: River Valley ASC, LLC & SCA-River Valley, LLC

Project Name: Transfer of Membership Interests in River Valley
ASC, LLC to SCA-River Valley, LLC

1. Project Description and Need: Change of Ownership or Control

- a. Describe the transition plan and how the Applicants will ensure continuity of services. Provide a copy of a transition plan, if available.

RESPONSE:

SCA-River Valley acquired a 49% ownership interest in River Valley ASC, LLC effective October 31, 2016. SCA has been managing the Center since that time. There is no “transition” of operations related to this proposal for SCA-River Valley to acquire an additional 11.5% of the membership interests in the Company and become a majority owner. The Center is an existing outpatient surgical facility. The same staff, physicians, and procedures remained in place through the minority change of ownership and will stay in place once SCA-River Valley becomes a majority owner. No interruption in services has or is expected to occur as a result of the transaction.

- b. For each Applicant (and any new entities to be created as a result of the proposal), provide the following information as it would appear **prior** and **subsequent** to approval of this proposal:
- i. Legal chart of corporate or entity structure including all affiliates.

RESPONSE:

See Exhibit H.

- ii. Governance or controlling body

RESPONSE:

Currently, the Company is governed by a Board of Managers consisting of five (5) members. Four (4) members of the Board are appointed by a majority of the Class A Members (i.e., physician investors), and one (1) member of the Board is appointed by SCA-River Valley. After the closing of the transaction, the Company will still be governed by a Board of Managers consisting of five (5) members; however, SCA-River Valley will appoint three (3) members of the Board, and the physician investors will appoint two (2) members of the Board.

- iii. List of owners and the % ownership and shares of each.

RESPONSE:

See Exhibit I.

- c. Does this proposal avoid the corporate practice of medicine? Explain in detail.

RESPONSE:

The Corporate Practice of Medicine Doctrine (“CPMD”) holds that only individuals who are licensed to practice medicine in Connecticut are authorized to practice medicine in this state. A corporation, in and of itself, is not authorized to practice medicine. Although the Company owns the Center, and SCA manages the Center, neither is practicing medicine. All surgical care at the Center is performed by Connecticut licensed physicians. The Center is governed by Section 19-13-D56 of the Regulations of Connecticut State Agencies concerning licensure of outpatient surgical facilities operated by corporations. These regulations have provisions regarding professional staff that ensure medical competence and judgment are preserved. In addition, OHCA has historically approved CONs for ambulatory surgical facilities that are owned in part by corporations. Most recently, OHCA approved the transfer of majority ownership in Constitution Surgery Center East, which is owned and operated by a limited liability company (*see* Docket No. 16-32122-CON).

2. Clear Public Need

- a. Is the proposal being submitted due to provisions of the Federal Sherman Antitrust Act and Conn. Gen Stat. §35-24 et seq. statutes? Explain in detail.

RESPONSE:

This proposal is not being submitted due to provisions of the Federal Sherman Antitrust Act and Conn. Gen. Stat. §35-24 et seq.

- b. Is the proposal being submitted due to provisions of the Patient Protection and Affordable Care Act (PPACA)? Explain in detail.

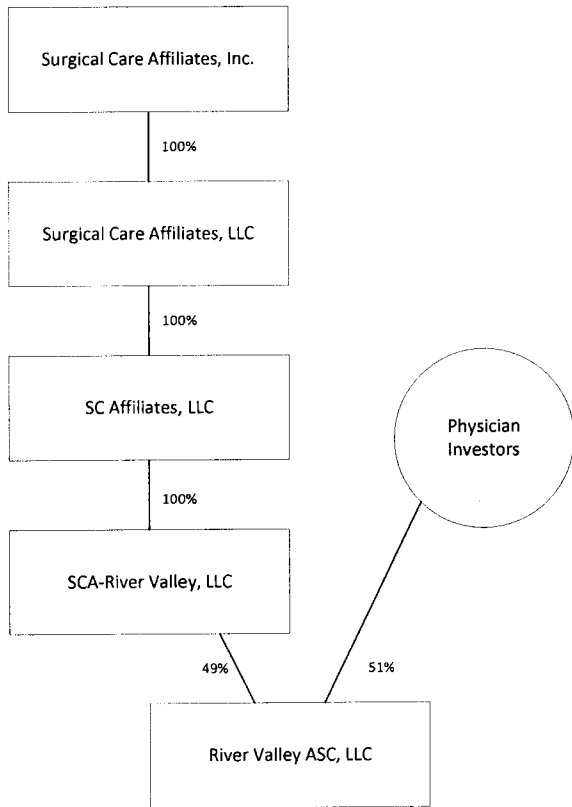
RESPONSE:

This proposal is not being submitted due to provisions of the Patient Protection and Affordable Care Act.

EXHIBIT H

RIVER VALLEY ASC, LLC PHASE II TRANSACTION DIAGRAMS

CURRENT STRUCTURE



POST PHASE II CLOSING STRUCTURE

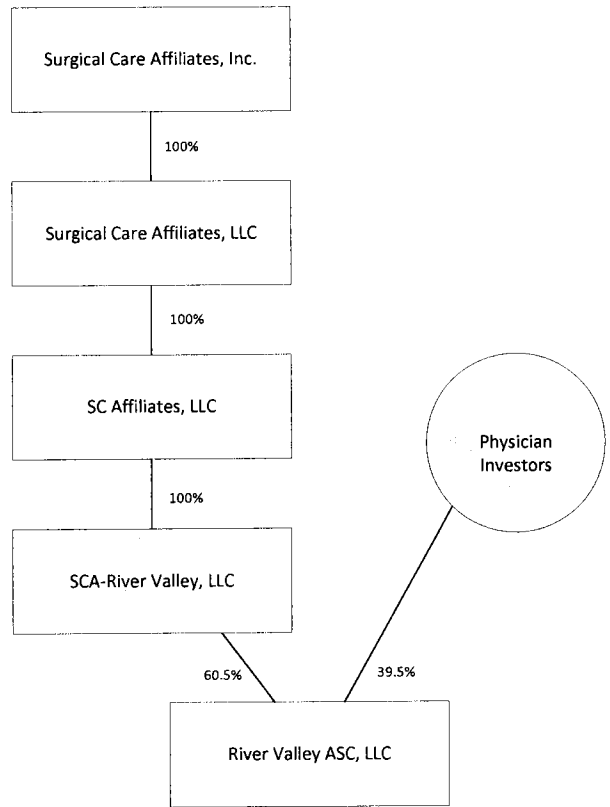


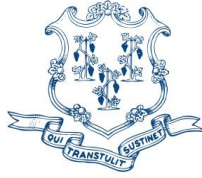
EXHIBIT I

CURRENT OWNERSHIP OF RIVER VALLEY ASC, LLC		
MEMBER	UNITS OWNED	PERCENTAGE OF OWNERSHIP INTEREST
CLASS A MEMBERS		
Daniel Glenney, MD	3.7098 Units	3.2053%
Nicole Arcand, MD	3.7098 Units	3.2053%
Patricia Stuart, MD	3.7098 Units	3.2053%
John Pagnozzi, MD	3.7098 Units	3.2053%
William Culviner, MD	3.0646 Units	2.6478%
Steven Green, MD	3.7098 Units	3.2053%
Stephen Rouse, MD	3.7098 Units	3.2053%
Jerilyn Allen, MD	3.0646 Units	2.6478%
Gregory Lesnik, MD	3.0646 Units	2.6478%
David Boisoneau, MD	3.7098 Units	3.2053%
Darren Courtright, DPM	2.5807 Units	2.2298%
Frank Dellacono, MD	3.7098 Units	3.2053%
Shri Verma, MD	3.7098 Units	3.2053%
Richard Martin, MD	3.7098 Units	3.2053%
Pamela Connors, MD	3.2259 Units	2.7872%
Edward Tarka DPM	0.7032 Units	0.6076%
Stephen Scarangela MD	1.6129 Units	1.3936%
Vinod Pathy MD	0.6774 Units	0.5853%
Peter Famiglietti MD	0.6774 Units	0.5853%
Raymond Gaito MD	0.6774 Units	0.5853%
David Coletti MD	0.6452 Units	0.5574%
John Wesolek MD	0.6452 Units	0.5574%
William Kaufold MD	0.6452 Units	0.5574%
Dana Woods MD	0.6452 Units	0.5574%
CLASS B MEMBERS		
SCA-River Valley, LLC	56.7126 Units	49%
TOTAL	115.7400 Units	100%

