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Reviewer: Victoria H

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

In re: CharterCARE Community Board; St. Joseph Health Services of Rhode Island; and Roger Williams Hospital	C.A. No. PC-2019-11756

PETITION TO APPLY TRUST INCOME TO PENSION PLAN

Stephen Del Sesto (the "Plan Receiver"), the permanent receiver of the St. Joseph Health Services of Rhode Island Retirement Plan (the "Plan") seeks an order of the Court directing the application of the income and/or distributions from certain trusts to the Plan pursuant to the Final Judgment entered in In re: CHARTERCARE HEALTH PARTNERS FOUNDATION; ROGER WILLIAMS HOSPITAL; and ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND v. STEPHEN DEL SESTO, AS RECEIVER AND ADMINISTRATOR OF THE ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND RETIREMENT PLAN; GAIL J. MAJOR; NANCY ZOMPA; RALPH BRYDEN; DOROTHY WILLNER; CAROLL SHORT; DONNA BOUTELLE; and EUGENIA LEVESQUE, KM-2015-0035 (the "2015 Cy Pres Action"). In support of this petition, the petitioners state as follows:

Background

1. In 2013, St. Joseph Health Services of Rhode Island ("SJHSRI"), Roger Williams Hospital ("RWH"), and CharterCARE Community Board ("CCCB") (SJHSRI, RWH, and CCCB being collectively the "Legacy Hospital Entities") entered into a certain Asset Purchase Agreement ("APA") dated as of September 24, 2013, by and among the Legacy Hospital Entities, the Prospect Entities[1], and various subsidiaries and affiliates of

[1] *I.e.* Prospect Medical Holdings, Inc., Prospect East Holdings, Inc., Prospect Chartercare, LLC, Prospect Chartercare RWMC, LLC, Prospect Chartercare SJHSRI, LLC, Prospect Chartercare Elmhurst, LLC, and Prospect Chartercare Physicians, LLC (the "Prospect Entities").

both groups. The APA provided that, upon obtaining regulatory approvals, the Legacy Hospital Entities and their subsidiaries would transfer certain assets (including the hospitals operated by SJHSRI and RWH) to the Prospect Entities. The APA also provided that the Legacy Hospital Entities would retain certain other assets and liabilities (including liabilities relating to the Plan).

2. Section 2.4 of the APA stated:

> Excluded Liabilities of Sellers. Notwithstanding anything herein to the contrary, the Company [Prospect] and/or the Company Subsidiaries [Prospect subsidiaries] are assuming only the Assumed Liabilities and are not assuming and shall not become liable for the payment or performance of any other Liability of Sellers (collectively, the "Excluded Liabilities"). The Excluded Liabilities are and shall remain Liabilities of the Sellers. Without limiting the generality of the foregoing, the term "Excluded Liabilities" includes any Liability: (i) that is not related to the Business; (ii) relating to any Material Indebtedness; (iii) that is described on Schedule 2.4; or (iv) pertaining to any Excluded Asset.

Exhibit 1 (Asset Purchase Agreement).

3. Schedule 2.4 of the APA identified the "Certain Excluded Liabilities" and expressly set forth "All Liabilities related to the Retirement Plan," i.e. the Plan. See Exhibit 1 at 110.

4. Schedule 4.23 to the APA identified certain disclosed environmental liabilities. See Exhibit 2. Schedule 4.23 did not identify the Truk-Away Landfill (see *infra*) or any liability therewith. Neither the Truk-Away Landfill nor any liability therewith was set forth in the APA.

5. In 2014, the Legacy Hospital Entities, together with the other applicants, obtained regulatory approvals from the Rhode Island Attorney General and the Rhode Island Department of Health for the APA. The May 16, 2014 opinion of the Attorney General approving the APA stated:

> Due to the extent of the Existing Hospitals' liabilities, CCHP [CCCB] proposed that certain RWMC [RWH] and SJHSRI restricted assets, in addition to unrestricted cash, would remain with the Heritage Hospitals during their wind-down period rather than transferring directly to the CCHP Foundation. . . .
>
> A multi-year wind-down process is typical in the dissolution of a hospital corporation due to the time it typically takes to settle government cost reports and the like. It is particularly appropriate where the expected hospital's liabilities are projected to exceed the amount of the unrestricted assets available at the time of closing but where there is also an expectation that additional unrestricted assets will be available in the future, as is the case here. The corporation retains during the wind-down process those restricted charitable assets that provide unrestricted earnings which can be used to address its remaining liabilities, and the corporation remains open until such time as it is concluded that it has completed the winding-down of its affairs.
>
> * * *
>
> First, CCHP intends to seek Cy Pres approval to change the purpose of the approximately $1.2 million dollars in SJHSRI' s permanently restricted scholarship and endowment funds to be used to partially satisfy SJHSRI' s liabilities, **including but not limited to potential future funds and expenses relating to the pension plan**.
>
> Second, each of the Heritage Hospitals will each retain their respective right to the receive distributions from approximately $10.8 million dollars in perpetual trusts, which will be used to pay their respective wind-down expenses. In addition, CCHP [CCCB] intends to seek trustee and Cy Pres approval to use the perpetual trust income received by RWMC [RWH] to partially satisfy the payment of SJHSRI expenses, if needed, after all of RWMC's [RWH's] liabilities have been paid.
>
> [Emphasis supplied]

Exhibit 3 (Attorney General's Opinion) at 24–27.

6. On January 13, 2015, SJHSRI and RWH (together with an affiliated foundation, CharterCARE Foundation) initiated the 2015 Cy Pres Action, by filing a Petition for Approval of Disposition of Charitable Assets Including Application of Doctrine of Cy Pres (the "2015 Cy Pres Petition"), which stated in relevant part:

12. In order to structure the Joint Venture with PMH (and ensure the continued viability of the hospitals to provide high quality, cost-effective, accessible services to the communities they serve) and to secure PMH's commitment to contribute funds at the closing and on a future basis for growth of the hospitals, it was necessary for each of the Heritage Hospitals at the closing **to discharge various pre-existing liabilities incurred during the period the Heritage Hospitals provided services to their patients prior to the closing and satisfy outstanding pre and post closing liabilities during their subsequent wind-down period (the "Outstanding Pre and Post Closing Liabilities") as is more fully set forth in the APA**.

* * *

14. On May 16, 2014 and May 19, 2014, both the AG and the DOH, respectively, approved the HCA Application with conditions. The AG decision discussed the proposed disposition of charitable assets at pages 23 through 32 having reviewed draft cy pres petition outlines submitted during the HCA review. Among other things, it approved the concept of (1) the transfer of certain of the charitable assets to the CCHP Foundation and (2) the use of certain of the charitable assets during the Heritage Hospitals' wind down to satisfy the Outstanding Pre and Post Closing Liabilities subject to cy pres approval from this Court. It also required the filing of this Petition to address such disposition of the charitable assets post closing. . . .

* * *

24. RWH requests that this Court grant approval to use the $12,288,848, reflecting unrestricted accumulated earnings from RWH permanently restricted assets subject to UPMIFA, **to satisfy the Outstanding Pre and Post Closing Liabilities as and when due, as more fully described in Exhibit C.**

* * *

27. RWH and SJHSRI are the beneficiaries of certain perpetual trusts providing annual income or principal distributions as described further herein. RWH seeks approval for the use of such annual distributions to pay the Outstanding Pre and Post Closing Liabilities on its behalf and after such payments are made in full, **RWH seeks cy pres approval to transfer such annual distributions to SJHSRI** to satisfy the Outstanding Pre and Post Closing Liabilities on its behalf. Likewise, SJHSRI seeks approval to use such annual distributions **to pay the Outstanding Pre and Post Closing Liabilities (both non-pension and pension)** on its

> behalf and when such liabilities have been paid, to transfer use of such annual distributions to the CCHP Foundation. . . .
>
> [Emphasis supplied]

Exhibit 4 (2015 Cy Pres Petition with exhibits) ¶¶ 12, 14, 24, 27.

7. As noted in the above-quoted paragraph 24 of the 2015 Cy Pres Petition, Exhibit C to the 2015 Cy Pres Petition described the "Outstanding Pre and Post Closing Liabilities" in a set of tables comparing the "Sources and Uses of Funds". See Exhibit 4 at 38. This Exhibit C expressly enumerated "Pension Liability" as one of the "Uses of Funds." See id. This Exhibit C did not enumerate any potential liabilities for environmental remediation, which had not yet been asserted at that time. Thus, as described and set forth in the 2015 Cy Pres Petition, the "Outstanding Pre and Post Closing Liabilities" included the Pension liability but not any then-unasserted environmental liabilities.

8. Paragraphs 28 to 30 of the 2015 Cy Pres Petition identified certain trusts (the "Trusts") for which cy pres approval was sought to apply their income streams and distributions to the payment of the Outstanding Pre and Post Closing Liabilities:

- The Trust under Will of Sarah S. Brown dated June 21, 1911; Beneficiary: RWH — 9.5% of total trust's funds
- The Trust under Will of C. Prescott Knight dated November 14, 1932; Beneficiary: RWH — 3.3% of total trust's funds
- The Trust under Will of George Luther Flint dated June 25, 1935; Beneficiary: RWH — 4.9% of total trust's funds
- The Miriam C. Horton Trust dated August 9, 1948, as amended by its entirety and restated on June 12, 1963 and modified by a Memorandum of Understanding dated June 24, 2004 between Fleet National Bank (now Bank of America, N.A.), RWH and Brown University; Beneficiary: RWH — 22.3% of total trust's funds
- The Trust under Will of Albert K. Steinert dated July 11, 1927; Beneficiary: RWH — 0.5% of total trust's funds

- The trusts under the Will of George E. Boyden dated April 12, 1932, as amended by codicils dated February 10, 1933 and June 13, 1934, and under the Will of Lydia M. Boyden, dated September 25, 1930, as amended by codicil dated June 13, 1934

- Herbert G. Townsend Trust dated January 2, 1929, as restated on June 14, 1949, as amended on October 6, 1955, and as modified by agreement dated November 18, 1971; Beneficiary: St. Joseph's Health Services of Rhode Island — 59% of combined trusts' funds

- The Trust under Will of Albert K. Steinert dated July 11, 1927; Beneficiary: SJHSRI — 0.5% of combined trusts' funds

Exhibit 4 at 12-16.

9. Paragraph 7 of the 2015 Cy Pres Petition stated that Bank of America, N.A., as trustee of the enumerated trusts, had been given notice of the petition. On February 6, 2015, attorneys James J. Nagelberg and Paul A. Silver of Hinckley, Allen & Snyder LLP entered their appearance in the 2015 Cy Pres Action on behalf of Bank of America, N.A. in its capacity as trustee of the trusts enumerated in the 2015 Cy Pres Petition. See Exhibit 5 (Entry of Appearance).

10. On April 20, 2015, the Superior Court (Stern, J.) entered an Order granting the 2015 Cy Pres Petition. That Order stated in relevant part:

> 6. As set forth in paragraph 28 of the Petition, (a) approval is granted for RWH to use the annual income or principal distributions from the perpetual trusts identified therein to satisfy **the Outstanding Pre and Post Closing Liabilities** on its behalf, and (b) cy pres approval is granted for RWH and/ or the Trustee (or any successor Trustee) to transfer such annual income or principal distributions to SJHSRI after such RWH liabilities have been satisfied and to transfer such annual income or principal distributions to CCHP Foundation after the Outstanding Pre and Post Closing Liabilities of SJHSRI have been satisfied.
>
> 7. As set forth in paragraph 29 of the Petition, approval is granted for RWH to use the trust funds that it will receive, if any, upon the death of Barbara S. Boyden to pay the Outstanding Pre and Post Closing Liabilities. To the extent such obligations have been paid prior to receipt of the trust funds or are fully paid thereafter, cy pres approval is granted for RWH and/ or the Trustee (or any successor Trustee) to transfer the trust

> funds to SJ SHRI to satisfy **the Outstanding Pre and Post Closing Liabilities** on its behalf.
>
> 8. As set forth in paragraphs 28 through 30 of the Petition, (a) approval is granted for SJ HSRI to use the annual income or principal distributions from the perpetual trusts identified therein to satisfy **the Outstanding Pre and Post Closing Liabilities** on its behalf, and (b) cy pres approval is granted for SJHSRI and/or the Trustee (or any successor Trustee) to transfer such annual income or principal distributions to CCHP Foundation after such liabilities have been satisfied.
>
> [Emphasis supplied]

Exhibit 6 (the "April 20, 2015 Cy Pres Order") ¶¶ 6–8. However, final judgment was not entered at that time.

11. On August 18, 2017, SJHSRI initiated the action captioned *St. Joseph Health Services of Rhode Island, Inc. v. St. Joseph Health Services of Rhode Island Retirement Plan*, C.A. No. PC-2017-3856 (the "Plan Receivership Proceedings"). On August 18, 2017, the Plan Receiver was appointed temporary receiver of the Plan. On October 27, 2017, the Plan Receiver was appointed permanent receiver of the Plan.

12. After waiting almost forty years after the State of Rhode Island (which owned and operated the Truk-Away Landfill) ceased operating it in 1978, the Rhode Island Department of Environmental Management ("RIDEM") sent certain letters to SJHSRI and RWH identifying potential liabilities in connection with the Truk-Away Landfill, on or about December 20, 2017. See *infra* at ¶ 31.

13. On June 18, 2018, the Plan Receiver, together with the Seven Plan Participants[2], moved to intervene in the 2015 Cy Pres Action, seeking to vacate the April 20, 2015 Cy Pres Order.

14. Thereafter, the Plan Receiver, Seven Plan Participants, and the Legacy

[2] *I.e.* Gail J. Major, Nancy Zompa, Ralph Bryden, Dorothy Willner, Caroll Short, Donna Boutelle, and Eugenia Levesque (the "Seven Plan Participants").

Hospital Entities entered into a settlement agreement dated as of August 31, 2018 ("Settlement A"). In connection with Settlement A, CCCB assigned its membership interest in CharterCARE Foundation to the Plan Receiver.

15. On September 17, 2018, the Superior Court (Stern, J.) rendered its bench decision granting the motion to intervene. Subsequently, CharterCARE Foundation, the Plan Receiver, the Seven Plan Participants, and the Legacy Hospital Entities entered into a settlement agreement dated as of November 21, 2018 ("Settlement B").

16. On November 16, 2018, Settlement A received approval from the Superior Court (Stern, J.), in the Plan Receivership Proceedings.

17. On December 27, 2018, Settlement B received approval from the Superior Court (Stern, J.) in the Plan Receivership Proceedings.

18. On September 30, 2019, Settlement B received final approval from the U.S. District Court, in the action captioned *Stephen Del Sesto, as Receiver and Administrator of the St. Joseph Health Services of Rhode Island Retirement Plan, et al. v. Prospect CharterCARE, LLC, et al.*, C.A. No. 1:18-CV-00328-WES-LDA (D.R.I.) (the "Federal Action"). In connection with such final approval, the federal court certified a settlement class, appointed the Seven Plan Participants as class representatives, and appointed Wistow, Sheehan & Loveley, PC as class counsel.

19. On October 9, 2019, Settlement A received final approval from the U.S. District Court, in the Federal Action. In connection with such final approval, the federal court again certified a settlement class, appointed the Seven Plan Participants as class representatives, and appointed Wistow, Sheehan & Loveley, PC as class counsel.

20. On October 15, 2019, pursuant to Settlement B, the parties to Settlement B filed a Joint Petition to (*inter alia*) modify the April 20, 2015 Cy Pres Order and for entry of final judgment. That Joint Petition sought to modify the April 20, 2015 Cy Pres Order

to permit the settlement payment due under Settlement B from CharterCARE Foundation (from moneys it originally received from the Legacy Hospital Entities pursuant to that Order) and, in all other respects, sought to confirm the other terms of that Order.

21. On November 7, 2019, attorney Amanda A. Garganese of Hinckley, Allen & Snyder LLP filed an entry of appearance (Exhibit 7) in the 2015 Cy Pres Action on behalf of Bank of America, N.A. in its capacity as trustee of the trusts enumerated in the 2015 Cy Pres Petition. Attorney Garganese's entry of appearance was in addition to Bank of America, N.A.'s other counsel who had previously entered an appearance on its behalf.

22. On November 20, 2019, the Rhode Island Attorney General filed its Response to the Joint Petition, stating (*inter alia*):

> As part of the close of the transaction and in accordance with the Attorney General's HCA [Hospital Conversions Act] Decision, a Petition of Approval of Disposition of Charitable Assets Including Application of Doctrine of Cy Pres ("2015 Cy Pres Petition") was filed requesting that certain assets be transferred to CCF [CharterCARE Foundation] to be used in accordance with donor intent and the mission of CCF, **and that other charitable assets remain with RWH and SJHSRI to satisfy various pre and post-closing liabilities, including SJHSRI's pension liability**. On April 20, 2015, this Court entered an Order granting the 2015 Cy Pres Petition, approving the transfer of certain assets to CCF, allowing other assets to remain with RWH and SJHSRI, and imposing reporting requirements on CCF to report to the Attorney General for the funds at issue.
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> [Emphasis supplied]

Exhibit 8 at 2–3.

23. The Attorney General's November 20, 2019 Response further stated that he did not object to the transfer of settlement funds from CharterCARE Foundation to the Plan, provided that the Court's order "incorporate[d] all other aspects of the 2015 Cy Pres Order. . . ." Exhibit 8 at 5.

24. On December 3, 2019, the Superior Court entered an Order granting the October 15, 2019 Joint Petition and directed entry of final judgment in the 2015 Cy Pres Action. On December 3, 2019, Final Judgment was entered, which stated:

> 1. CharterCARE Foundation ("CCF") shall, within the time frames set forth in the parties' Settlement Agreement dated November 21, 2018, cause the sum of THREE MILLION NINE HUNDRED THOUSAND DOLLARS ($3,900,000.00) to be transferred to Stephen Del Sesto, as Receiver and Administrator of the St. Joseph Health Services of Rhode Island Retirement Plan (the "Plan"), from the funds originally transferred to CCF by virtue of the 2015 Cy Pres Order (or up to $4,500,000 if RSUI[3] breaches its side agreement with CCF concerning the aforementioned Settlement Agreement), with such funds to be used by the Receiver (after payment of Counter Petitioners' counsel fees and expenses) for the benefit of the Plan;
>
> 2. **Excepting the funds to be transferred to the Receiver as described above, all other terms of the Court's 2015 Cy Pres Order are hereby affirmed and shall continue to be in full force and effect;** and
>
> 3. Each party to this action shall bear its own fees, costs, and expenses.
>
> **For the avoidance of doubt, the foregoing is intended as a final judgment from which an appeal lies** pursuant to R.I. Super. R. Civ. P. 58(a) and/or 54(b).
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> [Emphasis supplied]

Exhibit 9 (Final Judgment entered December 3, 2019).

25. Thus, the Final Judgment affirmed that cy pres approval had been granted for payment of the defined Outstanding Pre and Post Closing Liabilities (including the Pension liability) from the trust income and principal distributions, and not for payment of any other liabilities.

26. Thereafter, neither Bank of America, N.A. nor anyone else took any appeal

[3] *I.e.* CharterCARE Foundation's liability insurer.

from the November 25, 2019 Final Judgment.

27. On December 13, 2019, pursuant to paragraphs 1(s) and 21 of Settlement A, the Legacy Hospital Entities petitioned themselves into judicial liquidation. Pursuant to paragraph 28 of Settlement A, the Legacy Hospital Entities have agreed they were jointly and severally liable to the Plan Receiver and the other plaintiffs in the Federal Action for at least $125,000,000. Pursuant to paragraph 24 of Settlement A, the Legacy Hospital Entities agreed “to cooperate with and follow the requests of the [Plan] Receiver and to take all reasonable measures in the Liquidation Proceedings to obtain court approval of the Petitions for Judicial Liquidation, including but not limited to marshalling the Settling Defendants' Other Assets and other rights of the Settlement Defendants and opposing and seeking to limit the claims of other creditors where appropriate.” By Superior Court order dated January 17, 2020, “the Liquidating Receiver on behalf of the Petitioners [the Legacy Hospital Entities] shall perform and continue to perform their obligations under the Settlement Agreement, including, but not limited to paragraph 24 of the Settlement A Agreement . . . .”

28. Thomas S. Hemmendinger (the “Liquidating Receiver) was appointed Temporary Liquidating Receiver of CCCB, SJHSRI, and RWH on December 18, 2019 and was appointed Permanent Liquidating Receiver of CCCB, SJHSRI, and RWH on January 17, 2020.

29. On May 18, 2020, the Plan Receiver (on behalf of himself, all participants and beneficiaries in the Plan, and all members of the settlement classes certified in the Federal Action) filed a proof of claim in the liquidating receivership against all the Legacy Hospital Entities in an amount exceeding $125,000,000 (less certain deductions). The Plan Receiver’s claim is both the largest claim and is both undisputed and supported by the Liquidating Receiver. Thus, the Plan Receiver is interested in both

maximizing the amounts payable on his claim and limiting the claims of other creditors. After review and investigation, the Liquidating Receiver has opposed and seeks to limit the claims of all other creditors.

30. Since its inception, the Liquidating Receivership has received the income and/or principal distributions from the trusts that were the subject of the 2015 Cy Pres Action.

RIDEM's Proof of Claim

31. On December 20, 2017, the Rhode Island Department of Environmental Management ("RIDEM") sent certain letters to SJHSRI and RWH, as well as to Prospect Chartercare, LLC, concerning remediation of hazardous waste at the Truk-Away Landfill Site in Warwick, Rhode Island and identifying the recipients as a "Responsible Party." The letters stated in relevant part:

> The Department has received the signed Declaration of Frank A. Petrarca, dated: May 16, 2016. Mr. Petrarca stated that as a former employee of Truk-Away of RI, Inc., he worked as a roll-off truck driver and heavy equipment driver at the Truk-Away Landfill on Industrial Drive in Warwick, Rhode Island.
>
> Item number 12 of this Declaration states: "While working for Truk-Away, I picked up waste from St. Joe's Hospital in Providence, Rhode Island. Truk-Away had a 42-yard breakaway compactor at this facility. I would pick up waste from this hospital about once per week and dispose of it at the Site during the entire time the Site was open."
>
> Item number 13 of this Declaration states: "While working for Truk-Away, I picked up waste from Roger Williams Hospital in Providence, Rhode Island. Truk-Away had a 42-yard breakaway compactor at this facility. I would pick up waste from this hospital about once per week and dispose of it at the Site during the entire time the Site was open."

Exhibit 10 (letter to RWH); Exhibit 11 (letter to SJHSRI); Exhibit 12 (letter to Prospect Chartercare, LLC, d/b/a CharterCARE Health Partners).

32. Although not of immediate relevance to the instant petition, the Declaration of

Frank A Petrarca (Exhibit 13) suffers from numerous and glaring evidentiary infirmities, including but not limited to the following:

(a) The Declaration of Frank A. Petrarca was not given under oath;

(b) The Declaration of Frank A. Petrarca was not notarized;

(c) The Declaration of Frank A. Petrarca did not allege that the waste of the Legacy Hospital Entities' hospitals ever contained any hazardous materials; and

(d) The Declaration of Frank A. Petrarca did not allege that any hazardous materials whatsoever were transported from the Legacy Hospital Entities' hospitals to the Truk-Away Landfill.

33. On May 18, 2020, RIDEM filed a proof of claim "on behalf of the State of Rhode Island" in this liquidating receivership alleging that SJHSRI, RWH, and CCCB were "Potentially Responsible Parties". RIDEM attached an Explanation of Proof of Claim alleging: "the debtor(s)' liability could be as much as $50 million for the Truk-Away Landfill, and that number has been included in this proof of claim out of an abundance of caution, though it is anticipated that debtor(s) liability will be somewhere less than total." Exhibit 14 (Explanation of Proof of Claim for the State of Rhode Island, Department of Environmental Management).

34. RIDEM's alleged claim had not been asserted against any of the Legacy Hospital Entities when the APA was executed, when the January 13, 2015 Cy Pres Petition was filed, or when the April 20, 2015 Cy Pres Order was entered. Indeed, the Truk-Away PRP Group in its proof of claim (see *infra*) stated that it was not until "September of 2015" that RIDEM even "issued a letter of responsibility to Truk-Away of RI, Inc. relative to alleged contamination of the Landfill," much less issued any letter to the Legacy Hospital Entities.

35. Accordingly, RIDEM's claim is not part of the Outstanding Pre and Post Closing Liabilities to be paid from the trust income or distributions that were the subject

of the Final Judgment entered in the 2015 Cy Pres Action.

Truk-Away PRP Group's Proof of Claim

36. On May 15, 2020, a proof of claim (Exhibit 15) was served on the Liquidating Receiver by the self-proclaimed Truk-Away Landfill Site PRP Group, which identified itself as "includ[ing] the following members: (i) RIDOT/RIDOA[4]; (ii) Bird Incorporated; (iii) Care New England; (iv) CNA Holdings, LLC; (v) CharterCARE Health Partners[5]; (vi) City of Newport; (vii) Lifespan; (viii) Memorial Hospital of Rhode Island; (ix) Prospect Medical Holdings; (x) Rhode Island Hospital; (xi) The Miriam Hospital; and (xii) Wage Management." (hereinafter the "Truk-Away PRP Group"[6]). The Truk-Away PRP Group is composed of entities that are potentially liable for environmental remediation costs at the Truk-Away Landfill, because they may have owned, operated, or allegedly disposed or arranged for disposal of hazardous waste at the landfill site.

37. The Truk-Away PRP Group's addendum to its proof of claim stated in relevant part:

> The Truk-Away Group has engaged an environmental consultant to determine the extent of potential remediation and to prepare a site investigation report outlining the plan for remediation along with the costs. The initial estimates for remediation costs total approximately $16,700,000, however, the environmental consultant cautions that the cost could increase due to unforeseen or undiscovered circumstances. The Truk-Away Group reserves the right to amend this proof of claim at a later point. In addition, the Truk-Away Group has ongoing costs relative for the administration of the group to pay for its consultants.

Exhibit 15 (Truk-Away PRP Group's proof of claim).

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[4] *I.e.* the State of Rhode Island (through its Department of Transportation and its Department of Administration) which owned and operated the Truk-Away Landfill.

[5] *I.e.* Prospect Chartercare, LLC.

[6] The Truk-Away PRP Group in the proof of claim and accompanying papers also twice referred to itself as the "Truk-Away Landfill Site PPP Group," although the latter nomenclature appears to be a typo.

38. The Truk-Away PRP Group's alleged claim had not been asserted against any of the Legacy Hospital Entities when the APA was executed, when the January 13, 2015 Cy Pres Petition was filed, or when the April 20, 2015 Cy Pres Order was entered. Indeed, the Truk-Away PRP Group in its proof of claim stated that it was not until "September of 2015" that RIDEM even "issued a letter of responsibility to Truk-Away of RI, Inc. relative to alleged contamination of the Landfill", much less to the Legacy Hospital Entities. Exhibit 15 at 3.

39. Accordingly, the Truk-Away PRP Group's claim is not part of the Outstanding Pre and Post Closing Liabilities to be paid from the trust income or distributions that were the subject of the Final Judgment entered in the 2015 Cy Pres Action.

Other claims against the Liquidating Receiverships have been released

40. Previously proofs of claim were served upon the Liquidating Receiver by The Angell Pension Group, Inc. and the Prospect Entities. These claims were released in connection with that certain settlement agreement dated as of December 30, 2020, which was approved by the Superior Court and the federal court.

41. In addition, a proof of claim was served upon the Liquidating Receiver by Beacon Mutual Insurance Company. This claim was released in connection with that certain Settlement Agreement and Release dated as of January 4, 2022, which was approved by the Superior Court.

Notice to Parties in Interest

42. The Plan Receiver will serve this Petition and notice of the hearing thereon on counsel of record for the following parties in interest: Bank of America, N.A., RIDEM, and the Truk-Away PRP Group. In addition, the Plan Receiver will serve this Petition and notice of the hearing thereon on the Liquidating Receiver and counsel of record in

the Plan receivership. Further, the Plan Receiver will provide notice of the hearing thereon, including instructions regarding how each notified party may obtain a copy of this Petition, upon all other interested parties known to him in connection with both the Plan and Liquidating Receiverships.

43. The Plan Receiver believes that this constitutes sufficient notice of this Petition and of the requests for relief.

WHEREFORE, the Plan Receiver prays that this Court enter an order:

(a) Directing the Liquidating Receiver to pay to the Plan Receiver the accumulated income or distributions to date from the Trusts;

(b) Directing Bank of America, N.A., as trustee of the Trusts, to pay any and all future income or distributions from the Trusts directly to the Plan Receiver for the benefit of the Plan;

(c) Awarding such other and further relief as is appropriate.

Respectfully submitted,

Stephen F. Del Sesto, Esq., Solely in His Capacity as Permanent Plan Receiver of the St. Joseph Health Services of Rhode Island Retirement Plan,

By his Attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that, on the 27th day of February, 2022, I filed and served the foregoing document through the electronic filing system on the following users of record:

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The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Benjamin Ledsham

Exhibit 1

EXECUTION COPY

ASSET PURCHASE AGREEMENT

by and among

CHARTERCARE HEALTH PARTNERS,

ROGER WILLIAMS MEDICAL CENTER,

ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND,

ROGER WILLIAMS REALTY CORPORATION,

RWGH PHYSICIANS OFFICE BUILDING, INC.,

ELMHURST EXTENDED CARE FACILITIES, INC.,

ROGER WILLIAMS MEDICAL ASSOCIATES, INC.,

ROGER WILLIAMS PHO, INC.,

ELMHURST HEALTH ASSOCIATES, INC.,

OUR LADY OF FATIMA ANCILLARY SERVICES, INC.,

THE CENTER FOR HEALTH AND HUMAN SERVICES,

SJH ENERGY, LLC,

ROSEBANK CORPORATION,

PROSPECT MEDICAL HOLDINGS, INC.,

PROSPECT EAST HOLDINGS, INC.,

PROSPECT CHARTERCARE, LLC,

PROSPECT CHARTERCARE RWMC, LLC,

PROSPECT CHARTERCARE SJHSRI, LLC,

PROSPECT CHARTERCARE ELMHURST, LLC,

and

PROSPECT CHARTERCARE PHYSICIANS, LLC

Dated as of September 24, 2013

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LIST OF SCHEDULES:

LIST OF EXHIBITS:

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made and entered into as of September 24, 2013 by and among CharterCARE Health Partners, a Rhode Island non-profit corporation ("CCHP"), Roger Williams Medical Center, a Rhode Island non-profit corporation ("RWMC"), St. Joseph Health Services of Rhode Island, a Rhode Island non-profit corporation ("SJHSRI"), Roger Williams Realty Corporation, a Rhode Island non-profit corporation ("RWRC"), RWGH Physicians Office Building, Inc., a Rhode Island non-profit corporation ("RWOB"), Elmhurst Extended Care Facilities, Inc., a Rhode Island non-profit corporation ("Elmhurst ECF"), Roger Williams Medical Associates, Inc., a Rhode Island non-profit corporation ("RWMA"), Roger Williams PHO, Inc., a Rhode Island non-profit corporation ("PHO"), Elmhurst Health Associates, Inc., a Rhode Island corporation ("Elmhurst HA"), Our Lady of Fatima Ancillary Services, Inc., a Rhode Island corporation ("Our Lady"), The Center for Health and Human Services, a Rhode Island non-profit corporation ("TCHHS"), SJH Energy, LLC, a Rhode Island limited liability company ("SJHE"), and Rosebank Corporation, a Rhode Island corporation ("Rosebank" and together with CCHP, RWMC, SJHSRI, RWRC, RWOB, Elmhurst ECF, RWMA, PHO, Elmhurst HA, Our Lady, TCHHS and SJHE, each a "Seller" and, collectively, "Sellers"), Prospect Medical Holdings, Inc., a Delaware corporation ("Prospect"), Prospect East Holdings, Inc., a Delaware corporation ("Prospect Member"), Prospect CharterCare, LLC, a Rhode Island limited liability company (the "Company"), Prospect CharterCare RWMC, LLC, a Rhode Island limited liability company ("RWMC SMLLC"), Prospect CharterCare SJHSRI, LLC, a Rhode Island limited liability company ("SJHSRI SMLLC"), Prospect CharterCare Elmhurst, LLC, a Rhode Island limited liability company ("Elmhurst SMLLC"), and Prospect CharterCare Physicians, LLC, a Rhode Island limited liability company ("Physicians SMLLC" and together with RWMC SMLLC, SJHSRI SMLLC, Elmhurst SMLLC, each a "Company Subsidiary" and collectively, the "Company Subsidiaries"). Sellers, Prospect, the Prospect Member, the Company, and each Company Subsidiary are each a "Party" and collectively, the "Parties".

RECITALS

WHEREAS, Sellers own, lease and operate the Facilities and engage in the Business;

WHEREAS, Prospect is in the business of owning and operating hospitals and related businesses and has formed the Company and owns 100% of the outstanding equity of the Company;

WHEREAS, the Company has formed all of the Company Subsidiaries as single-member limited liability companies and owns 100% of the outstanding equity in each Company Subsidiary as the sole member thereof;

WHEREAS, Sellers desire to sell to the Company, and the Company desires to acquire from Sellers, either directly or through the Company Subsidiaries, substantially all of the assets used in the operation of the Facilities, all as more fully set forth herein;

WHEREAS, Prospect desires to contribute equity capital to the Company in order to fund, in part, the acquisition by the Company or the Company Subsidiaries of the Purchased Assets;

WHEREAS, Sellers have designated CCHP (the "Seller Member") to be the holder of the units representing the Company's limited liability company membership interests on behalf of all Sellers to be issued as partial consideration in respect of the sale by Sellers of the Purchased Assets; and

WHEREAS, upon the Closing of the transactions contemplated by this Agreement, the Company will be owned 85% by the Prospect Member and 15% by the Seller Member, and the Company and the Company Subsidiaries will be subject to various operational covenants relating to maintaining essential healthcare services, Catholic identity, pastoral care programs, charity care policies, medical staff structure, medical education and research at the Facilities, as well as various other terms and provisions, all as more fully set forth herein and in the Company's limited liability company agreement;

NOW, THEREFORE, for and in consideration of the agreements, covenants, representations and warranties hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
DEFINITIONS AND INTERPRETATION

1.1 Definitions. The capitalized terms in this Agreement shall have the meanings ascribed to them in the Preamble, the Recitals and Annex A, as applicable.

1.2 Interpretation. In this Agreement, unless the context otherwise requires: (a) references to this Agreement are references to this Agreement and to the Annexes, Exhibits and Schedules hereof, and references to Annexes, Articles, Exhibits, Recitals, Sections or Schedules are references to the Annexes, Articles, Exhibits, Recitals, Sections or Schedules of this Agreement; (b) the terms "including" or "include" shall all be interpreted to read, "including, without limitation"; (c) references to any Person shall include references to such Person and their respective successors and permitted assigns; (d) the terms "hereof," "herein," "hereby" and derivative or similar words will refer to this entire Agreement; (e) references to any document (including this Agreement) are references to that document as amended, modified, supplemented, extended or renewed by the Parties from time to time, in the manner provided therein (or herein); (f) references to any law, rule or regulation include such law, rule or regulation as amended, restated, supplemented, superseded or otherwise modified from time to time, unless otherwise specified; (g) the gender of all words herein include the masculine, feminine and neuter, and the number of all words herein include the singular and plural; and (h) the terms "date hereof" and "date of this Agreement" and similar terms shall mean the date set forth in the opening paragraph of this Agreement.

ARTICLE II
TRANSFER OF ASSETS; ASSUMPTION OF LIABILITIES

2.1 Transfer of Sellers' Assets. At the Closing, Sellers shall assign, transfer, convey and deliver to the Company or the Company Subsidiaries (as determined by the Company in its discretion), free and clear of all Encumbrances, all of Sellers' right, title and interest in and to all assets of every kind, character or description, whether real, personal or mixed, tangible or intangible (other than the Excluded Assets), owned, leased or licensed by Sellers on the Closing Date that are held for use or used in the Business, including the following items (collectively, the "Purchased Assets"):

(a) any and all parcels of land and other real property owned by Sellers and used in connection with the operation of, or acquired for the benefit for, the Facilities, including the real property described on Schedule 4.14(a), together with all of Sellers' right, title and interest in and to (i) all buildings, improvements and fixtures located thereupon and all appurtenances (including all construction in progress) (the "Improvements"), (ii) all easements, rights of way, privileges, hereditaments and other rights and appurtenances thereto, including, any right, title and interest of Sellers in and to adjacent streets, alleys or rights of way, (iii) all strips and gores adjacent thereto, (iv) all plans and specifications and engineering and Architectural Plans related to the improvements located on such real property, to the extent in the possession and control of any Seller, and (v) development, air, water and signage rights with respect to such real property, if any and to the extent transferable (the "Owned Real Property");

(b) subject to receipt of any required third party consents, any and all real property that is leased, subleased or licensed to Sellers by another Person (whether an Affiliate or otherwise) related to, associated with or used in connection with the operation of, or acquired for the benefit for, the Facilities, and described on Schedule 4.14(b), together with all buildings, improvements and fixtures located thereupon and all appurtenances (including all construction in progress) and rights thereto that are leased, subleased or licensed to Sellers (the "Leased Real Property");

(c) all equipment, medical equipment, fixtures, machinery, computer hardware and other data processing equipment, vehicles, office furnishings, leasehold improvements and other tangible personal properties owned or held by Sellers or used in the operation of the Facilities (the "Personal Property");

(d) all Inventory;

(e) all documents, records, operating manuals and files with respect to the operation of the Facilities, including all financial, billing, patient, medical, accreditation, public program participation, business, operational, quality assurance, credentialing, peer review, facilities and systems maintenance, real property, educational, marketing and other records, Architectural Plans, structure or system drawings, manuals and materials (in paper, electronic or other form) and on-site regulatory compliance records;

(f) all of the rights and interests of Sellers in all: (1) Contracts for the employment of any individual other than a physician ("Employment Agreements") that are listed on Schedule 2.1(f)(1) (the "Assumed Employment Agreements"), as provided in Section 8.2(f) below; (2) any Contracts with physicians, physician practices or physician-owned entities ("Physician Agreements") that are listed on Schedule 2.1(f)(2) (the "Assumed Physician

Agreements"); (3) Leases to which any Seller is a party and entered into or maintained in connection with the Facilities, the Business or the Purchased Assets (except for leases involving physicians, physician groups or physician-owned entities) (the "Assumed Leases"); (4) Sellers' Medicare and Medicaid provider agreements and associated provider numbers (the "Provider Agreements"); and (5) Contracts (other than Employment Agreements that are not Assumed Employment Agreements, Physician Agreements that are not Assumed Physician Agreements, Leases that are not Assumed Leases, and the Provider Agreements) to which any Seller is a party and pertaining to the Facilities, the Business or the Purchased Assets (items (1) through (5) collectively, the "Assumed Contracts"), and all rights and obligations arising out of such Assumed Contracts; provided, however, that the Company may elect to remove any Assumed Physician Agreements from Schedule 2.1(f)(2) prior to Closing if:

(i) the Company reasonably believes that such agreement poses a significant risk of violating or otherwise being inconsistent with any applicable laws or regulations; or

(ii) the Company reasonably believes that such agreement, if not rejected, would cause the Company to be in breach, or violate the terms, of any contract to which the Company is or will be a party as of the Closing Date;

(each, a "Rejected Physician Agreement" and, collectively, the "Rejected Physician Agreements"). The Company shall provide Sellers with a list of such Rejected Physician Agreements and its reasons for rejecting the same not less than ten (10) days prior to the Closing Date. For ten (10) days after receipt by the Company of such list, the Parties shall consult in good faith as to what action, if any, should be taken with respect to any such Rejected Physician Agreement to address concerns raised by the Company. If the Parties do not mutually agree on the actions to be taken with respect to any such Rejected Physician Agreement within such ten (10) day period, such Rejected Physician Agreement shall thereafter not be deemed to be an "Assumed Contract" and shall be deemed to be an "Excluded Contract" for purposes of this Agreement, and Sellers shall be responsible for the termination or other disposition of such Rejected Physician Agreement, including any costs or expenses associated with such termination or other disposition;

(g) all Accounts Receivables, other than intercompany receivables;

(h) to the extent transferable, all Permits, Environmental Permits and Approvals issued or granted to Sellers by or pending before Governmental Entities and accreditations/certifications issued to Sellers by accrediting bodies, which relate to the ownership or operation of the Facilities;

(i) all Intellectual Property;

(j) all advance payments, prepayments or prepaid expenses made by Sellers relating to the operation of the Facilities;

(k) all rights in all warranties of any vendor or manufacturer in connection the Personal Property and all rights to enforce covenants not to compete with respect to the Purchased Assets or the Business;

(l) all insurance proceeds (after application of Seller deductibles or co-insurance payments) arising in connection with property damage to the Purchased Assets;

(m) general intangible rights of the Business, including goodwill;

(n) all files and records relating to the Transferred Employees, including those regarding work history, benefits and pensions, as well as such of Sellers' policies, manuals and similar materials as are reasonably necessary for the Company to address personnel, benefits or other issues, or resolve disputes, regarding Transferred Employees;

(o) all website domain names, e-mail addresses, and telephone and fax numbers;

(p) subject to receipt of any required third party consents, any rights of Sellers to receive, or any expectancy of Sellers in, any state or federal grants or subsidies, allocation payments or other reimbursement pool;

(q) subject to receipt of any required third party consents, the software, licenses and information systems used in the Business;

(r) any rebates paid or payable in respect to the period prior to Closing under or in respect of any group purchasing organization agreements in which Sellers participate that relate to purchases of goods or services prior to Closing;

(s) any claims, rights, credits, causes of action and rights of set-off of Sellers (whether known or unknown, contingent or otherwise) against third parties related to the Purchased Assets (including the Assumed Contracts), contractual or otherwise, accruing or arising prior to the Closing;

(t) the A/R Bank Accounts;

(u) [intentionally omitted];

(v) all cash security deposits held or previously paid by Sellers under the Assumed Leases (together with accrued interest thereon, if any);

(w) to the extent not included in any of the foregoing, (A) any assets included in the Interim Balance Sheet, except for assets used, consumed or disposed of in the Ordinary Course of Business since the Interim Balance Sheet Date, and (B) any assets purchased or otherwise acquired since the Interim Balance Sheet Date that are not reflected on the Interim Balance Sheet but are held or used in the Business;

(x) all rights to reimbursement for services rendered, and medicine, drugs and supplies provided, by Sellers to individuals who are patients of the Business on or before the Closing Date, but who are not discharged until after the Closing Date (collectively, "Transitional Patient Services");

(y) all of Sellers' equity, membership or other ownership interests (i) in Rhode Island PET Services, LLC and Chemosynergy, LLC and (ii) to the extent applicable, pursuant to Section 7.2(n) below, in UMG and/or such other project or entity contemplated by such Section 7.2(n); and

(z) either: (1) all of Sellers' equity, membership or other ownership interests in Roger Williams Radiation Therapy, LLC; or (2) in the event that Sellers sell all or any part of their interests in Roger Williams Radiation Therapy, LLC prior to Closing and, notwithstanding Sellers' commercially reasonable efforts to reinvest all or a portion of the proceeds of such sale as provided in Section 7.2(n) below, all or a portion of such proceeds are not so reinvested, then any portion of the sale proceeds not so reinvested (hereafter, the "JV Proceed Deficiency") shall be included as a Purchased Asset hereunder and shall be transferred to the Company.