PROPOSED OWNERSHIP OF RIVER VALLEY ASC, LLC AFTER THE PHASE II CLOSING		
MEMBER	UNITS OWNED	PERCENTAGE OF OWNERSHIP INTEREST
Daniel Glenney, MD	2.8733 Units	2.4825%
Nicole Arcand, MD	2.8733 Units	2.4825%
Patricia Stuart, MD	2.8733 Units	2.4825%
John Pagnozzi, MD	2.8733 Units	2.4825%
William Culviner, MD	2.3736 Units	2.0508%
Steven Green, MD	2.8733 Units	2.4825%
Stephen Rouse, MD	2.8733 Units	2.4825%
Jerilyn Allen, MD	2.3736 Units	2.0508%
Gregory Lesnik, MD	2.3736 Units	2.0508%
David Boisoneau, MD	2.8733 Units	2.4825%
Darren Courtright, DPM	1.9988 Units	1.7270%
Frank Dellacono, MD	2.8733 Units	2.4825%
Shri Verma, MD	2.8733 Units	2.4825%
Richard Martin, MD	2.8733 Units	2.4825%
Pamela Connors, MD	2.4985 Units	2.1587%
Edward Tarka DPM	0.5447 Units	0.4706%
Stephen Scarangela MD	1.2492 Units	1.0794%
Vinod Pathy MD	0.5247 Units	0.4533%
Peter Famiglietti MD	0.5247 Units	0.4533%
Raymond Gaito MD	0.5247 Units	0.4533%
David Coletti MD	0.4997 Units	0.4317%
John Wesolek MD	0.4997 Units	0.4317%
William Kaufold MD	0.4997 Units	0.4317%
Dana Woods MD	0.4997 Units	0.4317%
SCA-River Valley, LLC	60.5000 Units	60.5000%
TOTAL	115.7400 Units	100%

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH



Raul Pino, M.D., M.P.H.
Commissioner

Dannel P. Malloy
Governor
Nancy Wyman
Lt. Governor

Office of Health Care Access

February 24, 2017

Via Email Only

Ms. Jennifer G. Fusco, Esq.
Updike, Kelly & Spellacy, P.C.
One Century Tower
265 Church Street
New Haven, CT 06510
jfusco@uks.com

RE: Certificate of Need Application; Docket Number: 17-32146-CON
Transfer of 11.5% Ownership Interest of River Valley ASC, LLC to SCA-River Valley, LLC
Certificate of Need Completeness Letter

Dear Attorney Fusco:

On January 30, 2017, the Department of Public Health, Office of Health Care Access ("OHCA") received the Certificate of Need ("CON") application from River Valley ASC, LLC and SCA-River Valley, LLC ("SCA-RV"), herein collectively referred to as ("Applicants"), seeking authorization to transfer 11.5% of River Valley ASC, LLC to SCA-RV, with a membership equity purchase price of \$5,513,910. OHCA requests additional information pursuant to Connecticut General Statutes §19a-639a(c). *Please "reply all" to electronically confirm receipt of this email as soon as you receive it.* Provide responses to the questions below in both a Word document and PDF format as an attachment to a responding email. ***Please email your responses to each of the following email addresses: OHCA@ct.gov and Kaila.Riggott@ct.gov.***

Paginate and date your response (i.e., each page in its entirety). Repeat each OHCA question before providing your response. Information filed after the initial CON application submission (e.g., completeness response letter, prefiled testimony, late file submissions, etc.) must be numbered sequentially from the Applicant's preceding document. Begin your submission using **Page 461** and reference "**Docket Number: 17-32146-CON.**"



Phone: (860) 418-7001 • Fax: (860) 418-7053
410 Capitol Avenue, MS#13HCA
Hartford, Connecticut 06134-0308
www.ct.gov/dph

Affirmative Action/Equal Opportunity Employer

Pursuant to Section 19a-639a(c) of the Connecticut General Statutes, you must submit your response to this request for additional information no later than sixty days after the date this request was transmitted. Therefore, please provide your written responses to OHCA no later than **April 25, 2017**, otherwise your application will be automatically considered withdrawn.

1. Page 19 of the application states that “SCA currently owns an interest in five (5) licensed centers operating in Connecticut.” Please provide the name, address, type of facility and specialty type of these centers.
2. What impact will the anticipated merger between SCA and a wholly owned subsidiary of UnitedHealth Group Inc. (page 19 of the application) have on the River Valley Ambulatory Surgery Center (“Surgery Center”)? In your response, please address any resulting changes to operations, quality, payer mix, and patient cost.
3. What quality initiatives or operational improvements have occurred at the Surgery Center since SCA-RV acquired a 49% interest in 2016? What further quality initiatives are planned for the Surgery Center following SCA-RV’s majority ownership?
4. Provide a copy of the Surgery Center’s transfer agreement (with a local hospital) in the event of an unanticipated medical complication.
5. Revise Table 6 on page 40 of the application to include projected volumes for FY 2020. Please label/confirm that volumes in table represent surgical procedures as noted on page 33 of the application.
6. Revise Table 7 on page 41 of the application to include projected payer mix volumes for FY 2020. Please label/confirm that volumes in table represent surgical procedures as noted on page 33.
7. Provide a copy of the financial assistance/charity care policies administered at the Surgery Center.
8. What benefits will be gained as a result of SCA-RV acquiring a majority interest in the Surgery Center? Specifically address the benefits to SCA-RV, Physician/Owners and the Surgery Center.

If you have any questions concerning this letter, please feel free to contact Kaila Riggott at (860) 418-7037.

cc: Susan Carocari, scarocari@rivervalleyasc.com



Phone: (860) 418-7001 • Fax: (860) 418-7053
410 Capitol Avenue, MS#13HCA
Hartford, Connecticut 06134-0308
www.ct.gov/dph

Affirmative Action/Equal Opportunity Employer

Olejarz, Barbara

From: Carney, Brian
Sent: Friday, February 24, 2017 2:55 PM
To: jfusco@uks.com; cwallace@ct Surgcenter.com; scarocari@rivervalleyasc.com
Cc: Riggott, Kaila; Mitchell, Micheala; Olejarz, Barbara
Subject: 17-32145-CON & 17-32146-CON Completeness
Attachments: 32145 Surgical Center of Connecticut, LLC.docx; 32146 River Valley ASC.docx

Good afternoon Attorney Fusco,

Please see the attached completeness letters in the above referenced matters. Please confirm receipt of this email and provide your written responses to OHCA no later than **April 25, 2017**.

Sincerely,
Brian A. Carney

Brian Carney, MBA
Associate Research Analyst
Connecticut Department of Public Health
Office of Health Care Access
410 Capitol Avenue, MS#13HCA
Hartford, CT 06134-0308
Phone - 860-418-7014
brian.carney@ct.gov



Olejarz, Barbara

From: Jennifer Groves Fusco <jfusco@uks.com>
Sent: Friday, February 24, 2017 2:59 PM
To: Carney, Brian; cwallace@ctsurgcenter.com; scarocari@rivervalleyasc.com
Cc: Riggott, Kaila; Mitchell, Micheala; Olejarz, Barbara
Subject: RE: 17-32145-CON & 17-32146-CON Completeness

Hi, Brian.

I received your email, including both letters. We will have answers to you as soon as possible.

Thanks and have a nice weekend.

Jen

From: Carney, Brian [mailto:Brian.Carney@ct.gov]
Sent: Friday, February 24, 2017 2:55 PM
To: Jennifer Groves Fusco; cwallace@ctsurgcenter.com; scarocari@rivervalleyasc.com
Cc: Riggott, Kaila; Mitchell, Micheala; Olejarz, Barbara
Subject: 17-32145-CON & 17-32146-CON Completeness

Good afternoon Attorney Fusco,

Please see the attached completeness letters in the above referenced matters. Please confirm receipt of this email and provide your written responses to OHCA no later than **April 25, 2017**.

Sincerely,
Brian A. Carney

Brian Carney, MBA
Associate Research Analyst
Connecticut Department of Public Health
Office of Health Care Access
410 Capitol Avenue, MS#13HCA
Hartford, CT 06134-0308
Phone - 860-418-7014
brian.carney@ct.gov



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User, OHCA

From: Jennifer Groves Fusco <jfusco@uks.com>
Sent: Wednesday, March 08, 2017 3:46 PM
To: Riggott, Kaila; Carney, Brian
Cc: User, OHCA
Subject: River Valley ASC -- Docket No. 17-32146-CON
Attachments: DOCS-#1504835-v1-SCA_RIVER_VALLEY_FINAL_CQR_WITH_EXHIBITS.PDF; DOCS-#1504787-v1-SCA_RIVER_VALLEY_CQR_FINAL.docx

All:

Attached please find responses to OHCA's February 24, 2017 Completeness Questions. Please confirm receipt at your convenience and let me know if you need anything further.

Thanks,
Jen

Jennifer Groves Fusco, Esq.
Principal
Updike, Kelly & Spellacy, P.C.
One Century Tower
265 Church Street
New Haven, CT 06510
Office (203) 786.8316
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**Transfer of 11.5% Ownership Interest in
River Valley ASC, LLC
to SCA-River Valley, LLC**

Docket No. 17-32146-CON

Completeness Question Responses

1. Page 19 of the application states that “SCA currently owns an interest in five (5) licensed centers operating in Connecticut.” Please provide the name, address, type of facility and specialty type of these centers.

RESPONSE:

The table below lists each of the licensed outpatient surgical facilities in which an affiliate of Surgical Care Affiliates, Inc. (“SCA”) owns an interest, its address, DPH licensure category, and surgical subspecialties offered.

Facility Name	Facility Address	DPH Licensure Category	Surgical Subspecialties Offered
Connecticut Surgery Center	81 Gillett Street Hartford, CT 06105	Outpatient Surgical Facility	Orthopedics; Spine/Neurosurgery; Pain Management; Urology; Gynecology; Ophthalmology; Ear Nose & Throat; and Podiatry
Danbury Surgical Center	73 Sandpit Road Danbury, CT 06810	Outpatient Surgical Facility	Orthopedics; Spine/Neurosurgery; Pain Management; Urology; Ophthalmology; and Gastroenterology
River Valley Ambulatory Surgery Center	45 Salem Turnpike Norwich, Ct 06360	Outpatient Surgical Facility	Orthopedics; Pain Management; Ophthalmology; Ear Nose & Throat; Podiatry; General Surgery; Plastic Surgery; and Gastroenterology

Facility Name	Facility Address	DPH Licensure Category	Surgical Subspecialties Offered
Surgery Center of Fairfield County	112 Quarry Road Trumbull, CT 06611	Outpatient Surgical Facility	Orthopedics; Spine/Neurosurgery; Pain Management; Urology; Gynecology; Ophthalmology; Ear, Nose & Throat; Podiatry; General Surgery; Plastic Surgery; Oral Surgery; and Gastroenterology
Surgical Center of Connecticut	4920 Main Street Bridgeport, CT 06606	Outpatient Surgical Facility	Orthopedics; Spine/Neurosurgery; Pain Management; Urology; Podiatry; General Surgery; Gastroenterology; Plastic Surgery

2. What impact will the anticipated merger between SCA and a wholly owned subsidiary of UnitedHealth Group Inc. (page 19 of the application) have on the River Valley Ambulatory Surgery Center (“Surgery Center”)? In your response, please address any resulting changes to operations, quality, payer mix, and patient cost.

RESPONSE:

SCA is party to an agreement that will result in the merger of SCA with a wholly-owned subsidiary of UnitedHealth Group, Inc. (“UHG,” and together with SCA, the “Parties”), and pursuant to which SCA will become part of UHG’s Optum division (the “Proposed UHG Transaction”). The Proposed UHG Transaction will have no direct impact on any of SCA’s surgical facilities in Connecticut, including River Valley Ambulatory Surgery Center (“River Valley”). The Proposed UHG Transaction will result in a change in the ownership structure of River Valley many levels above the licensed operator of the facility (the “Licensee”). There will be no changes to the direct ownership or control of the Licensee or to its Operating Agreement. River Valley’s governing body will not change as a result of the Proposed UHG Transaction, and the Parties anticipate that day-to-day operations, including services offered, will be unaffected by the Proposed UHG Transaction. Payer mix and patient population are expected to remain unchanged as well. In addition, implementation of the SCA quality initiatives discussed in response to Question 3 below will continue after the closing of the Proposed UHG Transaction.

Note OHCA recently determined that CON approval is not required for the Proposed UHG Transaction, given its lack of impact on the governance or control of the licensed operators of SCA's Connecticut facilities (Docket No. 17-32152-DTR).

3. What quality initiatives or operational improvements have occurred at the Surgery Center since SCA-RV acquired a 49% interest in 2016? What further quality initiatives are planned for the Surgery Center following SCA-RV's majority ownership?

RESPONSE:

Since its affiliation with SCA, River Valley has been working with SCA's clinical team to closely track and improve their already impressive clinical results. SCA's clinical lead in the Northeast region conducted clinical onboarding with the River Valley clinical team on-site in early February. Focused instructional time was dedicated to infection control, life safety regulations as set by the American Society for Healthcare Engineering and medication management. The purpose of SCA's clinical lead program is to provide the facility with the ability to have an external resource assist with targeting areas for quality improvement, survey preparation and clinical training on new quality rules and regulations.

SCA has transitioned River Valley from a manual tracking and reporting system to Quantros, an electronic system that allows for anonymous entries and systematic tracking of incident reporting along with subsequent corrective actions. Quantros facilitates a culture of transparency and creates a comprehensive approach to measuring quality performance.

In addition to meeting all of the requirements for AAAHC accreditation and achieving historically strong results on the state survey, River Valley has targeted specific areas for improvement through focused quality initiatives. Presently the facility is conducting a QI study centered on improving SCD compliance:

QI Study- Sequential Compression Device Compliance for high risk patients

Purpose/Problem: Patients identified as high risk for Deep Vein Thrombosis were not consistently having SCD's placed during surgery. The problem was identified and discussed a quarterly QI meetings and the team has since put in place a clear process to improve compliance.

Performance Goal: 100% of patients at high risk for DVT will be provided SCD's unless contraindicated.

Description of Data: 511 patient charts reviewed thru Feb of 2017. Excluded from review was pain management, ophthalmology, and pediatric patients (under 13). A pre op risk assessment score of greater than 3 indicates patient is at high risk.

Results: During the last tracking period, River Valley achieved 100% compliance for the first time during the study. Tracking of SCD compliance will continue until a clear trend of 100% compliance is achieved.

Evidence of Data Collection:

Tracking Period	Reviewed	Total High Risk	Compliant Records	Percent Compliant
1	148	77	34	44%
2	57	37	22	59%
3	42	32	24	75%
4	50	36	31	86%
5	34	23	20	87%
6	42	34	30	88%
7	45	36	33	92%
8	61	47	44	94%
9	32	28	28	100%

SCA Quality Index

SCA's clinical leads have also introduced the SCA quality index to River Valley. The SCA quality index benchmarks SCA's 200+ facilities against each other in the following areas: CMS ASC quality measures, patient satisfaction, accreditation status and CMS survey results. SCA considers the quality index it's most vital measurement of the success of a facility. A description of the scoring criteria for the index is attached as Exhibit A.

4. Provide a copy of the Surgery Center's transfer agreement (with a local hospital) in the event of an unanticipated medical complication.

RESPONSE:

Attached as Exhibit B is a Transfer Agreement between The William W. Backus Hospital and River Valley ASC, LLC.

5. Revise Table 6 on page 40 of the application to include projected volumes for FY 2020. Please label/confirm that volumes in table represent surgical procedures as noted on page 33 of the application.

RESPONSE:

Revised Table 6, which now includes FY 2020, is included below. Note that the volume represents surgical cases. The reference to surgical procedures in the CON Application was made in error.

TABLE 6 – PROJECTED UTILIZATION BY SERVICE

Service*	Projected Volume			
	FY 2017**	FY 2018**	FY 2019**	FY 2020**
Otolaryngology	1,067	1,083	1,100	1,117
Gastroenterology	936	950	964	978
Orthopedics	462	469	476	483
Pain Mgmt.	266	270	274	278
General	257	261	265	269
Podiatry	211	215	218	221
Ophthalmology	186	189	192	195
Plastics	58	59	60	60
Total	3,444	3,496	3,548	3,601

6. Revise Table 7 on page 41 of the application to include projected payer mix volumes for FY 2020. Please label/confirm that volumes in table represent surgical procedures as noted on page 33.