2.2 Excluded Assets of Sellers. Notwithstanding anything herein to the contrary, the following assets are excluded from the Purchased Assets and shall be retained by Sellers (the "Excluded Assets"):

(a) cash, cash equivalents and investments (except for the amount of any JV Proceed Deficiency as per Section 2.1(z) above);

(b) all of the following: (i) any Employment Agreement that is not listed as an Assumed Employment Agreement on Schedule 2.1(f)(1); (ii) any Physician Agreement that is not listed as an Assumed Physician Agreement on Schedule 2.1(f)(2), or that is so listed but is removed prior to Closing as provided in Section 2.1(f); and (iii) any other Contract listed on Schedule 2.2(b) (collectively, the "Excluded Contracts"); and all of Sellers' rights and interests thereunder;

(c) any Permits, Environmental Permits and Approvals that are not transferable;

(d) any Seller Plans (and any and all assets associated therewith or set aside to fund liabilities related thereto), the Retirement Plan and the Retirement Plan Assets;

(e) any unamortized bond issuance costs and all funds held by the bond trustee under the bond indentures for RWMC Rhode Island Health and Educational Building Corporation Tax-Exempt Revenue Bonds - Series 1998 and SJHSRI Rhode Island Health and Educational Building Corporation Tax-Exempt Revenue Bonds - Series 1999;

(f) except to the extent included within the Transferred Restricted Funds, any charitable restricted assets of Sellers, whether held directly by Sellers or by one or more third parties for Sellers' benefit, and any accrued interest thereon;

(g) the assets of CharterCARE Health Partners Foundation (f/k/a St. Joseph Health Services Foundation);

(h) funds held by Sellers' trustee for insurance, board designated investments, restricted interests in perpetual trusts, donor restricted funds and funds restricted by spending policy, and any accrued interest thereon;

(i) the corporate books and records of Sellers;

(j) any shares of capital stock, membership interest, partnership interest or other ownership in any Seller;

(k) all rights in any insurance policies of Sellers covering the Purchased Assets or any Assumed Liabilities, except as otherwise expressly provided herein (including without limitation pursuant to Section 2.1(l) above); and

(l) the rights of Sellers under this Agreement and all related documents.

2.3 Assumed Liabilities of Sellers. On the terms and subject to the conditions set forth in this Agreement, at the Closing, Sellers shall assign, and the Company shall assume or shall cause one or more Company Subsidiaries to assume, effective as of the Effective Time, the following Liabilities of Sellers with respect to the Facilities and the Purchased Assets as and to the extent existing on the Closing Date (collectively, the "Assumed Liabilities"):

(a) the Assumed Contracts, but only to the extent of Liabilities that (x) are described in Section 2.3(b) below, or (y) accrue or arise after the Effective Time and relate to any period after the Closing Date;

(b) all accounts payable of Sellers as of the Closing Date that were accrued in the Ordinary Course of Business to the extent such accounts payable remain unpaid as of the Closing Date and are reflected in the calculation of Final Net Working Capital;

(c) all accrued expenses of Sellers incurred in the Ordinary Course of Business to the extent the same remain unpaid as of the Closing Date, other than (x) intercompany payables, (y) transaction expenses of Sellers, and (z) any expenses associated with any Taxes, the Seller Plans (but only to the extent such expenses are not reflected in the calculation of Final Net Working Capital) or the Retirement Plan;

(d) deferred gain on investments in the Related Ventures;

(e) all ETO balances associated with the Transferred Employees, including all costs, liabilities and expenses associated with or arising from the same and/or the rollover of such balances from Sellers to the Company as of the Effective Time;

(f) asset retirement obligations as reflected on the Interim Balance Sheet;

(g) if, prior to Closing, Sellers invest the proceeds of any sale of all or any part of their interests in Roger Williams Radiation Therapy, LLC in UMG or some other project or entity as may be mutually agreed by the Parties, as provided in Section 7.2(n) below, and Sellers' acquisition of such replacement interest entails the assumption of any liabilities, any such liabilities so assumed; and

(h) any other obligations or Liabilities identified in Schedule 2.3.

In no event shall the Company assume any Liability that is an Excluded Liability.

2.4 Excluded Liabilities of Sellers. Notwithstanding anything herein to the contrary, the Company and/or the Company Subsidiaries are assuming only the Assumed Liabilities and are not assuming and shall not become liable for the payment or performance of any other Liability of Sellers (collectively, the "Excluded Liabilities"). The Excluded Liabilities are and shall remain Liabilities of the Sellers. Without limiting the generality of the foregoing, the term "Excluded Liabilities" includes any Liability: (i) that is not related to the Business; (ii) relating to any Material Indebtedness; (iii) that is described on Schedule 2.4; or (iv) pertaining to any Excluded Asset.

2.5 Prospect Contribution.

(a) At the Closing, Prospect shall make a capital contribution to the Company in the amount of Forty-Five Million Dollars ($45,000,000) payable in cash (the "Prospect Contribution"). The Prospect Contribution shall be subject to adjustment pursuant to Section 2.9 below.

(b) The Prospect Member shall also be obligated to contribute additional capital to the Company during the four (4)-year period immediately following the Closing Date, in an amount of $50,000,000 (which shall be in addition to the Company's routine capital investment, in its own facilities or those of the Company Subsidiaries, of at least $10 million per year), subject to adjustment, offset or satisfaction as expressly provided herein and in the Amended and Restated Agreement, a copy of which is attached hereto as Exhibit A (the "Long-Term Capital Commitment"). Except as otherwise provided in the Amended and Restated Agreement, and subject to the process and requirements therein, the Company shall cause the Long-Term Capital Commitment to be used by the Company or the Company Subsidiaries on (i) the development and implementation of physician engagement strategies, and (ii) projects related to facilities and equipment ("Capital Projects"), in each case based on a return-on-investment calculation or a material needs assessment. Capital Projects currently identified include the following: expansion of the cancer center at Roger Williams Medical Center, expansion of the emergency department at Roger Williams Medical Center, renovation/reconfiguration of the emergency department at Our Lady of Fatima Hospital, renovation of the operating rooms at Roger Williams Medical Center, conversion of all patient rooms to private rooms at both Hospitals, renovation and expansion of the ambulatory care center at Our Lady of Fatima Hospital, new windows at both Hospitals, a new generator at Our Lady of Fatima Hospital, a facelift for the facades at both Hospitals, and access for the handicapped at the front entrances of both Hospitals (with the specific Capital Projects to be funded as determined by the Company's board of directors).

2.6 Consideration.

(a) Subject to the adjustment as provided in Section 2.9, the aggregate cash purchase price (the "Cash Purchase Price") to be paid by the Company to Sellers shall be an amount equal to: (i) (A) the actual dollar amount of the Prospect Contribution, minus (B) the Assumed Capital Lease Excess Amount (if any) (the "Closing Cash Amount"), plus or minus (ii) the Final Adjustment Amount. The Closing Cash Amount shall be paid at Closing, and the Final Adjustment Amount shall be paid following Closing in accordance with Section 2.9(e).

(b) At the Closing, as partial consideration for the Purchased Assets, the Company shall issue to the Seller Member an aggregate of 16,760 limited liability company membership units of the Company (the "Units"), which Units will represent a 15% ownership interest in the Company.

2.7 Expense Contribution. Sellers, on the one hand, and Prospect, on the other hand, shall bear their pro rata share (based on their ownership in the Company immediately following Closing) of any expenses incurred (i) by the Company in connection with the Transaction, or (ii) by Prospect on behalf of the Company (including, for the avoidance of doubt, expenses incurred by Prospect on behalf of the Company prior to the actual formation of the Company as a Rhode Island limited liability company) in connection with Company's review and analysis of the Business and the Purchased Assets, which shall be limited to those inspections, studies, tests and similar analyses specifically described on Schedule 2.7 (collectively, the "Prospect Advance"). At the Closing, Prospect shall be reimbursed by Sellers an amount equal to Sellers' pro rata share of the Prospect Advance.

2.8 Use of Proceeds. Sellers shall adopt a board resolution specifying the manner in which the Cash Purchase Price shall be used.

2.9 Assumed Capital Lease Excess Amount; Net Working Capital Adjustment.

(a) For purposes of determining the Closing Cash Amount, not more than five (5) but in no event less than two (2) Business Days prior to the Closing, Sellers shall deliver to Prospect and the Company a statement setting forth the Assumed Capital Lease Excess Amount as of the Closing Date (setting forth in reasonable detail such amount owed for each capital lease to be assumed by the Company), including supporting documentation of reasonable specificity and other information requested by the Company to verify such amount.

(b) Not more than ninety (90) days after the Closing, the Company shall prepare and deliver, or cause to be prepared and delivered, to the Sellers' Representative (the "Final Working Capital Statement"): (i) its good faith determination of the actual Net Working Capital as of the Effective Time (as finally determined pursuant to this Section 2.9, the "Final Net Working Capital"); and (ii) a calculation showing the difference between its determination of the Final Net Working Capital pursuant to clause (i) above and the Historical Working Capital Position (such difference, which may be positive or negative, the "Final Adjustment Amount"). Each of the Final Net Working Capital and Historical Working Capital Position shall be calculated in accordance with the methodology set forth on Annex B.

(c) Following receipt of the Final Working Capital Statement, the Sellers' Representative will be afforded a period of twenty (20) Business Days (the "20-Day Period") to review the Final Working Capital Statement. During the 20-Day Period, the Sellers' Representative and its Representatives shall have reasonable access during reasonable business hours upon prior written notice to the Company to the books, records and supporting data of the Company and its Representatives relating to the Final Working Capital Statement and the calculations set forth therein. At or before the end of the 20-Day Period, the Sellers' Representative will either (i) accept the amount of Final Net Working Capital and the Final Adjustment Amount (each as set forth in the Final Working Capital Statement) in their entirety

or (ii) deliver to the Company a written notice (the "Objection Notice") containing a reasonably detailed written explanation of those items in the Final Working Capital Statement that the Sellers' Representative disputes, in which case the items specifically identified by the Sellers' Representative shall be deemed to be in dispute. The failure by the Sellers' Representative to deliver the Objection Notice within the 20-Day Period shall constitute the Sellers' Representative's acceptance of the amount of Final Net Working Capital and the Final Adjustment Amount, each as set forth in the Final Working Capital Statement. If the Sellers' Representative delivers the Objection Notice in a timely manner, then, within a further period of twenty (20) Business Days from the end of the 20-Day Period (the "Second 20-Day Period"), the Parties and, if desired, their respective Representatives will attempt to resolve in good faith any disputed items and reach a written agreement (the "Settlement Agreement") with respect thereto. Failing such resolution, as promptly as practicable (and no event later than ten (10) Business Days from the end of the Second 20-Day Period), the unresolved disputed items will be referred for final binding resolution to a nationally recognized independent public accounting firm mutually selected by the Company and the Sellers' Representative (the "Arbitrating Accountants"). In resolving any disputed item, the Arbitrating Accountants may not assign a value to any item greater than the greatest value for such item claimed by either party or less than the smallest value for such item claimed by either party. The fees and expenses of the Arbitrating Accountants shall be allocated between the Sellers' Representative (on behalf of the Sellers), on the one hand, and Prospect, on the other hand, in proportion to the amounts by which their proposals of the Final Adjustment Amount differed from the Arbitrating Accountants final determination of the Final Adjustment Amount. Such determination (the "Accountants' Determination") shall be (i) in writing, (ii) furnished to the Sellers' Representative and the Company as soon as practicable (and in no event later than thirty (30) Business Days) after the items in dispute have been referred to the Arbitrating Accountants, (iii) made in accordance with GAAP, consistently applied, and (iv) non-appealable and incontestable by Sellers, the Sellers' Representative, the Company and each of their respective Affiliates and successors and assigns and not subject to collateral attack for any reason other than manifest error or fraud.

(d) The "Final Determination Date" shall mean the earliest to occur of (i) the twenty-first (21st) Business Day following the receipt by the Sellers' Representative of the Final Working Capital Statement if the Sellers' Representative shall have failed to deliver the Objection Notice to the Company within the 20-Day Period, (ii) the date on which the Sellers' Representative gives the Company written notice to the effect that such party has no objection to the Company's determination of the amount of Final Net Working Capital and the Final Adjustment Amount, each as set forth in the Final Working Capital Statement, (iii) the date on which the Sellers' Representative and the Company execute and deliver a Settlement Agreement, (iv) the date as of which the Sellers' Representative and the Company shall have received the Accountants' Determination, and (v) the Company's failure to deliver the Final Working Capital Statement within the ninety (90) day period described in Section 2.9(a).

(e) The following payment shall be made within two (2) Business Days following the Final Determination Date and shall be by wire transfer of immediately available funds to an account designated by the Party or Parties entitled to receive any such payments:

(i) If the Final Net Working Capital is less than the Historical Working Capital Position, then Sellers shall pay to the Company the amount by which the Final

Net Working Capital is less than the Historical Working Capital Position (and if not paid to the Company within 90 days following the Final Determination Date, Prospect may (in its sole discretion) treat such amount as an offset to the Long-Term Capital Commitment as provided in Section 1.26 of the Amended and Restated Agreement); or

(ii) If the Final Net Working Capital is greater than the Historical Working Capital Position, then the Company shall pay to Sellers the amount by which the Final Net Working Capital is greater than the Historical Working Capital Position.

2.10 Withholding Tax. Notwithstanding anything in this Agreement to the contrary, the Company shall be entitled to deduct and withhold from the Cash Purchase Price such amounts as the Company is required to deduct and withhold with respect to such payment under the Code or any provision of state or local law. To the extent that amounts are so withheld and paid over to the appropriate Governmental Entity by the Company, such withheld amounts shall be treated for all purposes of this Agreement as having been paid by the Company to Sellers.

2.11 Cash Purchase Price Allocation. The Cash Purchase Price (including any applicable Assumed Liabilities) will be allocated for Tax purposes (the "Allocation") among the Purchased Assets. The Company shall prepare the proposed Allocation and deliver a copy thereof to Sellers within one hundred twenty (120) calendar days after the Closing. Sellers shall thereafter have thirty (30) calendar days to approve or disapprove of such proposed allocation, such approval not to be unreasonably withheld, conditioned or delayed. Sellers and the Company shall work in good faith to resolve any disputes relating to the allocation. If Sellers and the Company are unable to resolve any such dispute within thirty (30) days of the Company's delivery of the proposed allocation to Sellers, then such dispute shall be resolved finally and conclusively by the Arbitrating Accountants, the costs of which shall be borne equally by the Company and Sellers. The Company, Sellers and their Affiliates shall report, act and file Tax Returns (including Internal Revenue Service Form 8594) in all respects and for all purposes consistent with the Allocation agreed to by the Parties or as otherwise determined pursuant to this Section. No Party shall take any position (whether on any Tax Return or in connection with any audit or other examination) that is inconsistent with the Allocation unless required to do so by applicable law.

2.12 Bulk Sales. To the extent applicable to any Seller, Sellers shall make such filings and pay such Taxes as are required to be filed and/or paid in accordance with R.I.G.L. Sections 44-19-22 and 44-11-29 as and when required pursuant thereto. Sellers, jointly and severally, agree to indemnify and hold Company/Prospect Indemnified Parties harmless from, for and against any Liability that a Company/Prospect Indemnified Party may suffer or sustain as a result of any failure by Sellers, or any of them, to make such filings or pay such Taxes.

2.13 Prorations. At Closing, Sellers and the Company shall prorate real estate and personal property lease payments, real estate and personal property Taxes (except that no such proration of property Taxes will be necessary in respect of the transfer of property by any Seller that is a non-profit corporation that does not pay any property Taxes) and other assessments, and all other items of income and expense that are normally prorated upon a sale of assets of a going concern, if any. If any payment of Taxes made by Sellers before Closing is credited against real estate Taxes for which the Company or any Company Subsidiary will be liable, the amount of

such credit will be applied as a credit against any prorations owing by Sellers, to the extent available for offset, and any amounts not so applied will be paid to Sellers by the Company upon the Company's receipt of such credit.

ARTICLE III
CLOSING

3.1 Closing. Subject to the satisfaction or waiver by the appropriate Party of all the conditions precedent to Closing specified in ARTICLE IX and ARTICLE X, the consummation of the Transactions (the "Closing") shall take place at the offices of Sills Cummis & Gross P.C., One Riverfront Plaza, Newark, New Jersey 07102 at 10:00 a.m., local time, on the fifth (5^{th}) Business Day following the satisfaction (or due waiver) of the conditions set forth in ARTICLE IX and ARTICLE X or at such other date and/or location as the Parties may mutually designate (the "Closing Date").

3.2 Effective Time. The Transactions shall be effective as of 11:59 p.m. local time (the "Effective Time") on the Closing Date, unless otherwise agreed in writing by Sellers and the Company.

3.3 Deliveries by Sellers at Closing. At or before the Closing and unless otherwise waived in writing by the Company, Sellers shall deliver to the Company the following:

(a) a duly executed Amended and Restated Agreement, in the form of Exhibit A;

(b) a duly executed and acknowledged Quitclaim Deed, in the form of Exhibit B, with respect to each Owned Real Property;

(c) such estoppel certificates as have been obtained pursuant to Section 7.2(l) below from mobile communications providers that lease space for antennas and other mobile communications facilities on the Owned Real Property, in the form of Exhibit C (the "Tenant Estoppels");

(d) [intentionally omitted];

(e) with respect to those Assumed Leases where any Seller is a tenant or subtenant, duly executed and acknowledged Leasehold Assignment and Assumption Agreements, in the form of Exhibit E, with respect to each Leased Real Property; in the case of such Assumed Leases entailing more than 5,000 square feet of space or annual rent greater than $100,000, such Leasehold Assignment and Assumption Agreements shall include an estoppel provision from each landlord as specified in the terms of the applicable Lease or, if not so specified, as indicated on the form of Exhibit E attached hereto (the "Landlord Estoppels");

(f) one or more duly executed general bills of sale, in the form of Exhibit F;

(g) one or more duly executed assignment and assumption agreements, in the form of Exhibit G;

(h) [intentionally omitted];

(i) (x) a certificate in form and substance satisfactory to the Company setting forth the aggregate dollar amounts of all Material Indebtedness outstanding at Closing, signed by the Chief Financial Officer of Sellers, and (y) executed pay-off letters, final invoices and/or releases necessary to terminate or release all Material Indebtedness (and related Encumbrances), which documents shall be in form and substance satisfactory to the Company;

(j) copies of resolutions duly adopted by the governing body of each Seller authorizing and approving the performance of the Transactions and the execution and delivery of this Agreement and the documents described herein and the change of name contemplated by Section 13.11, certified as true and of full force and effect as of Closing, by appropriate officers;

(k) certificates of existence and good standing of each Seller issued by the office of Secretary of State of Rhode Island dated no earlier than fourteen (14) days prior to the Closing Date and letters of good standing issued by the Rhode Island Division of Taxation for each Seller dated no earlier than fourteen (14) days prior to the Closing Date;

(l) such documentation as may be necessary to transfer the A/R Bank Accounts and all other of Sellers' bank accounts to the Company as of the Effective Time;

(m) FIRPTA Certificates, in the form of Exhibit I, duly executed by Sellers;

(n) the Limited Power of Attorney, in the form of Exhibit J, duly executed by Sellers;

(o) the consents of third parties to the assignment of the Assumed Contracts identified with an asterisk in Schedule 4.12(e), including any Assumed Lease as to which any Seller is a tenant or subtenant where such Lease entails more than 5,000 square feet of space or annual rent greater than $100,000 ("Material Consents"), in form and substance reasonably acceptable to the Company, except to the extent waived by the Company pursuant to Section 13.4 below;

(p) Officer's Certificates from each Seller, in the forms reasonably requested by the Company; and

(q) such other instruments, certificates, consents and documents, as the Company reasonably deems necessary to effectuate the Transactions in accordance with the terms hereof.

3.4 Deliveries by the Company and Prospect at Closing. At or before the Closing and unless otherwise waived in writing by Sellers, the Company and Prospect shall deliver to Sellers the following:

(a) The Closing Cash Amount, in immediately available funds;

(b) a duly executed Amended and Restated Agreement, in the form of Exhibit A;

(c) counterparts to one or more assignment and assumption agreements duly executed by the Company or a Company Subsidiary (as applicable), in the form of Exhibit G;

(d) a duly executed Management Services Agreement, in the form of Exhibit H;

(e) copies of resolutions duly adopted by the governing body of each of Prospect, the Prospect Member, and the Company authorizing and approving the performance by Prospect, the Prospect Member, the Company, and each Company Subsidiary of the Transactions and the execution and delivery of this Agreement and the documents described herein, certified as true and in full force as of Closing by an appropriate officer thereof;

(f) as to the Company and each Company Subsidiary, certificates of existence and good standing issued by the office of Secretary of State of Rhode Island dated no earlier than fourteen (14) days prior to the Closing Date; and as to Prospect and the Prospect Member, a certificate of existence and good standing issued by the office of the Secretary of State of Delaware dated no earlier than fourteen (14) days prior to the Closing Date, and a certificate of good standing to conduct business issued by the office of the Secretary of State of Rhode Island dated no earlier than fourteen (14) days prior to the Closing Date;

(g) Officer's Certificates from each of Company, Prospect and the Prospect Member, in the forms reasonably requested by Sellers; and

(h) such other instruments, certificates, consents and documents as Sellers reasonably deem necessary to effectuate the Transactions in accordance with the terms hereof.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF SELLERS

As of the date hereof and as of the Closing Date (except to the extent any of the following speaks as of a specific date), Sellers, jointly and severally, represent and warrant to Prospect, the Prospect Member, the Company and each Company Subsidiary the following:

4.1 Incorporation, Qualification and Capacity. Each of CCHP, RWMC, SJHSRI, RWRC, RWOB, Elmhurst ECF, RWMA, PHO and TCHHS is a non-profit corporation, duly incorporated and validly existing in good standing under the Laws of the State of Rhode Island. Each of Elmhurst HA, Our Lady and Rosebank is a corporation, duly incorporated and validly existing in good standing under the Laws of the State of Rhode Island. SJHE is a limited liability company, duly formed and validly existing in good standing under the Laws of the State of Rhode Island. All of the respective owners or members of Sellers, as applicable, are listed on Schedule 4.1. Each Seller is duly licensed and qualified to do business under all applicable Laws of any Governmental Entity having jurisdiction over the Business, and has the lawful power to own, lease and operate its assets and properties and conduct its business in the place and manner now conducted, including, as appropriate, operating the Business. No Seller is licensed or qualified to do business in any jurisdiction other than the State of Rhode Island and there is no other jurisdiction in which the ownership, use or leasing of its assets or properties, or the conduct or nature of its business, makes such licensing or qualification necessary. The execution and delivery by each Seller of this Agreement and the documents described herein, the performance

by each Seller of its obligations under this Agreement and the documents described herein, and the consummation by each Seller of the Transactions and the documents described herein have been duly and validly authorized and approved by all necessary corporate/limited liability company action, including, to the extent required, any applicable board and member approvals, on the part of such Seller, and none of such actions has been modified or rescinded and all of such actions remain in full force and effect.

4.2 Powers; Consents; Absence of Conflicts With Other Agreements. Each Seller has the requisite power and authority to conduct its business as now being conducted, to enter into this Agreement, and to perform it obligations hereunder. The execution, delivery and performance of this Agreement and the documents described herein by Sellers, and the consummation by Sellers of the Transactions and documents described herein, as applicable:

(a) are not in contravention or violation of the terms of any Seller's certificate of formation/incorporation, bylaws, operating agreement or other organizational document;

(b) do not require any Approval or Permit of, or filing or registration with, or other action by, any Governmental Entity to be made or sought by any Seller, except (i) the Healthcare Regulatory Consents set forth in Schedule 4.2(b) and (ii) as otherwise set forth on Schedule 4.2(b); and

(c) assuming the Approvals and Permits set forth on Schedule 4.2(b) are obtained, will not conflict in any material respect with or result in any violation of or default under (with or without notice or lapse of time or both) or give rise to a right of termination, cancellation or acceleration of any obligation, lien or loss of a benefit under, or permit the acceleration of any obligation or result in the creation of any Encumbrance (other than Pre-Closing Permitted Exceptions or Permitted Exceptions, as applicable) upon any of the Facilities or the Purchased Assets under (i) any Contract or (ii) any Law applicable to any of the Facilities or the Purchased Assets or to the operation of the Facilities and the Business by the Company and the Company Subsidiaries following the Closing as they are operated on the date hereof and as of the Closing Date, or (iii) any Order by which any of the Facilities or Purchased Assets are bound.

4.3 Binding Effect. This Agreement and all other Ancillary Agreements to which each Seller becomes a Party have been duly and validly executed and delivered by Sellers, and, assuming the due authorization, execution and delivery of this Agreement and each respective Ancillary Agreement by Prospect, the Prospect Member, and the Company (as applicable), are and will constitute the valid and legally binding obligations of such Seller and are and will be enforceable against it in accordance with the respective terms hereof or thereof, except as enforceability may be restricted, limited or delayed by applicable bankruptcy, moratorium or other Laws affecting creditors' rights and remedies generally and except as enforceability may be subject to general principles of equity.

4.4 No Outstanding Rights.

(a) Except as set forth on Schedule 4.4(a), (a) no Seller owns, of record or beneficially, directly or indirectly, any shares of capital stock, membership or other comparable

equity interest of any Person other than the other Sellers, the Related Ventures, and publicly-traded securities available on established stock exchanges, (b) no Seller is a party to any agreement relating to the prospective formation of any other Person, and (c) no Seller has any contractual right or obligation to acquire any direct or indirect equity or ownership interest in any other Person.

(b) Except as set forth on Schedule 4.4(b), there are no outstanding rights (including any right of first refusal), options or Contracts made on behalf of any of Sellers or their Affiliates providing for, permitting or requiring any Person any current or future right to require any Seller or any Affiliate of any Seller or, following the Closing Date, the Company or a Company Subsidiary, to sell, lease or transfer to such Person or to any third party any interest in any of the Facilities or Purchased Assets.

4.5 Title; Purchased Assets.

(a) As of the date hereof, Sellers have good and marketable title to the Purchased Assets free and clear of all Encumbrances, except for Permitted Exceptions shown on Schedule 4.5(a) ("Pre-Closing Permitted Exceptions"). As of the Closing, the Sellers shall have good and marketable title to the Purchased Assets free and clear of all Encumbrances, except for Permitted Exceptions shown on Schedule 12.2 ("Permitted Exceptions"). At the Closing, Sellers shall convey all of their right, title and interest in, including good and marketable title to, the Purchased Assets to the Company and the Company Subsidiaries (as applicable) free and clear of all Encumbrances, except for Permitted Exceptions and the Assumed Liabilities.

(b) The Purchased Assets and the Excluded Assets (but only to the extent the Excluded Assets are specifically identified in this Agreement or the schedules hereto) constitute all assets that are held or used by any Seller or any Affiliate or otherwise necessary for the conduct of the Business substantially in the manner conducted as of the date of this Agreement and consistent with past practice.

4.6 Affiliate Agreements. Except as set forth on Schedule 4.6: (a) no Seller owes any amount to, or has any customer, supplier or distributor Contract with (other than amounts reimbursable for expenses and salary arising in the Ordinary Course of Business to such individuals), any Affiliate or any of such Seller's directors, trustees, officers or consultants; and (b) there are no customer, supplier or distributor Contracts presently in effect between any Seller, on the one hand, and any director, trustee, officer or shareholder of any Seller or any Affiliate of the foregoing, on the other hand.

4.7 Financial Information.

(a) Attached hereto as Schedule 4.7(a) are true and correct copies of: (a) the audited consolidated balance sheet of Sellers as of September 30, 2012 (the "Audited Balance Sheet") and the audited consolidated balance sheet of Sellers as of each of September 30, 2011 and September 30, 2010, together with the audited consolidated statements of earnings, changes in shareholders' equity and cash flows for the respective fiscal years then ended, including the notes thereto, in each case examined by and accompanied by the report of independent public accountants; and (b) the unaudited consolidated balance sheet of Sellers as of July 31, 2013 (the

"Interim Balance Sheet") and the unaudited consolidated statements of earnings, changes in shareholders' equity and cash flows for the nine (9) months then ended (such unaudited statements collectively with the Interim Balance Sheet, the "Interim Financial Statements"). All of the foregoing financial statements (including the notes thereto, if any) are hereinafter collectively referred to as the "Financial Statements."

(b) Except as set forth in Schedule 4.7(b), the Financial Statements present fairly, in all material respects, the financial position and results of operations of Sellers, on a consolidated basis, as of the dates and for the periods indicated, in each case in conformity with GAAP applied on a consistent basis throughout the periods covered thereby, and subject, in the case of the Interim Financial Statements, to the absence of footnote disclosures and normal year-end adjustments that will not be material individually or in the aggregate.

(c) Except as set forth in Schedule 4.7(c), Sellers have no Liabilities whether or not required by GAAP to be reflected or reserved against in the Audited Balance Sheet or the Interim Balance Sheet, except for (A) Liabilities reflected or reserved against in the Audited Balance Sheet or the Interim Balance Sheet and (B) current Liabilities incurred in the Ordinary Course of Business since the date of the Audited Balance Sheet.

(d) Schedule 4.7(d) accurately lists as of the date hereof and will set forth as of Closing all of Sellers' outstanding Indebtedness, and shall specifically identify all outstanding Material Indebtedness and all outstanding Capital Lease Obligations.

4.8 Permits and Approvals.

(a) Schedule 4.8(a) lists all Permits, Environmental Permits and Approvals issued or granted by a Governmental Entity and owned or held by or issued to a Seller or an Affiliate of a Seller in connection with the Business, and such Permits, Environmental Permits and Approvals constitute all Permits, Environmental Permits and Approvals necessary for the conduct of the Business as currently conducted. Sellers are, and will be at the Closing, the duly authorized holders of such Permits, Environmental Permits and Approvals, all of which are in full force and effect and unimpaired. Except as set forth in Schedule 4.8(a), no approval by or permission from any Governmental Entity relating to any such Permit, Environmental Permit or Approval will be or is needed as a result of the Transactions contemplated in this Agreement. Each Facility's pharmacies, laboratories and all other ancillary departments located at such Facility and operated by a Seller or an Affiliate of a Seller for the benefit of such Facility, if required to be specially licensed, are duly licensed by each appropriate Governmental Entity, and a list of such licenses is set forth on Schedule 4.8(a). True and complete copies of all such Permits, Environmental Permits and Approvals set forth on Schedule 4.8(a) have been delivered or made available to the Company.

(b) (i) The Business is in compliance in all material respects with all Permits, Environmental Permits and Approvals required by Law; (ii) to Sellers' Knowledge, except as provided in Schedule 4.8(b), no waivers of any Laws have been granted or are required for the operation of the Business as currently conducted by Sellers, nor has grandfathered compliance status with respect to such Laws been granted; (iii) there are no provisions in, or Contracts relating to, any such Permits, Environmental Permits and Approvals that preclude or limit Sellers

from operating the Business as it is currently operated; and (iv) there is not now pending or, to Sellers' Knowledge, threatened any action by or before any Governmental Entity to revoke, cancel, rescind, suspend, restrict, modify or refuse to renew any of the Permits, Environmental Permits and Approvals, and all of the Permits, Environmental Permits and Approvals are and shall be effective, unrestricted and in good standing now and as of the Closing Date.

(c) (i) Sellers hold all accreditations/certifications issued by accrediting bodies that are necessary or customary for the operation of the Business; (ii) there is not now pending nor, to Sellers' Knowledge, threatened any action by any accrediting body to revoke, cancel, rescind, suspend, restrict, modify or non-renew any such accreditation/certifications; and (iii) all such accreditations/certifications are and shall be effective unrestricted and in good standing as of the date hereof and as of the Closing Date.

(d) Except as set forth in Schedule 4.8(d), each of the Facilities is in compliance with all applicable fire code regulations. Sellers have delivered or made available to the Company the most recent state licensing reports and lists of deficiencies, if any, and the most recent fire marshal surveys and lists of deficiencies, if any, for each of the Facilities, and no such deficiencies are material.

4.9 Intellectual Property. Except for Intellectual Property constituting Excluded Assets:

(a) Schedule 4.9(a) sets forth a complete and accurate list of all Intellectual Property licensed from third parties (the "Third Party Intellectual Property") other than Off-the-Shelf Software.

(b) Sellers own and will own at the Closing all Seller Intellectual Property free and clear of all Encumbrances other than Pre-Closing Permitted Exceptions or Permitted Exceptions, as applicable. To Sellers' Knowledge, the Seller Intellectual Property includes all of the Intellectual Property necessary in the conduct of the Business as currently conducted.

(c) To Sellers' Knowledge: (i) Sellers hold and will hold at the Closing valid licenses to use all Third Party Intellectual Property as used in the Business as of the date hereof and as of the Closing Date; and (ii) except as set forth on Schedule 4.9(c) and subject to Pre-Closing Permitted Exceptions or Permitted Exceptions, as applicable, Sellers have and will have at the Closing all rights necessary to assign, transfer and convey to the Company and the Company Subsidiaries (as applicable) pursuant to this Agreement all rights of Sellers in and to all Intellectual Property, other than pursuant to Excluded Contracts, free and clear of any Encumbrances other than Pre-Closing Permitted Exceptions or Permitted Exceptions, as applicable.

(d) To Sellers' Knowledge: (i) the conduct of the Business as conducted currently does not or, and at any time in the past did not, infringe, misappropriate or violate any Intellectual Property rights owned or controlled by any third party; and (ii) as of the date hereof and as of the Closing Date, there is no unauthorized use, disclosure, infringement or misappropriation by a third party of any Seller Intellectual Property.

(e) No Seller or Affiliate of Seller has brought any Legal Proceeding for infringement of Seller Intellectual Property or breach of any license or Contract involving Intellectual Property against any third party. No written claim by any third party contesting the validity, enforceability or ownership of any Seller Intellectual Property has been made, is currently outstanding, or, to Sellers' Knowledge, is threatened. To Sellers' Knowledge, no such claim has been made, is currently outstanding, or is threatened against any licensor to the Sellers of Third Party Intellectual Property.

(f) Except as set forth in the Assumed Contracts, no necessary registration, maintenance and renewal fees that are the responsibility of Sellers or their Affiliates in connection with the Intellectual Property pursuant to Assumed Contracts are due and payable as of the date hereof and none will be due and payable as of the Closing Date, except for standard expirations and renewals in the Ordinary Course of Business.

(g) No Seller has entered into any written agreement granting to any Person the right to control the prosecution or registration of any of the Seller Intellectual Property.

(h) Schedule 4.9(h) lists all Seller Intellectual Property that is registered or is the subject of a pending application for registration in any country, state or territory.

4.10 Government Program Participation/Accreditation.

(a) Except as set forth on Schedule 4.10(a), each Facility that participates in a Government Reimbursement Program is: (i) eligible to receive payment without restriction under the Government Reimbursement Programs for services provided to qualified beneficiaries; and (ii) qualified to participate in and has current provider agreements (with one or more provider numbers) with the Government Reimbursement Programs and/or their MACs (or other fiscal intermediaries). All of the provider numbers used by Sellers in connection with the Business are listed on Schedule 4.10(a).

(b) Except as expressly disclosed in writing by Sellers to the Company, each Facility that participates in a Government Reimbursement Program is in compliance in all material respects with the conditions of participation for such Government Reimbursement Program. Except as expressly disclosed in writing by Sellers to the Company, there is not pending, nor, to Sellers' Knowledge, is there threatened, any proceeding or investigation under the Government Reimbursement Programs involving Sellers or the Business, or any Person who as of the date hereof or as of the Closing Date is an officer, director, trustee, Employee or agent of Sellers in connection with such Facilities.

(c) (i) Cost Reports for each of the Facilities that participates in a Government Reimbursement Program were filed when due; (ii) except as expressly disclosed in writing by Sellers to the Company, the Cost Reports are in all material respects complete and correct; (iii) such Cost Reports do not claim, and none of such Facilities has received payment or reimbursement in excess of, the amount provided by Law, other than as may be determined pursuant to a future RAC audit as provided in Section 13.6(b) below; (iv) all amounts shown as due from any of such Facilities in the Cost Reports either were remitted with such Cost Reports or will be remitted when required by applicable Law, and all amounts shown in the

corresponding Notices of Program Reimbursement as due have been or prior to Closing will be paid when required under applicable Law; and (v) except to the extent that liabilities or contractual adjustments with respect to such Facilities under the Government Reimbursement Programs have been properly reflected and adequately reserved in the Financial Statements, Sellers have not received notice of any dispute or claim by any Governmental Entity, fiscal intermediary or other Person regarding the Government Reimbursement Programs or the participation by any of such Facilities in such programs. Complete and correct copies of all such reports for the three (3) most recently completed fiscal years of Sellers have been delivered or made available to the Company.

(d) Except as set forth on Schedule 4.10(d), there are no claims, actions or appeals pending before any Governmental Entity with respect to any Cost Reports or claims filed on behalf of Sellers with respect to any of the Facilities that participates in a Government Reimbursement Program, on or before the date of this Agreement (nor shall there be as of Closing, except as disclosed in writing to the Company), or any disallowances by any Government Entity in connection with any audit of such Cost Reports. Except as set forth on Schedule 4.10(d), no validation review or program integrity review related to the Business or the consummation of the Transactions has been conducted by any Governmental Entity in connection with any Government Reimbursement Programs, and, to Sellers' Knowledge, no such reviews are scheduled, pending or threatened against Sellers with respect to the Business or the consummation of the Transactions.