RESPONSE:

Revised Table 7, which now includes FY 2020, is included below. Note that the volume represents surgical cases. The reference to surgical procedures in the CON Application was made in error.

TABLE 7 – APPLICANT’S CURRENT & PROJECTED PAYER MIX

Payer	Actual		Projected							
	FY 2016**		FY 2017**		FY 2018**		FY 2019**		FY 2020**	
	Discharges	%	Discharges	%	Discharges	%	Discharges	%	Discharges	%
Medicare*	728	25	758	22	769	22	781	22	793	22
Medicaid*	146	5	155	5	157	5	160	5	162	5
CHAMPUS & TriCare	0	0	0	0	0	0	0	0	0	0
Total Government	874	30	913	27	926	27	940	27	955	27
Commercial Insurers	1,892	65	2,359	68	2,395	68	2,430	68	2,466	68
Uninsured	29	1	52	1	52	1	53	1	54	1
Workers Compensation	115	4	121	4	122	4	124	4	126	4
Total Non- Government	2,036	70	2,531	73	2,570	73	2,608	73	2,646	73
Total Payer Mix	2,910	100	3,444	100	3,496	100	3,548	100	3,601	100

7. Provide a copy of the financial assistance/charity care policies administered at the Surgery Center.

RESPONSE:

SCA’s policy regarding Financial Hardships – Charity Discounts is being implemented at River Valley. A copy is attached as Exhibit C.

8. What benefits will be gained as a result of SCA-RV acquiring a majority interest in the Surgery Center? Specifically address the benefits to SCA-RV, Physician/Owners and the Surgery Center.

RESPONSE:

As noted in the CON Application, SCA-RV's acquisition of interests in River Valley (whether minority or majority) will benefit the Center, its physicians and their patients. SCA has a wealth of experience operating ambulatory surgery centers nationwide. SCA's involvement with River Valley will improve the quality, accessibility and cost-effectiveness of surgical care at the Center. This includes, but is not limited to, GPO cost savings; compensation and benefits for River Valley personnel in line with national standards; an enhanced data and analytics platform; ability to recruit highly skilled, sought after physicians; and managed care contracting advantages. Majority ownership is necessary in order to undertake joint managed care contracting for multiple facilities within a geographic area. As SCA's footprint in Connecticut grows this becomes increasingly important. The ability to bring River Valley in-network with additional major insurers will significantly reduce the cost of care for patients and payers.

EXHIBIT A

Category	Metric--QX 2017 Industry Benchmark/1,000	Results
ASCQC Endorsed Metrics	FALLS	0
	10 Total Points/XXX Industry Average	< Industry Average and > 0
		> Industry Average
	BURNS	0
	10 Total Points/XXX Industry Average	< Industry Average and > 0
		> Industry Average
	WRONGS	0
	15 Total Points/XXX Industry Average	< Industry Average and > 0
		> Industry Average
	HOSPITAL TRANSFERS	< Industry Average
	1 Total Points/XXX Industry Average	> Industry Average
	MEDICATION EVENTS	0
	7 Total Points/XXX Industry Average	< Industry Average and >0
		> Industry Average
	SURGICAL SITE INFECTIONS	0
7 Total Points/XXX Industry Average	< Industry Average and > 0	
	> Industry Average	
<i>Total possible points for patient outcome metrics portion</i>		
Patient Satisfaction	30 Total Points	NPS \geq SCA Average
		NPS 82.5 – SCA Average
		NPS \leq 82.4%
<i>Total possible points for patient satisfaction portion</i>		
Accreditation Status	10 Total Points	Accredited
		Not Accredited
CMS Survey Results	10 Total Points	No Deficiencies
		Standard Deficiency
		Conditional Deficiency
		CMS Intent to Term
<i>Total possible points for Survey Readiness portion</i>		
100 SCA Quality Index Points		

EXHIBIT B

TRANSFER AGREEMENT

This **Transfer Agreement** (“Agreement”) dated this 30th day of April, 2013 (“Effective Date”) is by and between **The William W. Backus Hospital** (“Backus”), a Connecticut non-stock corporation, whose principal office is located at 326 Washington Street, Norwich, Connecticut and **River Valley ASC, LLC** (“Center”), a Connecticut limited liability company, whose principal office is located at 45 Salem Turnpike, Norwich, Connecticut. Backus and Center are hereinafter each a “Party” and together are the “Parties.”

WHEREAS, Backus is an acute care hospital that is available as a resource to community health care providers and their patients; and

WHEREAS, in the order to provide optimal care to its community, Center from time to time desires to transfer patients to Backus; and

WHEREAS, to the best of its ability Backus agrees to accept Center’s patients in order to provide them with optimal care.

NOW THEREFORE, in the consideration of the mutual undertakings set forth below the Parties hereby agree as follows:

A. Transfer Protocol

1. Center’s transferring attending physician shall be responsible for evaluating the patient’s condition and shall determine the appropriateness or advisability of transfer. In any such case in which Center’s physician determines that a transfer to Backus is medically necessary and/or appropriate and in accordance with state and federal statutes and regulations, Center’s attending physician shall call Backus to update Backus Emergency Department to the pending arrival of the patient.

Once patient is transferred to the care of an EMS crew Backus will not refuse to evaluate the patient.

2. Center’s transferring physician shall provide all necessary medical treatment within the capabilities of the staff and facilities available at Center in order to minimize the risks of transfer to the patient’s health, and shall determine the selection of appropriate transportation and the level of care required for appropriate management of the patient en route to Backus.

3. Once transferred to the care of an EMS crew, Center will have no jurisdiction over the care during the transfer. Upon transfer to Backus the receiving physician or Emergency Department agrees to assume medical control and direction, all in accordance with applicable protocols and operating procedures.

4. All Transfers shall be subject to each Party’s admission and discharge policies as well as their usual rules, regulations, and other policies.

5. Each Party will maintain required medical care and transfer documentation in accordance with state and federal statutes and regulations.

B. Patient Information

1. At the time of Transfer, Center shall provide Backus with all the medical records associated with the admission as required by federal and state statutes and regulations, including but not limited to the reason for Transfer, information about the patient's condition, the treatment given, the patient's status at the time of Transfer, and any other available, relevant information, such as test results, x-ray films, and imaging studies. In addition, Center shall provide an initial diagnostic impression as well as whatever available patient information (the patient's name, address, hospital number, and the name, address, and the next of kin or other person responsible for the patient) that Center may have.

2. In the event full patient information is not provided at the time of Transfer, and subsequently becomes available, Center shall promptly transmit it to Backus.

3. Center shall provide Backus with all available information required for patient charges, including but not limited to any insurance information and demographic and financial data, in order to facilitate proper and efficient billing at Backus. If Backus obtains such information from another source, upon request from Center, Backus shall provide the information to Center to assist it to properly bill for Center's services.

C. Compliance with Law

The Parties recognize that this Agreement and any patient transfers made in accordance with the Agreement are subject to applicable state and federal statutes and regulations, as well as any applicable accreditation, certification and/or verification requirements. The Parties agree to conform their respective obligations under this Agreement in accordance with the applicable requirements.

D. Insurance

At all times, each Party shall maintain in full force and effect policies of professional and general liability insurance (or equivalent self-insurance mechanisms) insuring itself and its employees. Each Party shall ensure that members of its medical staff who may not be employees are appropriately and adequately insured for professional liability.

E. Term and Termination

This Agreement shall commence on the Effective Date and shall remain in full force and effect for a period of two (2) years. Thereafter, this Agreement shall automatically renew for successive two (2) year periods, unless terminated by either Party by written notice given at least ninety (90) days prior to the expiration of the then current term. Additionally, either Party may terminate this Agreement at any time without cause by providing the other Party with at least

ninety (90) days advance written notice. This Agreement will terminate automatically should either Party fail to maintain its license or accreditation.

F. Indemnification

1. Each Party hereto shall indemnify, defend and hold the other Party harmless from and against any and all claims, costs, causes of action, lawsuits, losses, settlements, damages, liabilities and expenses, including reasonable attorneys' fees, that a Party incurs because of, or related to, the other Party's intentional or negligent actions.

2. This Section F shall survive the termination of this Agreement.

G. Other Terms and Conditions

1. If any change in law or regulation would cause any provision of the Agreement to jeopardize the tax exempt status of Backus under section 501(C)(3) of the Internal Revenue Code, Backus, at its option, may terminate this Agreement. However, prior to such termination, the Parties agree to use their best efforts to amend this Agreement so as to conform its intent to such applicable laws and/or regulations and to preserve the tax-exempt status of Backus without terminating this Agreement.

2. If any provision of this Agreement is determined by final decision of an administrative agency or court (after exhaustion of appeals or appeal rights) to be invalid or in violation of any law or regulations, such provision shall be severed from this Agreement and the remainder of this Agreement shall be given effect by the Parties as if such provision never had been part of this Agreement.

3. This Agreement is not intended and shall not be construed to create any agency relationship between the Parties. Furthermore, this Agreement is not intended and shall not be construed to create an exclusive transfer relationship between the Parties.

4. Each Party shall directly bill any patient transferred hereunder (or the patient's payer) for its respective services rendered to the patient, and neither Party shall be responsible to the other for payment for services rendered by the other.

5. Nothing contained in this Agreement is intended to nor shall be construed to create any third Party rights for a patient or any other person or entity not a Party to this Agreement.

6. This Agreement shall be construed and all of the rights, powers and liabilities of the Parties shall be determined in accordance with the laws of the State of Connecticut.

7. This Agreement contains the whole understanding of the Parties and supercedes all prior oral or written representations and agreements between the Parties or between the Parties and any of their representatives or staff as to the subject matter of this Agreement, and may not be varied except in a writing executed by the Parties.

8. This Agreement may not be assigned by either Party without the prior written consent of the other Party, except that upon advance written notice to the other Party either Party may assign this Agreement to a successor corporation that carries on all or substantially all of its business. Subject to the foregoing limitation upon assignment, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties.

9. To the extent that any of the services provided in accordance with this Agreement are deemed by the Secretary of the Federal Department of Health and Human Services, the U.S. Comptroller General, or the Secretary's or Comptroller's delegate, to be subject to the provisions of section 952 of Public Law 96-499, the Parties, until the expiration of four (4) years subsequent to the furnishing of services, shall make available, upon written request of the Secretary, or of the Comptroller, or any of their duly authorized representatives, this Agreement, and the books, documents and records of the Parties that are necessary to certify the nature and extent of the charges to patients for service provided under this Agreement.

10. If either Party carries out any of the duties of this Agreement through a Subcontract, with a value or cost of \$10,000 or more over a twelve month period, with a related organization (as that term is defined with regard to a provider in 42 C.F.R., Section 40.5.427(b)), such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization upon written request shall make available, to the Secretary or the Comptroller, or any of their duly authorized representatives, the subcontract, and books, documents, and records of such organization that are necessary to verify the nature and extent of such costs.

11. To the extent that any of the provisions of Section G-9 and G-10 of this Agreement vary from any provision required by final regulations issued under the authority of Section 952 of Public Law 96-499, the provision required by the final regulations shall be deemed by the Parties to supercede these sections and be made a part of this Agreement by reference.


12. If either Party is requested to disclose any books, documents, or records relevant to this Agreement for the purpose of an audit or investigation relating directly to the provision of services under this Agreement (e.g. a governmental investigation of billing practices or services provided to patients), such Party shall notify the other Party of the nature and scope of the request and, to the extent permitted, shall make available to the other Party, upon its written request, relevant books, documents or records.

13. The headings, titles and captions used in this Agreement are merely for the convenience of the Parties and are not intended to add to, subtract from, or in any other manner modify or affect the construction of the substantive terms of this Agreement.

14. This Agreement shall be executed in at least two counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than one counterpart.

IN WITNESS WHEREOF, the authorized representatives of Backus and Center do hereby execute this Transfer Agreement.

River Valley ASC, LLC

By: 
Name: Matt Scarles
Title: Member of the Board of Managers

The William W. Backus Hospital

By: 
Name: David A. Whitehead
Title: President and Chief Executive Officer

S:\doc\12 5701-5750\125701 Norwich ASC\Transfer Agmt (Backus Hosp)\Transfer Agreement (kpc 3.5.13).docx

EXHIBIT C

 RCO_02_108: Financial Hardship - Charity Discounts

Template: Policy & Procedure Combined
Version: 2/16/2016
Expiration Date: 2/15/2017
Approvers: McLean, Donna;
Administrators: Kadibhai, Sher;
Editors: Kadibhai, Sher; McLean, Donna;
Viewers: All Locations↓; User, Guest;
Folders: RCO Policy Binder; RCO P&P Binder - Centers; Surgery Operations (RCO_02);

Department:

Revenue Cycle Operations

Replaces Document Number:

1-5 Financial Hardship - Charity Discounts

Purpose:

The purpose of this policy is to establish governance and protocols for financial hardship - charity discount processing.

Summary of Changes:

The following is a **brief** summary of the changes that have been made to this document:

- Corrected the Health and Human Services Poverty Guidelines.
- **10/21/2010** - Updated signature authority table.
- **1/28/2014** - Updated 2014 Poverty Guidelines
- **9/11/2014** - Updated Business Office Manager and Administrator approval levels
- **2/4/2015** - Updated 2015 Poverty Guidelines
- **12/1/15** - Minor editing update
- **2/15/2016** - Updated 2016 Poverty Guidelines

Note that this is only a summary. It is your responsibility to read the full document to ensure you abide by the required element.

Persons Affected:

This policy is applicable to all teammates, business associates (contractors, consultants, temporaries, volunteers, physicians, clinicians, and other workforce members at SCA), including all personnel affiliated with third parties.

These policies, procedures, and forms are compiled based on both legal and regulatory requirements as well as industry standard best practices. Persons are expected to use established practices and sound judgment in making decisions.

Policy Statement:

For all payors, including self pay, a patient may request a Financial Hardship-Charity Discount. Financial need and any discount must be verified and documented. Facilities may deem Medicare beneficiaries indigent or medically indigent when such individuals have also been determined eligible for Medicaid as either categorically or medically needy individuals. If a facility wishes to offer a financial hardship or charity discount to a patient with Medicare benefits and the patient also qualifies for Medicaid, additional effort to determine financial hardship is not necessary with **proof** of Medicaid eligibility. The documented proof of Medicaid eligibility must be retained in the patient's medical record as a permanent document.

The discount should be applied before the claim is generated. Therefore, the Third Party Payor and patient equally benefit from the discount. These discounts do not apply to cosmetic procedures, see policy **RCO_04_110: Cosmetic Cases**.

Discounts for these reasons should not exceed 3% of monthly gross revenue or number of cases performed each month. The Business Office Manager (BOM) is responsible for monitoring these discounts and notifying the Administrator of any excess discounts.

Procedure Steps:

1. Complete a **Financial Disclosure Form** (see **Attachments/Links**) to determine eligibility and a **Write-Off Approval Form** (see **Attachments/Links** for hand written or electronic version). Submit both to the signature authority provide in the table below:

Title	Approval Amount
Business Office Manager	\$2 - \$1,000
Administrator	\$1,001 - \$5,000
VP/Director of Operations	\$5,001 - \$50,000
SVP of Operations	\$50,001 and greater

2. Approval is at the facility's discretion and should be made on a case-by-case basis. Follow the Health and Human Services (HHS) Poverty Guidelines to determine if the patient is at or below the poverty level for their respective state. Below is an example of the HHS Poverty Guidelines, actual amounts can be found at <http://aspe.hhs.gov/poverty/index.shtml>.

The Health and Human Services (HHS) guidelines are updated annually and can be located at <http://www.aspe.hhs.gov/poverty/index.shtml>. They are typically published in February. The list below is for 2016.