(e) All billing practices of Sellers (including any employed physician practices) with respect to Government Reimbursement Programs and Private Health Plans have been in compliance in all material respects with all applicable Laws, regulations and policies of such Government Reimbursement Programs and Private Health Plans and, to Sellers' Knowledge, Sellers (including any employed physician practices) have not billed or received any material payment or reimbursement in excess of amounts allowed by Law or such payors, other than as may be determined pursuant to a future RAC audit as provided in Section 13.6(b) below.

(f) Sellers have provided to the Company true and complete copies of the most recent accreditation survey report and deficiency list with respect to each Facility and plan of correction, if any, issued by a Governmental Entity. Except as set forth on Schedule 4.10(f), each Facility is implementing remediation of any such deficiencies.

(g) Neither any Seller nor, to Sellers' Knowledge, any of their Affiliates or any director, trustee, officer or Employee of Sellers or any of their Affiliates or any agent acting on behalf of or for the benefit of any of the foregoing, has, directly or indirectly, in connection with any of the Facilities or the Business, engaged in any activities that are prohibited or are cause for civil monetary penalties, criminal sanctions or other legal sanctions under any Laws.

(h) Neither any Seller nor, to Sellers' Knowledge, any of their Affiliates or any director, trustee, officer or Employee of Sellers or any of their Affiliates, is a party to any Contract (including any joint venture or consulting agreement) related to or affecting the Business with any physician, health care facility, hospital, nursing facility, home health agency or other Person who is in a position to make or influence referrals to or otherwise generate business for the Business, to provide services, lease space, lease equipment or engage in any

other venture or activity, in a manner or to the extent that any of the foregoing is prohibited by Law.

4.11 Regulatory Compliance; Illegal Payments.

(a) Except as expressly disclosed in writing by Sellers to the Company: (i) Sellers are in compliance in all material respects with all applicable Laws of Governmental Entities having jurisdiction over each Facility, the Purchased Assets and the Business; and (ii) since December 31, 2009, each of Sellers has timely filed all material forms, applications, reports, statements, data and other information required to be filed with Governmental Entities with respect to the Business.

(b) To Sellers' Knowledge, except as expressly disclosed in writing by Sellers to the Company: (i) each of the Related Ventures is in compliance, in all material respects, with all applicable Laws of Governmental Entities having jurisdiction over it and its business; and (ii) since December 31, 2009, each of the Related Ventures has timely filed all material forms, applications, reports, statements, data and other information required to be filed with Governmental Entities with respect to its business.

(c) Neither any Seller nor, to Sellers' Knowledge, any officer, director, trustee, manager, personnel or agent of any Seller or any other Person on behalf of any Seller, has made or authorized, directly or indirectly, any payment of funds of, or relating to, any Seller that is prohibited by any Laws, including laws relating to bribes, gratuities, kickbacks, lobbying expenditures, political contributions and contingent fee payments.

4.12 Contracts.

(a) Schedule 4.12(a) lists all of the following Contracts to which any Seller is a party or by which it is bound and that are primarily related to the Business or by which the Purchased Assets or Facilities may be bound or affected (collectively, the "Material Contracts"):

(i) Third party contracts;

(ii) Managed care matrix;

(iii) Outside consulting/labor agreements;

(iv) Equipment lease agreements;

(v) Capital leases; and

(vi) Loan guarantees and agreements.

Notwithstanding the foregoing, the Parties hereby acknowledge and agree that Schedule 4.12(a) has been prepared based on good faith efforts by Sellers in anticipation of execution of this Agreement and, accordingly, the inadvertent omission of a Material Contract from Schedule 4.12(a) shall not constitute or be construed as a breach for purposes of Sections 9.2, 11.1(iv), or 14.2(a) hereof.

(b) Each Assumed Contract is valid and existing as to the applicable Seller, and each Seller has duly performed, in all material respects, its obligations under each Assumed Contract to which it is a party to the extent that such obligations to perform have accrued or the term thereof has not expired. Except as set forth on Schedule 4.12(b), to Sellers' Knowledge, no breach or default, alleged breach or default, or event or condition that would (with the passage of time, notice or both) constitute a breach or default under any Assumed Contract by Sellers or any other party or obligor with respect thereto, has occurred or exists.

(c) Schedule 4.12(c) lists each Assumed Contract with a change of control provision that would be triggered by the Transactions and, as a result thereof, may require notice to or consent by a third party or may cause a third party to have a right of termination (excluding, for these purposes, any Assumed Contract and Material Contract described in Section 4.12(d) or (e) below).

(d) Schedule 4.12(d) lists each Assumed Contract that, by its terms, requires notice to (but not consent of) a third party in order for Sellers to assign such Assumed Contracts and Material Contracts to the Company or a Company Subsidiary in accordance with the terms of this Agreement (excluding, for these purposes, any Assumed Contract described in Section 4.12(e) below).

(e) Schedule 4.12(e) lists each Assumed Contract that, by its terms, requires a third party's consent to assignment in order for Sellers to assign such Assumed Contracts and Material Contracts to the Company or a Company Subsidiary in accordance with the terms of this Agreement, with Material Consents (for purposes of Section 3.3(o) above and Section 13.4 below) denoted with an asterisk. Company shall have a period of three (3) Business Days following the Delivery Date during which to complete the denotation of Material Consents with an asterisk.

(f) Sellers have delivered or made available to the Company true and correct copies of all of the foregoing Assumed Contracts described in the foregoing Sections 4.12(c)-(e). No Seller is a party to any oral arrangement or understanding relating to the Business that if in writing would be described in any such Section.

4.13 Tax Matters. Except as set forth on Schedule 4.13:

(a) Each Seller is an entity organized under U.S. federal or state law, and all of the Facilities and Purchased Assets are located in the United States;

(b) All of the assets and operations of Sellers are located within the State of Rhode Island;

(c) None of the Facilities or Purchased Assets are treated, for U.S. federal income tax purposes, as either stock of a corporation or interests in a partnership, except for the interests of CCHP in the Related Ventures, which are treated as interests in partnerships for U.S. federal income tax purposes. None of the Facilities or Purchased Assets are equity interests in an entity that is treated as disregarded from its owner for U.S. federal income tax purposes;

(d) Except as provided below, each Seller is: (i) exempt from taxation under Subtitle A of the Code by virtue of being described in Section 501(c)(3) of the Code; and (ii) exempt from state and local income taxation under applicable analogous provisions of state and local Tax laws. Notwithstanding the foregoing: (x) SJHE is an entity that is treated as disregarded from its owner for U.S. federal income tax purposes; and (y) PHO, Elmhurst HA, Our Lady and Rosebank are subject to U.S. federal and state income taxation;

(e) To Sellers' Knowledge, all Tax Returns required to be filed by, or on behalf of, any Seller have been filed within the time (including any valid extensions thereof) and in the manner provided by Law, and all such Tax Returns are true, correct and complete in all material respects (provided, for the avoidance of doubt, that any statements in a Tax Return relevant to the continuing eligibility of any Seller, or any Affiliate of any Seller, for exemption from any Tax shall be deemed to be material for purposes of this Section 4.13), and all amounts shown due on such Tax Returns have been paid on a timely basis;

(f) To Sellers' Knowledge, all Taxes for which any Seller may have any liability (whether disputed or not) that have become or are due with respect to the Facilities or Purchased Assets, and any assessments received by any Seller, either have been paid or have been adequately reserved for in accordance with GAAP on the financial statements of Sellers;

(g) To Sellers' Knowledge, there are no liens for any Tax on any of the Facilities or Purchased Assets, and there is no basis for the assertion of any lien for any Tax;

(h) To Sellers' Knowledge: (i) all amounts required to be withheld or collected by any Seller in compliance with the payroll tax and other withholding provisions of all applicable Laws have been so withheld or collected, and all such amounts withheld or collected have been timely, duly and validly remitted to the proper Governmental Entity; and (ii) all Internal Revenue Service Forms W-2, Forms 1099 and other required information returns, as well as any and all analogous state or local information returns, have been timely filed with the proper Governmental Entity, and all required information statements in respect of such information returns have been properly delivered to the appropriate recipients thereof; and

(i) No audit or other examination of any Tax Return is presently in progress, and, during the prior three (3)-year period, no notice of a claim or pending investigation has been received or, to Sellers' Knowledge has been threatened, alleging that: (i) any Seller may not have been fully exempt from any Tax for any period for which Sellers filed any Tax Return claiming such exemption; or (ii) any Seller otherwise has a duty to file any Tax Return or pay any Tax or is otherwise subject to the taxing authority of any jurisdiction in any manner, nor in connection therewith has any Seller received any notice or questionnaire from any Governmental Entity in any jurisdiction which suggests or asserts that such Seller may have a duty to file such Tax Returns or pay such Taxes, or otherwise is subject to the taxing authority of such jurisdiction, and no Seller has executed a waiver of any statute of limitations or other extension of the period for the assessment or collection of any Tax, which waiver or extension remains outstanding.

4.14 Real Property; Condition of Title.

(a) Real Property. Schedule 4.14(a) lists by street address all Owned Real Property owned by any Seller and used in connection with the Business. Neither any Seller nor any of their Affiliates have created any Encumbrance (other than Pre-Closing Permitted Exceptions or Permitted Exceptions, as applicable) that will interfere with the use of the Facilities and the Purchased Assets by the Company or a Company Subsidiary after Closing in a manner consistent with the current use by Sellers and their Affiliates. Any Seller that owns Owned Real Property at Closing will convey good and marketable fee simple title to such parcel of Owned Real Property and, to the extent transferrable, any Seller with a leasehold interest in Leased Real Property will assign a valid and enforceable leasehold interest in such Leased Real Property to the Company or a Company Subsidiary, in each case, free and clear of any Encumbrance, except for Permitted Exceptions.

(b) Owned Real Property. Except as otherwise disclosed in Schedule 4.14(b), with respect to each parcel of Owned Real Property: (i) there are no pending or, to Sellers' Knowledge, threatened condemnation proceedings, suits or administrative actions relating to the Owned Real Property or other matters adversely affecting the current use, occupancy or value thereof; (ii) Sellers have not received a written notice from any Governmental Entity of any violation of any applicable Law issued with respect to any of the Owned Real Property that has not been corrected prior to the date hereof and, to Sellers' Knowledge, no such violation exists that could have a material adverse effect on the operation or value of any of the Owned Real Properties; (iii) other than rights of third parties arising under any Lease or Assumed Contract, there are no Contracts granting to any party or parties the right of use or occupancy of any portion of the parcels of Owned Real Property; (iv) the Facilities have received all approvals of Governmental Entities (including licenses and permits) required in connection with the ownership or operation thereof and, to Sellers' Knowledge, are in compliance, in all material respects, with applicable Laws, ordinances, rules and regulations; (v) other than rights arising under any Lease or Assumed Contract (true and correct copies of which have been delivered or made available to the Company), there are no outstanding options or rights of first refusal to purchase the parcels of Owned Real Property, or any portion thereof or interest therein; (vi) there are no parties (other than Tenants under Leases) in possession of the parcels of Owned Real Property; (vii) neither any Seller nor any of their Affiliates has received written notice of any special assessment that may affect any parcel of Owned Real Property; and (viii) the Owned Real Property is, and until Closing shall be, insured against casualty on a full replacement cost basis by one or more insurance policies maintained by Sellers.

(c) Leases. Schedule 4.14(c) lists all Leases where any Seller is a lessee, sublessee, licensee or occupant (copies of which have previously been delivered or made available to the Company), or a lessor, sublessor or licensor in each case, setting forth (a) the parties thereto and the date and term of each of the Leases, (b) the street address and, if applicable, the suite or office number of the premises under the applicable Lease, (c) a brief description (including size and function) of the premises under the applicable Lease, (d) any requirement of consent of or notice to the lessor, sublessor or licensor to assignment of any Leased Real Property, and (e) any sublessees or sublicensees of any tenants of Sellers. Except as set forth on Schedule 4.14(c): (i) no Seller nor any Affiliate has entered into any Leases with respect to the Real Property or the Business; (ii) each Lease in respect of the Real Property

constitutes a legal, valid and binding obligation of the Seller or its Affiliate that is a party thereto, is in full force and effect, has not been amended and such Seller is not in default or breach thereunder and, to Sellers' Knowledge, the other party thereto is not in default or breach thereof; (iii) to Sellers' Knowledge, no event has occurred that, with the passage of time or the giving of notice or both, would cause a breach of or default under any of such Leases by the Seller that is a party thereto or by the other party to such Lease; and (iv) with respect to each such parcel of Leased Real Property (A) Sellers or their Affiliate have valid leasehold interests in such leased premises, free and clear of any Encumbrances, except for Permitted Encumbrances, and (B) neither any Seller nor any Affiliate have received written notice of (1) any condemnation proceeding with respect to any portion of the Leased Real Property or any access thereto, or (2) any special assessment which may affect any parcel of Leased Real Property. True and complete copies of all such Leases and all amendments, modifications and supplements existing as of the date hereof have been delivered or made available to the Company. The Rent Roll attached as Schedule 4.14(c) hereto is true and correct as of the date hereof. As of the date hereof, all rents and any additional charges due under each Lease (including, without limitation, all fixed rents, base rents, additional rents, percentage rents, common area maintenance charges, utility charges and tax charges) under which a Seller or its Affiliate is a landlord, lessor, sublessor, licensor or sublicensor are being billed to the Tenants under such Lease in accordance with the schedule set forth on Schedule 4.14(c). As of the date hereof, no such Tenant is in arrears in the payment of any such rent for more than one calendar month, except as set forth on Schedule 4.14(c). As of the date hereof, no Tenant is entitled to "free" rent or tenant improvement allowances, except as set forth on Schedule 4.14(c). As of the date hereof, all work required to be performed by the lessor or sublessor under each of the Leases has been completed and paid for, except as set forth on Schedule 4.14(c).

(d) Buildings and Systems. To Sellers' Knowledge, each of the following systems of the Hospital or other Owned Real Property: plumbing, electrical, mechanical or heating, ventilation and air conditioning, sewage, roofing, foundation and floors (collectively, the "Buildings and Systems"); is now, and shall be at Closing, in working order and, except as set forth on Schedule 4.14(d), none of such systems are currently in need of repairs anticipated to cost more than $200,000. Except as set forth on Schedule 4.14(d), there are no written notices of any outstanding requirements, recommendations or requests from any Governmental Entity or Tenant requiring any repairs or work to be done with respect to the improvements or pertaining to the maintenance of the Buildings and Systems.

(e) Utilities. To Sellers' Knowledge, all public utilities, including water, sewer, gas, electricity and telephone, are installed and operating and provide adequate service to the Facilities and the other Owned Real Property to continue operations in the manner in which they are now operating. Except as set forth on Schedule 4.14(e), no Seller has received written notice from any public utility regarding (i) any arrearages, fines or penalties relating to utility services that remain unpaid or unresolved, or (ii) any change (pending, proposed or actual) in utility service or fees therefor with respect to the Facilities and the other Owned Real Property. Parking spaces for visitors are available in parking lots at each Facility, which parking is sufficient to accommodate and service the present usage of the Facilities. To Seller's Knowledge, each Facility and other Owned Real Property is contiguous to publicly dedicated streets, roads, or highways providing legal access to such Owned Real Property or such legal access is provided through valid, appurtenant easements.

4.15 Personal Property. Sellers have delivered or made available to the Company true and complete, in all material respects, list(s) and/or schedule(s) of fixed assets, equipment, supplies and other tangible personal property owned or leased by, in the possession of, or used by Sellers in connection with the Business. Sellers own and hold, and will own and hold on the Closing Date, good title to all tangible personal property assets and, except as to Intellectual Property, valid title to all intangible assets included in the Facilities and Purchased Assets, free and clear of all Encumbrances except Pre-Closing Permitted Exceptions or Permitted Exceptions (as applicable) and rights of owners under leases or licenses of assets leased or licensed to Sellers in the Ordinary Course of Business under Assumed Contracts. To Sellers' Knowledge, the tangible personal property of Sellers is in working order and, except as set forth on Schedule 4.15, none of such property is currently in need of repairs or replacements anticipated to cost more than $200,000.

4.16 Insurance. Sellers have delivered or made available to the Company true and complete, in all material respects, list(s) and/or schedule(s) of all insurance policies or self-insurance funds maintained by Sellers as of the date of this Agreement covering the ownership and operation of the Purchased Assets or any of the Facilities, indicating the types of insurance, policy numbers, terms, identity of insurers and amounts and coverage (including applicable deductibles). To Sellers' Knowledge, Sellers are not in default under any such policies. Except as described on Schedule 4.16, all of such policies are now and will be until the Closing in full force and effect. Except as described on Schedule 4.16, Sellers have received no notice of default under any such policy or notice of any pending or threatened termination or cancellation, coverage limitation or reduction or material premium increase with respect to any such policy. Sellers have delivered or made available to the Company the claims history under each of the insurance policies of Sellers since December 31, 2010. Except as set forth on Schedule 4.16, all of Sellers' insurance policies and coverages are "occurrence-based" and do not require tail policies in order to cover all matters and liabilities occurring prior to the Effective Time.

4.17 Employee Benefit Plans.

(a) Schedule 4.17(a) lists (i) each employee benefit plan within the meaning of Section 3(3) of ERISA (whether or not ERISA applies to such employee benefit plan) other than the Retirement Plan, which shall not be considered a "Seller Plan" for purposes of this Agreement, and (ii) any other employee benefit or executive compensation plan, fund, agreement, program, policy, or arrangement, including any Employment Agreement, retention agreement and bonus program, whether written or unwritten, formal or informal, (A) which is or has been maintained or contributed to within the last 6 years by any Seller or by any other member of any Sellers' Controlled Group for the benefit of any Employee or former employee of any Sellers or their Affiliates at the Facilities or the Purchased Assets or (B) under which any Seller or any other member of any Sellers' Controlled Group has or may have any outstanding present or future obligations to contribute or other liability, whether voluntary, contingent or otherwise (collectively, the "Seller Plans"). With respect to each Seller Plan and the Retirement Plan, (i) all contributions (including all employer contributions and employee salary reduction contributions), distributions, reimbursements and premium payments for all periods ending prior to or as of the Closing Date shall have been made by Sellers or properly accrued, (ii) with respect to any insurance contract providing funding under any Seller Plan, to Sellers' Knowledge, there is no material liability for any retroactive rate adjustment arising from events occurring prior to

the Closing Date, and (iii) to Sellers' Knowledge, there has been no prohibited transaction (as defined in Section 406 of ERISA and 4975 of the Code, or Section 503 of the Code, as applicable) or breach of fiduciary duty (as determined under ERISA or state law, as applicable).

(b) With respect to each Seller Plan and the Retirement Plan, Sellers have delivered to the Company true and complete copies of such Plans and trust documents and any amendments thereto (or if the Seller Plan is not written, a true and reasonably complete description thereof), summary plan descriptions, all insurance contracts or other funding arrangements and the most recent third party administration contracts, all material communications received or sent to any Governmental Entity, the most recent actuarial reports and accountant's opinions of the plan's financial statements, if applicable, the most recent estimate available to Sellers of any potential multiemployer plan withdrawal liability of Sellers and their Controlled Group members, the most recent determination letter received from the IRS to the extent that any Seller Plan or the Retirement Plan is intended to be tax-qualified under Section 401(a) of the Code, and, in the case of any Seller Plan subject to ERISA, the three most recent Form 5500 annual reports, as filed, and all other material documents pursuant to which the Seller Plan is maintained, funded, and administered. Each Seller Plan and the Retirement Plan complies in all material respects with the Code and all applicable Laws, and such Plan has been operated in material compliance with the terms thereof in all respects. Neither any Seller nor any members of Sellers' Controlled Group have improperly excluded any eligible employee from participation in any Seller Plan or the Retirement Plan. The Retirement Plan and each Seller Plan that is intended to be tax-qualified under Section 401(a) of the Code is so qualified and, to Sellers' Knowledge, there are no currently existing circumstances that could reasonably result in revocation of any such qualification. The trusts maintained under each such tax-qualified plan are exempt from taxation under Section 501(a) of the Code. Each Seller Plan that is intended to meet the requirements of Section 403(b) of the Code complies in all material respects with Section 403(b) of the Code and the regulations issued thereunder, and each Seller Plan that is intended to meet the requirements of Section 457(b) of the Code complies in all material respects with Section 457(b) of the Code and the regulations issued thereunder.

(c) The Purchased Assets are not, and to Sellers' Knowledge there is no existing factual basis for the Purchased Assets to become, subject to a lien imposed under the Code or under Title I or Title IV of ERISA or by operation of state law, including liens arising by virtue of any Seller being considered to be aggregated with another trade or business pursuant to Section 414 of the Code or Section 4001(b)(1) of ERISA ("Controlled Group").

(d) Neither any Seller nor any member of Sellers' Controlled Group has at any time sponsored, contributed to, has or had an "obligation to contribute" (as defined in ERISA Section 4212) or has or had any liability, whether voluntary, contingent or otherwise with respect to a "multiemployer plan" (as defined in ERISA Sections 4001(a)(3) or 3(37)(A) or Section 414(f)) of the Code), either as an employer or a joint employer.

(e) Neither any Seller nor any member of Sellers' Controlled Group has at any time sponsored or contributed to or has or had any liability, whether voluntary, contingent or otherwise with respect to a "single employer plan" (as defined in ERISA Section 4001(a)(15), whether or not ERISA would apply to such plan) to which at least two or more of the

"contributing sponsors" (as defined in ERISA Section 4001(a)(13), whether or not ERISA would apply to such plan) are not part of the same Controlled Group.

(f) Except as set forth on Schedule 4.17(f), (i) no Legal Proceeding has been instituted or, to Sellers' Knowledge, threatened against or involving any Seller Plan or the Retirement Plan (other than routine claims for benefits), any trustee or fiduciaries thereof, or Sellers, (ii) there are no actions, audits or claims pending or, to Sellers' Knowledge, threatened against any Seller or any Seller Plan or the Retirement Plan with respect to such Seller's maintenance of the Seller Plans, other than routine claims for benefits, and (iii) no Seller Plan nor the Retirement Plan is under audit by the IRS or any other Government Entity, or, to Sellers' Knowledge, under investigation by the IRS or any other Governmental Entity.

(g) To the extent applicable, the members of Sellers' Controlled Group have complied with all of the continuation coverage requirements of Section 4980B(f) of the Code and Party 6 of Subtitle B of Title I of ERISA and any comparable state laws requiring Sellers or any member of Sellers' Controlled Group to provide group health continuation coverage to employees, former employees and other eligible individuals ("COBRA").

(h) Except as set forth on Schedule 4.17(h), no Seller Plan provides health, dental, life insurance or other welfare benefits (whether on an insured or self-insured basis) to Employees after their retirement or other termination of employment (other than continuation coverage required under COBRA which may be purchased at the sole expense of the Employee).

(i) None of the Seller Plans is a "church plan" within the meaning of Code Section 414(e) (a "Church Plan"). The Retirement Plan is a Church Plan. The Retirement Plan has been a Church Plan since the date on which the Retirement Plan was established, and has continuously maintained such status since that date. The Retirement Plan has at all times been administered by an organization described in Section 414(e)(3)(A) of the Code and Seller has not made, with respect to the Retirement Plan, an election pursuant to Section 410(d) of the Code.

(j) Except as set forth on Schedule 4.17(j), no Seller has within the last six (6) years sponsored or contributed to or has or had any liability, whether voluntary, contingent or otherwise with respect to a defined benefit plan. With respect to any defined benefit plan listed on Schedule 4.17(j), Seller has fully disclosed the current funding status of the plan and properly accounted for its obligations with respect to such plans on its financial statements. Except as set forth on Schedule 4.17(j), neither any Seller nor any member of Sellers' Controlled Group participates in, contributes to, or otherwise has any current or contingent liability or obligation under or with respect to any plan that is or was subject to Title IV of ERISA or Section 412 of the Code. No Seller nor any member of Sellers' Controlled Group has any current or contingent liability or obligation by reason of at any time being treated as a single employer under Section 414 of the Code with any other Person.

(k) Each agreement, contract or other arrangement to which the a Seller is a party that is a "nonqualified deferred compensation plan" subject to Section 409A of the Code has been maintained in all material respects in documentary and operational compliance with Section 409A of the Code and the regulations thereunder and no amounts under any such agreement, contract, or other arrangement is or has been subject to the interest and additional tax

set forth under Section 409A of the Code. No Seller has any actual or potential obligation to reimburse or otherwise "gross-up" any Person for the interest or additional tax set forth under Section 409A of the Code. Each Seller Plan that is intended to constitute an "eligible deferred compensation plan" within the meaning of Section 457(b) of the Code satisfies the requirements of said Code section.

(l) Except as set forth on Schedule 4.17(l), the consummation of the transactions contemplated by this Agreement will not (i) entitle any Employee to severance pay or termination benefits, (ii) accelerate the time of payment or vesting (except to the extent required by Section 411 of the Code), or increase the amount of compensation due to any such Employee, (iii) obligate the Company or any Company Subsidiary to pay or otherwise be liable to any Employee for periods before the Closing Date to the extent such obligation or liability is not contained in the calculation of Final Net Working Capital, (iv) require assets to be set aside or other forms of security to be provided for any liability under a Seller Plan or the Retirement Plan, or (v) result in any "parachute payment" (within the meaning of Section 280G of the Code or any corresponding provision of state or local law).

4.18 Employees and Employee Relations.

(a) Sellers have delivered or made available to the Company on Sellers' Due Diligence Data Site a true and correct list of all Employees (other than residents or fellows) as of August 24, 2013, including the following information, as applicable: (i) position; (ii) job site; (iii) date of hire; (iv) department or administrative unit assigned; (v) current annual salary or hourly wage; (vi) date of last salary or wage increase; (vii) accrued vacation, holidays and/or sick leave; and (viii) the labor union, if any, by which the individual is represented (the "Employee List").

(b) Sellers have delivered to the Company complete and accurate copies of each employment, consulting, enrollment, appointment, training and similar agreement pertaining to the Business to which any Seller is a party. Except as disclosed on Schedule 4.18(b) or Schedule 4.18(c), no Seller is a party to or bound by any Contract, Order or statutory obligation (other than the WARN Act) pertaining to the Business (i) for the employment or provision of services (including as an independent contractor or consultant) by any individual, that is not terminable by such Seller without penalty upon 30 days' notice or less, or (ii) relating to the payment of any severance or termination payment, bonus or death benefit to any Employee, former employee or their estates or designated beneficiaries, except for proceeds under any standard employee benefit insurance policies that may be in effect.

(c) Schedule 4.18(c) identifies the labor or collective bargaining agreements, if any, including all side agreements, memoranda of understanding, arbitration awards construing or modifying the terms of any such agreements, and any other ancillary agreements applicable to the Employees. Prior to the date hereof, Sellers have delivered to the Company a copy of each agreement and/or other document listed on Schedule 4.18(c), if any. Sellers, without violating their statutory obligation to bargain in good faith, shall not negotiate any changes to, or extensions of, said collective bargaining agreements, or present substantive proposals to the applicable labor unions with respect to any such proposed changes or extensions, without first consulting with the Company and securing its prior written consent to same. Except as described

on Schedule 4.18(c), in connection with Sellers' operation of the Business: (i) no labor union or employee association has been certified as the collective bargaining agent for any group of Employees; (ii) there is no current, or to Sellers' Knowledge threatened, union organizing activities or campaign, or labor union demand for recognition or neutrality, with respect to any Employees or that could otherwise affect Sellers; (iii) to Sellers' Knowledge, no petition has been filed or proceeding instituted by or on behalf of any Employee, group of Employees or labor organization with the National Labor Relations Board or any other Governmental Entity exercising lawful jurisdiction over Sellers seeking recognition of a bargaining representative; and (iv) no Employee is represented by a labor union as it pertains to his or her employment by Sellers.

(d) Except as set forth on Schedule 4.18(d), there are no (i) strikes, work stoppages, work slowdowns or lockouts pending or threatened against or involving Sellers, or (ii) unfair labor practice charges or complaints pending or, to Sellers' Knowledge, threatened by or on behalf of any Employee or group of Employees, and Sellers have not experienced any such pending or threatened strikes, work stoppages, work slowdowns, lockouts, unfair labor practice charges or complaints since December 31, 2008.

(e) Except as described on Schedule 4.18(e), each Seller is in compliance in all material respects with all collective bargaining agreements, if any, arbitration awards or other Contracts relating to employment of represented or non-represented Employees, and there are no grievances or arbitrations pending under any such collective bargaining agreements.

(f) Except as set forth on Schedule 4.18(f): (i) each Seller is in compliance in all material respects with all Laws relating to employment, denial of employment or employment opportunity and termination of employment; (ii) no Seller is a party to, or otherwise bound by, any settlement agreement or consent decree with, or citation by, any Governmental Entity relating to Employees or employment practices; (iii) there is no charge of discrimination in employment or employment practices against Sellers, on any basis, including age, gender, race, religion, national origin, disability, marital status, sexual orientation or other legally protected characteristic, or charge of retaliation, which is now pending or, to Sellers' Knowledge, threatened, before the United States Equal Employment Opportunity Commission, or any other Governmental Entity in any jurisdiction in which Sellers have employed or currently employs any Employee or any probable cause determination with respect to any such charge; (iv) no Seller is liable for any payment to any trust or other fund or to any Governmental Entity with respect to unemployment compensation benefits, workers' compensation benefits, social security or other benefits or obligations for Employees (other than routine payments to be made in the normal course of business and consistent with past practice); (v) there is no claim with respect to payment of wages, salary or overtime pay, or unpaid withholding taxes or other sums as required by any appropriate Governmental Entity that is now pending or, to Sellers' Knowledge, threatened, before any Governmental Entity with respect to any current or former Employees; and (vi) there are no controversies pending or, to Sellers' Knowledge, threatened, by or on behalf of any Employees against Sellers, which controversies have or could reasonably be expected to result in a Legal Proceeding before any Governmental Entity, including those related to payment of wages, hours and the payment of withholding of taxes and other sums as required by any appropriate Governmental Entity.

(g) Except as set forth on Schedule 4.18(g), there is no material controversy pending or, to Sellers' Knowledge, threatened between a Seller and any of its current or former officers, directors, trustees or senior managers, in each case, in connection with the Business.

(h) Schedule 4.18(h) identifies all Employees who are working exclusively or substantially in connection with a research program.

(i) To Sellers' Knowledge: (i) no officer or senior manager has any present intention to terminate or materially alter his or her relationship with any Seller, other than as contemplated by this Agreement and the agreements to be entered into pursuant to this Agreement; and (ii) no Employees are in violation of any material term of any employment contract, patent disclosure agreement, enforceable noncompetition agreement or any enforceable non-solicitation or other restrictive covenant, in each case, to a former employer relating to the right of any such Employee to be employed by Sellers.

4.19 Residents and Fellows. Sellers have delivered or made available to the Company on Sellers' Due Diligence Data Site a true and correct list of all medical residents and fellows as of August 24, 2013, including the following information, as applicable: (i) the position; (ii) the date of appointment and enrollment in a sponsored graduate education program associated with Sellers; (iii) current annual stipend or other compensation; (iv) average number of hours participating in graduate medical education and training per week; (v) date of last stipend increase; and (vi) the union, if any, by which the individual is represented (the "Residents and Fellows List").

4.20 Medical Staff; Physician Relations. Sellers have delivered or made available to the Company on Sellers' Due Diligence Data Site complete and correct copies of the Bylaws, Rules and Regulations of the Medical Staff applicable to the Facilities, as in effect as of August 31, 2013. Consistent with applicable state law confidentiality and disclosure requirements applicable to medical staff members, Sellers have expressly informed the Company regarding any pending or, to Sellers' Knowledge, threatened, proceedings with the medical staff members at the Facilities or applicants or allied health professionals, other than routine medical staff credentialing and privileging functions. Sellers have delivered to the Company a true and correct list of all members of the medical staff and allied health professional staff of the Facilities as of August 31, 2013 (collectively, the "Medical Staff List"), including each person's name, title or position, and department.

4.21 Legal Proceedings. Schedule 4.21 contains an accurate list and summary description of all Legal Proceedings currently pending with respect to or affecting the Facilities and the Purchased Assets to which Sellers or any of their Affiliates is a party (including Governmental Entity and third party payor audits and related proceedings), as well as settlements, Orders or conciliation agreements under which Sellers or any of their Affiliates has current or future obligations with respect to the Facilities or Purchased Assets. Except to the extent set forth on Schedule 4.21, there are no Legal Proceedings, compliance reports, notices of violation or information requests pending, or, to Sellers' Knowledge, threatened against (i) any Seller or its Affiliates with respect to the Business, or (ii) any Employee as relates to his or her employment by Sellers.

4.22 Absence of Changes. Except as set forth in Schedule 4.22, between the date of the Audited Balance Sheet and the date hereof, there has not been any transaction or occurrence in which Sellers or any of their Affiliates, in connection with the Purchased Assets, have:

(a) suffered any damage, destruction or loss with respect to or affecting any of the Facilities or Purchased Assets in an amount in excess of $100,000;

(b) written down or written up the value of any Inventory (including write-downs by reason of shrinkage or markdowns), except in the Ordinary Course of Business;

(c) determined as collectible any account receivable or any portion thereof that was previously considered uncollectible, or written off as uncollectible any account receivable or any portion thereof, except for write-downs, write-ups and write-offs in the Ordinary Course of Business;

(d) disposed of, modified or permitted to lapse, any right to the use of any Intellectual Property, except in the Ordinary Course of Business;

(e) made any capital expenditure or commitment for additions to property, plant, equipment, intangible or capital assets or for any other purpose in an amount in excess of $100,000, other than in the Ordinary Course of Business;

(f) acquired any assets, including acquired any business (whether by merger, consolidation, the purchase of a substantial portion of the assets or equity interests of such business or otherwise), in an amount in excess of $100,000, other than in the Ordinary Course of Business;

(g) sold, leased, transferred or otherwise disposed of any of the Facilities or Purchased Assets having a current book value or fair market value in excess of $100,000, other than in the Ordinary Course of Business;

(h) granted or incurred any obligation for any increase in the compensation of any Employee (including any increase pursuant to any bonus, pension, profit-sharing, retirement, or other plan or commitment) or created any Seller Plan, in each case, other than in the Ordinary Course of Business;

(i) incurred, assumed or guaranteed any indebtedness, or made any loans, advances or capital contributions to, or investments in, any other Person, other than in the Ordinary Course of Business;

(j) cancelled, settled, compromised, waived or released any right or claim (or series of related rights and claims) involving more than $100,000, other than in the Ordinary Course of Business;

(k) made any change in any method of accounting or accounting principle, practice or policy, except as required by GAAP;

(l) suspended operation of, or closed any departments (or material service), clinics or health services or educational programs, or otherwise terminated or took action to terminate such operations;

(m) filed for bankruptcy;

(n) taken any other material action except in the Ordinary Course of Business, or specifically provided for in this Agreement; or

(o) agreed, so as to legally bind the Sellers or affect the Facilities or the Purchased Assets, whether in writing or otherwise, to take any of the actions set forth in this Section 4.22 and not otherwise permitted by this Agreement.

4.23 Environmental Matters.

(a) Except as set forth on Schedule 4.23:

(i) Except in compliance with applicable Environmental Laws, or in concentrations that would not be reasonably likely to result in an obligation to report to a Governmental Entity, investigate, remediate, correct or monitor any environmental condition, to Sellers' Knowledge, there are not and have not been during the past six (6) years any Hazardous Materials located in, on, under, at or from any Facility, Owned Real Property or Leased Real Property. Except in material compliance with applicable Environmental Laws, to Sellers' Knowledge, there are no portions of any Facility or Real Property being used, or within the last six (6) years have been used, by Sellers, or that have previously been used by any other Person, for Hazardous Activity in violation of Environmental Laws.

(ii) To Sellers' Knowledge, the Facilities, the Real Property and the Business and the operations of Sellers are in compliance in all material respects with all applicable Environmental Laws and have at all times during Sellers' operations for the past six (6) years been in compliance in all material respects with all applicable Environmental Laws. To Sellers' Knowledge, all Former Real Property had been in compliance in all material respects with applicable Environmental Laws during the ownership, lease or operation thereof by Sellers. To Sellers' Knowledge, there are no conditions existing at any Facility, Real Property or Former Real Property that have resulted in, or that with the giving of notice or the passage of time or both, could reasonably be expected to result in, liability under Environmental Laws. Sellers have not received any written notice of any potential or actual liability under Environmental Laws relating to any Facility, Real Property, Former Real Property or the conduct of the Business or the operations of Sellers or their predecessors-in-interest.

(iii) Sellers have, or have timely applied for, all material Environmental Permits. To Sellers' Knowledge, the Business, Sellers' operations, the Facilities and the Real Property are, and for the past six (6) years have been, in material compliance with the terms and conditions of all such Environmental Permits. To Sellers' Knowledge, no reason exists why the Company and the Company Subsidiaries (as applicable) should not be able to continue the Business and the operations of Sellers following the consummation of the transactions contemplated by this Agreement, consistent with past practice in material compliance with Environmental Laws and such Environmental Permits.

(b) Neither this Agreement nor the consummation of the transaction that is the subject of this Agreement will result in any obligations for any Remediation, or notification to or consent of Governmental Entities or third parties, pursuant to any of the so-called "transaction-triggered" or "responsible property transfer" Environmental Laws.

(c) Sellers have provided to the Company all material environmental reports, assessments, audits, studies, investigations, data and other written environmental information in their custody or possession concerning Sellers, the Facilities, the Real Property and the Former Real Property.

(d) None of the matters disclosed on Schedule 4.23, individually or in the aggregate, is reasonably likely to result in a Material Adverse Development.

4.24 Immigration Act. To Sellers' Knowledge, Sellers are in compliance, in all material respects, with the terms and provisions of the Immigration Act with respect to the operation of the Facilities and the Purchased Assets. No Seller has received any written notice of any actual or potential violation of any provision of the Immigration Act (it being acknowledged that receipt of Social Security Administration "no match letters" does not constitute notice of any actual or potential violation of any Law) and there are no, and, since December 31, 2007, have not been any, citations, investigations, administrative proceedings or formal complaints of violations of the immigration laws imposed, pending or threatened before the U.S. Department of Homeland Security (including the U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection), U.S. Department of Labor or before any other Governmental Entity against or involving any of Sellers.

4.25 WARN Act. Sellers have delivered or made available to the Company a true and correct list of the full name, job title, job site and unit, date of Employment Loss, and type of Employment Loss (termination, layoff or reduction in work hours) of each Employee of Sellers who furnished services at any of the Facilities or the Purchased Assets who has experienced an Employment Loss in the ninety (90) days preceding the date of this Agreement. Except as expressly disclosed in writing by Sellers to the Company, Sellers do not presently intend to take any action that would result in an Employment Loss by any Employee or Person who furnishes services at any of the Facilities or the Purchased Assets between the date of this Agreement and the Closing Date, other than in the Ordinary Course of Business. For purposes of this Section 4.25, "Employee" shall mean any Employee, including officers, managers and supervisors, but excluding Employees who are employed for an average of fewer than 20 hours per week or who have been employed for fewer than 6 of the preceding 12 months, unless Employees working fewer than 20 hours per week or employed fewer than 6 months are protected by a current or then-existing federal, state or local plant closing law.

4.26 Credit Balance Reports. Sellers have delivered or made available to the Company accurate and complete copies of their Medicare and Medicaid quarterly credit balance reports for the past four quarters.

4.27 Inventory. Substantially all of the Inventory existing on the date hereof will exist on the Closing Date, except for Inventory exhausted, replaced or added in the Ordinary Course of Business between the date of this Agreement and the Closing Date. To Sellers' Knowledge,

substantially all of the Inventory on hand on the date of this Agreement and to be on hand on the Closing Date consists and will consist of items of a quality and quantity useable or saleable in the operation of the Business in the Ordinary Course of Business, except to the extent of reserves reflected in the Financial Statements.

4.28 Accounts Receivable and Accounts Payable.

(a) Except as set forth on Schedule 4.28(a), all Accounts Receivable due or recorded in the books and records of account of Sellers, have arisen from bona fide transactions in the Ordinary Course of Business, are valid and existing and are reasonably believed by Sellers to be collectible in an aggregate amount equal to the amount shown for Accounts Receivable on Schedule 4.28(a), except to the extent of the amount of the reserve for doubtful accounts reflected thereon. Except to the extent of any allowance for bad debt or doubtful receivables as reflected on the Interim Balance Sheet, to Sellers' Knowledge, no Accounts Receivable or other debts are or will, at the Closing Date, be subject to any valid counter-claim or set-off.