Persons in Family Unit	48 Contiguous States and D.C.	Alaska	Hawaii
1	\$ 11,880	\$ 14,840	\$ 13,670
2	\$ 16,020	\$ 20,020	\$ 18,430
3	\$ 20,160	\$ 25,200	\$ 23,190
4	\$ 24,1300	\$ 30,380	\$ 27,950
5	\$ 28,440	\$ 35,560	\$ 32,710
6	\$ 32,580	\$ 40,740	\$ 37,470
7	\$ 36,730	\$ 45,920	\$ 42,230
8	\$ 40,890	\$ 51,120	\$ 47,010
For each additional person, add	\$4,160	\$5,200	\$4,780

3. Facility management must determine the discount percent the facility offers to those who qualify for a financial hardship and apply that percent consistently to all patients who qualify. The facility must receive written approval from the Governing Board, the Regional Vice-President and the Compliance Officer (or their designee). The documented and approved discount policy must be kept with this policy at the facility for reference.
4. Place the signed, approved **Financial Disclosure Form** (see **Attachments/Links**) in the patient's medical record for reference during the billing process.
5. The Biller enters a memo in the patient account.
6. Biller enters charges according to the Charge Entry procedure.
7. Prior to claim generation, if the patient has insurance, post the discount using transaction code 617, Charity. The following is a sample transaction history of a patient. If there's no insurance involved and the discount does not reduce the patients balance to zero, immediately mail the patient a statement.

Patient Account

Account No. Title

1. General | 2. Posting Information | **3. Transaction** | 4. Statement History | 5. Statement Message

Billing Number	Transaction Date	Posting Date	Transaction Code	Category	Status	Transaction Amount	Description
1	11/7/2003	11/7/2003	3	B	P	\$2,300.00	Medicaid Bill
1	3/1/2005	3/1/2005	617	J	P	\$1,000.00	Charity Disc

- Full charges will print on the claim form even though the charge has been reduced. Due to system limitations the claim will print full charges, requiring hand editing prior to mailing. The charge on the claim should be changed to match the total charges in the patient's account after the discount has been applied.
- Copy the **Financial Disclosure Form** (see **Attachments/Links**) and attach to the claim when it's mailed to the payor.
- Print the Transaction Report #1004 by transaction code 617 Charity at the end of each month and place in the month end package.

Report ID: 3-1004 Revision: 03/01/05

Lisas Surgery Center
Transaction Information Report

Date Range - Transaction Date From: 03/01/2005 to: 03/01/2005 (Current Month)
Selection Options: Transaction Code = 617

Patient Tx Number	Payer Tx Number	Tx Status	Tx Date	Payer Code	Tx Code	Description	Tx Acct Amount	Acct Billing #	Pt ID	Pt Name	Phys Code	Physician Name
252	248	Posted	03/01/05	11	617	Charity Discount	1,000.00	20-1	18	Cuervo, Jose	5	Remis, D
Grand Totals:												
Payments (P)							\$0.00					
Billings (B)							\$0.00					
Billing Adjustments (A)							\$0.00					
Secondary Billings (S)							\$0.00					
Secondary Adjustments (T)							\$0.00					
Additional Charges (L)							\$0.00					
Contractual Writeoffs (C)							\$0.00					
Refunds (R)							\$0.00					
Other Adjusts (J)							\$1,000.00					
Bad Debt Write-off (D)							\$0.00					

- Self pay patients that do not qualify for a financial hardship waiver should be requested to pay in full at the time of service. These patients may be offered a same day discount (if applicable), see policy **RCO_02_109: Other Discounts** (see **Attachments/Links**); however this discount should not be classified as bad debt or charity.

Definitions:

Enforcement:

Any teammate found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

Business associates found to have violated this policy may be subject to financial penalties, up to and including termination of contract.

SCA policies and procedures are confidential proprietary information that should not be disclosed to individuals outside SCA. All confidential or proprietary information should be protected against theft, loss, and unauthorized disclosure.

Review and Update:

This policy is to be reviewed annually to determine if the policy complies with current regulations and SCA practices. In the event that significant related changes occur, the policy will be reviewed and updated as needed.

Referenced Documentation:

References used within this document that also reside in policyIQ are located and can be accessed via the "**Attachments/Links**" tab.

The following is a listing of the other professional references used in writing or reviewing this policy (e.g. Professional organizations, clinical practice guidelines, CDC recommendations, etc.) or some of the other tools, forms, and techniques used by the department in implementing and enforcing this policy.

- [Health and Human Services](#)

Contact Information:










If you have questions or concerns regarding this policy, please use the following email link to contact the appropriate business area representative:

policyIQ@scasurgery.com

Reviews and Approvals:

Reviewed by	Date
Matthew Warren	08/05/2013
Sher Kadibhai	10/31/2012
Sher Kadibhai	1/28/2014, 9/11/14, 2/5/15, 2/16/2016
Approved by	Date
P&P Task Force	07/29/2009

Attachments / Links

-  Figure 1 (641)
-  Figure 2 (606)
-  CMP_01_112: Patient Financial Responsibility and Discount Guidelines [ID: 13878]
-  RCO_04_110: Cosmetic Cases [ID: 13807]
-  RCO_02_109: Other Discounts [ID: 13922]
-  RCO_02_301: Write-Off Approval Form [ID: 14118]
-  RCO_02_302: Write-Off Approval Form (Hand Written) [ID: 14119]
-  RCO_03_105: Other Discounts (Surgical Hospital) [ID: 14336]
-  Financial_Disclosure_Form 2016 (234)

SCA Internal Use Only
ID: 13920

Olejarz, Barbara

From: Carney, Brian
Sent: Monday, March 20, 2017 3:29 PM
To: Jennifer Groves Fusco; scarocari@rivervalleyasc.com
Cc: Riggott, Kaila; Mitchell, Micheala; Olejarz, Barbara
Subject: 17-32146-CON Deemed Complete
Attachments: 17-32146-CON Deemed Complete.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Good afternoon Attorney Fusco,

Please see the attached letter deeming the above-referenced application complete. Please confirm receipt of this email and corresponding attachment.

Sincerely,
Brian A. Carney

Brian Carney, MBA
Associate Research Analyst
Connecticut Department of Public Health
Office of Health Care Access
410 Capitol Avenue, MS#13HCA
Hartford, CT 06134-0308
Phone - 860-418-7014
brian.carney@ct.gov



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH



Raul Pino, M.D., M.P.H.
Commissioner

Dannel P. Malloy
Governor
Nancy Wyman
Lt. Governor

Office of Health Care Access

March 20, 2017

Via Email Only

Ms. Jennifer G. Fusco, Esq.
Updike, Kelly & Spellacy, P.C.
One Century Tower
265 Church Street
New Haven, CT 06510
jfusco@uks.com

RE: Certificate of Need Application: Docket Number: 17-32146-CON
Transfer of 11.5% Ownership Interest of River Valley ASC, LLC to SCA-River Valley, LLC

Dear Attorney Fusco:

This letter is to inform you that, pursuant to Section 19a-639a (d) of the Connecticut General Statutes, the Office of Health Care Access has deemed the above-referenced application complete as of March 20, 2017.

If you have any questions concerning this letter, please feel free to contact me at (860) 418-7014.

Sincerely,

A handwritten signature in blue ink that reads "Brian A. Carney".

Brian A. Carney
Associate Research Analyst

cc: Susan Carocari, scarocari@rivervalleyasc.com



Phone: (860) 418-7001 • Fax: (860) 418-7053
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Affirmative Action/Equal Opportunity Employer

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

Raul Pino, M.D., M.P.H.
Commissioner



Dannel P. Malloy
Governor
Nancy Wyman
Lt. Governor

Office of Health Care Access

Certificate of Need Final Decision

Applicants: River Valley ASC, LLC
45 Salem Turnpike
Norwich, CT 06360

SCA-River Valley, LLC
569 Brookwood Village
Suite 901
Birmingham, AL 35209

Docket Number: 17-32146-CON

Project Title: Transfer 11.5% ownership interest of River Valley ASC, LLC to SCA-River Valley, LLC

Project Description: River Valley ASC, LLC and SCA-River Valley, LLC (“SCA-RV”), herein collectively referred to as (“Applicants”) seek authorization to transfer an 11.5% ownership interest in River Valley ASC, LLC to SCA-RV.

Procedural History: The Applicants published notice of their intent to file a Certificate of Need (“CON”) application in *The Bulletin* (Norwich) on December 1, 2 and 3, 2016. On January 30, 2017, the Office of Health Care Access (“OHCA”) received the CON application from the Applicants for the above-referenced project and deemed the application complete on March 20, 2017. OHCA received no responses from the public concerning the proposal and no hearing requests were received from the public per Connecticut General Statutes (“Conn. Gen. Stat.”) § 19a-639a(e). Deputy Commissioner Addo considered the entire record in this matter.