(b) All Accounts Receivable are currently deposited, either electronically or manually, into the bank accounts listed on Schedule 4.28(b)-1 (the "A/R Bank Accounts"). All of Sellers' other bank accounts are also listed on Schedule 4.28(b)-2 and identified as the "Non-A/R Bank Accounts."

(c) All of the accounts payable of Sellers have arisen in bona fide arm's-length transactions in the Ordinary Course of Business and, as of the date hereof and the Closing Date, and except as set forth on Schedule 4.28(c), each Seller shall have paid its accounts payable in the Ordinary Course of Business.

4.29 Solvency. After exclusion of Liabilities associated with the Retirement Plan due to their uncertainty of amount: (i) Sellers are not now insolvent and will not be rendered insolvent by any of the Transactions; (ii) Sellers have, and immediately after giving effect to the Transactions, will have, assets (both tangible and intangible) with a fair saleable value in excess of the amount required to pay their Liabilities as they come due; and (iii) Sellers have adequate capital for the conduct of their business and discharge of their debts. No Sellers are involved in any proceeding by or against it as a debtor before any Governmental Entity under Title 11 of the United States Bankruptcy Code or any other insolvency or debtors' relief act, whether state, federal or foreign, or for the appointment of a trustee, receiver, liquidator, assignee, sequestrator or other similar official for any part of any Seller's property.

4.30 Brokers or Finders. Except for Cain Brothers & Company, LLC, no person, firm or corporation is entitled to any commission, broker's or finder's fees, or other similar payments from Sellers or their Representatives in connection with the Transactions. As of the Closing Date, Sellers shall have made full payment of all amounts due and owing to Cain Brothers & Company, LLC in connection with the Transactions.

4.31 Acknowledgement Regarding Representations and Warranties. Notwithstanding anything contained in this Agreement to the contrary, Sellers acknowledge and agree that, except as set forth herein, neither Prospect, the Prospect Member, the Company nor any Company

Subsidiary, nor any Affiliate of any of the foregoing, is making any representation or warranty whatsoever.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF COMPANY

As of the date hereof and as of the Closing Date (except to the extent any of the following speaks as of a specific date, such as the date hereof), the Company represents and warrants to Sellers the following:

5.1 Incorporation, Qualification and Capacity. Each of the Company and each Company Subsidiary is a limited liability company duly formed and validly existing in good standing under the Laws of the State of Rhode Island. As of the date hereof and until immediately prior to the Effective Time, Prospect is and shall remain the sole member of the Company. As of the date hereof and as of the Effective Time, the Company is and shall remain the sole member of each Company Subsidiary. Each of the Company and each Company Subsidiary is duly authorized, qualified to do business and in good standing under all applicable Laws of any Governmental Entity having jurisdiction over the business of the Company or such Company Subsidiary (as applicable) and has the lawful power to own, lease and operate its properties and conduct its business in the place and manner now conducted. The execution and delivery by the Company and the Company Subsidiaries of this Agreement and the documents described herein, the performance by the Company and the Company Subsidiaries of their obligations under this Agreement and the documents described herein, and the consummation by the Company and the Company Subsidiaries of the Transactions and the documents described herein have been duly and validly authorized and approved by all necessary action, including, to the extent required, any applicable board and member approvals, on the part of the Company and none of such actions have been modified or rescinded and all of such actions remain in full force and effect.

5.2 Powers; Consents; Absence of Conflicts With Other Agreements. The execution, delivery and performance of this Agreement and the documents described herein by the Company and the Company Subsidiaries, and the consummation by the Company and the Company Subsidiaries of the Transactions and documents described herein, as applicable:

(a) are not in contravention or violation of any of the material terms of the articles of organization, operating agreement or other organizational documents of the Company or any Company Subsidiary;

(b) do not require any Approval or Permit of or filing or registration with or other action by, any Governmental Entity to be made or sought by the Company or any Company Subsidiary, except (i) the Healthcare Regulatory Consents set forth in Schedule 5.2(b) and (ii) as otherwise set forth on Schedule 5.2(b); and

(c) assuming the Approvals and Permits set forth on Schedule 5.2(b) are obtained, will not conflict in any material respect with or result in any violation of or default under (i) any contract by which the Company or any Company Subsidiary is bound or (ii) any

Law applicable to or (iii) any Order by which the Company or any Company Subsidiary or their respective businesses are bound.

5.3 Binding Effect. Subject to the receipt of the Approvals set forth in Section 5.2 and on Schedule 5.2(b), this Agreement and all other Ancillary Agreements to which the Company and any Company Subsidiaries will become a party hereunder have been duly and validly executed and delivered by the Company and such Company Subsidiaries, and, assuming the due authorization, execution and delivery of this Agreement and each respective Ancillary Agreement by Sellers and Prospect, are and will constitute the valid and legally binding obligations of the Company and such Company Subsidiaries and are and will be enforceable against the Company and such Company Subsidiaries in accordance with the respective terms hereof and thereof, except as enforceability against the Company or such Company Subsidiaries may be restricted, limited or delayed by applicable bankruptcy, moratorium or other Laws affecting creditors' rights and remedies generally and except as enforceability may be subject to general principles of equity.

5.4 Litigation. There is no Legal Proceeding pending or, to the knowledge of the Company, threatened against or affecting the Company or any Company Subsidiary, that has or would reasonably be expected to have a material adverse effect on the ability of the Company or any Company Subsidiary to timely consummate the Transactions. Notwithstanding the foregoing, each of Sellers and Prospect acknowledge and agree that, for all purposes of this Agreement, the Company makes no representation or warranty regarding the ability of the Company or the Company Subsidiaries to consummate the Transactions consistent with the Antitrust Laws.

5.5 Solvency. Each of the Company and each Company Subsidiary is not now insolvent and will not be rendered insolvent by any of the Transactions.

5.6 Brokers or Finders. Neither the Company, any Company Subsidiary, nor any of their respective Representatives have incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with the Transactions.

5.7 Acknowledgement Regarding Representations and Warranties. Notwithstanding anything contained in this Agreement to the contrary, the Company and the Company Subsidiaries acknowledge and agree that, except as set forth herein, neither any Seller nor Prospect nor Affiliates of the foregoing are making any representations or warranties whatsoever.

ARTICLE VI
REPRESENTATIONS AND WARRANTIES OF PROSPECT

As of the date hereof and as of the Closing Date (except to the extent any of the following speaks as of a specific date, such as the date hereof), Prospect represents and warrants to Sellers and the Company the following:

6.1 Incorporation, Qualification and Capacity. Each of Prospect and the Prospect Member is duly incorporated and validly existing in good standing under the Laws of the State of

Delaware. Each of Prospect and the Prospect Member is duly authorized, qualified to do business and in good standing under all applicable Laws of any Governmental Entity having jurisdiction over its business and has the lawful power to own, lease and operate its properties and conduct its business in the place and manner now conducted. The execution and delivery by Prospect and the Prospect Member of this Agreement and the documents described herein, the performance by Prospect and the Prospect Member of their obligations under this Agreement and the documents described herein, and the consummation by Prospect and the Prospect Member of the Transactions and the documents described herein have been duly and validly authorized and approved by all necessary action, including, to the extent required, any applicable board and member approvals, on the part of Prospect and the Prospect Member and none of such actions have been modified or rescinded and all of such actions remain in full force and effect.

6.2 Powers; Consents; Absence of Conflicts With Other Agreements. The execution, delivery and performance of this Agreement and the documents described herein by Prospect and the Prospect Member, and the consummation by Prospect and the Prospect Member of the Transactions and documents described herein, as applicable:

(a) are not in contravention or violation of any of the material terms of the Certificate of Incorporation, bylaws or other organizational documents of Prospect or the Prospect Member;

(b) do not require any Approval or Permit of or filing or registration with or other action by, any Governmental Entity to be made or sought by Prospect or the Prospect Member, except (i) the Healthcare Regulatory Consents set forth in Schedule 6.2(b) and (ii) as otherwise set forth on Schedule 6.2(b); and

(c) assuming the Approvals and Permits set forth on Schedule 6.2(b) are obtained, will not conflict in any material respect with or result in any violation of or default under (i) any contract by which Prospect or the Prospect Member is bound or (ii) any Law applicable to or (iii) any Order by which Prospect or the Prospect Member or their respective businesses are bound.

6.3 Binding Effect. Subject to the receipt of the Approvals set forth in Section 6.2 and on Schedule 6.2(b), this Agreement and all other Ancillary Agreements to which Prospect and/or the Prospect Member will become a party hereunder have been duly and validly executed and delivered by Prospect or the Prospect Member (as applicable), and, assuming the due authorization, execution and delivery of this Agreement and each respective Ancillary Agreement by the Company and Sellers, are and will constitute the valid and legally binding obligations of Prospect and/or the Prospect Member (as applicable) and are and will be enforceable against Prospect and/or the Prospect Member (as applicable) in accordance with the respective terms hereof and thereof, except as enforceability against Prospect or the Prospect Member may be restricted, limited or delayed by applicable bankruptcy, moratorium or other Laws affecting creditors' rights and remedies generally and except as enforceability may be subject to general principles of equity.

6.4 Litigation. There is no Legal Proceeding pending or, to the knowledge of Prospect, threatened against or affecting Prospect or the Prospect Member, that has or would

reasonably be expected to have a material adverse effect on the ability of Prospect and/or the Prospect Member to timely consummate the Transactions. Notwithstanding the foregoing, each of Sellers and the Company acknowledge and agree that, for all purposes of this Agreement, Prospect makes no representation or warranty regarding the ability of Prospect or the Prospect Member to consummate the Transactions consistent with the Antitrust Laws.

6.5 Solvency. Each of Prospect and the Prospect Member is not now insolvent and will not be rendered insolvent by any of the Transactions. Each of Prospect and the Prospect Member has, and immediately after giving effect to the Transactions, will have, assets (both tangible and intangible) with a fair saleable value in excess of the amount required to pay its Liabilities as they come due. Each of Prospect and the Prospect Member has adequate capital for the conduct of its business and discharge of its debts. Neither Prospect, the Prospect Member, nor any Affiliate of either of the foregoing is involved in any proceeding by or against it as a debtor before any Governmental Entity under Title 11 of the United States Bankruptcy Code or any other insolvency or debtors' relief act, whether state, federal or foreign, or for the appointment of a trustee, receiver, liquidator, assignee, sequestrator or other similar official for any part of any its property.

6.6 Brokers or Finders. Neither Prospect, the Prospect Member, nor any of their respective Representatives have incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with the Transactions.

6.7 Acknowledgement Regarding Representations and Warranties. Notwithstanding anything contained in this Agreement to the contrary, Prospect and the Prospect Member acknowledge and agree that, except as set forth herein, neither any Seller nor the Company nor any Affiliates of the foregoing are making any representations or warranties whatsoever.

ARTICLE VII
PRE-CLOSING COVENANTS

7.1 Access to Information.

(a) Between the date of this Agreement and the Closing Date, to the extent permitted by Law, Sellers shall afford to Prospect, the Company and their Representatives (i) access, during normal business hours, to and the right to inspect, the plants, properties (including the Real Property), books and records, litigation materials and other documents and information relating to the Facilities, Purchased Assets and Assumed Liabilities, and (ii) access, during normal business hours, to Sellers' employees and medical staff members, and shall furnish Prospect, the Company and their Representatives with such additional financial and operating data and other information of Sellers in Sellers' possession, custody or control relating to the Facilities, Purchased Assets and Assumed Liabilities as Prospect, the Company or their Representatives may from time to time reasonably request.

(b) Sellers shall provide Prospect, the Company and their Representatives access to the Owned Real Property and, subject to consent of the landlord if applicable, the Leased Real Property to conduct any environmental, health or safety inspections or

investigations, which may include sampling or testing of soils, surface water, groundwater, ambient air or improvements at, on or under the Real Property or sampling of the Facilities. The Company agrees that, after performing any inspections or investigations, the Company shall restore the Real Property to its original condition (or as close as reasonably possible to such condition) and repair any damage to same caused by the performance of such inspections or investigations.

(c) The Company agrees that the Company's right of access and investigation under this Section 7.1 will be exercised in such a manner as to not unreasonably interfere with the operation of Sellers' Business.

7.2 Operations. From the date hereof until the Closing Date, except as set forth in Schedule 7.2 or otherwise agreed to in writing by the Parties, each Seller shall, with respect to the Business (unless prior written consent of the Company is received):

(a) carry on the Business in substantially the same manner as it has heretofore and not make any material change in personnel, operations, finance or accounting policies (unless required under GAAP) of the Facilities or the Purchased Assets;

(b) maintain the Facilities and the Purchased Assets and all parts thereof in working order and in condition as at present, ordinary wear and tear excepted, and make all normal, planned and budgeted capital expenditures related to the Purchased Assets and/or the Facilities, provided, that Sellers shall obtain the Company's prior input regarding individual capital expenditures or additions to property, plant and equipment (or a series of related expenditures or additions) that exceed $350,000;

(c) continue to perform its obligations under Assumed Contracts and, as to new Contracts proposed to be entered into prior to the Closing Date:

(i) In connection with any new Contracts (other than Physician Agreements, as described in (ii) below) anticipated to exceed $100,000 per year or $250,000 over the entire term of the arrangement, Sellers shall implement a centralized authorization process requiring senior executive approval and signature for such Contracts, and shall enter into any such Contracts only after seeking the Company's input on the same; and

(ii) In connection with any new Physician Agreements involving future payments, performance of services or delivery of goods in an amount or value in excess of One Million Dollars ($1,000,000) in the aggregate over the entire term of the agreement, Sellers shall enter into any such Physician Agreements only after obtaining the Company's prior written consent to the same; any such new Physician Agreements consented to by the Company, along with any other Physician Agreements in amounts below the foregoing threshold that are entered into by Sellers in the Ordinary Course of Business prior to the Closing Date, shall be deemed to be Assumed Physician Agreements and shall automatically be added to Schedule 2.1(f)(2), unless and except rejected by the Company pursuant to the standards for Rejected Physician Agreements set forth in Section 2.1(f) above;

(d) keep in full force and effect present insurance policies on the Facilities and the Purchased Assets (unless a policy is canceled or terminated in the Ordinary Course of

Business and concurrently replaced with a policy or arrangement with substantially similar coverage, with no gap in coverage);

(e) (i) maintain and preserve the business organization with respect to the Facilities and Purchased Assets intact; (ii) use commercially reasonable efforts to retain present Employees at the Facilities and maintain its relationships with physicians and medical staff, suppliers, customers and others having business relations with the Facilities and Purchased Assets; and (iii) refrain from inducing any Employees (other than Employees who do not receive offers of employment from the Company prior to Closing) to leave employment at the Facilities in order to be employed elsewhere by any Seller or its Affiliates;

(f) permit and allow reasonable access by the Company (which shall include the right to send written materials, all of which shall be subject to Sellers' reasonable approval prior to delivery) to make offers of post-Closing employment to any of Sellers' personnel (including access by the Company for the purpose of conducting open enrollment sessions for the Company's employee benefit plans and programs) and to establish relationships with physicians, medical staff and others having business relations with Sellers;

(g) with respect to deficiencies, if any, cited by any Governmental Entity or accreditation body in the most recent surveys conducted by each, cure or develop and timely implement a plan of correction that is acceptable to any Governmental Entity or such accreditation body;

(h) timely file or cause to be filed all reports, notices and Tax Returns relating to the Facilities and the Purchased Assets required to be filed with any Governmental Entity, pay all required Taxes as they come due, and take any other actions required to maintain tax-exempt status for each Seller that has historically held such status;

(i) comply in all material respects with all Laws (including Environmental Laws) applicable to the conduct of the Business;

(j) maintain all Approvals, Permits and Environmental Permits relating to the Facilities, Purchased Assets and Assumed Liabilities in good standing;

(k) notify the Company within two (2) Business Days immediately following any material or adverse change to the condition of the Facilities or Purchased Assets, or to the business or operations thereof, including any Material Adverse Development or any circumstance or events that are reasonably likely to lead to a Material Adverse Development;

(l) use commercially reasonable efforts to obtain the Tenant Estoppels and Landlord Estoppels in accordance with the terms of Section 3.3(c) and Section 3.3(d);

(m) afford Prospect, the Company and their Affiliates an opportunity to provide input with respect to other significant or material matters pertaining to the Business, including monitoring and implementation of any operations improvement plans and the development and implementation of physician engagement strategies; and

(n) if, prior to Closing, Sellers sell all or any part of their interests in Roger Williams Radiation Therapy, LLC, Sellers shall use commercially reasonable efforts to reinvest all or a portion of the proceeds of such sale in UMG or some other project or entity as may be mutually agreed by the Parties; in that event, all of Sellers' equity, membership or other ownership interests in UMG or such other project or entity shall be included in the Purchased Assets hereunder; provided, however:

(i) if Sellers' acquisition of the replacement interest entails the assumption of any liabilities, any such liabilities shall be assumed by the Company pursuant to Section 2.3(g) above, and such liabilities shall not be included or reflected in the calculation of Final Net Working Capital pursuant to Annex B hereto; and

(ii) any portion of the sale proceeds not so reinvested (*i.e.*, the JV Proceed Deficiency) shall be included as a Purchased Asset hereunder and shall be transferred to the Company as provided in Section 2.1(z) above, and such proceeds shall not be included or reflected in the calculation of Final Net Working Capital pursuant to Annex B hereto.

7.3 Negative Covenants. From the date hereof to the Closing Date, except as set forth in Schedule 7.3, or as required by Law, no Seller will, with respect to the Business (without the prior written consent of the Company):

(a) enter into any Contract, or incur or agree to incur any Liability, outside the Ordinary Course of Business; provided, however, that, notwithstanding the foregoing, the Parties acknowledge and agree that, after the date hereof and prior to the Closing Date, Sellers shall negotiate amended collective bargaining agreements with each union representing any Transferred Employee, with the expectation that each such collective bargaining agreement shall be assumed by the Company as of the Closing Date pursuant to Section 8.4 hereof; any such amended collective bargaining agreement shall be subject to the prior written consent of the Company, with such consent not to be unreasonably withheld;

(b) enter into any capital lease;

(c) notify any payor to send payments to, or cause any Accounts Receivable to be deposited in, any account other than the A/R Bank Accounts, or sell or factor any Accounts Receivable;

(d) increase compensation payable or to become payable or make a bonus payment to or otherwise enter into one or more bonus or severance Contracts with any Employee or agent or under any personal services Contract, except in the Ordinary Course of Business in accordance with existing personnel policies and practices;

(e) sell, assign or otherwise transfer or dispose of any, or waive or settle any material claims regarding, the Facilities or Purchased Assets outside the Ordinary Course of Business;

(f) pay or agree to pay any increased benefits under any Seller Plan, or amend or otherwise modify any Seller Plan, or create any new Seller Plan, except for amendments required to comply with this Agreement or applicable Law;

(g) (i) amend, modify or terminate any Assumed Contract, except in conformity with this Agreement and in a commercially reasonable manner in the Ordinary Course of Business; (ii) by action or inaction, abandon, terminate, cancel, forfeit, waive or release any material rights of any Seller, in whole or in part, with respect to the Facilities or Purchased Assets; (iii) effect any corporate merger, business combination, reorganization or similar transaction or take any other action, corporate or otherwise, that could reasonably be expected to affect adversely Sellers' ability to perform in accordance with this Agreement; (iv) cancel or permit the cancellation or lapse of insurance coverage on the Purchased Assets or the Facilities; or (v) settle any dispute or threatened dispute with any Governmental Entity regarding the Facilities or Purchased Assets other than in the Ordinary Course of Business;

(h) except for the Pre-Closing Permitted Exceptions or Permitted Exceptions, create, assume or permit to exist any new Encumbrance upon any of the Purchased Assets other than in the Ordinary Course of Business;

(i) amend or terminate or otherwise modify any employment Contract or enter into any new employment Contract with any Person, except in the Ordinary Course of Business;

(j) make or change any material Tax election, change any method of accounting (unless required by GAAP), or settle any material claim or dispute with any Governmental Entity in respect of any Tax;

(k) take or omit to take any action that could result in any Seller who was historically exempt from any Tax, ceasing to be exempt from such Tax;

(l) amend or agree to amend the articles or certificate of incorporation, bylaws or other governing documents of any Seller or otherwise take any action relating to any liquidation or dissolution of any Seller, except as expressly contemplated by this Agreement;

(m) remove any material personal property or fixtures located at the Real Property, except as may be required for repair, retirement and/or replacement in the Ordinary Course of Business (provided that any replacements shall be free and clear of any and all Encumbrances (except for Encumbrances to be satisfied by Sellers at Closing), of quality at least equal to the replaced items, and shall be deemed included in this sale, without cost or expense to the Company); or

(n) request or consent to any zoning changes.

7.4 Notification of Certain Matters. At any time from the date of this Agreement to the Closing Date:

(a) Sellers shall give written notice to Prospect and the Company as promptly as reasonably feasible of: (i) the occurrence, or failure to occur, of any event that has caused any representation or warranty of Sellers contained in this Agreement to be untrue; (ii) any matter hereafter arising or discovered that, if existing or known at the date of this Agreement, would have been required to be set forth or described in a schedule to this Agreement; and (iii) any

failure of any Seller to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it under this Agreement.

(b) Sellers shall promptly notify Prospect and the Company of: (i) any written notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the Transactions (disregarding, for such purposes, communications with parties to those Assumed Contracts described on Schedule 4.12(e) so long as the subject matter of such communications pertains solely to the delivery of such consent and only if there is not any dispute with such party with respect thereto); (ii) any written notice or other communication from any Governmental Entity in connection with the Transactions or that is (or may reasonably be regarded at the time of notice as) material to or materially adverse to the business, condition or operations of Sellers, the Facilities or the Purchased Assets; and (iii) any Legal Proceedings commenced or, to Sellers' Knowledge, threatened, against or relating to or involving or otherwise affecting any Seller or the Facilities or Purchased Assets or that relate to the consummation of the Transactions, and any significant developments relating to any Legal Proceedings hereby disclosed.

(c) Sellers shall notify Prospect and the Company as soon as possible in the event of any substantial unforeseen Employment Losses. Such notices shall provide a reasonably detailed description of the relevant circumstances.

(d) The Company and Prospect shall give notice to Sellers as promptly as reasonably feasible of: (i) the occurrence, or failure to occur, of any event that has caused any representation or warranty of the Company or Prospect contained in this Agreement to be untrue; (ii) any matter hereafter arising or discovered that, if existing or known at the date of this Agreement, would have been required to be set forth or described in a schedule to this Agreement; and (iii) any failure of Prospect, the Prospect Member, the Company or any Company Subsidiary to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it under this Agreement.

(e) The Company and Prospect shall promptly notify Sellers of: (i) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the Transactions (disregarding, for such purposes, communications with parties to those Assumed Contracts described on Schedule 4.12(e)); (ii) any notice or other communication from any Governmental Entity in connection with the Transactions or that is (or may reasonably be regarded at the time of notice as) material to or materially adverse to the business, condition or operations of Prospect, the Prospect Member, the Company or any Company Subsidiary; and (iii) any Legal Proceedings commenced or, to the Company's or Prospect's knowledge, threatened against, or relating to the consummation of the Transactions, and any significant developments relating to any Legal Proceedings hereby disclosed.

(f) All notices provided pursuant to this Section 7.4 shall include a reasonably detailed description of the relevant circumstances.

7.5 Approvals.

(a) Responsibility for Approvals Generally. The Company shall be responsible for obtaining, and shall use commercially reasonable efforts to obtain, as promptly as practicable, all Approvals, Permits and Environmental Permits of any Governmental Entities required of the Company and the Company Subsidiaries to consummate the Transactions and to operate the Facilities and Purchased Assets following Closing in substantially the same manner as currently operated by Sellers. Sellers shall be responsible for obtaining, and shall use commercially reasonable efforts to obtain, as promptly as practicable, all Approvals of Governmental Entities and all Church Approvals required of Sellers to consummate the Transactions. The Company, on the one hand, and Sellers, on the other hand, shall (i) cooperate with one another in their respective efforts to obtain all Approvals, Permits and Environmental Permits of any Governmental Entities and all Church Approvals required to consummate the Transactions and to permit the Company and/or the Company Subsidiaries (as applicable) to operate the Facilities and Purchased Assets following Closing in substantially the same manner as currently operated by Sellers, and (ii) provide such other information and communications to any Governmental Entity and Church officials as may be reasonably requested in connection with such Approvals.

(b) Rhode Island Hospital Conversions Act. The Parties shall, within fifteen (15) Business Days after the Delivery Date, submit the HCA Initial Application to the DAG and the DOH. The Parties shall cooperate in the preparation and prosecution thereof. Each of the Parties shall timely submit all information and documents requested in connection therewith by the DAG, the DOH or any other Governmental Entity; provided, however, that each Party shall provide each other Party an opportunity in advance of the submission to review such submission.

(c) Medicare/Medicaid Change of Ownership. The Parties shall cooperate and take all commercially reasonable actions to cause the Provider Agreements to be transferred to the Company or the Company Subsidiaries (as applicable) as of the Closing, including by submitting to each of CMS and the Rhode Island Medicaid program on a timely basis (but in no event prior to the Delivery Date) the applicable enrollment form with respect to the Medicare change of ownership.

(d) Rhode Island Health Care Facility Licensing Act. The Parties shall, within fifteen (15) Business Days after the Delivery Date, submit the HCFLA Change in Effective Control Application to the DOH. The Parties shall cooperate in the preparation and prosecution thereof. Each of the Parties shall timely submit all information and documents requested in connection therewith by the DOH and any other Governmental Entity.

(e) Church Approvals. Sellers shall promptly apply for and use commercially reasonable efforts to obtain those ecclesiastical approvals required from officials within the Roman Catholic Church (the "Church") in order to consummate the Transactions, including the authorization of the Bishop of the Roman Catholic Diocese of Providence, Rhode Island, and the permission of the Holy See through the Vatican Congregation of Bishops (the "Church Approvals"). The Parties shall cooperate in the preparation and prosecution of such application(s). Each of the Parties shall timely submit all information and documents requested in connection therewith by Church officials.

(f) Third Party Consents. Sellers shall promptly apply for and use commercially reasonable efforts to obtain before Closing all consents (and make all notifications) required to assign the Assumed Contracts to the Company or the Company Subsidiaries (as applicable) at Closing, as described on Schedule 4.12(e), including but not limited to the Material Consents. The Company and Prospect shall cooperate in and use commercially reasonable efforts to facilitate the process of obtaining such third party consents.

(g) Notification and Cooperation. Subject to applicable confidentiality restrictions or restrictions required by applicable Law, the Company, Prospect and Sellers shall each notify the other promptly upon receipt of: (i) any comments or questions from any official of any Governmental Entity in connection with any filings made pursuant to this Section 7.5 or otherwise in connection with the Transactions, and (ii) any requests by any officials of any Governmental Entity for amendments or supplements to any filings made pursuant to any applicable Laws, rules and regulations of any Governmental Entity or answers to any questions, or the production of any documents, relating to an investigation of the Transactions by any Governmental Entity. Without limiting the generality of the foregoing, each Party shall promptly provide to the other Party (or its respective advisers) copies of all correspondence between such Party and any Governmental Entity relating to the Transactions. In addition, to the extent reasonably practicable, the Parties shall use commercially reasonable efforts to cause all scheduled discussions, telephone calls and meetings with a Governmental Entity regarding the Transactions to include representatives of the Company, Prospect and Sellers; notwithstanding the foregoing, in the event of discussions, calls and/or meetings that do not involve representatives of the Company, Prospect and Sellers, the participating Party(ies) shall promptly inform the non-participating Party(ies) of the existence and substance of such communications (unless otherwise directed by the pertinent Governmental Entity or required by Law). Subject to applicable Law, the Parties will consult and cooperate with each other in connection with any analyses, appearances, presentations, memoranda, briefs, arguments and proposals made or submitted to any Governmental Entity regarding the Transactions by or on behalf of any Party; provided, that, unless required by applicable Law, the Parties shall not make any such submissions prior to the Delivery Date.

7.6 Additional Financial Information. From the date hereof until the Closing Date, Sellers will deliver to the Company and Prospect:

(a) within fifteen (15) days after the end of each calendar month, copies of the unaudited balance sheets and the related unaudited statements of income and cash flows of Sellers for each month then ended and for the fiscal year-to-date then ended, in each case to be prepared in accordance with GAAP, except that footnotes may be omitted;

(b) within forty-five (45) days after the end of each fiscal quarter, copies of the unaudited balance sheet and the related unaudited statements of income and cash flows of Sellers for the fiscal quarter then ended and for the fiscal year-to-date then ended, in each case to be prepared in accordance with GAAP, except that footnotes may be omitted;

(c) within sixty (60) days after the end of each fiscal year, copies of the unaudited balance sheet and the related unaudited statements of income and cash flows of Sellers for the fiscal year then ended, in each case to be prepared in accordance with GAAP;

(d) within ten (10) days after completion of the independent audit for each fiscal year, copies of the audited balance sheet and the related audited statements of income and cash flows of Sellers for the fiscal year then ended, in each case to be prepared in accordance with GAAP; and

(e) promptly after prepared, copies of routine supporting schedules for the financial statements and other operating statistics or other supporting documentation routinely provided to Sellers' senior management and/or board of directors.

7.7 Certain Litigation. Sellers shall give the Company and Prospect the option (which does not entail the obligation) to participate, at the Company's and Prospect's sole cost and expense, in the defense or settlement of any third party litigation against Sellers relating to the Transactions. Sellers shall not agree to any compromise or settlement of such litigation without the Company's and Prospect's consent, not to be unreasonably withheld, conditioned or delayed.

7.8 Tail Insurance. To the extent that Sellers are currently subject to claims-made rather than occurrence-based insurance coverage, Sellers shall, at their sole cost and expense, obtain "tail" insurance to insure against professional and other liabilities of the Facilities (including, without limitation, malpractice insurance) relating to the period prior to the Effective Time, with such tail insurance coverage to become effective as of the Effective Time. The insurance shall be for an unlimited tail period (unless the insurance carrier specifies a maximum tail period, in which case the insurance shall be for such maximum period), shall have coverage levels equal to the current policies insuring Sellers, and shall name the Company and the Company Subsidiaries (as applicable) as additional named insureds.

7.9 No-Shop. Sellers agree that they shall not, and shall direct and use commercially reasonable efforts to cause their respective Representatives (including any investment banker, attorney or accountant retained by them) not to: (a) offer for sale, lease or other disposition any of the Facilities, all or any significant portion of the Purchased Assets or any ownership interest in any entity owning any of the Facilities or any of the Purchased Assets; (b) solicit offers to buy any of the Facilities, all or any significant portion of the Purchased Assets or any ownership interest in any entity owning any of the Facilities or the Purchased Assets; (c) 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 disposition of any of the Facilities or all or any significant portion of the Purchased Assets or a merger or consolidation of any entity owning any of the Facilities or any of the Purchased Assets; or (d) enter into any agreement or discussions with any party (other than the Company and Prospect) with respect to the sale, lease, assignment or other disposition of any of the Facilities or all or any significant portion of the Purchased Assets or any ownership interest in any entity owning any of the Facilities or any of the Purchased Assets or with respect to a merger or consolidation of any entity owning any of the Facilities or any of the Purchased Assets. Sellers will promptly communicate to the Company the substance of any inquiry or proposal concerning any such transaction.

7.10 Contract Compliance. Sellers shall, upon notice from the Company that any Contract to which any Seller is a party is not in compliance with Law, take commercially

reasonable efforts to promptly modify such Contract so that it is in compliance with Law prior to the Closing.

7.11 Amendments and Updates to Disclosure Schedules.

(a) Notwithstanding any other provision of this Agreement, during the twenty-one (21) day period immediately following the date of this Agreement, a Party may amend any of the Applicable Disclosure Schedules provided by such Party pursuant to this Agreement for the purpose of ensuring the accuracy and completeness thereof as of the date of this Agreement and, if such amendments are acceptable to the other Parties, the pertinent Applicable Disclosure Schedules as amended shall be deemed final as though attached hereto as of the date of this Agreement. In the event that a proposed amended schedule is not acceptable to the Parties, the Party proposing such amended Applicable Disclosure Schedule shall be entitled to terminate this Agreement pursuant to Section 11.1(ii) below.

(b) From time to time prior to the Closing, the Parties shall update with reasonable frequency (and as promptly as reasonably feasible upon the occurrence of any event or circumstance that would have required a party to notify such other Party under Section 7.4 hereof) the information contained in the disclosure schedules with respect to any material events, circumstances, conditions or matters arising after the date of this Agreement, which, if existing or occurring at the date of this Agreement, would have been required to be set forth or described in any disclosure schedule; provided, however, that no such update shall be deemed to modify the disclosure schedules for the purpose of: (i) certifying to the accuracy of any representation or warranty made by Sellers in this Agreement in the Officer's Certificates delivered pursuant to Sections 9.3 and 10.3 hereof, (ii) determining whether any of the conditions set forth in ARTICLE IX and ARTICLE X have been satisfied, and (iii) indemnification in ARTICLE XIV.

7.12 Communications With Medical Staffs. From the date hereof through the Closing Date, the Parties shall work collaboratively to ensure that the physician members of the medical staffs at both Hospitals maintain an active presence at the Business, are kept informed, are given opportunities for input as to critical needs of the medical staff, and are encouraged to maintain their medical practices within the community.

ARTICLE VIII
EMPLOYEES, RESIDENTS/FELLOWS AND EMPLOYEE BENEFITS

8.1 Offers of Employment. Not later than thirty (30) days prior to the Closing, Sellers shall deliver to the Company an updated Employee List and an updated Residents and Fellows List.

(a) Employees. At least ten (10) days prior to the Closing, the Company shall make a written offer of employment (subject to the Closing) to substantially all of the Employees listed on the updated Employee List who continue to be Employees as of such date and are anticipated to be Employees as of the Closing Date (including any Employee who is on any form of paid or unpaid leave pursuant to Law or Sellers' policies), who are in good standing on the Closing Date, regarding employment by the Company or a Company Subsidiary as of and following the Closing Date. The Company shall likewise make as soon as practicable such an

offer to any individual not included on the updated Employee List that between the date of the delivery of the updated Employee List and the Closing Date is hired by, or transferred to, the Business as an Employee who is in good standing with the Sellers on the Closing Date. Such Employees who accept such offer of employment shall hereinafter be referred to as the "Transferred Employees" and will be hired by the Company or a Company Subsidiary as of the Effective Time. Subject to Section 8.2, in making any offers to Employees, the Company or the Company Subsidiary (as applicable) shall not be obligated to change the nature of the employment of any Employee other than changing the Employee's employer (for example, Employees at will shall continue to be Employees at will). Neither the Company nor any Company Subsidiary shall be responsible for any compensation or benefits obligations of Sellers in respect of the Transferred Employees accruing prior to the Effective Time, except that the Sellers may include the value of such compensation or benefits obligations in the calculation of Final Net Working Capital.

(b) Residents and Fellows. Prior to the Closing, the Company shall make a written offer of appointment and enrollment in a program of graduate medical education of the Company or a Company Subsidiary (subject to the Closing) on such terms and conditions as determined by the Company to substantially all of the residents and fellows listed on the Residents and Fellows List who continue to be enrolled in Sellers' program of graduate medical education as of such date, who are anticipated to be enrolled as of the Closing Date, who have satisfied the Company's customary screening procedures and for whom the Company, on or before the Closing Date, has verified has the requisite certifications, credentials and licenses (if applicable) required by the Accreditation Council for Graduate Medical Education, applicable Law and customary practice for such residents and fellows to participate in graduate medical education. Such new terms and conditions of appointment established by the Company will be consistent with those applied to the Company's residents, interns and fellows and will not be equivalent to those established by Sellers. Such individuals who accept such offers of appointment are hereinafter referred to as "Transferred Residents and Fellows" and will be appointed by the Company or a Company Subsidiary as of the Effective Time. Neither the Company nor the Company Subsidiaries shall be responsible for any compensation or benefits obligations of Sellers in respect of the Transferred Residents and Fellows accruing prior to the Effective Time, except that the Sellers may include the value of such compensation or benefits obligations in the calculation of Final Net Working Capital.

8.2 Employment Terms; Employee Benefits.

(a) The Transferred Employees shall be hired by the Company or a Company Subsidiary (as applicable) at base salaries and wages equal to their base salaries and wages as of the Closing Date. The Transferred Employees shall retain their seniority status for purposes of benefits, and their salaries or wages as of the Closing Date shall provide the base for future salary adjustments, if any, thereof. Each Transferred Employee will be treated by the Company or the Company Subsidiary (as applicable) as employed as of such individual's initial hire date at the Facilities for all purposes regarding seniority, except as otherwise required by Law or collective bargaining agreement assumed by the Company. Subject to the right to terminate any Company employee benefit plan and/or restrictions provided under any collective bargaining agreement assumed by the Company, the Company and the Company Subsidiaries as of the Closing Date will provide benefits to Transferred Employees at benefit levels substantially

comparable to those provided under the Seller Plans immediately prior to Closing, including but not limited to qualified retirement plans (except that the Company and the Company Subsidiaries shall not be required to offer a defined benefit plan), vacation, sick leave, holidays, health insurance, life insurance, 401(k) plan (in lieu of similar plans that were offered by Sellers based on their tax-exempt status but are not available to the Company) and policies of the Company and the Company Subsidiaries for which each Transferred Employee is eligible.

(b) Any Transferred Employees who are terminated without cause within the twelve (12) month period following the Closing Date will be offered a severance package on terms comparable to the severance package as in effect with respect to Sellers' Employees prior to the Closing Date or, if and as applicable, as set forth in any Assumed Employment Agreement to which the Transferred Employee is subject.

(c) The Parties acknowledge and agree that each of the Company and each Company Subsidiary constitutes a "successor employer" within the meaning of Code Section 3121(a)(1) and Code Section 3306(b)(1) and the regulations thereunder for federal and state income tax and employment tax purposes. The Company or the Company Subsidiary (as applicable) shall (i) assume Sellers' obligation to furnish IRS Forms W-2 to the Transferred Employees for the Tax year in which the Closing occurs in accordance with the "alternate filing procedure" as provided in Section 5 of Revenue Procedure 2004-53, 2004 C.B. 320 (the "Revenue Procedure") and (ii) report such amounts on IRS Forms 941 as required under Section 5 of the Revenue Procedure. The Company and each Company Subsidiary will treat all wages paid to the Transferred Employees as paid by a successor employer for all federal and state income tax and employment tax purposes. As of the Effective Time, all of the Transferred Employees will cease participation in any of the Seller Plans that such Transferred Employees participated in immediately prior to the Effective Time.

(d) On and after the Closing Date, the Company and the Company Subsidiaries (as applicable) shall be responsible for providing, subject to payment of applicable premiums by qualified beneficiaries, continuation coverage, as required under COBRA, or otherwise provided by Seller prior to the Closing Date to all Employees and former employees of Seller who are not Transferred Employees (and other "qualified beneficiaries," as defined under Section 607(3) of ERISA, under COBRA with respect to such employees) who have or have had a COBRA or other qualifying event (due to termination of employment with Seller or otherwise) prior to or as a result of the Closing. The Company and the Company Subsidiaries shall also be responsible for any COBRA or other group health plan continuing coverage obligations in respect of Transferred Employees and any qualified beneficiaries in relation to such employees arising with respect to qualifying events that occur under the Company's group health plan after the Closing Date.

(e) Except to the extent otherwise expressly set forth herein, neither the Company nor any Company Subsidiary will assume, before, on or after the Closing Date, any Seller Plan, or any rights, duties, obligations or liabilities thereunder, nor shall it become a successor employer or be responsible in any way for Sellers' or a Controlled Group member's participation in or obligations or responsibilities with respect to any Seller Plan.

(f) The senior executives of Sellers who are subject to Assumed Employment Agreements shall be employed by the Company, and the Company shall assume their Employment Agreements as provided in Section 2.1(f) above. In addition to the benefits provided under the Employment Agreements, the senior executives will be provided with the same benefits made available to the Transferred Employees.

8.3 No Right to Continued Employment or Enrollment in Graduate Medical Education; No Third Party Beneficiary. Nothing contained in this Agreement shall be construed to prevent the termination of employment of any individual Transferred Employee or the termination of the appointment or enrollment in graduate medical education of any residents and fellows, or any change in the benefits available to any such individual. No provision of this Agreement shall create any third party beneficiary or other rights in any current or former employee or residents and fellows (including any beneficiary or dependent thereof) of Sellers in respect, as applicable, of continued employment, appointment as one of the residents and fellows, or enrollment in a graduate medical education program associated with the Company or a Company Subsidiary (or resumed employment, resumed enrollment or renewal of appointment) with either the Business or the Company or any Company Subsidiary, and no provision of this Agreement will create any such rights in any such Persons in respect of any benefits that may be provided, directly or indirectly under any Seller Plan or any plan or arrangement which may be established or maintained by the Company or any Company Subsidiary. No provision of this Agreement will constitute a limitation on rights to amend, modify or terminate any Seller Plan, or on the right of the Company or any Company Subsidiary to amend, modify or terminate any of the employee benefit plans of the Company or any Company Subsidiary.

8.4 Collective Bargaining Agreements. Effective as of the Closing, Prospect shall cause the Company to, and the Company shall, recognize each union representing any Transferred Employee and assume all existing collective bargaining agreements, as amended between the date of this Agreement and the Closing Date; provided, however, that in no event shall the Company be required to assume any collective bargaining agreement that has not been consented to by the Company pursuant to Section 7.3(a) hereof.

ARTICLE IX
CONDITIONS PRECEDENT TO OBLIGATIONS OF PROSPECT AND THE COMPANY

The obligations of Prospect, the Prospect Member, the Company and the Company Subsidiaries hereunder are subject to the satisfaction, on or prior to the Closing Date, of the following conditions unless waived in writing by Prospect and the Company:

9.1 Compliance With Covenants. All of the covenants and obligations that Sellers are required to perform or to comply with pursuant to this Agreement at or prior to the Closing (considered collectively), and each of these covenants and obligations (considered individually), shall have been duly performed and complied with in all material respects.

9.2 Representations and Warranties. All of Sellers' representations and warranties in this Agreement (considered collectively), and each of these representations and warranties (considered individually), shall have been accurate as of the date of this Agreement (giving

effect to any amended Applicable Disclosure Schedules delivered pursuant to Section 7.11(a)) and as of the time of the Closing as if then made (but without giving effect to any updated schedules delivered pursuant to Section 7.11(b)), except where the failure of such representations and warranties to be accurate does not have or cause, individually or in the aggregate, a Material Adverse Development. Each of the representations and warranties in this Agreement that contains an express Material Adverse Development qualification shall have been accurate in all respects as of the date of this Agreement (giving effect to any amended Applicable Disclosure Schedules delivered pursuant to Section 7.11(a)) and shall be accurate in all respects as of the time of the Closing as if then made (but without giving effect to any updated schedules delivered pursuant to Section 7.11(b)).

9.3 Officers' Certificates. Each of Sellers shall have delivered to the Company and Prospect a certification of an appropriate officer to the effect that each of the conditions set forth in Section 9.1 and Section 9.2 have been satisfied in all material respects.

9.4 Approvals and Permits. All of the following shall have been received:

(a) The Company or the applicable Company Subsidiary shall have received all Approvals that are required to: (i) consummate the Transactions and (ii) operate the Facilities and the Purchased Assets in the same manner as currently operated by Sellers, in each case without any conditions that are unacceptable to Prospect and the Company in their sole discretion;

(b) The Company or the applicable Company Subsidiary shall have received all required Permits and Environmental Permits from all Governmental Entities whose approval is required to consummate the Transactions and for the Company or the Company Subsidiary to operate the Facilities and Purchased Assets in the same manner as currently operated by Sellers, or with respect to any such Permits and/or Environmental Permits that are not possible to obtain prior to Closing, Prospect, the Company and Sellers shall have received assurances, reasonably satisfactory to Prospect and the Company, that such Permits and/or Environmental Permits shall be obtained promptly after Closing and retroactive to the Closing Date, in each case without any conditions that are unacceptable to Prospect and the Company in their sole discretion; and

(c) Sellers shall have received all Church Approvals.

9.5 Clearances. The Parties shall have received approval under HCA and HCFLA, in each case without any conditions that are unacceptable to Prospect and the Company in its their discretion.

9.6 Property Tax. The Company or the Company Subsidiaries shall have received binding commitments from all applicable Governmental Entities, in form and substance satisfactory to Prospect in its sole and absolute discretion, with respect to the resolution of certain property tax abatement treaties.

9.7 Action/Proceeding/Litigation. No Governmental Entity shall have issued an Order restraining or prohibiting the Transactions; no Governmental Entity shall have commenced or threatened in writing to commence any action or suit before any court of competent jurisdiction or other Governmental Entity that seeks to restrain or prohibit the

consummation of the Transactions or impose material damages or penalties in connection therewith. No Legal Proceeding relating to the Transactions shall be pending, unless the Parties agree that such Legal Proceeding does not constitute a material obstacle to the consummation of the Transactions in accordance with the terms hereof.

9.8 Consents of Certain Third-Parties to Assumed Contracts. Sellers and/or the Company shall have obtained all Material Consents, *i.e.*, written consents from all applicable third-parties to the assignment of those Assumed Contracts identified with an asterisk on Schedule 4.12(e).

9.9 Title Insurance Policies. Title Company shall be prepared (subject to payment of the premiums and title, survey, search and related costs and fees required to be paid by the Company) to issue title insurance policies in accordance with this Agreement dated the day of Closing, in the full amount of the Cash Purchase Price (or such other reasonable amount as determined by the Company) allocated among the Owned Real Property or determined by the Company, at regular rates, showing fee simple title to the Owned Real Property, and leasehold title to any ground leases that are included among the Leased Real Property (each, a "Ground Lease"), in the name of the Company or a Company Subsidiary (as applicable), subject only to the Permitted Exceptions.

9.10 Material Indebtedness. All Material Indebtedness and all Encumbrances created by or in connection with such Material Indebtedness shall have been satisfied, discharged and terminated in full.

9.11 Collective Bargaining Agreements. Effective as of the Closing, the Company shall have recognized each union representing any Transferred Employee and shall have assumed all existing collective bargaining agreements, as amended between the date of this Agreement and the Closing Date, that have been consented to by the Company pursuant to Section 7.3(a) hereof.

9.12 Termination of Seller Plans. Sellers shall have taken necessary and appropriate action to terminate every Seller Plan effective before or as of the Closing Date, other than the Retirement Plan and any other Seller Plan listed on Schedule 9.12.

9.13 Freezing of Seller Plans. Sellers shall have taken necessary and appropriate action to freeze any Seller Plan listed on Schedule 9.13(a), and shall have taken best efforts to freeze any Seller Plan listed on Schedule 9.13(b), before or as of the Closing Date so that no benefits are accrued after the Closing Date. Notwithstanding the foregoing, Sellers hereby represent and warrant that, after the Effective Time: (i) there shall be no further benefit accruals under the Retirement Plan with respect to any of the Transferred Employees based on services rendered after the Effective Time; and (ii) the Retirement Plan shall continue to be frozen as to new participants.

9.14 Material Adverse Development. There shall have been no Material Adverse Development as to Sellers.

9.15 Closing Deliveries. Sellers shall have delivered (or be ready, willing and able to deliver at Closing) to the Company all agreements and documents required to be delivered to the Company at the Closing under this Agreement.

ARTICLE X
CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLERS

The obligations of Sellers hereunder are subject to the satisfaction, on or prior to the Closing Date, of the following conditions unless waived in writing by Sellers:

10.1 Compliance With Covenants. All of the covenants and obligations that each of Prospect, the Prospect Member, the Company and the Company Subsidiaries, respectively, is required to perform or to comply with pursuant to this Agreement at or prior to the Closing (considered collectively), and each of these covenants and obligations (considered individually), shall have been performed and complied with in all material respects.

10.2 Representations and Warranties. All of the Company's and Prospect's respective representations and warranties in this Agreement (considered collectively), and each of these representations and warranties (considered individually), shall have been accurate as of the date of this Agreement (giving effect to any amended Applicable Disclosure Schedules delivered pursuant to Section 7.11(a)) and as of the time of the Closing as if then made (but without giving effect to any updated schedules delivered pursuant to Section 7.11(b)), except where the failure of such representations and warranties to be accurate does not have or cause, individually or in the aggregate, a Material Adverse Development. Each of the representations and warranties in this Agreement that contains an express Material Adverse Development qualification shall have been accurate in all respects as of the date of this Agreement (giving effect to any amended Applicable Disclosure Schedules delivered pursuant to Section 7.11(a)) and shall be accurate in all respects as of the time of the Closing as if then made (but without giving effect to any updated schedules delivered pursuant to Section 7.11(b)).

10.3 Officers' Certificates. Each of Prospect, the Prospect Member, and the Company shall have delivered to Sellers a certification of an appropriate officer to the effect that each of the conditions set forth in Sections 10.1 and 10.2 have been satisfied in all material respects.

10.4 Approvals. All of the following shall have been received:

(a) Sellers shall have received all Healthcare Regulatory Consents set forth in Schedule 4.2(b);

(b) Sellers shall have received the Church Approvals; and

(c) the Parties shall have received approval under HCA and HCFLA.

10.5 Action/Proceeding/Litigation. No Governmental Entity shall have issued an Order restraining or prohibiting the Transactions; no Governmental Entity shall have commenced or threatened in writing to commence any action or suit before any court of competent jurisdiction or other Governmental Entity that seeks to restrain or prohibit the consummation of the Transactions or impose material damages or penalties in connection

therewith. No Legal Proceeding relating to the Transactions shall be pending, unless the Parties agree that such Legal Proceeding does not constitute a material obstacle to the consummation of the Transactions in accordance with the terms hereof.

10.6 Collective Bargaining Agreements. Effective as of the Closing, the Company shall have recognized each union representing any Transferred Employee and shall have assumed all existing collective bargaining agreements, as amended between the date of this Agreement and the Closing Date, that have been consented to by the Company pursuant to Section 7.3(a) hereof.

10.7 Assumed Employment Agreements. The Company shall have assumed all of the Assumed Employment Agreements listed on Schedule 2.1(f)(1).

10.8 Material Adverse Development. There shall have been no Material Adverse Development as to Prospect.

10.9 Closing Deliveries. Prospect, the Prospect Member, the Company and the Company Subsidiaries shall have delivered (or be ready, willing and able to deliver at Closing) to Sellers all agreements and documents required to be delivered to Sellers at the Closing under this Agreement.

ARTICLE XI
TERMINATION

11.1 Termination. Notwithstanding anything in this Agreement to the contrary, this Agreement may not be terminated, except prior to the Closing as follows:

(i) by mutual consent in writing of Prospect and the Company, on the one hand, and Sellers, on the other hand;

(ii) by either Prospect or the Company, on the one hand, or Sellers, on the other hand, if during the twenty-one (21) day period immediately following the date of this Agreement, Prospect or the Company, on the one hand, or Sellers, on the other hand, propose to amend any of the disclosure schedules provided thereby pursuant to this Agreement for the purpose of ensuring the accuracy and completeness thereof as of the date of this Agreement, and such proposed amended schedule is not acceptable to Sellers, on the one hand, or to Prospect and the Company, on the other hand;

(iii) by either Prospect or the Company, on the one hand, or Sellers, on the other hand, if any permanent injunction, order, decree or ruling of any court or other Governmental Entity of competent jurisdiction permanently restraining, enjoining or otherwise preventing the consummation of the Transactions shall have been issued and become final and non-appealable;

(iv) by either Prospect or the Company, on the one hand, or Sellers, on the other hand, if the Closing shall not have occurred on or before the Outside Date; provided, however, that the right to terminate this Agreement pursuant to this Section 11.1(iv) shall not be available to any Party whose breach or failure to perform any material covenant or obligation

under this Agreement has been the primary cause or primarily resulted in the failure of the Closing to have occurred on or before the Outside Date;

(v) by Prospect or the Company, if there has been a violation or breach in any material respect of any representation, warranty, covenant or agreement of Sellers set forth in this Agreement, which violation or breach would cause any of the conditions set forth in ARTICLE IX not to be satisfied, and such violation or breach has not been waived by Prospect or the Company or cured by Sellers, as the case may be, within twenty (20) Business Days after notice thereof is given by Prospect or the Company;

(vi) by Prospect or the Company, immediately by written notice to Sellers, if any event occurs or fact or condition exists that makes it impossible for Sellers to satisfy, or causes Sellers to be unable to satisfy, one or more conditions to the obligations of Prospect, the Prospect Member, the Company and the Company Subsidiaries to consummate the Transactions as set forth in ARTICLE IX prior to the Outside Date; provided, however, that such date may be extended by Sellers for up to six (6) months if Sellers are taking diligent steps to resolve any such outstanding conditions and such outstanding conditions relate solely to the receipt of one or more Approvals or the Church Approvals; provided, further, that, notwithstanding the foregoing, the right to terminate this Agreement under this Section 11.1(vi) shall not be available to Prospect or the Company if either of their actions or failure to act under this Agreement shall have been a primary cause of, or resulted in, the failure of the Closing to occur on or before the Outside Date and such action or failure to act constitutes a breach of this Agreement; and

(vii) by Sellers, immediately by written notice to Prospect and the Company, if any event occurs or fact or condition exists that makes it impossible for the Prospect, the Prospect Member, the Company or the Company Subsidiaries to satisfy, or causes Prospect, the Prospect Member, the Company or the Company Subsidiaries to be unable to satisfy, one or more conditions to the obligation of Sellers to consummate the Transactions as set forth in ARTICLE X prior to the Outside Date; provided, however, that such date may be extended by Prospect or the Company for up to six (6) months if Prospect or the Company is taking diligent steps to resolve any such outstanding conditions and such outstanding conditions relate solely to the receipt of one or more Approvals; provided, further, that, notwithstanding the foregoing, the right to terminate this Agreement under this Section 11.1(vii) shall not be available to Sellers if Sellers' actions or failure to act under this Agreement shall have been a primary cause of, or resulted in, the failure of the Closing to occur on or before the Outside Date and such action or failure to act constitutes a breach of this Agreement.

11.2 Effect of Termination. If this Agreement is terminated pursuant to Section 11.1, then all further obligations of the Parties under this Agreement shall terminate without further liability of any Party to another; provided, however, that (i) the obligations of the Parties contained in Section 13.12 (Public Statements) and ARTICLE XV shall survive any such termination, and (ii) a termination under Section 11.1 shall not relieve any Party of any liability for a breach of, or for any misrepresentation under this Agreement, or be deemed to constitute a waiver of any available remedy (including specific performance, if available) for any such breach or misrepresentation.

ARTICLE XII
PERMITTED EXCEPTIONS, TITLE INSURANCE & TAXES

12.1 Title to Property.

(a) The Company has ordered, or within five (5) Business Days after the execution and delivery of this Agreement the Company shall order, from the Title Company a title insurance report and commitment for a title insurance policy with respect to the interests in the Owned Real Property to be conveyed by Sellers to the Company or any Company Subsidiary hereunder, which policy shall be in the form currently used by reputable title insurers in the State of Rhode Island (such report and such commitment and any updates thereto issued by the Title Company in connection with this Agreement being referred to herein as the "Commitment"), and the Company shall promptly furnish to Sellers a copy thereof, together with copies of all Exceptions listed thereon. The Company shall also promptly provide to Sellers a copy of (i) any update to the Commitment issued by the Title Company on or prior to the Closing Date (an "Update") together with copies of all Exceptions listed thereon that the Company has not previously delivered, promptly after the Company's receipt thereof, and (ii) any update of each of the Surveys or new surveys of the Owned Real Property obtained by the Company (each of which the Company shall have the right, but no obligation, to obtain) (each, a "Survey Update"), promptly after the Company's receipt thereof. If the Commitment, any Update or any Survey Update discloses any exception, lien, mortgage, security interest, claim, charge, reservation, lease, tenancy, occupancy, easement, right of way, encroachment, restrictive covenant, condition, limitation or other encumbrance affecting the Owned Real Property (collectively, "Exceptions") that is not a Permitted Exception and to which the Company reasonably objects (the "Non-Permitted Exceptions"), then the Company shall promptly give a notice (a "Title Notice") to Sellers after the Company's receipt of the Commitment, the Update or the Survey Update first containing such Non-Permitted Exceptions, as applicable, which notice shall identify such Non-Permitted Exceptions, provided, however, notwithstanding anything herein to the contrary, (x) any and all monetary liens, including all mortgages and security interests securing any obligations of Sellers (or any predecessor-in-interest to Sellers) not of the type covered by Section 12.2, all judgments against Sellers (or any predecessor-in-interest to Sellers), all mechanics' liens recorded against the Owned Real Property (or any portion thereof), all monetary liens or penalties arising out of violations on the Owned Real Property and all Real Estate Taxes (other than Real Estate Taxes that constitute Permitted Exceptions pursuant to Section 12.2), and (y) any and all tenancies (except those set forth on Schedule 4.14(c)), shall be deemed to be and shall constitute Non-Permitted Exceptions for all purposes and the Company shall not be obligated to deliver a Title Notice with respect thereto in order for same to constitute Non-Permitted Exceptions. Any Exceptions disclosed in the Commitment, any Update or any Survey Update that are (x) not included in a Title Notice timely given in accordance with the preceding sentence and (y) not deemed Non-Permitted Exceptions in accordance with the preceding sentence shall be deemed Permitted Exceptions. Sellers shall, at or prior to Closing, (A) remove the following Exceptions ("Mandatory Removal Exceptions"): (i) any and all monetary liens, including all mortgages and security interests securing any obligations of Sellers (or any predecessor-in-interest to Sellers) not of the type covered by Section 12.2, all judgments against Sellers (or any predecessor-in-interest to Sellers), all mechanics' liens recorded against the Owned Real Property or any Ground Lease Property (or any portion thereof) and all Real Estate Taxes (other than Real Estate Taxes that constitute Permitted Exceptions pursuant to

Section 12.2), (ii) any and all tenancies (except those set forth on Schedule 4.14(c)), and (iii) without limitation of the Mandatory Removal Exceptions described in preceding clauses (i) and (ii), any and all of the Non-Permitted Exceptions that Sellers willfully placed of record or consented to be placed of record after the effective date of Sellers' Commitment, and (B) remove any and all other Non-Permitted Exceptions. The acceptance by the Title Company of an indemnification agreement by Sellers and the Title Company's removal of any Exception from the title policy at Closing in reliance thereon or the Title Company's agreement to issue an endorsement to its policy of title insurance that affirmatively insures against such Non-Permitted Exception in a manner reasonably acceptable to the Company shall be deemed removal of such Exception for purposes of the preceding sentence and of Section 12.1(b) below. Sellers shall have the right to adjourn the Closing Date from time to time, up to sixty (60) days in the aggregate, for the purpose of removing/eliminating Non-Permitted Exceptions.

(b) Sellers shall, at or prior to the Closing, remove any Non-Permitted Exceptions that are not Mandatory Removal Exceptions and that, in the aggregate, may be removed by Sellers expending $500,000 or less. If there exist Non-Permitted Exceptions that are not Mandatory Removal Exceptions and that in the aggregate exceed $500,000 in amount or value, and Sellers elect not to remove Non-Permitted Exceptions that are not Mandatory Removal Exceptions such that the remaining Non-Permitted Exceptions that are not Mandatory Removal Exceptions exceed $500,000 in the aggregate, then Sellers shall notify the Company of such election within 20 Business Days of Sellers' receipt of the Title Notice disclosing such Non-Permitted Exceptions. Failure of Sellers to send notice of such election within such 20 Business Day period shall be deemed an election by Sellers to remove the Non-Permitted Exceptions that are not Mandatory Removal Exceptions. The Company may elect, within 10 Business Days after such notice from Sellers to the Company that Sellers have elected not to remove any Non-Permitted Exceptions which are not Mandatory Removal Exceptions, to either (i) not consummate the Transactions, in which event this Agreement shall be terminated and of no further force and effect, and none of the Parties shall have any rights or obligations to the other hereunder (except for those rights and obligations that are expressly stated herein to the survive the termination of this Agreement), or (ii) consummate the Transactions subject to such Non-Permitted Exceptions which are not Mandatory Removal Exceptions and proceed to Closing with an abatement of the Cash Purchase Price in the amount of the cost to cure the Non-Permitted Exceptions that are not Mandatory Removal Exceptions, but in no event more than $500,000. Failure of the Company to send notice of the election available to it pursuant to the preceding sentence within such 10 Business Day period shall be deemed an election by the Company to close under clause (ii) of the preceding sentence.

(c) Notwithstanding anything herein to the contrary, (i) if the Commitment discloses judgments, bankruptcies or other returns against other persons or entities having names the same as or similar to that of Sellers, then Sellers, on request and to the extent applicable, shall deliver to the Title Company affidavits (in a form reasonably requested by the Title Company) to the effect that such judgments, bankruptcies or other returns are not against Sellers, (ii) if requested by the Title Company to remove any exceptions for rights of parties in possession, Sellers shall deliver to the Title Company an affidavit to the effect that there are no leases in force and effect with respect to the Owned Real Property, and (iii) if reasonably required by the Title Company, Sellers agree to execute, acknowledge and deliver such other standard and customary owner's title affidavits at Closing.

(d) Any Service Contract that is not an Assumed Contract shall be deemed a Non-Permitted Exception and shall be terminated by Sellers on or prior to Closing.

12.2 Permitted Exceptions. "Permitted Exceptions" means: (a) all matters set forth on Schedule 12.2 (which Schedule shall consist of those exceptions set forth on Sellers' existing title policy(ies) and agreed to by Prospect and the Company); (b) building, zoning, subdivision and other governmental laws, codes and regulations, and landmark, historic and wetlands designations; (c) liens for inchoate mechanics' and materialmen's liens for construction in progress and workmen's, repairmen's, warehousemen's and carriers' liens arising in the ordinary course of business; easements, restrictive covenants, rights of way and other similar restrictions of record that do not impair in any material respect the value of the assets or the continued conduct of the business of any Seller or any of its Affiliates or its continued use of its assets in the manner currently used; (d) such other matters with respect to which the Company expressly has agreed to take pursuant to the provisions of this Agreement, including any matters which the Company elects to take subject to pursuant to Section 12.1(b); (e) real property taxes, water rates and charges, sewer taxes and rents, business improvement district charges and similar items with respect to the Property (collectively, "Real Estate Taxes"), not yet due and payable; (f) rights of Tenants under Leases; (g) any Exceptions disclosed in the Commitments, any Update or any Survey Update that are not Non-Permitted Exceptions and deemed Permitted Exceptions pursuant to Section 12.1(a); and (h) rights of licensors under licenses of assets licensed to Sellers set forth in any of the Assumed Contracts and under licenses of Off-the-Shelf Software.

12.3 Transfer Taxes.

(a) Transfer Taxes incurred in connection with this Agreement shall be the responsibility of the Company or a Company Subsidiary (as applicable), provided, however, that the Parties shall endeavor to effect the transfer of the Facilities and the Purchased Assets in a manner that minimizes the total amount of Transfer Taxes incurred in connection with this Agreement, taking into account the effect of any exemption from such Transfer Taxes available to Sellers by virtue of Sellers' general exemption from Tax. The Party that has the primary obligation to file any Tax Return that is required to be filed in respect of any Transfer Taxes shall prepare and file such return after providing the other Party the opportunity to review and approve the return, which approval shall not be unreasonably withheld, conditioned or delayed. The Parties agree to cooperate with each other in connection with the preparation and filing of any such Tax Returns, in obtaining all available exemptions from such Transfer Taxes, and in timely providing each other with resale certificates or other documents necessary to satisfy any such exemptions.

(b) The Company, each Company Subsidiary (as applicable) and Sellers shall deliver to the Title Company the RE Tax Returns. If the procedures required by the state, county, or municipality require that any RE Tax Returns be filed, reviewed or approved prior to the Closing Date, the Company, Company Subsidiaries and Sellers shall complete, sign and swear to the RE Tax Returns and deliver same to the Title Company for delivery to the appropriate authority sufficiently in advance of the Closing Date so as to permit the sale contemplated hereby to be consummated by the Closing Date. The Company, Company Subsidiaries and Sellers shall cooperate in preparing the RE Tax Returns in a manner that

maximizes the benefit of any exemption from or reduction of Tax available as a result of Sellers' tax-exempt status.

12.4 Cooperation on Tax Matters. The Parties shall furnish or cause to be furnished to each other, as promptly as practicable following the request therefor, such information and assistance relating to the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax Return, claim for refund or other filings relating to Tax matters, for the preparation for and defense of any Tax audit, for the preparation of any Tax protest, or for the prosecution or defense of any suit or other proceeding relating to Tax matters.

ARTICLE XIII
ADDITIONAL COVENANTS

13.1 Noncompetition; Non-Solicitation. For a period of five (5) years after the Closing Date, Sellers shall not, directly or indirectly (disregarding for these purposes the ownership interest to be held by the Seller Member in the Company as of and following the Closing Date), and Seller shall cause its Affiliates not to, in any capacity: (i) own, lease, manage, operate, control, participate in the management or control of, be employed by, or maintain or continue any interest whatsoever in any enterprise engaged in the business of providing healthcare goods or services, including hospitals and outpatient surgery or diagnostic facilities, within a 25 miles radius of any of the Facilities (other than through the Company and the Company Subsidiaries); (ii) employ, recruit or solicit the employment of any Transferred Employee unless (x) such employee resigns voluntarily (without any solicitation from Sellers or any of its Affiliates), (y) the Company consents in writing to such employment or solicitation, or (z) such employee is terminated by the Company, a Company Subsidiary, or an Affiliate thereof after the Closing Date; (iii) induce, cause or attempt to induce or cause any Person (including any physician employee or medical staff member) to replace or terminate any Contract for the provision or arrangement of health care services from a Facility with products or services of any other Person after the Closing Date; or (iv) request, induce or cause any physician employee or medical staff member to terminate any Contract with or change practice patterns at the Facilities.

13.2 Confidentiality. All confidential information provided or made available by the Parties in connection with or under this Agreement shall be subject to the Confidentiality Agreement, and the Confidentiality Agreement shall remain in full force and effect in accordance with its terms and shall survive the Closing.

13.3 Remedies. In the event of a breach of Section 13.1 or Section 13.2 the Parties recognize that monetary damages shall be inadequate to compensate the non-breaching Party, and the non-breaching Party shall be entitled, without the posting of a bond or similar security, to an injunction restraining such breach, with the costs (including reasonable attorneys' fees) of successfully securing such injunction to be borne by the breaching Party. Nothing contained herein shall be construed as prohibiting the non-breaching Party from pursuing any other remedy available to it for such breach or threatened breach. The Parties hereby acknowledge the necessity of protection described in Section 13.1 and Section 13.2 and that the nature and scope of such protection has been carefully considered by them. The period provided and the area covered in Section 13.1 are expressly represented and agreed to be fair, reasonable and

necessary. The consideration and benefits provided for herein are deemed to be sufficient and adequate to compensate Sellers for agreeing to the restrictions contained in Section 13.1. If any court determines that the foregoing restrictions are not reasonable, then such restrictions shall be modified, rewritten or interpreted to include as much of their nature and scope as will render them enforceable.

13.4 Assumed Contracts. To the extent that any Assumed Contract is not capable of being assigned without the consent of a third party or if such assignment or attempted assignment would constitute a breach thereof or a violation of any Law (any such Assumed Contract being referred to herein as a "Nonassignable Contract"), nothing in this Agreement shall constitute an assignment or an attempted assignment thereof prior to the time at which all consents necessary for such assignment shall have been obtained. Sellers shall use commercially reasonable efforts to obtain the consent to the assignment of any Nonassignable Contracts, and the Company and the Company Subsidiaries shall reasonably cooperate with their efforts. To the extent that any of the consents are not obtained, (a) the Company shall not be required to close the Transactions if such consents pertain to any of the Assumed Contracts denoted with an asterisk as Material Consents on Schedule 4.12(e), and (b) if the Company nevertheless elects to close the Transactions, then to the extent requested by the Company, Sellers shall, during the term of the affected Nonassignable Contract, use commercially reasonable efforts to (i) provide to the Company or a Company Subsidiary (as applicable) the benefits under any such Nonassignable Contract, (ii) cooperate in any reasonable and lawful arrangement designed to provide such benefits to the Company or a Company Subsidiary, and (iii) enforce for the account of the Company or a Company Subsidiary, any rights of Sellers under the affected Nonassignable Contract (including the right to elect to terminate such Nonassignable Contract in accordance with the terms thereof upon the direction of the Company) and for the period that the Company or a Company Subsidiary is receiving the benefit that would otherwise inure to Sellers under the Nonassignable Contract, the Company or such Company Subsidiary will be responsible for the obligations under the Nonassignable Contract relating to such period. The Company and the Company Subsidiaries shall cooperate with Sellers to enable Sellers to provide to the Company and the Company Subsidiaries the benefits contemplated by the immediately preceding sentence.

13.5 Additional Acts.

(a) Generally. From time to time after Closing, the Parties shall execute and deliver such other instruments of conveyance and transfer, and take such other actions as any other Party reasonably may request, to convey and transfer full right, title and interest to, vest in and place the Company and the Company Subsidiaries (as applicable) in legal and actual possession and benefit of, any and all of the Purchased Assets.

(b) Accounts Receivable. Sellers shall provide the Company and the Company Subsidiaries with all information in their possession or under their control that is reasonably necessary to bill and collect Accounts Receivable. After the Closing, Sellers shall: (i) permit, and hereby authorize, the Company and the Company Subsidiaries to collect, in the name of Sellers, all Accounts Receivable constituting part of the Purchased Assets and to endorse with the name of the applicable Seller for deposit in the Company's or a Company Subsidiary's account any checks or drafts received in payment thereof and not cause any Accounts Receivable

to be deposited in any account other than the A/R Bank Accounts; (ii) pay over, or cause to be paid over, to the Company or a Company Subsidiary, without right of set-off, within three (3) Business Days of receipt (and until so paid, shall hold in trust for the Company or such Company Subsidiary) all amounts received by Sellers and their Affiliates in respect of the Accounts Receivable; (iii) provide the Company or a Company Subsidiary with all information available to permit the Company and such Company Subsidiary to correctly apply such amounts; and (iv) cooperate with the Company or a Company Subsidiary to cause all future payments and reimbursements to be paid directly to the Company or such Company Subsidiary.

(c) Other Assistance. From time to time after Closing, as reasonably requested by Sellers, the Company shall administratively assist Sellers, at no additional cost, in disposing of the Excluded Assets and/or discharging the Excluded Liabilities retained by Sellers subsequent to the Closing.

13.6 Sellers' Cost Reports and RAC Audits.

(a) Sellers shall timely prepare and submit all Cost Reports relating to Sellers for cost report periods ending on or prior to the Closing Date or that are required as a result of the consummation of the Transactions, including terminating Cost Reports for the Government Reimbursement Programs ("Sellers' Cost Reports"). Such Sellers' Cost Reports shall be prepared in accordance with applicable Law. Upon reasonable advance notice, the Company and the Company Subsidiaries shall provide Sellers during normal business hours with the assistance of their respective personnel and access to such documents and information, as reasonably requested by Sellers to enable Sellers to timely prepare and file Sellers' Cost Reports. Neither the Company nor any Company Subsidiary shall be deemed to be the "preparer" of Sellers' Cost Reports as a result of such assistance. Sellers shall furnish to the Company copies of Sellers' Cost Reports, correspondence, work papers and other documents relating to Sellers' Cost Reports.

(b) From and after the Closing Date, the Company shall be responsible for the conduct of any and all RAC audits that may be conducted with respect to the Business, including with respect to the provision of services or the submission of claims by Sellers relating to periods prior to the Closing Date. The Company, either directly or through the pertinent Company Subsidiary: (i) shall timely respond to any and all requests made in connection with any such RAC audit; (ii) shall be responsible for the payment of any amounts to be paid or offset as a result of any such RAC audit; (iii) shall have the right to dispute and appeal any such offsets or amounts alleged to be owed in connection with any such RAC audit; and (iv) shall be entitled to any refunds resulting from any such RAC audit.

13.7 Post-Closing Access to Information. The Parties acknowledge that, after the Closing, the Company and Sellers may each need access to information, documents or computer data in the control or possession of the other concerning the Purchased Assets, Facilities or Assumed Liabilities for purposes of concluding the Transactions and for audits, investigations, compliance with governmental requirements, regulations and requests, and the prosecution or defense of third party claims. Accordingly, the Company and the Company Subsidiaries agree that, at the sole cost and expense of Sellers, at Sellers' request, they will make available to Sellers and their agents, independent auditors and/or Governmental Entities such documents and

information as may be available relating to the Purchased Assets, Facilities and Assumed Liabilities in respect of periods prior to Closing and will permit Sellers to make copies of such documents and information. Sellers agree that, at the sole cost and expense of the Company, Sellers will make available to the Company and the Company Subsidiaries and their agents, independent auditors and/or Governmental Entities such documents and information as may be in the possession of any Sellers or their Affiliates relating to the Purchased Assets, Facilities and Assumed Liabilities in respect of periods prior to the Closing and will permit the Company and the Company Subsidiaries to make copies of such documents and information. After the Closing Date, the Company and the Company Subsidiaries (as applicable) shall retain for a period consistent with the Company's record-retention policies and practices, those records of Sellers delivered to the Company or any Company Subsidiary.

13.8 Sellers' Remedial Actions. If Sellers have failed to fulfill prior to Closing any of their obligations set forth herein, and the Company has elected to close notwithstanding such deficiency or deficiencies, Sellers shall nevertheless use their commercially reasonable efforts to correct such deficiency or deficiencies as promptly as practicable after Closing, and their non-fulfillment shall not be deemed waived by the Company unless specifically so stated in writing by the Company.

13.9 Seller Intellectual Property. Sellers shall take any and all reasonable actions and shall cause their Employees, contractors and consultants, as applicable, to take any and all reasonable actions (including executing documents) necessary to effectuate the transfer of the Seller Intellectual Property to the Company or a Company Subsidiary and, following the Closing, Sellers shall take any and all reasonable actions to allow the Company or such Company Subsidiary to prosecute, maintain and defend the Seller Intellectual Property, other than with respect to the Intellectual Property described in Schedule 4.9(c).

13.10 Use of Controlled Substances Permits. To the extent permitted by applicable law, the Company and the Company Subsidiaries (as applicable) shall have the right, for a period not to exceed one hundred twenty (120) days following the Closing Date, to operate under the licenses and registrations of Sellers relating to controlled substances and the operations of pharmacies and laboratories, until the Company or such Company Subsidiaries are able to obtain such licenses and registrations for themselves, pursuant to an agreement in the form annexed hereto as Exhibit J (the "Limited Power of Attorney"), which Sellers agree to execute and deliver at the Closing.

13.11 Use of Names. On or before the Closing Date, each Seller other than SJHSRI shall (a) amend its certificate of incorporation, bylaws and any other organizational documents and take all other actions necessary to change its name to one sufficiently dissimilar to such Seller's present name, in the Company's judgment, to avoid confusion, and (b) take all actions requested by the Company to enable the Company and the Company Subsidiaries to change their legal names to the present names of Sellers. After the Closing, (x) the Company and the Company Subsidiaries shall continue to operate the Business using, to the extent practicable, the names of the Seller entities (except for SJHSRI), including the present name of CCHP as immediately prior to Closing, and (y) Sellers will not adopt any trademarks or service marks that are confusingly similar to the trademarks and service marks assigned hereunder. After the Closing Date, neither Sellers nor any of their Affiliates will challenge the use of, or the validity

and enforceability of, any Intellectual Property assigned to the Company or the Company Subsidiaries hereunder.

13.12 Public Statements. Any public announcement, press release or similar publicity with respect to this Agreement or the Transactions will be issued, if at all, at such time and in such manner as the Parties mutually determine. Except with the prior consent of the Company or as permitted by this Agreement, neither Sellers nor any of their Representatives shall disclose to any Person (a) the fact that any confidential information of Sellers has been disclosed to the Company or its Representatives, that the Company or its Representatives have inspected any portion of such confidential information, that any confidential information of the Company has been disclosed to Sellers or their Representatives or that Sellers or their Representatives have inspected any portion of the such confidential information, or (b) any information about the Transactions, including the status (or existence) of such discussions or negotiations, the execution of any documents (including this Agreement) or any of the terms of the Transactions or the related documents (including this Agreement). Sellers and the Company will consult with each other concerning the means by which Sellers' Employees, customers, suppliers and others having dealings with Sellers will be informed of the Transactions, and the Company will have the right to be present for any such communication.

13.13 Strategic Initiatives. Immediately following the Closing Date, the Parties shall cause the Company's governing board to collaboratively examine Sellers' existing strategic initiatives, with consideration given to: (i) growth and development of clinical centers of excellence (cancer, geriatric continuum, behavioral health, digestive disease, bariatrics, and diabetes); (ii) pursuit of opportunities in neurological sciences, dermatology and wound care, and orthopedics; (iii) clinical integration; and (iv) medical staff-system alignment and engagement. Within the first one hundred eighty (180) days immediately following the Closing Date, the Company shall prepare (through its manager) and adopt (through its governing board) a three (3)- to five (5)-year strategic plan addressing the short-term and long-term priorities for the Business, the Facilities, and strategic objectives.

13.14 Operating Commitments. From and after the Closing Date, Prospect and the Prospect Member shall ensure that the Company and the Company Subsidiaries operate the Business and the Facilities consistent with the same commitments to charity care and serving the local community, and the same dedication to quality, safety and patient satisfaction, as historically demonstrated by Sellers. In furtherance of the foregoing, Prospect and the Prospect Member shall cause the Company and the Company Subsidiaries to do or ensure all of the following:

(a) The Company and the Company Subsidiaries shall cause their respective Facilities, including without limitation the Hospitals, to accept and to continue to participate in the Medicare and Medicaid programs, including by maintaining appropriate accreditations necessary to receive reimbursement under such programs;

(b) The Company and the Company Subsidiaries shall endeavor to maintain and enhance the quality and safety of patient care services provided at the Hospitals;

(c) The Company and the Company Subsidiaries shall adopt as their policy concerning charity care/financial assistance policy the same such policy maintained by Sellers as in effect immediately prior to the Closing Date, attached as Exhibit K hereto; the Company and the Company Subsidiaries may from time to time amend, restate or supplement such policy provided that the charity care/financial assistance program of the Company and each Company Subsidiary remains at least as favorable to the indigent and uninsured as the policy attached hereto;

(d) The Company and the Company Subsidiaries shall continue to provide care through sponsorship and support of community-based health programs, including cooperation with local organizations that sponsor healthcare initiatives to address identified community needs and work to improve the health status of the elderly, poor and at-risk populations in the community;

(e) The Company and the Company Subsidiaries shall continue to support nursing and staff education;

(f) The Company and the Company Subsidiaries shall, at a minimum, continue the current medical education and research programs in place at the Business immediately prior to the Closing Date, unless there occur reductions in grants or other governmental funding that offset the cost of such medical education and research, in which case the Company or the Company Subsidiaries (as applicable) may reduce such programs in proportion to the reduction in support;

(g) The Company and the Company Subsidiaries shall at all times conduct their respective activities and operations in material compliance with all applicable Law;

(h) The Company and the Company Subsidiaries shall at all times maintain a compliance officer whose responsibilities shall include regulatory compliance and organizational compliance, and who shall be responsible for establishing and overseeing an ethics committee to include community board members; and

(i) The Company and the Company Subsidiaries shall at all times cause the Transferred Restricted Funds to be used in a manner consistent with their stated purposes; provided, that such stated purposes and restrictions do not cause the Company or the Company Subsidiaries to breach or violate, or be reasonably likely to breach or violate, any provision contained in the Company's Credit Agreement or any other agreements the Company or the Company Subsidiaries may be subject to from time to time; provided, further, that any different or additional conditions or limitations that may be imposed by third parties in connection with their consent to the transfer of such amounts hereunder shall be subject to the consent of the Company, which consent shall not be unreasonably withheld.

13.15 Essential Services.

(a) Except as otherwise provided in Section 13.15(b) below, Prospect and the Prospect Member shall cause the Company and the Company Subsidiaries to maintain both Hospitals and to continue to provide, collectively, the full complement of essential clinical services set forth on Exhibit L ("Essential Services") for a period of at least five (5) years

immediately following the Closing Date. The Parties hereby acknowledge and agree that the foregoing commitment regarding the provision of Essential Services is intended to ensure continued choice and access to hospital and non-acute health care services providers. For a period of at least five (5) years immediately following the Closing Date, in the event that the Company or a Company Subsidiary sells the Business and/or either Hospital, Prospect and the Prospect Member shall cause the Company or the Company Subsidiary (as applicable) to require the purchaser thereof to assume the foregoing obligations in their entirety.