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Affirmative Action/Equal Opportunity Employer

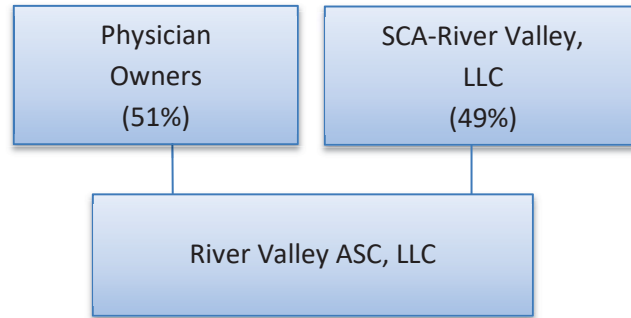


Findings of Fact and Conclusions of Law

1. River Valley ASC, LLC owns and operates the River Valley Ambulatory Surgery Center (“Surgery Center”) located in Norwich, Connecticut. Ex. A, p. 19
2. The Surgery Center is a multi-specialty ambulatory surgical facility with four operating rooms. It offers surgical services in the following specialties: gastroenterology, general surgery, ophthalmology, orthopedics, otolaryngology, pain management, plastic and reconstructive surgery and podiatry. Ex. A, p. 19
3. Prior to October 31, 2016, a majority of the Surgery Center was owned by 24 Connecticut licensed physicians (“Physician Owners”), with a minority stake held by Merritt Healthcare Holdings (“Merritt”). Merritt managed day-to-day operations of the Surgery Center. Ex. A, pp. 19-20
4. On October 31, 2016, SCA-RV acquired a 49% interest in River Valley, acquiring all of Merritt’s interests and some additional interests previously held by the Physician Owners (Docket No. 16-32127-DTR). Effective November 1, 2016, SCA-RV assumed the day-to-day management of the Surgery Center. Ex. A, pp. 19-20
5. The Applicants now seek authorization to transfer an additional 11.5% ownership interest in River Valley ASC, LLC to SCA-RV, which will result in SCA-RV holding a majority controlling interest in the Surgery Center. Ex. A, pp. 18-19
6. SCA-RV is a subsidiary of Surgical Care Affiliates, Inc. (“SCA”), a publicly-traded company that owns and operates outpatient surgical facilities nationwide. Ex. A, p. 19
7. SCA is a party to an agreement that will result in the merger of SCA with a wholly-owned subsidiary of UnitedHealth Group, Inc. (“UHG”). However, the proposed merger will not result in any changes to the direct ownership or control of SCA-RV, its operating agreement, governing body, day-to-day operations or payer mix. Ex. C, p. 462
8. The Surgery Center is currently governed by a Board of Managers consisting of four members appointed by the Physician Owners and one member appointed by SCA-RV. If the proposal is approved, the company will still be governed by a five-member board; however, two members will be appointed by the Physician Owners and three members will be appointed by SCA-RV. Ex. A, p. 454

9. The current organization structure of River Valley ASC, LLC is reflected below:

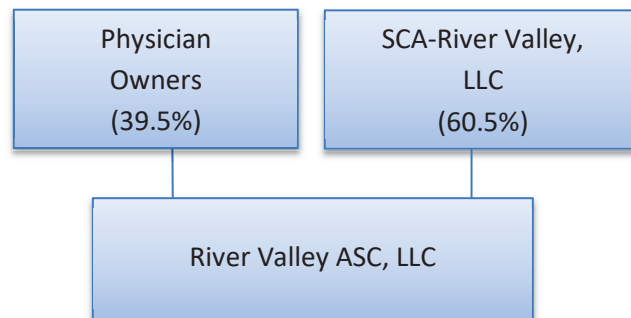
River Valley ASC, LLC Ownership/Membership Structure



Ex. A, p. 457

10. The post-transaction organization structure of River Valley ASC, LLC is reflected below:

Post Transaction River Valley ASC, LLC Ownership/membership structure



Ex. A, p. 457

11. SCA-RV currently owns five¹ licensed outpatient surgical facilities in Connecticut. Ex. A, p. 19; Ex. C, pp. 461-462

12. SCA-RV states that having an ownership interest in multiple affiliated facilities in a given area will enhance its ability to:

- utilize data and analytic platforms;
- participate in group purchasing organization (“GPO”) cost savings
- negotiate with payers for in-network contracts;
- recruit highly skilled, sought after physicians;
- manage staffing needs at various facilities more effectively by utilizing per diem workers.

Ex. A, p. 20

13. SCA-RV intends to bring the Surgery Center in-network with Cigna, United Healthcare and ConnectiCare in order to reduce out-of-network charges for patients insured by those payers. Ex. A, p. 20

¹ SCA-RV surgical facilities include: Connecticut Surgery Center (Hartford), Danbury Surgical Center (Danbury), River Valley Ambulatory Surgery Center (Norwich), Surgical Center of Fairfield County (Trumbull) and Surgical Center of Connecticut (Bridgeport).

14. The Surgery Center has benefited from SCA's clinical lead program, which provides an external resource to help target areas for quality improvement, prepare surveys and initiate clinical training on new quality rules and regulations. The clinical training included focused instruction time to address infection control, life safety regulations and medication management. Ex. C, p. 463
15. SCA has transitioned the Surgery Center from a manual tracking and reporting system to Quantros, an electronic system measuring quality performance. The system allows anonymous entries and systematic tracking of incident reporting, along with subsequent corrective actions. Ex. C, p. 463
16. In addition to meeting the Accreditation Association for Ambulatory Health Care ("AAAHHC") requirements and achieving historically strong results in the state survey, the Surgery Center has targeted specific areas for improvement through focused quality initiatives. Presently, the facility is conducting a QI study centered on improving Sequential Compression Devices compliance for high risk Deep Vein Thrombosis patients. Ex. C, p. 463
17. SCA's clinical lead program has also introduced the SCA quality index to the Surgical Center. The SCA quality index benchmarks SCA's 200+ facilities in the following areas:
 - CMS Ambulatory Surgery Center quality measures;
 - patient satisfaction;
 - accreditation status; and
 - CMS survey results.Ex. C, p. 464
18. SCA-RV has an agreement with Backus Hospital in Norwich, CT to provide for the orderly transfer of patients who require hospitalization in the event of an unanticipated medical complication. Ex. C, pp. 471-475
19. The Applicants do not expect any change in the service area or the patient population served as a result of the proposal. Ex. A, pp. 25, 42
20. No changes to the surgical services offered at the Surgery Center are planned by the Applicants. Ex. A, p. 17

21. Historical utilization volumes are shown in the table below:

**TABLE 1
HISTORICAL UTILIZATION BY SERVICE**

Service	Actual Volume (surgical procedures)		
	FY 2014	FY 2015	FY 2016
Otolaryngology	619	733	884
Gastroenterology	555	677	786
Orthopedics	341	392	358
Pain Mgmt.	6	43	285
General	157	181	195
Ophthalmology	25	131	180
Podiatry	127	166	174
Plastics	41	37	48
Total	1,871	2,360	2,910

Ex. A, p. 40

22. The projected increase in FY 2017 volume is the result of the addition of a pain management physician and the anticipated transition of River Valley ASC to an in-network model with Cigna, United Healthcare and ConnectiCare. In subsequent years, volumes are assumed to grow at 1.5%, based on SCA-RV's experience at other facilities in Connecticut and nationally.

**TABLE 2
PROJECTED UTILIZATION BY SERVICE**

Service	Projected Volume (surgical procedures)			
	FY 2017	FY 2018	FY 2019	FY 2020
Otolaryngology	1,067	1,083	1,100	1,117
Gastroenterology	936	950	964	978
Orthopedics	462	469	476	483
Pain Mgmt.	266	270	274	278
General	257	261	265	269
Ophthalmology	211	215	218	221
Podiatry	186	189	192	195
Plastics	58	59	60	60
Total	3,444	3,496	3,548	3,601

Ex. A, pp. 32, 40; Ex. C, p 465

23. Currently, 5% of the Center’s patient population is comprised of Medicaid patients; with no anticipated change expected through FY 2020. However, the proportion of commercial payers is projected to increase slightly as a result of SCA-RV becoming a Cigna, United Healthcare and ConnectiCare in-network provider.