(b) Notwithstanding Section 13.15(a) above, if any of the following contingencies occurs with regard to any particular Essential Service, the Company or the Company Subsidiary (as applicable) may suspend, terminate, discontinue or materially and substantially modify, limit, or reduce (as applicable) the Essential Service:

(i) The Essential Service is Not Financially Viable;

(ii) The medical staff of the facilities then owned or operated by the Company or the Company Subsidiary do not include qualified physicians necessary to support the provision of the Essential Service;

(iii) An Essential Service experiences a significant decrease in patient volumes for any reason not within the reasonable control of the Company or a Company Subsidiary, including technological obsolescence, changes in method, techniques or sites for delivery of the Essential Service, pharmaceutical advancements, failure of the Essential Service to qualify for reimbursement under Medicare (or any successor program) or a material portion of other payors, demographic and other market changes, or other competitive/marketplace factors; or

(iv) The actual or projected volume or clinical staffing for an Essential Service is or will be insufficient to achieve or maintain the level of quality for such Essential Service that is at least equal to, or better than, the level of quality at which the Essential Service is provided at any other general acute care community hospital in the region.

13.16 Catholic Identity and Covenants. At all times following the Closing Date, Prospect and the Prospect Member shall cause the Company and the Company Subsidiaries to maintain the Catholic identity of all legacy SJHSRI locations and to ensure that all services at SJHSRI locations are rendered in full compliance with the Ethical and Religious Directives for Catholic Health Care Services, as promulgated by the United States Conference of Catholic Bishops and adopted by the Bishop of the Roman Catholic Diocese of Providence, Rhode Island, as the same may be amended from time to time (the "ERDs"). In furtherance of and consistent with the foregoing, Prospect and the Prospect Member shall cause the Company and the Company Subsidiaries to do or ensure all of the following:

(a) Each and every legacy SJHSRI location, as identified on Exhibit M, shall at all times be operated by the Company or a Company Subsidiary consistent with the Catholicity standards set forth on Exhibit M;

(b) Each and every facility owned or operated by the Company or a Company Subsidiary (other than the legacy SJHSRI locations identified on Exhibit M), and all programs

and services provided thereat or thereby, shall be operated by the Company or such Company Subsidiary so as to comply with the service restrictions set forth on Exhibit N;

(c) Pastoral care programs shall be maintained at all hospital facilities owned by the Company or a Company Subsidiary;

(d) The Company and the Company Subsidiaries shall provide pastoral care education curriculum sufficient to meet the needs of the hospital facilities owned by the Company or such Company Subsidiaries; and

(e) The Company and the Company Subsidiaries shall maintain chapels in all hospital facilities owned by the Company or such Company Subsidiaries.

13.17 Medical Staff Matters. In recognition of the key role to be played by members of the medical staffs at the Hospitals in ensuring the growth and long-term success of the Business, following the Closing Date, Prospect and the Prospect Member shall cause the Company and the Company Subsidiaries to do or ensure all of the following:

(a) The Company and the Company Subsidiaries shall invest in the medical staff of each Hospital in an effort to retain existing staff and recruit new staff. In addition, the Company and the Company Subsidiaries shall commit to properly position the Business to compete in Rhode Island (and regionally as necessary), consistent with emerging health care regulatory and reimbursement environments.

(b) The Company and the Company Subsidiaries shall involve physicians in the strategic and capital planning process for each of the Hospitals, insuring that the critical needs of the medical staff are met and that strategic initiatives and investment into the Hospital facility can be prioritized to better meet the needs of physicians practicing at the Hospital.

(c) The Company and the Company Subsidiaries shall recognize the medical staffs of both Hospitals in place as of the Closing Date and shall ensure that, for a period of at least two (2) years immediately following the Closing, there shall be no change or modification to the current medical staff privileges for physicians on staff at either Hospital, nor any change or modification to either Hospital's medical staff by-laws, rules and regulations, except for those routine medical staff functions and procedures set forth in the existing by-laws, rules and regulations of each Hospital's medical staff or except as required by Law.

(d) For a period of at least two (2) years immediately following the Closing Date, the Company and the Company Subsidiaries shall recognize and sustain the Hospital medical staff leadership structures in place as of the Closing Date, as set forth in the existing by-laws, rules and regulations of each Hospital's medical staff, including the positions of all medical staff officers, directors and chiefs of service (both sitting and elected) as described therein.

13.18 Restrictions and Rights Upon Sale of Interests in the Company. The Parties hereby agree to all of the following, which commitments shall be further reflected in the Amended and Restated Agreement:

(a) At any time, the Company and/or the Prospect Member may cause the assets of the Company or equity interests in the Company Subsidiaries to be pledged to lenders of Prospect and/or its Affiliates. However, if at any time a lender of Prospect or a Prospect Affiliate attempts to foreclose on any assets of the Company or any equity interest in a Company Subsidiary previously pledged to such lender, the Seller Member shall have a right to put its entire interest in the Company to the Prospect Member, on terms and condition more fully set forth in the Amended and Restated Agreement.

(b) For a period of at least five (5) years immediately following the Closing Date, the Prospect Member shall not sell its interest in the Company to an unaffiliated third party, nor shall Prospect sell its interest in the Prospect Member to an unaffiliated third party; provided, however, that such restriction: (i) shall not limit the Prospect Member's or Prospect's ability to transfer such interest to an Affiliate thereof; (ii) shall not be implicated by a change of control of Prospect or any direct or indirect parent thereof; and (iii) shall not limit the exercise of remedies pursuant to the Indenture or the Credit Agreement (each as defined in the Amended and Restated Agreement) or other indebtedness of Prospect and/or its Affiliates. In the event that, after the expiration of the five (5)-year period described above, the Prospect Member agrees to sell its interest in the Company to an unaffiliated third party, the Seller Member shall have the option to sell its interest in the Company to such buyer under the same terms and conditions, as more fully set forth in the Amended and Restated Agreement. In any event, the buyer of the Prospect Member's interest in the Company shall be required to expressly assume or reaffirm the obligations of Prospect and the Company under this Agreement.

(c) Commencing on the fifth (5th) anniversary of the Closing Date, the Seller Member shall have a right to put its entire interest in the Company to the Prospect Member, on terms and conditions set forth in the Amended and Restated Agreement. Notwithstanding the foregoing, at any time (whether during or after such five (5)-year period), the Seller Member shall have a right to put its entire interest in the Company to the Prospect Member (i) if necessary to protect the tax-exempt status of the Seller Member or any Affiliate thereof, or (ii) in the event of an attempted foreclosure on assets of the Company or a Company Subsidiary as described in Section 13.18(a) above. The terms and conditions for the exercise of the Seller Member's put right in such circumstances shall be as more fully set forth in the Amended and Restated Agreement.

(d) Other rights of the Parties (including rights of first offer, rights of first refusal, and tag-along rights) shall be as set forth in the Amended and Restated Agreement.

ARTICLE XIV
INDEMNIFICATION

14.1 Survival of Representations and Warranties.

(a) Except as otherwise provided in this ARTICLE XIV, all representations and warranties of each of the Sellers, the Company and Prospect contained in this Agreement shall survive until the two (2)-year anniversary of the Closing Date (the "Survival Date"). Notwithstanding the foregoing, any covenants of any Party that by their terms are to be performed or observed on or following the Closing shall survive the Closing until fully

performed or observed in accordance with their terms. Except as expressly provided in the immediately preceding sentence, (i) any claim for indemnification made hereunder before the Survival Date of such claim will not terminate before final determination and satisfaction of such claim, and (ii) no claim for indemnification hereunder may be made after the expiration of the applicable Survival Date.

(b) Notwithstanding anything to the contrary contained herein:

(i) the representations and warranties set forth in Section 4.1 (Incorporation, etc.), Section 4.2 (Powers, etc.), Section 4.3 (Binding Effect), Section 4.5 (Title; Purchased Assets), Section 4.30 (Brokers, etc.), Section 5.1 (Incorporation, etc.), Section 5.2 (Powers, etc.), Section 5.3 (Binding Effect), Section 5.5 (Brokers, etc.), Section 6.1 (Incorporation, etc.), Section 6.2 (Powers, etc.), Section 6.3 (Binding Effect), and Section 6.5 (Brokers, etc.) shall survive indefinitely; and

(ii) the representations and warranties set forth in Section 4.11 (Regulatory Compliance), Section 4.13 (Tax Matters), Section 4.17 (Employee Benefit Plans), Section 4.23 (Environmental Matters) and Section 9.13 (Freezing of Seller Plans) shall survive until ninety (90) days following the expiration of the applicable statute of limitations, but in no event longer than six (6) years immediately following the Closing.

14.2 Indemnification by Sellers. Sellers, jointly and severally, shall indemnify, defend and hold harmless Prospect, the Prospect Member, the Company, the Company Subsidiaries and their respective Affiliates, officers, directors, trustees, employees, stockholders, partners, members, agents, representatives, successors and permitted assigns (collectively, the "Company/Prospect Indemnified Persons"), from and against any loss, Liability, claim, damage or expense (including costs of investigation and defense and reasonable attorneys' fees and expenses), whether or not involving a Third-Party Claim (collectively, "Damages"), arising from or in connection with:

(a) any breach of or any inaccuracy in any of the representations and warranties made herein of by Sellers (giving effect to any amended Applicable Disclosure Schedules provided pursuant to Section 7.11(a) hereto but not giving effect to any updated schedules provided pursuant to Section 7.11(b) hereto) or in any certificate delivered by or on behalf of the Sellers hereunder at or prior to the Closing;

(b) any breach of or failure to perform any of the covenants or agreements made herein by Sellers;

(c) the Excluded Assets and Excluded Liabilities; and

(d) Sellers' operation of the Business prior to the Closing Date to the extent not contained in the calculation of Final Net Working Capital, including (i) Environmental, Health and Safety Liabilities for acts or failures to act occurring prior to the Closing Date, (ii) Liabilities for funding of, or tax or ERISA penalties or any other liabilities with respect to, the Retirement Plan, (iii) Healthcare Program Liabilities and Private Health Plan Liabilities pertaining to any period prior to the Closing Date, (iv) Tax Liabilities, and (v) medical

malpractice, negligence, employment discrimination and employment-related liabilities or general liability claims for acts or failures to act occurring prior to the Closing Date.

14.3 Indemnification by Prospect. Prospect shall indemnify, defend and hold harmless Sellers and their respective Affiliates, officers, directors, trustees, employees, stockholders, partners, members, agents, representatives, successors and permitted assigns (collectively, the "Seller Indemnified Persons"), from and against any Damages arising from or in connection with:

(a) any breach of or any inaccuracy in any of the representations and warranties made herein by Prospect or the Company (giving effect to any amended Applicable Disclosure Schedules provided pursuant to Section 7.11(a) hereto but not giving effect to any updated schedules provided pursuant to Section 7.11(b) hereto) or in any certificate delivered by or on behalf of Prospect, the Prospect Member, the Company or the Company Subsidiaries hereunder at or prior to the Closing; and

(b) any breach of or failure to perform any of the covenants or agreements made herein by Prospect, the Prospect Member, the Company or the Company Subsidiaries.

14.4 Limitation of Liability.

(a) No Company/Prospect Indemnified Persons shall make a claim against Sellers under Section 14.2(a) unless the amount of such claim (or group of related claims) exceeds Twenty-Five Thousand Dollars ($25,000) (the "De Minimis Threshold") and, except as otherwise expressly provided below, until the total amount of all claims for which the Company/Prospect Indemnified Persons seeking indemnification hereunder exceeds Six Hundred Thousand Dollars ($600,000) (the "Basket") (not counting any claims or group of related claims that do not exceed the De Minimis Threshold), in which event Sellers shall be liable for the full amount of all Damages (including the first dollar of such Damages). Further, except as expressly provided below, Sellers shall not have any liability for indemnification under Section 14.2(a) to the extent such liability exceeds an amount equal to the Cash Purchase Price (the "Cap"). Notwithstanding the foregoing:

(i) The Basket and the Cap shall not apply with respect to indemnification claims for any fraudulent acts by Sellers;

(ii) The Basket and the Cap shall not apply with respect to indemnification claims pursuant to Section 14.2(a) based on the breach or inaccuracy of the representations and warranties made by Sellers pursuant to Section 9.13 above; and

(iii) A special basket shall apply with respect to indemnification claims pursuant to Section 14.2(a) based on updated disclosures made by Sellers pursuant to Section 7.11(b) above, such that the Company/Prospect Indemnified Persons may make a claim against Sellers pursuant thereto once the total amount of all such claims exceeds Two Hundred Thousand Dollars ($200,000) (the "Special Basket") (not counting any claims or group of related claims that do not exceed the De Minimis Threshold); any indemnification claims pursuant to this Section 14.4(a)(iii) shall be disregarded up to the amount of the Special Basket for purposes

of the $600,000 Basket applicable to claims for indemnification by the Company/Prospect Indemnified Persons pursuant to Section 14.4(a) above.

(b) No Seller Indemnified Persons shall make a claim against Prospect under Section 14.3(a) unless the amount of such claim or group of related claims exceeds the De Minimis Threshold and until the total amount of all claims for which Seller Indemnified Persons is seeking indemnification hereunder, exceeds the Basket (not counting any claims or group of related claims that do not exceed the De Minimis Threshold), in which event Prospect shall be liable for the full amount of all Damages (including the first dollar of such Damages). Further, Prospect shall not have any liability for indemnification under Section 14.3(a) to the extent such liability exceeds an amount equal to the Cap. Notwithstanding the foregoing:

(i) The Basket and the Cap shall not apply with respect to indemnification claims for any fraudulent acts by Prospect, the Prospect Member, the Company or the Company Subsidiaries; and

(ii) The Special Basket shall apply with respect to indemnification claims pursuant to Section 14.3(a) based on updated disclosures made by the Company or Prospect pursuant to Section 7.11(b) above; any indemnification claims pursuant to this Section 14.4(b)(ii) shall be disregarded for purposes of the $600,000 Basket applicable to other claims for indemnification by the Seller Indemnified Persons pursuant to Section 14.4(b) above.

(c) In determining the amount of any Damages under this ARTICLE XIV, materiality and other similar qualifiers contained in such representation, warranty or covenant will be disregarded.

14.5 Third-Party Claims.

(a) Promptly after receipt by a Person entitled to indemnity under Section 14.2 or Section 14.3 (an "Indemnified Person") of notice of the assertion of a Third-Party Claim against it, such Indemnified Person shall give notice to the Person or Persons obligated to indemnify under such Section (each, an "Indemnifying Person") of the assertion of such Third-Party Claim, provided that the failure to notify an Indemnifying Person will not relieve the Indemnifying Person of any Liability that it may have to any Indemnified Person, except to the extent that the Indemnifying Person demonstrates actual loss and that the defense of such Third-Party Claim is materially prejudiced by the Indemnified Person's failure to give such notice.

(b) If an Indemnified Person gives notice to the Indemnifying Person pursuant to Section 14.5(a) of the assertion of a Third-Party Claim, the Indemnifying Person shall be entitled to participate in the defense of such Third-Party Claim and, to the extent that it wishes (unless (i) the Indemnifying Person is also a Person against whom the Third-Party Claim is made and the Indemnified Person determines in good faith that joint representation would be inappropriate or (ii) the Indemnifying Person fails to provide reasonable assurance to the Indemnified Person of its financial capacity to defend such Third-Party Claim and provide indemnification with respect to such Third-Party Claim), to assume the defense of such Third-Party Claim with counsel reasonably satisfactory to the Indemnified Person. After notice from the Indemnifying Person to the Indemnified Person of its election to assume the defense of such

Third-Party Claim, the Indemnifying Person shall not, so long as it diligently conducts such defense, be liable to the Indemnified Person under this ARTICLE XIV for any fees of other counsel or any other expenses with respect to the defense of such Third-Party Claim, in each case subsequently incurred by the Indemnified Person in connection with the defense of such Third-Party Claim, other than reasonable costs of investigation. If the Indemnifying Person assumes the defense of a Third-Party Claim, (i) such assumption will conclusively establish for purposes of this Agreement that the claims made in that Third-Party Claim are within the scope of and subject to indemnification, and (ii) no compromise or settlement of such Third-Party Claims may be effected by the Indemnifying Person without the Indemnified Person's consent unless (A) there is no finding or admission of any violation of Law or any violation of the rights of any Person; (B) the sole relief provided is monetary damages that are paid in full by the Indemnifying Person; and (C) the Indemnified Person shall have no Liability with respect to any compromise or settlement of such Third-Party Claims effected without its consent. If notice is given to an Indemnifying Person of the assertion of any Third-Party Claim and the Indemnifying Person does not, within ten (10) days after the Indemnified Person's notice is given, give notice to the Indemnified Person of its election to assume the defense of such Third-Party Claim, the Indemnifying Person will be bound by any determination made in such Third-Party Claim or any compromise or settlement effected by the Indemnified Person.

(c) Notwithstanding the foregoing, if an Indemnified Person determines in good faith that there is a reasonable probability that a Third-Party Claim may adversely affect it or its Affiliates other than as a result of monetary damages for which it would be entitled to indemnification under this Agreement, the Indemnified Person may, by notice to the Indemnifying Person, assume the exclusive right to defend, compromise or settle such Third-Party Claim, but the Indemnifying Person will not be bound by any determination of any Third-Party Claim so defended for the purposes of this Agreement or any compromise or settlement effected without its consent (which may not be unreasonably withheld).

(d) Notwithstanding the provisions of Section 15.1: (i) Sellers hereby consent to the nonexclusive jurisdiction of any court in which a Legal Proceeding in respect of a Third-Party Claim is brought against any Company/Prospect Indemnified Person for purposes of any claim that a Company/Prospect Indemnified Person may have under this Agreement with respect to such Legal Proceeding or the matters alleged therein; and (ii) Prospect hereby consents to the nonexclusive jurisdiction of any court in which a Legal Proceeding in respect of a Third-Party Claim is brought against any Seller Indemnified Person for purposes of any claim that a Seller Indemnified Person may have under this Agreement with respect to such Legal Proceeding or the matters alleged therein.

(e) With respect to any Third-Party Claim subject to indemnification under this ARTICLE XIV: (i) both the Indemnified Person and the Indemnifying Person, as the case may be, shall keep the other Person fully informed of the status of such Third-Party Claim and any related Legal Proceedings at all stages thereof where such Person is not represented by its own counsel; and (ii) the Parties agree (each at its own expense) to render to each other such assistance as they may reasonably require of each other and to cooperate in good faith with each other in order to ensure the proper and adequate defense of any Third-Party Claim.

(f) With respect to any Third-Party Claim subject to indemnification under this ARTICLE XIV, the Parties agree to cooperate in such a manner as to preserve in full (to the extent possible) the confidentiality of all confidential information and the attorney-client and work-product privileges. In connection therewith, each Party agrees that: (i) it will use its commercially reasonable best efforts, in respect of any Third-Party Claim in which it has assumed or participated in the defense, to avoid production of confidential information (consistent with applicable law and rules of procedure); and (ii) all communications between any party hereto and counsel responsible for or participating in the defense of any Third-Party Claim shall, to the extent possible, be made so as to preserve any applicable attorney-client or work-product privilege.

(g) Notwithstanding anything to the contrary in this Section 14.5, the Company, upon reasonable advance written notice to Sellers, may in its sole discretion assume control of any Remediation, Legal Proceeding or Third-Party Claim relating to an Environmental, Health and Safety Liability without releasing or waiving any Indemnifying Person's obligations hereunder to indemnify and hold the Company or a Company Subsidiary harmless and the Company's or such Company Subsidiary's rights to indemnification and being held harmless.

14.6 Other Claims. A claim for indemnification for any matter not involving a Third-Party Claim may be asserted by notice to the Party from whom indemnification is sought and, unless the matter is the subject of a good faith dispute between the Parties (in which case the Dispute resolution provisions of Section 15.1 shall apply), shall be paid promptly after such notice.

14.7 Benefit of Sellers' Indemnity. The Parties agree that any payments required to be made by Sellers pursuant to the provisions of Section 14.2 will be for the benefit of Prospect, the Prospect Member, the Company and the Company Subsidiaries, as applicable.

14.8 Right of Recoupment or Setoff. In the event that Sellers fail to indemnify or reimburse any Company/Prospect Indemnified Persons in accordance with this ARTICLE XIV for any Damages incurred by such Company/Prospect Indemnified Person (the "Unpaid Indemnification Amount"), Prospect may, in its sole and absolute discretion, recoup or offset, as applicable, on a dollar-for-dollar basis, all or a portion of the Unpaid Indemnification Amount in the following order of priority to the extent amounts are available in each such category: (x) by causing the Prospect Member to receive distributions from the Company otherwise due to the Seller Member in respect of the Seller Member's Units; (y) by reducing the Long-Term Capital Commitment; or (z) by treating such amount as an additional capital contribution by the Prospect Member to the Company and adjusting the Prospect Member's and the Seller Members' respective "Sharing Percentages" (as such term is defined in the Amended and Restated Agreement), or any combination of the foregoing, all pursuant to the terms of the Amended and Restated Agreement.

14.9 Tax Treatment of Indemnity Payments. The Parties agree to treat any payment for indemnity made pursuant to this ARTICLE XIV as an adjustment to the Cash Purchase Price for all tax purposes relating to any Tax, unless otherwise required by applicable Law, and any

such adjustments shall be allocated among the Facilities and the Purchased Assets in accordance with the principles of Section 2.11.

ARTICLE XV
GENERAL

15.1 Choice of Law; Dispute Resolution; Venue.

(a) Choice of Law. The Parties agree that this Agreement shall be governed by and construed in accordance with the Laws of the State of Rhode Island, without giving effect to any choice or conflict of law provision or rule thereof that would require the application of any other law.

(b) Dispute Resolution. In the event that any dispute, controversy or claim arises among the Parties, including any dispute, controversy or claim arising out of this Agreement or any other relevant document, or the breach, termination or invalidity thereof (a "Dispute"), the Parties shall attempt in good faith to resolve such Dispute promptly by negotiation (including at least one in-person meeting) over a period of not less than thirty (30) days, commencing upon one Party's delivery of a written notice of Dispute to the other Party.

(c) Venue. In the event that any Dispute is not resolved through good faith negotiations as provided in Section 15.1(b) above, either Party may submit the matter to a court of law or equity through the filing of a claim. The Parties agree that, except as otherwise expressly provided in Section 15.2 below, venue for any and all claims associated with a Dispute between the Parties shall rest with the state courts of the State of Delaware; provided, however, that such court shall construe and apply the Laws of the State of Rhode Island as provided in Section 15.1(a) above.

(d) Waiver of Jury Trial. EACH PARTY HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE RELATED AGREEMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

15.2 Specific Performance. Notwithstanding anything to the contrary contained herein, each Party acknowledges and agrees that the non-breaching Parties would be irreparably damaged if any of the provisions of this Agreement are not performed in accordance with their specific terms and that any breach of this Agreement by a Party could not be adequately compensated in all cases by monetary damages alone. Accordingly, in addition to any other right or remedy to which the non-breaching Parties may be entitled, at law or in equity, they shall be entitled to enforce any provision of this Agreement by seeking, from a court of competent jurisdiction in the State of Rhode Island, a decree of specific performance and temporary, preliminary and permanent injunctive relief to prevent breaches or threatened breaches of any of the provisions of this Agreement, without posting any bond or other undertaking.

15.3 Assignment.

(a) No Party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Parties, except as follows: (i) each of Prospect, the Prospect Member, the Company and the Company Subsidiaries may assign any of its respective rights and delegate any of its respective obligations under this Agreement to any Affiliate thereof, as applicable; (ii) each of Prospect, the Prospect Member, the Company and the Company Subsidiaries may collaterally assign their rights hereunder to any financial institutions and noteholders (and any agent or trustee acting on their behalf) providing financing to the Company and/or Prospect and its Affiliates; and (iii) any Seller may assign any of its respective rights and delegate any of its respective obligations under this Agreement to any other Seller or to CharterCARE Health Partners Foundation (f/k/a St. Joseph Health Services Foundation). Subject to the preceding sentence, this Agreement will apply to, be binding in all respects upon, and inure to the benefit of the successors and permitted assigns of the Parties.

(b) Nothing expressed or referred to in this Agreement shall be construed to give any Person other than the Parties any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement, except such rights as shall inure to a successor or permitted assignee pursuant to this Section 15.3, or as expressly provided pursuant to Section 15.5 below.

15.4 Cost of Transaction. Whether or not the Transactions shall be consummated and except as otherwise provided herein, the Parties agree as follows:

(a) Except as provided otherwise elsewhere herein, Sellers will pay the fees, expenses and disbursements of Sellers and their Representatives incurred in connection with the subject matter hereof and any amendments hereto.

(b) Except as provided otherwise elsewhere herein, Prospect shall pay the fees, expenses and disbursements of Prospect and its Representatives incurred in connection with the subject matter hereof and any amendments hereto. Prospect also shall pay the fees, expenses and disbursements associated with the organization of the Company and the Company Subsidiaries as Rhode Island limited liability companies.

(c) The Company and/or the Company Subsidiaries shall be responsible for and shall pay any sales, use, stamp, realty transfer and documentary stamp taxes, and any and all other costs or expenses incident to the Closing or the recordation of the Deeds and the Leasehold Assignments. The Company and/or the Company Subsidiaries shall be responsible for and pay (i) the costs of examination of title and any title insurance policy to be issued insuring the Company's or Company Subsidiaries' title to the Real Property, and (ii) title charges and survey fees.

(d) The Company and/or the Company Subsidiaries shall be responsible for and pay any fees, expenses or costs pertaining to any inspections, studies, test, review and analyses of the Purchased Assets.

(e) Notwithstanding the foregoing, and notwithstanding any other provision of this Agreement, Sellers and Prospect shall share equally (on a 50/50 basis) the costs associated with obtaining all Approvals other than Church Approvals. Such costs shall include legal fees

only to the extent associated with (i) the compilation of documents required in connection with the HCA Initial Application and the HCFLA Change in Effective Control Application, and (ii) the assistance provided by legal counsel in connection with the preparation and prosecution of such applications.

15.5 Third-Party Beneficiaries.

(a) Except as provided in Section 15.5(b) below, the terms and provisions of this Agreement are intended solely for the benefit of the Prospect, the Prospect Member, the Company, the Company Subsidiaries, Sellers, Company/Prospect Indemnified Persons, Seller Indemnified Persons and their respective permitted successors or assigns, and it is not the intention of the Parties to confer, and this Agreement shall not confer, third-party beneficiary rights upon any other Person.

(b) Notwithstanding Section 15.5(a) above, the Parties hereby acknowledge and agree that the provisions of Section 13.16 hereof, including the accompanying Exhibits M and N, are for the specific benefit of the Bishop of the Roman Catholic Diocese of Providence, Rhode Island. The Parties further acknowledge and agree that any breach or violation of such provisions shall cause irreparable harm as to which no adequate remedy at law exists and that the Bishop may seek specific performance and injunctive relief in addition to all other remedies in equity or at law. If, in such circumstances, the Bishop is unsuccessful in obtaining specific performance and/or injunctive relief, the Company and the Company Subsidiaries shall, if requested by the Bishop in his sole discretion, cease operating under the names "St. Joseph" or "Our Lady of Fatima" or any other name that implies Catholicity.

15.6 Waiver. Except where a specific period for action or inaction is provided herein, neither the failure nor any delay on the part of any Party hereto in exercising any right, power or privilege under this Agreement or the documents referred to in this Agreement shall operate as a waiver thereof, nor shall any waiver on the part of any Party hereto of any such right, power or privilege, nor any single or partial exercise of any such right, power or privilege, preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The failure of a Party hereto to exercise any right conferred herein within the time required shall cause such right to terminate with respect to the transaction or circumstances giving rise to such right, but not to any such right arising as a result of any other transactions or circumstances.

15.7 Notices. All notices, consents, waivers and other communications required or permitted by this Agreement shall be in writing and shall be deemed given to a Party (i) when delivered or sent if delivered in person or sent by facsimile transmission (provided confirmation of facsimile transmission is obtained), (ii) on the fifth (5) Business Day after dispatch by registered or certified mail, (iii) on the next Business Day if transmitted by national overnight courier, in each case to the following addresses and marked to the attention of the person (by name or title) designated below (or to such other address as a Party may designate by notice to the other Parties):

If to Sellers: CharterCARE Health Partners
825 Chalkstone Avenue
Providence, RI 02908

with a copy to:	Drinker Biddle & Reath LLP 191 North Wacker Drive, Suite. 3700 Chicago, IL 60606-1699 Attention: Keith R. Anderson, Esq.
If to Company or the Company Subsidiaries:	Prospect CharterCare, LLC 825 Chalkstone Avenue Providence, RI 02908 Attention: Kenneth Belcher, Chief Executive Officer
with a copy to:	Sills Cummis & Gross P.C. One Riverfront Plaza Newark, NJ 07102 Attention: Gary W. Herschman, Esq.
and to:	Prospect Medical Holdings, Inc. 10780 Santa Monica Boulevard, Suite 400 Los Angeles, CA 90025 Attention: Samuel S. Lee, Chief Executive Officer
If to Prospect or the Prospect Member:	Prospect Medical Holdings, Inc. 10780 Santa Monica Boulevard, Suite 400 Los Angeles, CA 90025 Attention: Samuel S. Lee, Chief Executive Officer
with a copy to:	Sills Cummis & Gross P.C. One Riverfront Plaza Newark, NJ 07102 Attention: Gary W. Herschman, Esq.

15.8 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

15.9 Representative of Sellers.

(a) Each Seller hereby irrevocably constitutes and appoints CCHP ("Sellers' Representative") as its agent and such Seller's sole representative and true and lawful attorney in fact, and the Sellers' Representative hereby accepts such appointment, with full powers of

substitution and re-substitution, in such Seller's name, place and stead, in any and all capacities, in connection with the transactions contemplated by this Agreement and/or the other Transaction Documents, granting unto said attorney-in-fact and agent, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection with the transfer of such Seller's Purchased Assets and Assumed Liabilities as full to all intents and purposes as such Seller might or could do in person. Each Seller hereby appoints the Sellers' Representative as its agent for the purpose of receiving service of process or other legal summons in connection with any proceeding brought by Prospect or the Company in any court in connection with or relating to this Agreement and/or the other Transaction Documents. The power-of attorney granted in this Section 15.9 is coupled with an interest and is irrevocable. Prospect, the Prospect Member, the Company and the Company Subsidiaries shall be entitled to deal exclusively with the Sellers' Representative on behalf of any and all Sellers in connection with all matters relating to this Agreement and/or the other Transaction Documents and shall be entitled to rely conclusively (without further evidence of any kind whatsoever) on any document executed or purported to be executed on behalf of any Seller by the Sellers' Representative, as fully binding upon such Seller. The Sellers' Representative shall notify the Sellers within a reasonable time of all material actions taken by it pursuant to this Section 15.9.

(b) Without limiting the generality of the foregoing Section 15.9(a), the Sellers' Representative, acting alone without the consent of any other Seller, is hereby authorized by each of the Sellers to (i) take any and all actions under this Agreement and/or the other Transaction Documents without any further consent or approval from any other Person, (ii) effect payments to Sellers hereunder or thereunder, (iii) receive or give notices hereunder or thereunder, (iv) receive or make payment hereunder or thereunder, (v) execute waivers or amendments hereof, and/or (vi) execute and deliver documents, releases and/or receipts hereunder or thereunder.

15.10 Divisions and Headings of this Agreement. The divisions of this Agreement into sections and subsections and the use of captions and headings in connection therewith are solely for convenience and shall have no legal effect in construing the provisions of this Agreement.

15.11 No Inferences. Each Party has participated in the drafting of this Agreement, which each Party acknowledges is the result of extensive negotiations between the Parties. If an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision.

15.12 Tax and Regulatory Advice and Reliance. Except as expressly provided in this Agreement, none of the Parties (nor any of the Parties' respective counsel, accountants or other representatives) has made or is making any representations to any other Party (or to any other Party's counsel, accountants or other representatives) concerning the consequences of the Transactions under applicable Laws (including applicable tax Laws and any Medical Reimbursement Program Laws), and each Party has relied solely upon the advice of its own employees or of representatives engaged by such Party and not on any such advice provided by any other Party.

15.13 Entire Agreement; Amendment. This Agreement and the Confidentiality Agreement supersede all previous Contracts and constitute the entire agreement of whatsoever kind or nature existing between or among the Parties representing the within subject matter, and no Party shall be entitled to benefits other than those specified herein. As between or among the Parties, no oral statement or prior written material not specifically incorporated herein shall be of any force and effect. This Agreement may not be amended, supplemented or otherwise modified except by a written agreement executed by the Party to be charged with the amendment.

15.14 Execution of this Agreement. This Agreement may be executed in multiple counterparts, each and all of which shall be deemed an original and all of which together shall constitute but one and the same instrument. A signature delivered by facsimile or PDF will be sufficient for all purposes among the Parties.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives, all as of the date and year first above written.

SELLERS;

CHARTERCARE HEALTH PARTNERS

By: _____
Name:
Title:

ROGER WILLIAMS MEDICAL CENTER

By: _____
Name:
Title:

ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND

By: _____
Name:
Title:

ROGER WILLIAMS REALTY CORPORATION

By: _____
Name:
Title:

RWGH PHYSICIANS OFFICE BUILDING, INC.

By: _____
Name:
Title:

ELMHURST EXTENDED CARE FACILITIES, INC.

By: _____
Name:
Title:

ROGER WILLIAMS MEDICAL ASSOCIATES, INC.

By: _____
Name:
Title:

ROGER WILLIAMS PHO, INC.

By: _____
Name:
Title:

ELMHURST HEALTH ASSOCIATES, INC.

By: _____
Name:
Title:

OUR LADY OF FATIMA ANCILLARY SERVICES, INC.

By: _____
Name:
Title:

THE CENTER FOR HEALTH AND HUMAN SERVICES

By: _____
Name:
Title:

SJII ENERGY, LLC

By: _____
Name:
Title:

ROSEBANK CORPORATION

By: _____
Name:
Title:

PROSPECT:

PROSPECT MEDICAL HOLDINGS, INC.

By: _____
Name:
Title:

PROSPECT MEMBER:

PROSPECT EAST HOLDINGS, INC.

By: _____
Name:
Title:

THE COMPANY:

PROSPECT CHARTERCARE, LLC

By: PROSPECT EAST HOSPITAL ADVISORY SERVICES, LLC, its Manager

By: PROSPECT MEDICAL HOLDINGS, INC., its Sole Member

By: _____
Name:
Title:

COMPANY SUBSIDIARIES:

PROSPECT CHARTERCARE RWMC, LLC

By: PROSPECT CHARTERCARE, LLC, its Sole Member

By: PROSPECT EAST HOSPITAL ADVISORY SERVICES, LLC, its Manager

By: PROSPECT MEDICAL HOLDINGS, INC., its Sole Member

By: _____
Name:
Title:

PROSPECT CHARTERCARE SJHSRI, LLC

By: PROSPECT CHARTERCARE, LLC, its Sole Member

By: PROSPECT EAST HOSPITAL ADVISORY SERVICES, LLC, its Manager

By: PROSPECT MEDICAL HOLDINGS, INC., its Sole Member

By: _____
Name:
Title:

PROSPECT CHARTERCARE ELMHURST, LLC

By: PROSPECT CHARTERCARE, LLC,
its Sole Member

By: PROSPECT EAST HOSPITAL
ADVISORY SERVICES, LLC,
its Manager

By: PROSPECT MEDICAL HOLDINGS,
INC., its Sole Member

By: _____
Name:
Title:

PROSPECT CHARTERCARE PHYSICIANS, LLC

By: PROSPECT CHARTERCARE, LLC,
its Sole Member

By: PROSPECT EAST HOSPITAL
ADVISORY SERVICES, LLC,
its Manager

By: PROSPECT MEDICAL HOLDINGS,
INC., its Sole Member

By: _____
Name:
Title:

ACCEPTANCE AND AGREEMENT OF
SELLERS' REPRESENTATIVE

The undersigned, being the Sellers' Representative designated in Section 15.9 of the foregoing Asset Purchase Agreement, agrees to serve as the Sellers' Representative and to be bound by the terms of such Asset Purchase Agreement pertaining thereto.

CharterCARE Health Partners ("CCHP")

Signed:_____

Print Name:_____

Print Title:_____

Dated:_____ 2013

Annex A

Definitions

"20-Day Period" has the meaning set forth in Section 2.9(c).

"Accountants' Determination" has the meaning set forth in Section 2.9(c).

"Accounts Receivable" means all accounts and notes receivable, pledges and grants receivable, unbilled invoices, rights to settlement and positive retroactive adjustments, if any, for open cost reporting periods, other rights to receive payment for goods and services provided by Sellers in connection with the Business, whether recorded or unrecorded, including any amounts due from patients, Private Health Plans, Governmental Entities and Government Reimbursement Programs or any other source.

"Affiliate" means, as to the Person in question, any Person that directly or indirectly controls, is controlled by, or is under common control with, the Person in question and any successors or assigns of such Person; and the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person whether through ownership of voting securities, by appointment of trustees, directors, and/or officers, by Contract or otherwise.

"Agreement" has the meaning set forth in the Preamble and shall include all Annexes, Exhibits and Schedules attached or delivered with respect hereto or expressly incorporated herein by reference.

"Allocation" has the meaning set forth in Section 2.11.

"Amended and Restated Agreement" means the Company's Amended and Restated Limited Liability Company Agreement, in the form of Exhibit A, to be entered into between the Prospect Member and the Seller Member at Closing.

"Ancillary Agreements" means, as to any Party hereto, all of the documents and instruments required to be executed pursuant to this Agreement by such Party in connection with this Agreement or the transactions contemplated hereby.

"Antitrust Laws" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, the Sherman Act, the Clayton Act, the Federal Trade Commission Act and any other United States federal or Rhode Island Law, administrative or judicial doctrines or other Laws that are designed to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade.

"Applicable Disclosure Schedules" means (i) with respect to Sellers, Schedule 1.1(a), Schedule 2.1(f)(2), Schedule 2.2(b) and those disclosure schedules contemplated by ARTICLE IV; (ii) with respect to the Company, those disclosure schedules contemplated by ARTICLE V; and (iii) with respect to Prospect, those disclosure schedules contemplated by ARTICLE IV.

"Approval" means any Healthcare Regulatory Consent or any other approval, authorization, certificate of need, exemption, consent, notice, qualification or registration, or any extension, modification, amendment or waiver of any of the foregoing, of or from, or any notice, statement, filing or other communication to be filed with or delivered to, any Governmental Entity, but excludes Environmental Permits.

"A/R Bank Accounts" has the meaning set forth in Section 4.28(a).

"Arbitrating Accountants" has the meaning set forth in Section 2.9(c).

"Architectural Plans means site plans, architectural renderings, blueprints, plans and specifications, engineering plans, as-built drawings, floor plans and other similar plans or diagrams, if any, held or used by Sellers in connection with the Business.

"Assumed Capital Lease Excess Amount" means the excess, if any, of (i) the aggregate amount, in dollars, of the net book value of all outstanding Capital Lease Obligations of Sellers at Closing pursuant to Assumed Contracts (but not including the current obligations under the Capital Leases included in Net Working Capital and not including the Cath Lab Capital Lease), over (ii) the sum of $635,854 plus the aggregate amount of the net book value of any capital leases entered into by Sellers after the date hereof which are consented to in writing by the Company pursuant to Section 7.3(b) hereof.

"Assumed Contracts" has the meaning set forth in Section 2.1(f).

"Assumed Employment Agreements" has the meaning set forth in Section 2.1(f).

"Assumed Leases" has the meaning set forth in Section 2.1(f).

"Assumed Liabilities" has the meaning set forth in Section 2.3.

"Assumed Physician Agreements" has the meaning set forth in Section 2.1(f).

"Audited Balance Sheet" has the meaning set forth in Section 4.7(a).

"Basket" has the meaning set forth in Section 14.4(a).

"Buildings and Systems" has the meaning set forth in Section 4.14(c).

"Business" means the business, operation or ownership of the Facilities and the Purchased Assets.

"Business Day" means a day other than a Saturday, Sunday or other day on which commercial banks in Rhode Island are authorized or required by Law to close.

"Cap" has the meaning set forth in Section 14.4(a).

"Capital Lease Obligations" means those capital lease obligations of Sellers, including those described in Schedule 4.7(d) hereto.