**TABLE 3
APPLICANT’S CURRENT & PROJECTED PAYER MIX**

Payer	FY 2016		Projected							
			FY 2017		FY 2018		FY 2019		FY 2020	
	Surg. Proc.	%	Surg. Proc.	%	Surg. Proc.	%	Surg. Proc.	%	Surg. Proc.	%
Medicare*	728	25%	758	22%	769	22%	781	22%	793	22%
Medicaid*	146	5%	155	5%	157	5%	160	5%	162	5%
CHAMPUS	0	0%	0	0%	0	0%	0	0%	0	0%
Other Govt.	0	0%	0	0%	0	0%	0	0%	0	0%
Total Government	874	30%	913	27%	926	27%	940	27%	955	27%
Commercial Insurers	1,892	65%	2,359	68%	2,395	68%	2,430	68%	2,466	68%
Uninsured	29	1%	52	1%	52	1%	53	1%	54	1%
Self Pay	0	0%	0	0%	0	0%	0	0%	0	0%
Workers Compensation	115	4%	121	4%	122	4%	124	4%	126	4%
Total Non-Government	2,036	70%	2,531	73%	2,570	73%	2,608	73%	2,646	73%
Total Payer Mix	2,910	100%	3,444	100%	3,496	100%	3,548	100%	3,601	100%

*Includes managed care activity
Ex. A, pp. 20, 41; Ex. C, p 465

24. Consultations are held with SCA's revenue cycle team prior to service that establish expectations for payment. If the patient is not able to meet their expected obligation up front, a tailored plan is developed that takes into account their specific circumstances (e.g., payment ability, requested time period, financial hardships). Every effort is made to provide full transparency prior to service. There are no restrictions on the types of payers that physicians can schedule at the facility. Ex. A, p. 29

25. The 11.5% membership interest purchase price of River Valley ASC, LLC's is \$5,513,910. SCA-RV will finance the equity purchase with available cash from operations. Ex. A, p. 31

26. No incremental financial changes are expected as a result of the proposal; the projected increase in volume and patient revenue are the result of the initial SCA minority-interest purchase in the Surgery Center. Ex. A, p. 32

27. River Valley ASC, LLC had income from operations of \$5.1 million in FY 2016. The Applicants project continued gains of \$5.4 to \$5.6 million through FY 2020.

**TABLE 4
 RIVER VALLEY ASC, LLC HISTORICAL/PROJECTED REVENUES AND EXPENSES**

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenue from Operations	\$9,885,186	\$10,510,278	\$10,667,932	10,827,951	10,990,370
Total Operating Expenses ¹	\$4,745,542	\$5,144,029	\$5,221,189	\$5,299,507	\$5,379,000
Income/Loss from Operations	\$5,139,644	\$5,366,249	\$5,446,743	\$5,528,444	\$5,611,371

¹Operating expenses include salaries and fringe benefits, depreciation/amortization, supplies and drugs, lease expense and other operating expenses required to operate the surgery center and support the forecasted volumes.

Ex. A, p. 431

28. The proposal will not adversely affect patient health care costs. The proposal will help expedite the Surgical Center to become an in-network provider with Cigna, United Healthcare and ConnectiCare. This will help remove financial barriers to access for patients who would otherwise incur costly out-of-network charges if they chose to obtain surgical services at this facility. Ex. A, p. 30
29. OHCA is currently in the process of establishing its policies and standards as regulations. Therefore, OHCA has not made any findings as to this proposal’s relationship to any regulations not yet adopted by OHCA. (Conn. Gen. Stat. § 19a-639(a)(1))
30. This CON application is consistent with the Statewide Health Care Facilities and Service Plan. (Conn. Gen. Stat. § 19a-639(a)(2))
31. The Applicants have established that there is a clear public need for the proposal. (Conn. Gen. Stat. § 19a-639(a)(3))
32. The Applicants have demonstrated that the proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4))
33. The Applicants have satisfactorily demonstrated that the proposal will maintain quality and accessibility and improve cost effectiveness of health care delivery in the region. (Conn. Gen. Stat. § 19a-639(a)(5))
34. The Applicants have shown that there would be no significant change in the provision of health care services to the relevant populations and payer mix, including access to services by Medicaid recipients. (Conn. Gen. Stat. § 19a-639(a)(6))
35. The Applicants have satisfactorily identified the population to be affected by this proposal. (Conn. Gen. Stat. § 19a-639(a)(7))
36. The Applicants’ historical provision of services in the service area supports this proposal. (Conn. Gen. Stat. § 19a-639(a)(8))
37. The Applicants have satisfactorily demonstrated that this proposal would not result in an unnecessary duplication of existing services in the area. (Conn. Gen. Stat. § 19a-639(a)(9))

38. The Applicants have demonstrated that there will be no reduction in access to services by Medicaid recipients or indigent persons. (Conn. Gen. Stat. § 19a-639(a)(10))
39. The Applicants have demonstrated that the proposal will not negatively impact the diversity of health care providers and patient choice in the region. (Conn. Gen. Stat. § 19a-639(a)(11))
40. The Applicants have satisfactorily demonstrated that the proposal will not result in any consolidation that would affect health care costs or access to care. (Conn. Gen. Stat. § 19a-639(a)(12))

Discussion

CON applications are decided on a case by case basis and do not lend themselves to general applicability due to the uniqueness of the facts in each case. In rendering its decision, OHCA considers the factors set forth in § 19a-639(a) of the Statutes. The Applicants bear the burden of proof in this matter by a preponderance of the evidence. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727 (2013).

River Valley Ambulatory Surgery Center (“Surgery Center”) is a multi-specialty outpatient surgical facility located in Norwich, Connecticut. The Surgery Center has four operating rooms and offers specialty care in gastroenterology, general surgery, ophthalmology, orthopedics, otolaryngology, pain management, plastic and reconstructive surgery and podiatry. The Surgery Center is currently owned by SCA-River Valley, LLC, a subsidiary of Surgical Care Affiliates and twenty-four Physician Owners. The proposal requests authorization for SCA-RV to acquire an additional 11.5% ownership interest in the Surgery Center to assume the majority (60.5%) controlling interest. *FF1-FF5*

No significant changes in the day-to-day operations of the Surgery Center will occur as a result of this proposal. Quality of care will benefit from SCA’s clinical lead program and through the implementation of Quantros, an electronic system measuring quality performance. The proposal will enhance access to care for patients covered by Cigna, United HealthCare and ConnectiCare, as the Surgical Center becomes an in-network provider for these insurers. Further, the Surgery Center will continue to serve the Medicaid patient population. *FF13-FF15; FF19-FF20; FF23*

The proposal will help lower patient costs by helping to remove financial barriers for patients who would otherwise incur out-of-network coverage to obtain surgical services. Further, the proposal will help sustain an existing outpatient surgical facility, where reimbursement rates are typically lower than hospital-based services. The Surgery Center will also benefit from financial synergies gained through its affiliation with other SCA surgical facilities and their use of GPO and its improved ability to negotiate managed care contracts. Following SCA-RV’s majority interest acquisition, the Surgical Center will continue to generate operational gains. *FF12; FF27-FF28*

Notably, the Applicants have satisfactorily demonstrated that the proposed transaction was the result of a voluntary offer for sale. As a result, there is a presumption in favor of approving this application pursuant to Conn. Gen. Stat. § 19a-639(b).

Order

Based upon the foregoing Findings and Discussion, the Certificate of Need application requesting authorization to transfer an 11.5% ownership interest in River Valley ASC, LLC to SCA-RV is hereby APPROVED.

All of the foregoing constitutes the final order of the Office of Health Care Access in this matter.

By Order of the
Department of Public Health
Office of Health Care Access



5/18/17

Date

Yvonne T. Addo, MBA
Deputy Commissioner

Olejarz, Barbara

From: Microsoft Outlook
To: scarocari@rivervalleyasc.com; 'jfusco@uks.com'
Sent: Friday, May 19, 2017 8:57 AM
Subject: Relayed: Final Decision

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

scarocari@rivervalleyasc.com (scarocari@rivervalleyasc.com)

'jfusco@uks.com' ('jfusco@uks.com')

Subject: Final Decision