"Capital Projects" has the meaning set forth in Section 2.5(b)

"Cash Purchase Price" has the meaning set forth in Section 2.6(a).

"Cath Lab Capital Lease" means that certain Capital Lease Obligation entered into by and between RWMC and Philips Medical dated December 27, 2012, with respect to Sellers' cardiac catheterization laboratory, the long-term portion of which, as of the date of this Agreement (*i.e.*, $558,288), shall be treated as partial satisfaction of the Long-Term Capital Commitment pursuant to Sections 4.2(b)and 4.2(c) of the Amended and Restated Agreement and Section 2.5(b) hereof.

"CCHP" has the meaning set forth in the introductory paragraph.

"Church" has the meaning set forth in Section 7.5(e).

"Church Approvals" has the meaning set forth in Section 7.5(e).

"Church Plan" has the meaning set forth in Section 4.17(i).

"Closing" has the meaning set forth in Section 3.1.

"Closing Cash Amount" has the meaning set forth in Section 2.6(a).

"Closing Date" has the meaning set forth in Section 3.1.

"CMS" means the Centers for Medicare & Medicaid Services.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended, as further defined in Section 4.17(g).

"Code" means the Internal Revenue Code of 1986 and the rules and regulations promulgated thereunder.

"Commitment" has the meaning set forth in Section 12.1(a).

"Company" has the meaning set forth in the introductory paragraph.

"Company Locations" has the meaning set forth in Exhibit N.

"Company Subsidiaries" has the meaning set forth in the introductory paragraph.

"Company/Prospect Indemnified Persons" has the meaning set forth in Section 14.2.

"Confidentiality Agreement" means that certain Confidentiality Agreement, dated as of August 2, 2012, between CCHP and Prospect.

"Contract" means any written or oral contract, commitment, instrument, license, lease or agreement, currently in effect, including renewals, extensions, assignments and amendments made in accordance therewith.

"Controlled Group" has the meaning set forth in Section 4.17(c).

"Cost Reports" means all cost and other reports related to a health care facility filed pursuant to the requirements of the Government Reimbursement Programs for cost-based payments or reimbursement due to or claimed by Sellers from the Government Reimbursement Programs or their MACs (or other fiscal intermediaries), including all appeals and appeal rights.

"DAG" means the Rhode Island Department of the Attorney General.

"Damages" has the meaning set forth in Section 14.2.

"De Minimis Threshold" has the meaning set forth in Section 14.4(a).

"Deed" means a deed in the form of Exhibit B.

"Delivery Date" means the date upon which all Applicable Disclosure Schedules have been delivered by both Parties and accepted by such other Party (as applicable), but in no event shall the Delivery Date be later than the twenty-first (21st) day after the date of this Agreement.

"Dispute" has the meaning set forth in Section 15.1(a).

"DOH" means the Rhode Island Department of Health.

"DOJ" means the United States Department of Justice.

"Effective Time" has the meaning set forth in Section 3.2.

"Elmhurst ECF" has the meaning set forth in the introductory paragraph.

"Elmhurst HA" has the meaning set forth in the introductory paragraph.

"Elmhurst SMLLC" has the meaning set forth in the introductory paragraph.

"Employee List" has the meaning set forth in Section 4.18(a).

"Employees" means all individuals who are employed by Sellers in the conduct of the Business, including residents and fellows, together with individuals who are hired in respect of the conduct of the Business after the date hereof and prior to the Closing.

"Employment Agreements" has the meaning set forth in Section 2.1(f).

"Employment Loss" means (i) an employment termination, other than a discharge for cause, voluntary departure or retirement, (ii) a layoff exceeding six (6) months or (iii) a reduction in hours of work of more than 50%.

"Encumbrance" means any claim, charge, easement, encumbrance, liability, encroachment, security interest, mortgage, lien, pledge or restriction, whether imposed by Contract, Law, equity or otherwise.

"Environmental, Health and Safety Liabilities" means any claim (including for personal injury), demand, assessment, Encumbrance, investigation, action or cause of action, complaint, citation, directive, information request or notice of potential violation or potential responsibility issued by a Governmental Entity, Legal Proceedings, damages (including punitive and consequential damages, property damage and natural resources damages), obligations (including Remediation obligations, or financial responsibility therefor, pursuant to any Environmental Laws), losses, penalties, fines, liabilities, encumbrances, liens, violations, costs and expenses (including attorneys and consultants fees and Remediation costs): (a) which are incurred as a result of (i) the existence or alleged existence of Hazardous Material in, on, over, under, at or emanating from any Facility, Real Property or Former Real Property, (ii) Hazardous Activity or (iii) the violation or alleged violation of any Environmental Laws or Occupational Safety and Health Laws; or (b) which arise under the Environmental Laws or Occupational Safety and Health Laws.

"Environmental Law" means any applicable Law (including any judgment or administrative interpretations, guidances, directives, policy statements or opinions) of any Governmental Entity relating to injury to, or the pollution or protection of, human health and safety (to the extent relating to exposure to Hazardous Materials) or the environment.

"Environmental Permit" means any permit, registration, license, approval, identification number, exemption or other authorization required under or issued pursuant to any applicable Environmental Law.

"ERDs" has the meaning set forth in Section 13.16.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"Essential Services" has the meaning set forth in Section 13.15(a) and Exhibit L.

"Estimated Final Settlements" means estimates of the dollar amounts of final settlements owed by Sellers to third party payors.

"ETO" shall mean earned time off, as accrued by Employees pursuant to the applicable Seller Plans for periods prior to the Effective Time.

"Exceptions" has the meaning set forth in Section 12.1(a).

"Excluded Assets" has the meaning set forth in Section 2.2.

"Excluded Contracts" has the meaning set forth in Section 2.2(b).

"Excluded Liabilities" has the meaning set forth in Section 2.4.

"Facilities" means the Hospitals and all nursing homes, diagnostic, surgical and/or treatment facilities, medical office buildings, pharmacies, physician practice sites and/or other health care service and educational sites or facilities, and related health care business in Providence, Rhode Island and surrounding communities, each of which listed on Schedule 1.1(a), as well as the businesses conducted therein or thereby.

"Final Adjustment Amount" has the meaning set forth in Section 2.9(a).

"Final Determination Date" has the meaning set forth in Section 2.9(d).

"Final Net Working Capital" has the meaning set forth in Section 2.9(a).

"Final Working Capital Statement" has the meaning set forth in Section 2.9(a).

"Financial Statements" has the meaning set forth in Section 4.7(a).

"FIRPTA Certificate" means a certificate required by United States Treasury Department Regulation Section 1.1445-2, to the effect that Seller is not a foreign person (as defined in the Code), which would subject the Company or a Company Subsidiary to the withholding provisions of Section 1445 of the Code.

"Former Real Property" means any Real Property formerly owned, leased or operated by any of Sellers or any of their predecessors-in-interest.

"FTC" means the Federal Trade Commission.

"GAAP" means United States generally accepted accounting principles as in effect from time to time.

"Governmental Entity" means any government or any administrative agency or authority, bureau, board, directorate, commission, court, department, office, political subdivision, tribunal, recovery audit contractor or other instrumentality of any government, whether federal, state or local, domestic or foreign.

"Government Reimbursement Programs" means the Medicare program, the Rhode Island Medicaid program, the federal TRICARE program, and any other similar or successor federal or state healthcare payment programs with or sponsored by a Governmental Entity.

"Ground Lease" has the meaning set forth in Section 9.9.

"Ground Lease Property" means any real property that is the subject of a Ground Lease.

"Hazardous Activity" means the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, storage, transfer, transportation, disposal, treatment, use or Remediation of Hazardous Material or Release in, on, under, about or from any of the Facilities or any off-site disposal facilities.

"Hazardous Materials" means: (i) any chemical, substance, material, or waste listed, defined, or classified as a "pollutant," "contaminant," "hazardous substance," "toxic substance," "solid waste," "hazardous waste," "hazardous material," or "special waste" under any applicable Environmental Law; (ii) any substance regulated under any applicable Environmental Law; (iii) petroleum or any derivative or by-product thereof; (iv) urea formaldehyde foam insulation, polychlorinated biphenyls, methyl tertiary butyl ethyl, radioactive material, or radon; (v) mold; (vi) any "asbestos-containing materials;" and (vii) greenhouse gases.

"HCA" means the Rhode Island Hospital Conversions Act, R.I. Gen. Laws §§ 23-17.14-1, et seq.

"HCFLA" means the Health Care Facility Licensing Act of Rhode Island, R.I. Gen. Laws §§ 23-17-1, et seq.

"Healthcare Program Liabilities" means all Liabilities under any Laws relating to Government Reimbursement Programs, including any obligations for settlement and retroactive adjustments under the Medicare and Medicaid programs for open cost report periods.

"Healthcare Regulatory Consents" means in respect of Sellers or the Company or a Company Subsidiary, as the case may be, such consents, approvals, authorizations, waivers, Orders, licenses or Permits of any Governmental Entity as shall be required to be obtained and such notifications to any Governmental Entity as shall be required to be given by such Party in order for it to consummate the Transactions in compliance with all applicable Laws relating to health care or healthcare services of any kind and shall include obtaining any such consents, approvals, authorizations, waivers, Orders, licenses or Permits from, or notices to, the DAG, DOH and the public in accordance with the HCA and the HCFLA, and CMS.

"Historical Working Capital Position" means the average Net Working Capital (excluding cash and the current portion of long-term debt and Estimated Final Settlements) of Sellers for each of the 12 monthly periods prior to Closing, as of the month end most recently occurring before the Closing Date for which financial statements are available (but in no event as of a month end more than forty-five (45) days prior to the Closing); provided, however, that if the foregoing calculation results in a negative number, the Historical Working Capital Position shall be deemed to be zero ($0) for purposes of Section 2.9.

"Hospitals" means the hospitals known as (i) Roger Williams Medical Center, located at 825 Chalkstone Avenue, Providence, Rhode Island, and (ii) Our Lady of Fatima Hospital, located at 200 High Service Avenue, North Providence, Rhode Island.

"Immigration Act" means the Immigration and Nationality Act of 1952 and the Immigration Reform and Control Act of 1986.

"Improvements" has the meaning set forth in Section 2.1(a).

"Indebtedness" means all Liabilities of any Seller to any Person for borrowed money, including any loan or credit agreement, notes payable, Capital Lease Obligations, guaranties, letters of credit and similar arrangements, and including all interest, fees, penalties, charges or other amounts thereon.

"Indemnified Person" has the meaning set forth in Section 14.5(a).

"Indemnifying Person" has the meaning set forth in Section 14.5(a).

"Intellectual Property" means any trademarks, trade names, service marks, logos and other source identifiers and all applications, registrations and renewals in connection therewith; computer programs (in object code form and, as to software programs that are Seller Intellectual

Property, the source code therefor); writings, copyrights, and works of authorship (whether or not copyrightable) and all applications, registrations and renewals in connection therewith; data, technology, trade secrets, designs, patents, innovations, discoveries, inventions and improvements (whether or not patentable) and all patent applications and patent disclosures, together with all reissuances, continuations, revisions, extensions and re-examinations thereof; and any other intellectual property.

"Interim Balance Sheet" has the meaning set forth in Section 4.7(a).

"Interim Balance Sheet Date" means July 31, 2013.

"Interim Financial Statements" has the meaning set forth in Section 4.7(a).

"Inventory" means all useable inventories of supplies, pharmaceuticals, food, janitorial and office supplies and other disposables and consumables located at the Facilities or held for use in the Business.

"JV Proceed Deficiency" has the meaning set forth in Section 2.1(z).

"Landlord Estoppels" has the meaning set forth in Section 3.3(e).

"Law" means any federal, state, local, municipal, foreign or other law, common law, statute, ordinance, rule, regulation, requirement, interpretation, judgment, ruling, order or writ of any Governmental Entity, including Medical Reimbursement Program Laws, the Immigration Act and the Antitrust Laws.

"Leased Real Property" has the meaning set forth in Section 2.1(b).

"Leasehold Assignment" means an assignment and assumption of the Leased Real Property, in the form of Exhibit E.

"Leases" means any and all real property leases, subleases, tenancies, concessions, licenses, occupancy agreements or similar agreements (including any and all modifications, amendments, supplements extensions or renewals thereof) to which any Seller is a party with respect to the Facilities, and (subject to the terms of this Agreement) together with refundable deposits and prepaid rent, if any, relating to any of the foregoing.

"Legal Proceeding" means any action, suit, litigation, arbitration, proceeding or claim (whether at law or in equity) before a Governmental Entity or before any arbitrator or mediator or similar party, or any investigation, audit or review by any Governmental Entity.

"Liability" means any debt, liability or obligation (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due), and including all fines, penalties, costs and expenses relating thereto.

"Limited Power of Attorney" has the meaning set forth in Section 13.10.

"Long-Term Capital Commitment" has the meaning set forth in Section 2.5(b).

"MACs" means Medicare Administrative Contractors.

"Management Group" means the following Employees of Sellers: Kenneth H. Belcher, Otis Brown, Susan Cerrone-Abely, Michael Conklin, Jr., Joanne Dooley, Richard Gamache, Patricia Nadle, Kimberly A. O'Connell and Darleen Souza.

"Mandatory Removal Exceptions" has the meaning set forth in Section 12.1(a).

"Material Adverse Development" means any event, occurrence, condition, change or circumstance that, individually or together with any other event, occurrence, condition, change or circumstance, would be reasonably expected: (a) to have a material adverse impact on the business, operations, property, results of operations or financial condition of the Facilities or the Purchased Assets, taken as a whole, on the one hand, or Prospect, on the other hand (as applicable), including as a result of weather, flood or other natural disasters, whether or not covered by insurance; (b) materially impair the ability of Sellers, on the one hand, or Prospect, the Prospect Member, the Company and the Company Subsidiaries, on the other hand (as applicable), to consummate the Transactions contemplated by, or to perform their obligations under, this Agreement; or (c) materially impair the ability of the Company and the Company Subsidiaries to operate the Business after the Closing in substantially the same manner as Sellers operate the Business as of the date hereof. Notwithstanding the foregoing, a Material Adverse Development shall not include: (i) changes in the financial or operating performance of the Business due to or caused by the announcement of the Transactions contemplated by this Agreement or seasonal changes; (ii) changes or proposed changes to any Law, reimbursement rates or policies of governmental agencies or bodies that are generally applicable to hospitals or health care facilities; (iii) requirements, reimbursement rates, policies or procedures of third party payors or accreditation commissions or organizations that are generally applicable to hospitals or health care facilities; (iv) general business, industry or economic conditions, including such conditions related to the Parties, that do not disproportionately affect the applicable Parties, taken as a whole; (v) local, regional, national or international political or social conditions, including the engagement by the United States in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack, that do not disproportionately affect the applicable Parties, taken as a whole; (vi) changes in financial, banking or securities markets (including any disruption thereof and any decline in the price of any security or any market index) that do not disproportionately affect the applicable Parties, taken as a whole; or (vii) changes in GAAP.

"Material Consents" has the meaning set forth in Section 3.3(o).

"Material Contracts" has the meaning set forth in Section 4.12(a).

"Material Indebtedness" means all Indebtedness other than Capital Lease Obligations.

"Medicaid" means the state health insurance program established under Title XIX of the Social Security Act.

"Medical Reimbursement Program Laws" means the Laws governing the Government Reimbursement Programs, including: 42 U.S.C. §§ 1320a-7, 1320a-7a, 1320a- 7b and 1395nn; the False Claims Act (31 U.S.C. § 3729 et seq.); the False Statements Act (18 U.S.C. § 1001);

the Program Fraud Civil Penalties Act (31 U.S.C. § 3801 et seq.); the anti-fraud and abuse provisions of the Health Insurance Portability and Accountability Act of 1996 (18 U.S.C. § 1347, 18 U.S.C. § 669, 18 U.S.C. § 1035, 18 U.S.C. § 1518; and the corresponding fraud and abuse, false claims and anti self-referral Laws of any other Governmental Body.

"Medical Staff List" has the meaning set forth in Section 4.20.

"Medicare" means the federal health insurance program for the aged and disabled established under Title XVIII of the Social Security Act.

"Net Working Capital" means the value of Sellers' Inventory, Accounts Receivable, Transferred Restricted Funds, useable prepaid expenses and deposits which have continuing value to the operations of the Business, less the value of trade accounts payable, accrued expenses (excluding any deferred revenues related to restricted research) and employee benefit accruals (including sick time and vacation); provided, however, that Net Working Capital: (w) shall include the current portion of capital leases; (x) shall not include any Accounts Receivable with respect to Transitional Patient Services; (y) shall not include Estimated Final Settlements; and (z) shall include such items and other adjustments pursuant to the methodology reflected on Annex B hereto, including without limitation an adjustment for all amounts paid by Sellers in connection with terminating Sellers' outstanding interest rate swaps; provided, further, that, Net Working Capital and its components shall be determined in accordance with GAAP.

"Nonassignable Contract" has the meaning set forth in Section 13.4.

"Non-A/R Bank Accounts" has the meaning set forth in Section 4.28(a).

"Non-Permitted Exceptions" has the meaning set forth in Section 12.1(a).

"Not Financially Viable" means that both of the following are true: (i) over any period of 12 consecutive months, an Essential Service has suffered a cumulative net loss, meaning that the actual aggregate revenue associated with such Essential Service over such 12-month period was less than the actual aggregate expense of providing the Essential Service over such 12-month period (considering direct and indirect facility costs, the costs of obtaining or maintaining the physician support necessary to provide the Essential Service, and capital investments that were required in order for the Essential Service to be provided in accordance with the prevailing standard of care); and (ii) for the subsequent 12-month period immediately thereafter, the Essential Service is projected to suffer a cumulative net loss, meaning that the projected aggregate revenue associated with such Essential Service over such 12-month period (considering anticipated future reimbursement levels and volume, in light of demographics and competitive factors) is anticipated to be less than the projected aggregate expense of providing the Essential Service over such 12-month period (considering direct and indirect facility costs, the costs of obtaining or maintaining the physician support necessary to provide the Essential Service, and the capital investment necessary to continue to provide the Essential Service in accordance with the prevailing standard of care).

"Objection Notice" has the meaning set forth in Section 2.9(c).

"Occupational Safety and Health Law" means any Law designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, including OSHA, and any program, whether governmental or private (such as those promulgated or sponsored by industry associations and insurance companies), designed to provide safe and healthful working conditions.

"Off-the-Shelf Software" means off-the-shelf operating system, browser and common desktop or server-based office productivity computer software (word processing, spreadsheet, presentation and the like).

"Order" means any order, injunction, judgment, decree, directive, ruling, consent, approval, writ, assessment or arbitration award of a Governmental Entity.

"Ordinary Course of Business" means the ordinary and usual course of normal day-to-day operations of the Business through the date hereof consistent with past practice.

"OSHA" means the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.

"Our Lady" has the meaning set forth in the introductory paragraph.

"Outside Date" means the one (1)-year anniversary of the date of this Agreement; provided, however, that the Company or Prospect on the one hand, or the Sellers, on the other hand, shall have the right, exercisable upon prior written notice to such other Party, to extend the Outside Date by up to an additional ninety (90) days if the approvals under the HCA and HCFLA are pending as of the time of such exercise.

"Owned Real Property" has the meaning set forth in Section 2.1(a)

"Parties" has the meaning set forth in the introductory paragraph.

"Permit" means any application, approval, license, identification number, permit, franchise, accreditation, registration, waiver or certificate of need of any kind, of any Governmental Entity, but excludes Environmental Permits.

"Permitted Exceptions" has the meaning set forth in Section 12.2.

"Person" means an association, a corporation, a limited liability company, an individual, a partnership, a limited liability partnership, a trust or any other entity or organization, including a Governmental Entity.

"Personal Property" has the meaning set forth in Section 2.1(c).

"PHO" has the meaning set forth in the introductory paragraph.

"Physician Agreements" has the meaning set forth in Section 2.1(f).

"Physicians SMLLC" has the meaning set forth in the introductory paragraph.

"Pre-Closing Permitted Exceptions" has the meaning set forth in Section 4.5(a).

"Private Health Plan Liabilities" means all Liabilities relating to Private Health Plans in connection with reimbursement for the provision of health care services to enrolled or covered beneficiaries.

"Private Health Plans" means insurers, third party payors, health maintenance organizations, preferred provider organizations, third party administrators for self-insured employers and similar arrangements, other than Government Reimbursement Programs, but including those situations where, pursuant to a contract with a Government Reimbursement Program, the Private Health Plan provides coverage under a managed care product to persons obtaining their Medicare, Medicaid, or similar benefits from the Private Health Plan rather than directly from Medicare or Medicaid.

"Prospect" has the meaning set forth in the introductory paragraph.

"Prospect Advance" has the meaning set forth in Section 2.7.

"Prospect Benefit Plans" has the meaning set forth in Section 6.6.

"Prospect Contribution" has the meaning set forth in Section 2.5(a).

"Prospect Member" has the meaning set forth in the introductory paragraph.

"Provider Agreements" has the meaning set forth in Section 2.1(f).

"Purchased Assets" has the meaning set forth in Section 2.1.

"RE Tax Returns" means all Tax Returns, questionnaires, certificates, affidavits and other documents required in connection with the payment of any Transfer Taxes in respect of the Owned Real Property.

"Real Estate Taxes" has the meaning set forth in Section 12.2.

"Real Property" means the Owned Real Property and the Leased Real Property.

"Rejected Physician Agreements" has the meaning set forth in Section 2.1(f).

"Related Venture" and "Related Ventures" mean, individually and collectively (i) Rhode Island PET Services, LLC, a Rhode Island limited liability company, (ii) Roger Williams Radiation Therapy, LLC, a Rhode Island limited liability company, and (iii) Chemosynergy, LLC, a Rhode Island limited liability company.

"Release" means any spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, dumping, migrating, or disposing of Hazardous Materials into the environment, including the ambient air, surface and subsurface soils, surface water and groundwater.

"Remediation" means any investigation, clean-up, removal action, remedial action, restoration, repair, response action, containment, corrective action, monitoring, sampling and

analysis, reclamation, closure, or post-closure activity in connection with the suspected, threatened or actual Release of Hazardous Materials.

"Representatives" means with respect to any Person, any of its Affiliates, directors, trustees, officers, members, shareholders, employees, counsel, accountants, consultants, agents, advisors and other representatives.

"Residents and Fellows List" has the meaning set forth in Section 4.19.

"Retirement Plan" means the St. Joseph Health Services of Rhode Island Retirement Plan.

"Retirement Plan Assets" shall mean the assets, cash and investments of the Retirement Plan.

"Revenue Procedure" has the meaning set forth in Section 8.2(c).

"Rosebank" has the meaning set forth in the introductory paragraph.

"RWMA" has the meaning set forth in the introductory paragraph.

"RWMC" has the meaning set forth in the introductory paragraph.

"RWMC SMLLC" has the meaning set forth in the introductory paragraph.

"RWOB" has the meaning set forth in the introductory paragraph.

"RWRC" has the meaning set forth in the introductory paragraph.

"Second 20-Day Period" has the meaning set forth in Section 2.9(c).

"Seller Indemnified Persons" has the meaning set forth in Section 14.3.

"Seller Intellectual Property" means Intellectual Property that is not Third Party Intellectual Property.

"Seller Member" has the meaning set forth in the Recitals.

"Seller Plans" has the meaning set forth in Section 4.17(a).

"Sellers" has the meaning set forth in the introductory paragraph.

"Sellers' Cost Reports" has the meaning set forth in Section 13.6.

"Sellers' Knowledge" (and similar expressions) means the actual knowledge of any member of the Management Group, after making diligent inquiry of those employees of any of Sellers with principal day-to-day operational responsibility with respect to a particular matter.

"Sellers' Representative" has the meaning set forth in Section 15.9(a).

"Service Contracts" means contractual rights with respect to the operation, maintenance, repair and improvement of the Real Property, including service and maintenance agreements, construction, material and labor contracts, utility agreements and other contractual arrangements, and warranties of any contractor, manufacturer or materialman.

"Settlement Agreement" has the meaning set forth in Section 2.9(c).

"SJHE" has the meaning set forth in the introductory paragraph.

"SJHSRI" has the meaning set forth in the introductory paragraph.

"SJHSRI Locations" has the meaning set forth in Exhibit M.

"SJHSRI SMLLC" has the meaning set forth in the introductory paragraph.

"Special Basket" has the meaning set forth in Section 14.4(a)(iii).

"Survey Update" has the meaning set forth in Section 12.1(a).

"Surveys" means those certain surveys of the Owned Real Property prepared by InSite Engineering Services, LLC, a surveyor registered in the State of Rhode Island, and certified to the Company and to Sellers by such surveyor as having been prepared in accordance with the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys adopted in 2011, which have been provided by the Company to Sellers.

"Survival Date" has the meaning set forth in Section 14.1(a).

"Tax" means (a) any tax, assessment, duty, fee, levy or similar charge assessed by any Governmental Entity, including any income tax, ad valorem tax, excise tax, escheat or unclaimed property liability, sales tax, use tax, capital tax, franchise tax, real or personal property tax, transfer tax, realty transfer tax, gross receipts tax, withholding tax, social security tax, payroll tax or employment tax, together with and including any and all interest, fines, penalties, assessments and additions to Tax resulting from, relating to or incurred in connection with any of those or any contest or dispute thereof, and (b) any liability of any Person for the payment of the amounts described in clause (a) as a transferee, successor or pursuant to any contractual obligation or pursuant to Treasury Regulations Section 1.1502-6 (or any similar provision of state or local Law).

"Tax Return" means any report, statement, form, return or other document or information supplied or required to be supplied to a Governmental Entity or any other Person in connection with Taxes, including any schedule or attachment thereto and any amendment thereof, and including any return required by an organization exempt from any Tax.

"TCHHS" has the meaning set forth in the introductory paragraph.

"Tenant Estoppels" has the meaning set forth in Section 3.3(c).

"Tenants" means tenants in occupancy of portions of the Real Property as of the Closing under Leases, as listed on the Rent Roll attached as Schedule 4.14(c).

"Third-Party Claim" means a claim by a third-party that is subject to indemnification hereunder.

"Third Party Intellectual Property" has the meaning set forth in Section 4.9(a).

"Title Company" means First American Title Insurance Company.

"Title Notice" has the meaning set forth in Section 12.1(a).

"Transaction" or "Transactions" means the purchase and sale of the Facilities and Purchased Assets, and consummation of the other transactions set forth herein or contemplated hereby.

"Transaction Documents" means this Agreement and the Ancillary Agreements.

"Transfer Taxes" means all transfer, conveyance, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any penalties and interest).

"Transferred Employees" has the meaning set forth in Section 8.1(a).

"Transferred Residents and Fellows" has the meaning set forth in Section 8.1(b).

"Transferred Restricted Funds" means, to the extent transferable, and subject to receipt by Sellers of any required third party consents (including, as applicable, approval of the pertinent federal agency, the original donor or the heirs thereof, or a court exercising jurisdiction in a *cy pres* action) as of the Closing Date, all research grant funds and any deferred liabilities associated with such funds and all endowed or donor-restricted funds (whether current or non-current) that have been specifically designated for use by, at or in connection with the operation of the Business.

"Transitional Patient Services" has the meaning set forth in Section 2.1(x).

"TRICARE" means the Department of Defense's managed healthcare program for active duty military, active duty service families, retirees and their families and other beneficiaries.

"Units" has the meaning set forth in Section 2.6(b).

"UMG" means University Medical Group, Inc., a Rhode Island 501(c)(3) corporation.

"Unpaid Indemnification Amount" has the meaning set forth in Section 14.8.

"Update" has the meaning set forth in Section 12.1(a).

"WARN Act" means the Worker Adjustment and Retraining Notification Act of 1988 and the rules and regulations promulgated thereunder, and any local or state statute, rules or regulations providing for notice in the advance of or benefits of any kind as a result of

employment termination or other employment loss, as defined in the WARN Act or by such local or state statutes.

Schedule 2.4

Certain Excluded Liabilities

- All amounts due to related parties of the Sellers
- All amounts due to any third party related to the evaluation, negotiation, or consummation of the transaction described in the Agreement and all ancillary documents
- All third party settlements including all Medicare and Medicaid cost reports, DSH or other settlements for all periods prior to the Closing Date, except as provided in Section 13.6(b)
- All Liabilities related to the Retirement Plan
- All amounts related to Sellers' Taxes
- All Liabilities (including all related reserves recorded on Sellers' financial statements) related to Sellers' medical malpractice, negligence, workers compensation, employment discrimination and employment related liabilities, business or other contractual disputes or general liability claims for acts or failures to act prior to the Closing Date
- All other reserves reflected on Sellers' financial statements and the related underlying Liabilities that are not Assumed Liabilities

Exhibit 2

SCHEDULE 4.23

Environmental Matters

Seller has knowledge of asbestos at RWMC 825 Chalkstone Avenue), 50 Maude Street, Our Lady of Fatima Hospital (200 High Service Avenue) and 21 Peace Street, Providence, RI. The locations are documented and each facility carries an account for asbestos abatement charges. Seller has knowledge of lead paint at the above listed facilities.

At RWMC, approximately 6 years ago biohazardous waste was found in with normal trash. RWMC removed the entire dump load and brought it to a biohazardous waste location. There are no pending violations or fines related to this incident.

At 50 Maude Street, storing radioactive and chemical waste solidified in concrete in locked and alarmed waste room. No noted compliance issues.

An abandoned underground tank on Pleasant Valley Parkway has been filled in. No issues at this time.

At 50 Maude Street, parking lot underground tank and soil removed. Monitoring wells installed. After several years of no pollution found we were able to stop monitoring. Note placed on deed.

895 Chalkstone Avenue sits on former gasoline service station.

65 Winrooth Avenue, obsolete 275 gallon oil tank in basement

At Our Lady of Fatima Hospital, underground #6 oil tank had pipe leaks. Now have monitoring wells.

At Our Lady of Fatima Hospital, approximately 6 years ago biohazardous waste was found in with normal trash. RWMC removed the entire dump load and brought it to a biohazardous waste location. There are no pending violations or fines related to this incident.

At Our Lady of Fatima Hospital, ten 55 gallon drums in boiler room.

At 577 Fruit Hill Avenue, obsolete 275 gallon oil tank in basement

At 21 Peace Street, underground #6 oil tank had pipe leaks. Now have monitoring wells.

Exhibit 3

STATE OF RHODE ISLAND
DEPARTMENT OF ATTORNEY GENERAL

May 16, 2014

DECISION

Re: Initial Hospital Conversion Application of Prospect Medical Holdings, Inc., Prospect East Holdings, Inc., Prospect East Hospital Advisory Services, LLC, Prospect CharterCARE, LLC, Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC, and Roger Williams Medical Center, St. Joseph Health Services of Rhode Island, CharterCARE Health Partners

The Department of Attorney General has considered the above-referenced application pursuant to R.I. Gen. Laws §§ 23-17.14-1, *et seq.*, the Hospital Conversions Act. In accordance with the reasons outlined herein, the application is **APPROVED WITH CONDITIONS**.

I. BACKGROUND

The first step in traversing the Hospital Conversions Act is the filing of an initial application with the Department of Attorney General (the "Attorney General") and Rhode Island Department of Health ("DOH"). The parties filed their initial application ("Initial Application") on October 18, 2013. The parties (collectively, "Transacting Parties") to the Initial Application are identified below:

- **Roger Williams Medical Center** ("RWMC"), a 220-bed acute care, community hospital located in Providence, Rhode Island. RWMC is a wholly-owned subsidiary of CharterCARE Health Partners ("CCHP").[1]

- **St. Joseph Health Services of Rhode Island** ("SJHSRI")[2], a 278-bed acute care, community hospital located in North Providence, Rhode Island. SJHSRI's ownership structure is such that CCHP is the sole Class A Member and the Bishop of Providence is the sole Class B Member.

[1] RWMC and SJHSRI will at times be referred to as the "Existing Hospitals" or "Heritage Hospitals."
[2] Commonly known as Our Lady of Fatima Hospital

- **CharterCARE Health Partners,** The Existing Hospitals were converted to the current CCHP structure pursuant to a decision issued by DOH and the Attorney General in July 2009.

- **Prospect Medical Holdings, Inc.** ("PMH") The Acquiror, pre-conversion, is an organizational structure existing under a parent entity, Prospect Medical Holdings, Inc. PMH is a Delaware corporation with its principal place of business located in Los Angeles, California. PMH is a health care services company that owns and operates hospitals and manages the provision of health care service for managed care enrollees through its network of specialists and primary care physicians.

- **Prospect East Holdings, Inc.** ("Prospect East") a Delaware corporation which is a wholly-owned subsidiary of PMH. Prospect East will hold PMH's interest in Prospect CharterCARE, LLC and the Newco Hospitals post-conversion.

- **Prospect East Hospital Advisory Services, LLC** ("Prospect Advisory"), a Delaware limited liability company, which is a wholly-owned subsidiary of PMH. Prospect Advisory will oversee and assist in the management of the day-to-day operations of Prospect CharterCARE, LLC post-conversion.

- **Prospect CharterCARE, LLC**, a Rhode Island limited liability company, which will own the entities that own and operate and hold licensure for the hospitals, post-conversion, the Newco RWMC and Newco Fatima[3] (defined below). Prospect CharterCARE, LLC will be owned 85% by Prospect East and 15% by CCHP. However, the governing board of Prospect CharterCARE, LLC will be a 50/50 board as explained herein.

- **Prospect CharterCARE RWMC, LLC** ("Newco RWMC"), is a Rhode Island limited liability company, which will own and hold the licensure for Roger Williams Medical Center post-conversion. Newco RWMC will be wholly-owned by Prospect CharterCARE, LLC.

- **Prospect CharterCARE SJHSRI, LLC** ("Newco Fatima") is a Rhode Island limited liability company, which will own and hold the licensure for Our Lady of Fatima Hospital post-conversion. Newco Fatima will be wholly-owned by Prospect CharterCARE, LLC.

See Response to Initial Application Question 1 and Exhibits C10A-1 through A-6; C10A-12 through 14; 10A-7 through 11 and 10 B, C and D[4].

[3] Newco RWMC together with Newco Fatima shall collectively hereinafter be referred to as "Newco Hospitals".
[4] For the purposes of this Decision, Prospect East Holdings, Inc., Prospect East Hospital Advisory Services, LLC, Prospect CharterCARE, LLC, and its "Subsidiaries", Prospect CharterCARE RWMC, LLC, and Prospect CharterCARE SJHSRI, LLC, will be called collectively "Prospect"; Roger Williams Medical Center, St. Joseph

In its simplest form, the structure of the transaction outlined in the Initial Application (the "Proposed Transaction") is a sale of the assets of CCHP to PMH.

PMH is proposing to form Prospect CharterCARE, LLC. PMH will retain an 85% ownership interest in Prospect CharterCARE, LLC. CCHP will be provided a 15% ownership Interest in Prospect CharterCARE, LLC. The governing structure, however, will be such that PMH's ownership interest will appoint 50% of the membership of the Prospect CharterCARE, LLC board, and CCHP's ownership interest will appoint 50% of the membership of the Prospect CharterCARE, LLC board. The Transacting Parties refer to this concept as a "50/50 board."

II. REVIEW CRITERIA

The review criteria utilized by the Attorney General for a hospital conversion involving a conversion of a non-profit hospital to a for-profit hospital[5] is as follows:

> (1) Whether the proposed conversion will harm the public's interest in trust property given, devised, or bequeathed to the existing hospital for charitable, educational or religious purposes located or administered in this state;
>
> (2) Whether a trustee or trustees of any charitable trust located or administered in this state will be deemed to have exercised reasonable care, diligence, and prudence in performing as a fiduciary in connection with the proposed conversion;
>
> (3) Whether the board established appropriate criteria in deciding to pursue a conversion in relation to carrying out its mission and purposes;
>
> (4) Whether the board formulated and issued appropriate requests for proposals in pursuing a conversion;
>
> (5) Whether the board considered the proposed conversion as the only alternative or as the best alternative in carrying out its mission and purposes;
>
> (6) Whether any conflict of interest exists concerning the proposed conversion relative to members of the board, officers, directors, senior management, experts or consultants

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Health Service of Rhode Island and CharterCARE Health Partners will be called collectively "CharterCARE" or "CCHP".

[5] R.I. Gen. Laws § 23-17.14-7(c). The Attorney General's responsibility under the Hospital Conversions Act is to review the transaction selected by the Board(s) of Directors.

engaged in connection with the proposed conversion including, but not limited to, attorneys, accountants, investment bankers, actuaries, health care experts, or industry analysts;

(7) Whether individuals described in subdivision (c)(6) were provided with contracts or consulting agreements or arrangements which included pecuniary rewards based in whole, or in part on the contingency of the completion of the conversion;

(8) Whether the board exercised due care in engaging consultants with the appropriate level of independence, education, and experience in similar conversions;

(9) Whether the board exercised due care in accepting assumptions and conclusions provided by consultants engaged to assist in the proposed conversion;

(10) Whether the board exercised due care in assigning a value to the existing hospital and its charitable assets in proceeding to negotiate the proposed conversion;

(11) Whether the board exposed an inappropriate amount of assets by accepting in exchange for the proposed conversion future or contingent value based upon success of the new hospital;

(12) Whether officers, directors, board members or senior management will receive future contracts in existing, new, or affiliated hospital or foundations;

(13) Whether any members of the board will retain any authority in the new hospital;

(14) Whether the board accepted fair consideration and value for any management contracts made part of the proposed conversion;

(15) Whether individual officers, directors, board members or senior management engaged legal counsel to consider their individual rights or duties in acting in their capacity as a fiduciary in connection with the proposed conversion;

(16) Whether the proposed conversion results in an abandonment of the original purposes of the existing hospital or whether a resulting entity will depart from the traditional purposes and mission of the existing hospital such that a cy pres proceeding would be necessary;

(17) Whether the proposed conversion contemplates the appropriate and reasonable fair market value;

(18) Whether the proposed conversion was based upon appropriate valuation methods including, but not limited to, market approach, third party report or fairness opinion;

(19) Whether the conversion is proper under the Rhode Island Nonprofit Corporation Act;

(20) Whether the conversion is proper under applicable state tax code provisions;

(21) Whether the proposed conversion jeopardizes the tax status of the existing hospital;

(22) Whether the individuals who represented the existing hospital in negotiations avoided conflicts of interest;

(23) Whether officers, board members, directors, or senior management deliberately acted or failed to act in a manner that impacted negatively on the value or purchase price;

(24) Whether the formula used in determining the value of the existing hospital was appropriate and reasonable which may include, but not be limited to factors such as: the multiple factor applied to the "EBITDA" – earnings before interest, taxes, depreciation, and amortization; the time period of the evaluation; price/earnings multiples; the projected efficiency differences between the existing hospital and the new hospital; and the historic value of any tax exemptions granted to the existing hospital;

(25) Whether the proposed conversion appropriately provides for the disposition of proceeds of the conversion that may include, but not be limited to:

(i) Whether an existing entity or a new entity will receive the proceeds;

(ii) Whether appropriate tax status implications of the entity receiving the proceeds have been considered;

(iii) Whether the mission statement and program agenda will be or should be closely related with the purposes of the mission of the existing hospital;

(iv) Whether any conflicts of interest arise in the proposed handling of the conversion's proceeds;

(v) Whether the bylaws and articles of incorporation have been prepared for the new entity;

(vi) Whether the board of any new or continuing entity will be independent from the new hospital;

(vii) Whether the method for selecting board members, staff, and consultants is appropriate;

(viii) Whether the board will comprise an appropriate number of individuals with experience in pertinent areas such as foundations, health care, business, labor, community programs, financial management, legal, accounting, grant making and public members representing diverse ethnic populations of the affected community;

(ix) Whether the size of the board and proposed length of board terms are sufficient;

(26) Whether the transacting parties are in compliance with the Charitable Trust Act, chapter 9 of title 18;

(27) Whether a right of first refusal to repurchase the assets has been retained;

(28) Whether the character, commitment, competence and standing in the community, or any other communities served by the transacting parties are satisfactory;

(29) Whether a control premium is an appropriate component of the proposed conversion; and

(30) Whether the value of assets factored in the conversion is based on past performance or future potential performance.

In addition to reviewing the Initial Application submitted by the Transacting Parties and other publically available information, the Attorney General and DOH (the "Departments") jointly interviewed the following individuals:

CharterCARE

1. Kenneth H. Belcher, President/CEO of CharterCARE Health Partners
2. Michael E. Conklin, Jr., Chief Financial Officer, CharterCARE Health Partners
3. Joan M. Dooley, R.N., Chief Nursing Officer, CharterCARE Health Partners, RWMC
4. Patricia A. Nadle, R.N., Chief Nursing Officer, CharterCARE Health Partners, SJHSRI
5. Edwin J. Santos, Chairman of the CharterCARE Health Partners Board
6. Kathy Moore, Director of Finance, CharterCARE Health Partners
7. Addy Kane, Chief Financial Officer, Roger Williams Medical Center

Prospect

8. Thomas Reardon, President of Prospect Medical Holdings, Inc.
9. Samuel S. Lee, CEO, Prospect Medical Holdings, Inc.
10. Steve Aleman, Chief Financial Officer, Prospect Medical Holdings, Inc.
11. Barbara Giroux, Senior Vice President of Finance and Operations

The Hospital Conversions Act requires a public informational meeting. *See* R.I. Gen. Laws § 23-17.14-7(b)(3)(iv). A public notice was published regarding an informational meeting as well as soliciting written comments regarding the Proposed Transaction. The Attorney General and DOH jointly held this meeting in Providence at Gaige Hall Auditorium on the

campus of Rhode Island College.[6] It was held on April 28, 2014, from 4 p.m. to 7 p.m. At the beginning of the session, the Transacting Parties were provided an opportunity to give a presentation regarding the Proposed Transaction; afterwards, public comment was taken. Over the course of the meeting, twenty-eight (28) speakers provided public comment. The comments were overwhelmingly in favor of the Proposed Transaction, with one in opposition and another raising concern as to whether Fatima Hospital would retain its Catholic identity. Several written comments were also received, the overwhelming majority of which supported the Proposed Transaction.

The Initial Application, along with the supplemental information provided, information gathered from the investigation, including publically available information and information resulting from interviews and public comment, were all considered in rendering this Decision.

III. PROCEDURAL HISTORY

In 2008 and 2009, the RWMC and SJHSRI systems were losing in excess of $8 million dollars a year from operations alone.[7] In an effort to stem those losses, those independent systems agreed to affiliate through the creation of CCHP. The purpose of the affiliation was to realize approximately $15 million dollars in savings over 5 years, utilizing efficiencies created by the combined hospital systems as well as to preserve and expand health care services to the Existing Hospitals' communities.[8] In 2009, the affiliation was approved by DOH and the

[6] The Attorney General would like to thank the staff of Rhode Island College for their hospitality and for assisting us with use of the auditorium.
[7] Initial Application, Response to Question 1
[8] Id.

Attorney General.[9] If the CCHP affiliation had not been approved, the RWMC and SJHSRI systems would have had difficulty in continuing to operate independently.[10]

CCHP operates a health care system in the City of Providence and the Town of North Providence which includes Roger Williams Medical Center and St. Joseph's Health System of Rhode Island.[11]

Roger Williams Medical Center, defined above as RWMC, is a 220-bed acute care, community hospital located in Providence, Rhode Island. St. Joseph Health Services of Rhode Island, defined above as SJHSRI, operates Our Lady of Fatima Hospital, which is a 278-bed acute care, community hospital located in North Providence, Rhode Island.[12]

CCHP also operates a number of non-hospital facilities that will be included in the Proposed Transaction: Elmhurst Extended Care Facilities, Inc., Roger Williams Realty Corporation, RWGH Physician's Office Building, Inc., Roger Williams Medical Associates, Inc., Roger Williams PHO, Inc., Elmhurst Health Associates, Inc., Our Lady of Fatima Ancillary Services, Inc., The Center for Health and Human Services, SJH Energy, LLC, Rosebank Corporation and CharterCARE Health Partners Foundation ("CCHP Foundation").[13]

Significant operating efficiencies have been achieved as a result of the 2009 CCHP affiliation.[14] Based on operating revenue alone, the combined CCHP hospital system reduced operating losses not including pension losses to approximately $3 million dollars per year.[15] Although a significant improvement, CCHP realized that the losses it was continuing to experience cannot be sustained and still ensure its continued viability. Furthermore, although

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[9] Id.
[10] Id.
[11] Initial Application, Response to Question 1
[12] Id.
[13] Id.
[14] Id.
[15] Id.

capital expenditures have been made, the physical plants at the Existing Hospitals are aging and need upgrading.[16]

Of additional concern to CCHP is its pension funding (an issue that is impacting many hospitals throughout the country). If pension losses are taken into consideration, in fiscal year 2012, the CCHP system sustained losses of over $8 million dollars which are increasing without additional contributions.[17] Such losses cannot be sustained by CCHP. Facing these significant financial concerns, CCHP realized it needed additional capital to ensure its continued viability to fulfill its responsibilities to the citizens of Rhode Island which it serves.

In an effort to ensure the continued viability of the Existing Hospitals, in December of 2011, CCHP issued 22 Requests for Proposals (the "RFP") seeking a partner.[18] In response to its RFP, CCHP received six (6) responses, which it reviewed and considered carefully.[19] Among the responses it received was one from PMH in August of 2012.[20] CCHP conducted a vigorous and detailed review of all of the proposals it received.[21] However, after receiving the response of PMH, CCHP then undertook extensive review of PMH's proposal and engaged in negotiations with PMH. In March of 2013, after a joint meeting of the boards of CCHP and the Existing Hospitals, and an analysis of a number of the different options before CCHP, CCHP chose PMH's proposal.[22] In March of 2013, a Letter of Intent was executed by and between PMH and CCHP.[23] During the interval between March 2013 and the execution of the Asset Purchase Agreement on September 24, 2013, the Transacting Parties conducted extensive due diligence of each other. The Transacting Parties subsequently executed a First Amendment to the Asset

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[16] Id.
[17] Id; Report of James P. Carris, CPA.
[18] 4/28/14 Testimony of Kenneth Belcher
[19] Id. Response to Question 55
[20] Id.
[21] Id.
[22] Initial Application response to Question 14
[23] Id.

Purchase Agreement on February 27, 2014, to add Prospect CharterCARE Ancillary Services, LLC ("Ancillary") to hold the licenses for the Prospect CharterCARE laboratories, among other things.[24]

An Initial Application was submitted by the Transacting Parties on October 18, 2013. On November 18, 2013, the Departments informed the Transacting Parties that there were deficiencies to the Initial Application and requested additional information. On January 2, 2014 the Departments received a letter addressing the deficiencies within the Initial Application. On January 16, 2014, the Departments issued the Transacting Parties a notice of completeness letter.

On January 17, 2014, the Initial Application was deemed complete with the condition that new copies of the Initial Application be filed, incorporating the confidentiality decision made by the Attorney General wherein some documents that were originally requested to be deemed confidential were deemed public.

During the review, six (6) sets of Supplemental Questions consisting of two hundred and thirteen (213) questions were sent to and responded to by the Transacting Parties.

IV. DISCUSSION

As outlined above, the review criteria contained in the Hospital Conversions Act applicable to the Proposed Transaction consist of thirty (30) requirements. For organizational purposes we have addressed them grouped by topic below.

A. BOARD OF DIRECTORS

Numerous provisions of the Hospital Conversions Act involve a review of the actions of the board of directors of the existing hospital.[25] In the instant review, the Attorney General provided a review of the action of the board of directors leading to the Proposed Transaction.

[24] Response to Supplemental Question 3-15

1. Duties of the Board of Directors

The Hospital Conversion Act requires review of the decisions leading up to a conversion to ascertain whether the directors fulfilled their fiduciary duties to the hospital. The first criteria of the Hospital Conversions Act guiding the review of the actions of the board of directors in pursuing a conversion is governed by R.I. Gen. Laws § 23-17.14-7(c)(3). This section requires review of whether there was "appropriate criteria [used] in deciding to pursue a conversion in relation to carrying out [the hospital's] mission and purposes." With regard to this particular provision, the Board of Directors of CCHP (the "CCHP Board") faced a situation where it was sustaining continued losses, despite its efforts to find and implement efficiencies throughout CCHP and its affiliates.[26] CCHP was also faced with aging infrastructure issues that needed to be addressed.[27] The need for capital to sustain its continued viability was a driving impetus in locating a partner as CCHP realized it could not address these issues on its own going forward.[28] The Attorney General finds that this condition of the Hospital Conversions Act has been satisfied.

The next section, R.I. Gen. Laws § 23-17.14-7(c)(4) requires a review of "[w]hether the board formulated and issued appropriate requests for proposals in pursuing a conversion." In order to pursue an appropriate partner, CCHP issued twenty-two (22)[29] Requests for Proposals to a number of entities, listing a number of criteria.[30] These criteria included:

(a) A commitment to the continued provision of quality health care services for the residents of Greater Providence, Rhode Island and the surrounding communities;

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[25] *See e.g.*, Hospital Conversions Act, R. I. Gen. Laws §§ 23-17.14-7(c) (3), (4), (5), (8), (9), (10), (11), (13), (14), (15), and (23).
[26] Initial Application, Response to Question 1
[27] Id.
[28] Initial Application, Responses to Questions 1, 13 and 14.
[29] 4/28/14 Public Hearing Testimony of Kenneth Belcher
[30] Initial Application Response to Question 14 and Exhibit 14A

(b) A long-term commitment to CCHP, its medical staff and employees;

(c) A demonstrated cultural fit with CCHP's mission and a shared strategic vision for the future of CCHP;

(d) An established record of success in the use of various strategies for physician recruiting and assistance developing other ways to expand and enhance CCHP's range of services;

(e) Access to sufficient capital to allow CCHP to maintain high quality care for its patients and improve its physical facilities;

(f) Continued commitment to community benefit programs;

(g) A structure of governance that allows for continued participation of the CCHP Board in the governance of CCHP, preferably a joint venture structure;

(h) Commitment to maintaining existing services for a period of at least three years;

(i) Quality and safety expertise to assure that CCHP exceeds quality and safety standards;

(j) Proven ability to improve clinical outcomes/services as well as provide clinical and administrative support to assure a standard of excellence; and

(k) Preservation and enhancement of academics.

The condition in the RFP reflecting the CCHP Board's desire for a long-term commitment to CCHP, its medical staff and employees, referenced at (b) above, fit with the Board's desire to engage in a joint venture model of governance that would permit continued CCHP input into the decision making and operations of the Existing Hospitals rather than to be simply acquired.[31] This intended model of governance was shared by Prospect, as evidenced by the provisions of the Amended and Restated Limited Liability Company Agreement of Prospect CharterCARE, LLC (the "Prospect CharterCARE Operating Agreement"), which contains specific conditions for a 50/50 board representation by CCHP and Prospect, as well as

[31] *See* Initial Application Response to Question 55.

establishment of local boards for the Existing Hospitals to provide continued local input into the operations of these facilities.[32]

In its RFP, CCHP sought a substantial amount of information from its potential partners,[33] including:

(a) Mission, Vision, Values;
(b) Financial Strength;
(c) Corporate Structure;
(d) Ability to Pay or Finance Proposal;
(e) Ability to Fund Capital Needs;
(f) Desire to Sustain CCHP as a Full Service Acute Care System;
(g) Commitment to Build CCHP Care Capabilities;
(h) Desire to Support, Improve and Grow Medical Staff and Physician Alignment;
(i) Approach to Physician Recruitment and Retention;
(j) Community Benefit;
(k) Future Governance Proposal for CCHP;
(l) Continuing Roles for CCHP Management Team;
(m) Growth Strategies;
(n) Existing Affiliations;
(o) Quality and Safety; and
(p) Regulatory Impediments to Successful Venture.

The Attorney General finds that the CCHP Board's actions in connection with its issuance of the RFP and criteria employed satisfy the requirements of the Hospital Conversion Act. *See* R.I. Gen. Laws § 23-17.14-7(c)(3)(4).

An additional section requires review of "whether the board exercised due care in assigning a value to the existing hospital and its charitable assets in proceeding to negotiate the proposed conversion." *See* R.I. Gen. Laws § 23-17.14-7(c)(10).

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[32] *See* Initial Application Response to Question 7, Exhibit 18, Prospect CharterCARE Operating Agreement.
[33] Id.

2. Board Use of Consultants

Two criteria in the Hospital Conversions Act deal with a board's use of consultants. *See* R.I. Gen. Laws §§ 23-17.14-7(c)(8) and (9):

> (8) Whether the board exercised due care in engaging consultants with the appropriate level of independence, education, and experience in similar conversions; and
>
> (9) Whether the board exercised due care in accepting assumptions and conclusions provided by consultants engaged to assist in the proposed conversion.

As outlined in the Initial Application, the CCHP Board engaged a number of consultants, including Cain Brothers & Company, an investment banking firm, to assist it with evaluation of the proposals made by prospective suitors, as well as in negotiations once a prospective suitor was located.[34] It also retained a number of other consultants, including Cambridge Research Institute, The Camden Group, Drinker Biddle & Reath, LLP, Canon Design, Angell Pension Group and Schulte Roth Zubel, LLC to assist it with the process of review of the RFP proposals submitted and negotiation of the Proposed Transaction.[35] *See* R.I. Gen. Laws § 23-17.14-7(c)(8)(15).

Prospect also retained a number of consultants, including BDO, Cardno ATC, Lathan & Watkins LLP, Nixon Peabody, LLP, Rutan & Tucker, LLP, Groom Law Group, Chartered, Sills Cummis & Gross P.C. and Ferrucci Russo PC. [36]

With regard to the care given "in accepting assumptions and conclusions provided by consultants," the Attorney General is not privy to the advice provided by these consultants other than any documents submitted with the Initial Application process. It is unclear if more than advice regarding the regulatory process was provided by consultants in this portion of the transaction process. Accordingly, the Attorney General has found nothing to refute that the

[34] Initial Application, Response to Question 14.
[35] Initial Application, Response to Question 60, Exhibit 60B.
[36] Initial Application, Response to Question 60, Exhibit 60A.

CCHP Board's decision to accept the assumptions and conclusions provided by the consultants, to the extent there were any, was with due care and that criteria (6), (8), (9) and (15) of the Hospital Conversions Act have been satisfied. *See* R.I. Gen. Laws §23-17.14-7(c).

3. Remaining Board Criteria

Regarding the remaining criteria of this type, the Transacting Parties have disclosed management and operating agreements pertaining to the operations of Prospect CharterCARE, LLC, which entity shall own the Newco Hospitals post transaction. *See* R.I. Gen. Laws § 23-17.14-7(c)(14). The Transacting Parties have provided the Prospect CharterCARE Operating Agreement, which includes provisions for the formation of local boards for each Newco Hospital thereafter.[37] This operating agreement also provides for the local boards to consist of at least six individuals, with 50% being physicians and the other 50% being community representatives and the Hospital's CEO, with no board member serving more than a three-year term.[38]

In addition, the Transacting Parties provided a Management Services Agreement, which will operate between Prospect CharterCARE, LLC and Prospect Advisory.[39] Prospect East, as the managing member of Prospect CharterCARE, LLC, has delegated its day-to-day management of the Newco Hospitals to Prospect Advisory under the Management Services Agreement (the "Management Agreement"), which provides for a number of services, including assistance with operational activities, once the Proposed Transaction has closed.[40] Prospect Advisory will work with senior leadership team members (the "Executive Team") of Prospect CharterCARE, LLC to run the day-to-day operations of the Newco Hospitals. The Executive Team shall be subject to the day-to-day supervision of Prospect Advisory, and together the

[37] Initial Application, Response to Questions 1, 18 and Exhibit 18 Article XII.
[38] Initial Application Exhibit 18, Article XII, Response to Question 7.
[39] Initial Application Exhibit 18.
[40] Id. Response to Question S3-20.

Executive Team and Prospect Advisory will report to Prospect CharterCARE, LLC's board (the "Board") and certain PMH executives. Prospect CharterCARE, LLC's Board will have ultimate power and authority over certain decisions. Since the filing of the Initial Application, the Management Agreement has been subsequently revised to clarify that should any conflicts arise between the Prospect CharterCARE Operating Agreement and the Management Agreement, such conflicts will be resolved in favor of the Prospect CharterCARE Operating Agreement. The Attorney General finds that R.I. Gen. Laws §23-17.14-7(c)(14) of the Hospital Conversions Act has been satisfied.

As part of the Initial Application process, the applicants also indicated that the only agreements they have made regarding future employment or compensated relationships relating to any officer, director, board member or senior manager of CCHP is the assumption by Prospect of the existing employment relationships of the current CCHP CEO, Kenneth Belcher and the other senior leadership team members.[41] In addition, the applicants have stated that board members of the Prospect CharterCARE, LLC and the Newco Hospitals will not be compensated.[42] As to any agreements between affiliates, DOH has mandatory conditions pursuant to the Hospital Conversions Act addressing this aspect of review. *See* R.I. Gen. Laws § 23-17.14-28.

The Asset Purchase Agreement does not include consideration that is based upon future or contingent value based upon success of the Newco Hospitals. *See* R.I. Gen. Laws § 23-17.14-7(c)(11). In fact, Prospect has confirmed that if the Newco Hospitals do not meet financial expectations, it will provide additional funding to them.[43] The terms of the Management Agreement were determined jointly by Prospect and CCHP, both of which were represented by,

[41] Initial Application, Responses to Questions 35 and 36; Asset Purchase Agreement, Article VIII.
[42] Response to Supplemental Question 3-38.
[43] Response to Supplemental Question S4-25.

and consulted with, legal counsel relating to the Proposed Transaction. *See* R.I. Gen. Laws § 23-17.14-7(c)(14),(15). The Attorney General finds that the statutory requirement of R.I. Gen. Laws § 23-17.14-7(c)(23) has been met.

Therefore, the additional miscellaneous Hospital Conversions Act criteria that must be reviewed regarding board actions have been satisfied.

B. CONFLICTS OF INTEREST

Numerous provisions of the Hospital Conversions Act deal with conflicts of interest.[44] The Attorney General has reviewed the criteria in the Act to determine whether the Transacting Parties and their consultants have avoided conflicts of interest.

1. Conflict of Interest Forms

As part of the Initial Application, certain individuals associated with the Transacting Parties were required to execute conflict of interest forms. These included officers, directors and senior management for Prospect and CCHP. Individuals completing the conflict of interest forms were asked to provide information to determine conflicts of interest such as their affiliation with the Transacting Parties, their relationships with vendors and their future involvement with the Transacting Parties. The Proposed Transaction also provides that the employment contracts of the Executive Team will be assumed by Prospect, without any additional compensation or benefit.[45] The Attorney General finds no conflict of interest occurred with respect to these agreements that are to be assumed by Prospect.[46] Further, the applicants have stated that board members of the Prospect CharterCARE, LLC and the Newco Hospitals will not be compensated.[47] After reviewing the conflict of interest forms, the Attorney

[44] *See* R.I. Gen. Laws §§ 23-17.14-7(c) (6), (7), (12), (22) and (25) (iv).
[45] *See* R.I. Gen. Laws §§ 23-17.14-7(c) (6), (7), (12), (22).
[46] *See* Initial Application, Responses to Questions 1, 15, 35, 36, Exhibit 18 Asset Purchase Agreement Article VIII.
[47] Response to Supplemental Question 3-38.

General determines that none of the submitted information revealed any conflict of interest.[48] *See* R.I. Gen. Laws §23-17.14-7(c)(6).

2. Consultants

The Hospital Conversions Act requires a review of the possibility of conflicts of interests with regard to consultants engaged in connection with the Proposed Transaction. R.I. Gen. Laws §§ 23-17.14-7(c)(6) and (7). The Attorney General notes that CCHP engaged several entities in its pursuit of a potential suitor, including Cain Brothers & Company, an investment banking firm, to assist it with evaluation of the proposals made by prospective suitors, as well as in negotiations once a prospective suitor was located.[49] It also retained a number of other consultants, including Cambridge Research Institute, The Camden Group, Drinker Biddle & Reath, LLP, Canon Design, Angell Pension Group and Schulte Roth Zubel, LLC to assist it with the process of review of the RFPs submitted and negotiation of the Proposed Transaction.[50] The Attorney General has determined that the criteria contained in R.I. Gen. Laws §23-17.14-7(c)(6) and (7) of the Hospital Conversions Act have been satisfied as to some, but not all of the consultants engaged because conflict of interest forms were not provided for Cambridge Research Institute, The Camden Group, Dr. Vincent Falanga (who is no longer affiliated with RWMC) and Schulte Roth Zubel, LLC, despite CCHP's efforts to obtain them. One should not be able to avoid providing a conflict form because of change in employment or affiliation. Clearly the forms from these individuals are relevant. These individuals have failed to cooperate with the Attorney General's review. Because no forms have been provided, the Attorney General has made an inference that a conflict of interest exists with regard to these individuals,

[48] *See* Initial Application, Response to Question 15
[49] Initial Application, Response to Question 14
[50] Initial Application, Response to Question 60, Exhibit 60B.

that any future dealings between Prospect and these individuals will be considered suspect, and in the event the Attorney General obtains additional information, further action may be taken.

3. Negotiations And Conflicts

After review of relevant documents obtained during the Attorney General's review, it has been determined that the individuals who represented the Existing Hospitals in negotiations of the Proposed Transaction had no impermissible conflicts of interest.[51]

4. Sale Proceeds And Conflicts

As contemplated by the structure of the purchase price outlined in the Asset Purchase Agreement, there will be no proceeds from the Proposed Conversion after the disposition of the liabilities of the Existing Hospitals not assumed by Prospect CharterCARE, LLC. Therefore, there is no need to address whether the Transacting Parties have appropriately provided for the disposition of proceeds.[52]

5. Prospect Conflicts Of Interest

On behalf of Prospect, several consultants were also engaged including: BDO, Cardno ATC, Lathan & Watkins LLP, Nixon Peabody, LLP, Rutan & Tucker, LLP, Groom Law Group, Chartered, Sills Cummis & Gross P.C. and Ferrucci Russo PC.[53] After reviewing the conflict of interest forms submitted by Prospect, the Attorney General finds none of the forms submitted by Prospect revealed any conflict of interest.

In response to various questions, Prospect has indicated that it has identified certain leadership positions within its organization, post transaction.[54] Under the terms of the Asset Purchase Agreement, Management Agreement and Prospect CharterCARE Operating

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[51] R.I. Gen. Laws § 23-17.14-7(c)(22).
[52] *See* R.I. Gen. Laws § 23-17.14-7(c)(25)(iv).
[53] Initial Application, Response to Question 60, Exhibit 60A.
[54] *See* Initial Application, Response to Question 35.

Agreement, Prospect will hold an 85% ownership interest and thus will appoint certain individuals as its representatives, all of whom have provided Conflict of Interest Statements. A review of these documents and the interviews conducted with representatives of Prospect does not indicate that any conflict of interest exists with respect to the Proposed Transaction.[55] *See* R.I. Gen. Laws §§ 23-17.14-7 (c)(6),(7).

C. VALUE OF TRANSACTION

The following Hospital Conversions Act criteria deal with valuation of the Proposed Transaction. *See* R.I Gen. Laws §§ 23-17.14-7 (c)(17), (18) and (24):

(17) Whether the proposed conversion contemplates the appropriate and reasonable fair market value;

(18) Whether the proposed conversion was based upon appropriate valuation methods including, but not limited to, market approach, third party report or fairness opinion; and

(24) Whether the formula used in determining the value of the existing hospital was appropriate and reasonable which may include, but not be limited to factors such as: the multiple factor applied to the "EBITDA" – earnings before interest, taxes, depreciation, and amortization; the time period of the evaluation; price/earnings multiples; the projected efficiency differences between the existing hospital and the new hospital; and the historic value of any tax exemptions granted to the existing hospital.

Given their relevant expertise in this area, the Attorney General consulted with its expert, James P. Carris, CPA, ("Carris"), in making a determination regarding valuation. According to the analysis of Carris:

Is the Purchase Commitment from Prospect Medical Holdings, Inc. Fair and Reasonable?

As described in the Asset Purchase Agreement (APA), Prospect Medical Holdings (Prospect), through a series of subsidiaries, is acquiring substantially all the assets of CharterCARE Health Partners, Inc. (CCHP). The acquisition includes Roger Williams Medical Center (RWMC), a 220-bed acute care teaching hospital and Saint Joseph's Health System of Rhode Island (SJHSRI), which operates Fatima Hospital, a 278-bed acute care community hospital located in North Providence, RI.

[55] Id., and Exhibit 18 (Asset Purchase Agreement, Prospect CharterCARE Operating Agreement and Management Agreement).

Additionally, there are a number of non-hospital health entities in CCHP, which are also included in the transaction.

At closing, CCHP will receive $45 million in cash plus a 15% interest in the joint venture (Prospect CharterCARE) that will hold the acquired assets.

The APA requires that the $45 million in cash proceeds be dispersed at closing as follows:

-$16,550,000 to be used to fully redeem SJHSRI revenue bonds issued in 1999 by Rhode Island Health and Educational Building Corporation.

-$11,062,500 to be used to redeem RWMC revenue bonds issued in 1998 by Rhode Island Health and Educational Building Corporation.

-$3,387,500 to be used to redeem Roger Williams Realty Corporation revenue bonds issued in 1999 by Rhode Island Health and Educational Building Corporation.

-$14,000,000 to be applied to the St. Joseph Pension Plan.

A detailed sources and uses schedule for the transaction has been provided by the parties.

Prospect has also committed $50 million over a four year period (in addition to CCHP's routine capital commitment of at least $10 million per year) to fund expansion and physical plant improvements to the existing entities. During the process, Prospect has agreed to guarantee the $50 million long-term capital commitment of its subsidiary, Prospect East. This $50 million may be subject to certain limitations and offsets but for the purposes of this analysis, is included at the full $50 million.

CCHP's 15% interest in the joint venture is also subject to potential limitations, including a possible capital call. All parties to the transaction have given assurances that no capital call is anticipated in the foreseeable future.

Representatives of management and the Board of CCHP stipulated that if this transaction does not close, they would immediately begin the strategic partnering process again. The system does not have the ability to survive long-term with a "go it alone" strategy. This is borne out by the internal March 2014 consolidated financial statements, which shows a six-month, consolidated operating loss of approximately $9 million.

A third party valuation analysis or fairness opinion was not completed with regard to the entire transaction. CCHP stated that its board did not undertake an appraisal since any potential valuation would have to be measured against the board's requirement for a joint venture model that included the retention of local ownership and local governance. Prospect stated that it looked at two methods of determining potential value. The first method was a multiple of twelve months trailing EBITDA and the second method was a multiple of enterprise value. Neither of these methods were deemed by the parties to be applicable in this situation. Accordingly, the parties

looked at the existing long-term debt, other outstanding obligations and future capital needs. CCHP in pursuing its joint venture model, as directed by its Board, was looking to resolve approximately $31 million in long-term debt, to bring the St. Joseph's Pension Plan to a ninety (90%) percent funding level and fund future capital needs of approximately $50 million. The parties therefore estimate the total consideration to be approximately $95 million.

The purchase commitment from Prospect is fair and reasonable for the acquisition of CCHP and its affiliates. This is based on the criteria established by the CCHP Board, a review of available documentation, analysis of CCHP's current and historical operating performance as well as interviews and discussions with numerous individuals who participated in the processes and discussions which culminated in this transaction.

Moreover, given the considered and extensive review process employed by the CCHP Board and its finding that the terms of its deal with Prospect "were the best available from the remaining, interested parties," the information provided by Carris, as well as the offers of other bidders, the criteria under the Hospital Conversions Act regarding valuation of the Proposed Transaction has been met.

D. CHARITABLE ASSETS

The Attorney General has the statutory and common law duty to protect charitable assets within the State of Rhode Island.[56] In addition, the Hospital Conversions Act specifically includes provisions dealing with the disposition of charitable assets in a hospital conversion generally to ensure that the public's interest in the funds is properly safeguarded.[57] With regard to the charitable assets of CharterCARE, currently they are held by three entities: the CCHP Foundation, Roger Williams Medical Center and St. Joseph Health Services of Rhode Island.[58]

[56] *See e.g.*, R.I. Gen. Laws § 18-9-1, *et seq.*
[57] *See*, R.I. Gen. Laws § 23-17.14-7(c).
[58] Initial Application, Response to Questions 28 and 29.

1. Disposition of Charitable Assets

In the Initial Application, the Transacting Parties were asked to identify and account for all charitable assets held by the Transacting Parties.[59] Voluminous detail was provided which will not be detailed herein, but was thoroughly reviewed. Certain information regarding these assets is outlined below. This requirement has been satisfied by the Transacting Parties pursuant to the Hospital Conversions Act. In addition, it was represented that Prospect CharterCARE, LLC has no plans to change or remove the names associated with former gifts to the Existing Hospitals.[60]

In addition, the Transacting Parties were required to provide proposed plans for the creation of the entity where all charitable assets held by the non-profit entities would be transferred.[61] With regard to restricted funds, pursuant to the Hospital Conversions Act, in a hospital conversion involving a not-for-profit corporation and a for-profit corporation, it is required that any endowments, restricted, unrestricted and specific purpose funds be transferred to a charitable foundation.[62] In furtherance of that requirement, CCHP indicated in the Initial Application that it intends to transfer all currently held specific purpose and restricted funds to the CCHP Foundation,[63] which will use the funds in accordance with the designated purposes. At the outset, the only change in the mission and the purpose of the CCHP Foundation will be that charitable assets will not be used for the operations of what would have become the Newco Hospitals due to their for-profit status. The mission and purpose of the CCHP Foundation would be to ensure use of charitable assets consistent with the historical donors' intent and community based needs. It would continue to serve as a community resource to provide accessible,

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[59] Id.
[60] Response to Supplemental Question S-42
[61] Initial Application, Question 29, R.I. Gen. Laws § 23-17.14-7(c)(25) and §23-17.14-22(a).
[62] R.I. Gen. Laws § 23-17.14-22(a).
[63] *See* Initial Application, Response to Questions 28 and 29.

affordable and responsive health care and health care related services including disease prevention, education and research, grants, scholarships, clinics and activities within the community to facilitate positive changes in the health care system. [64] The strategic planning process for CCHP Foundation is ongoing.

Historically, a *Cy Pres* petition to the Rhode Island Superior Court is the legal vehicle to determine whether a donor's intent can be satisfied, and if not, to determine the next best alternative to honor the donor's intent. Because of the change of control of the Existing Hospitals and proposed transfer of their charitable assets to the CCHP Foundation, it was contemplated that a simple *Cy Pres* acknowledging that each Existing Hospital has charitable assets and that post conversion, the CCHP Foundation will honor the intent of the donors, would be the appropriate vehicle. However, as the financial situation of the Existing Hospitals, including with respect to the SJHSRI pension liability, continued to deteriorate during the regulatory review of the Initial Application, CCHP revised its plan as set forth in the Initial Application to reflect a more staggered process with respect to its restricted funds which required some adjustments to the basic form *Cy Pres* described above.

Due to the extent of the Existing Hospitals' liabilities, CCHP proposed that certain RWMC and SJHSRI restricted assets, in addition to unrestricted cash, would remain with the Heritage Hospitals during their wind-down period rather than transferring directly to the CCHP Foundation. Specifically, a total of approximately $19.6 million dollars in restricted assets would be held by the Foundation ($7.2 million dollars) and the Heritage Hospitals ($12.4 million dollars). The revised *Cy Pres* plan was set forth in an outline of the proposed *Cy Pres* petition for each of the Heritage Hospitals with accompanying estimated opening summary balance

[64] Initial Application Response to Question 28.

sheets for both the Heritage Hospitals and the CCHP Foundation, provided to the Attorney General, and is described below.

A multi-year wind-down process is typical in the dissolution of a hospital corporation due to the time it typically takes to settle government cost reports and the like. It is particularly appropriate where the expected hospital's liabilities are projected to exceed the amount of the unrestricted assets available at the time of closing but where there is also an expectation that additional unrestricted assets will be available in the future, as is the case here. The corporation retains during the wind-down process those restricted charitable assets that provide unrestricted earnings which can be used to address its remaining liabilities, and the corporation remains open until such time as it is concluded that it has completed the winding-down of its affairs.

With respect to the period of time after the close of the Proposed Transaction when the Heritage Hospitals remain open, CCHP proposes to carry out the above-described process as follows:

CCHP Foundation

As a threshold matter, CCHP's *Cy Pres* petition would address any needed change in the CCHP Foundation mission to reflect the broader, community health oriented foundation focus. The *Cy Pres* petition will request approval for the transfer of charitable funds to the CCHP Foundation comprised of approximately $7.2 million dollars in restricted assets comprised of restricted cash, endowment and earnings on endowment of approximately $6.9 million dollars from RWMC and $318,000 from SJHSRI.

The RWMC endowments contained within the sum being transferred to the Foundation total approximately $4.2 million dollars. The Cy Pres petition will address the use of the RWMC endowment income for appropriate charitable purposes. The estimated annual income on such

amount is estimated at approximately $210,000 annually assuming existing investment policy and allowing for a 5% distribution, within the 7% recommended maximum distribution.

CCHP also will seek *Cy Pres* approval to use approximately $12.9 million dollars of the total accumulated temporarily restricted earnings on the RWMC endowment of approximately $15.3 million dollars to satisfy RWMC's liabilities. The balance of approximately $2.4 million dollars also would be moved to the CCHP Foundation for charitable purposes as it deems appropriate. The estimated annual income from the temporarily restricted endowments is approximately $118,000 assuming the existing investment policy allowing for a 5% distribution, within the 7% recommended maximum distribution. There are no expected changes in the investment managers during the wind-down period. [65]

RWMC also has a number of temporarily restricted funds whose purpose will not be fully expended before the closing of the Proposed Transaction. It is estimated that approximately $285,000 in such restricted cash funds will be transferred to the CCHP Foundation. The purposes of these funds will be reviewed and adjusted to meet as close to the original donor intent as possible.

Finally, CCHP intends to request that approximately $108,000 in SJHSHR temporarily restricted scholarship and endowment funds, and approximately $209,000 in other temporarily restricted assets be transferred to the CCHP Foundation. The purposes of transferred funds will be similarly reviewed and adjusted to meet as close to the original donor intent as possible.

Heritage Hospitals

CCHP proposes to retain approximately $24.3 million dollars of assets within the Heritage Hospitals for the time being, including approximately $12.4 million dollars in restricted

[65] Response to Supplemental Question 3-30.

assets comprised of perpetual trusts, endowments and scholarships and temporarily restricted assets, as follows:

First, CCHP intends to seek *Cy Pres* approval to change the purpose of the approximately $1.2 million dollars in SJHSRI's permanently restricted scholarship and endowment funds to be used to partially satisfy SJHSRI's liabilities, including but not limited to potential future funds and expenses relating to the pension plan.

Second, each of the Heritage Hospitals will each retain their respective right to the receive distributions from approximately $10.8 million dollars in perpetual trusts, which will be used to pay their respective wind-down expenses. In addition, CCHP intends to seek trustee and *Cy Pres* approval to use the perpetual trust income received by RWMC to partially satisfy the payment of SJHSRI expenses, if needed, after all of RWMC's liabilities have been paid.

Finally, the *Cy Pres* petition will include a request that RWMC retain approximately $421,000 in funds dedicated to expenses unique to RWMC. These include funds restricted for continuing medical education and surgical and oncology academic and research program for which RWMC will seek limited approval to pay only for the costs of such program at Newco RWMC that are over and above the routine, budgeted cost of operating these programs going forward.

To summarize, the *Cy Pres* disposition addressing the transfers to the CCHP Foundation on the one hand and adjustments to funds retained within the Heritage Hospitals on the other, as described above, will ensure that the Existing Hospital charitable assets are used for their intended purposes when that is consistent with law, and will seek court approval for an appropriate, comparable charitable use when the intended use would no longer be consistent with law, for example, because it would require that funds go to a successor, for-profit hospital.

In addition, at one or more future dates, upon confirmation that perpetual trust distributions and endowment earnings are no longer needed to address the liabilities of one or both Heritage Hospitals, one or more additional *Cy Pres* disposition(s) of any remaining restricted and unrestricted charitable assets of the Heritage Hospitals will take place to transfer funds to the CCHP Foundation. Trustee approval also will be required to re-direct future perpetual trust distributions to the CCHP Foundation.

With appropriate agreements with the CCHP Foundation, the Heritage Hospitals and CCHP that are approved by the court in *Cy Pres* proceedings to manage the restricted assets, the Attorney General finds that the Proposed Transaction will not harm the public's interest in the property given, devised or bequeathed to the Existing Hospitals for charitable purposes.[66]

Promptly following the closing of the Proposed Transaction, CCHP will close the books on SJHSRI and RWMC and seek preliminary approval from the Attorney General as to the form and content of the post-closing *Cy Pres* petition described above. Thereafter, the RI Superior Court's consideration of said initial petition will take place within a reasonable period following closing of the Proposed Transaction.

Lastly, inasmuch as none of the existing CCHP entities are trustees for any of the holdings, they are not responsible for completing annual filings as required by R.I. Gen. Laws §18-9-13. *See* R.I. Gen. Laws §23-17.14-7(c)(26).

2. <u>Maintenance of the Mission, Agenda and Purpose of The Existing Hospitals</u>

The Hospital Conversion Act at R.I. Gen. Laws § 23-17.14-7(c)(16) and R.I. Gen. Laws § 23-17.14-7(c)(25)(iii) requires consideration of the following:

- Whether the proposed conversion results in an abandonment of the original purposes of the existing hospital or whether a resulting entity will depart from the

[66] R.I. Gen. Laws § 23-17.14-7(c) (1).

traditional purposes and mission of the existing hospital such that a cy pres proceeding would be necessary; and

- Whether the mission statement and program agenda will be or should be closely related with the purposes of the mission of the existing hospital.

RWMC and SJHSRI share the same mission; namely, "as an Affiliate of the System shall be to foster an environment of collaboration among its partners, medical staff and employees that supports high quality, patient focused and accessible care that is responsive to the needs of the communities it serves."[67] CCHP "is organized and shall be operated exclusively for the benefit of and to support the charitable purposes of Roger Williams Hospital, St. Joseph Health Services of Rhode Island and Elmhurst Extended Care Services, Inc….."[68] CCHP Foundation finds its origins in the SJ Foundation, formed on February 27, 2007 "to hold and administer charitable donations on behalf of SHHSRI."[69] In December of 2011, a Petition for Cy Pres, *In Re: CharterCARE Health Partners Foundation, P.B. No. 11-6822,* was filed and granted by the Rhode Island Superior Court (Silverstein, J.) allowing the transfer of the restricted funds that were raised by the SJ Foundation to SJHSRI."[70] "Subsequent to and as part of the CCHP affiliation, on August 25, 2011, the organizational documents of SJ Foundation were revised to change its name to CharterCARE Health Partners Foundation and to make CCHP its sole member."[71] "On September 9, 2011, CCHP Foundation secured from the IRS a determination that it was 1) exempt from tax under section 501(c)(3) of the Internal Revenue Code (IRC), and 2) a public charity under section 509(a)(3) of the IRC."[72]

While implied in Prospect's for-profit status that profit is an issue that will be considered, Prospect has committed that Prospect CharterCARE, LLC "will adopt, maintain and adhere to

[67] Initial Application, Exhibit 10(C)(D), *See also* Response to Supplemental Question S5-2.
[68] Initial Application, Exhibit 10(B), *See also* Response to Supplemental Question S5-2.
[69] Initial Application, Response to Question 29.
[70] Initial Application, Response to Question 28.
[71] Id.
[72] Id.

CCHP's policy on charity care and or adopt policies and procedures that are at least as favorable to the indigent, uninsured and underserved as CCHP's existing policies and procedures."[73] It has further stated that, should a conflict arise between the charitable purposes of the Existing Hospitals and profit-making that the charitable purposes of the Existing Hospitals shall prevail.[74] The Attorney General finds that R.I. Gen. Laws §23-17.14-7(c)(16) of the Hospital Conversions Act has been satisfied.

The Attorney General has also considered that Prospect has purchased eight other hospitals over the course of its existence, some of which have included distressed hospitals[75], and has stated that it has never closed or sold any of its hospitals.[76] Although there is no evidence that the Proposed Transaction will differ significantly from the stated purposes of the Existing Hospitals, it is necessary that a *Cy Pres* be filed and granted both to ensure the proper utilization of the remaining restricted funds and because this hospital conversion includes the conversion of two non-profit entities' assets for use by for-profit entities.

Further, Rhode Island law requires that all licensed hospitals, whether non-profit or for-profit, provide unreimbursed health care services to patients with an inability to pay.[77] Therefore, Prospect will be required even as a for-profit hospital to provide a certain amount of charity care and has agreed to do so. [78]

Finally, in consideration of whether the new entity will operate with a similar purpose, pursuant to Section 13.15 of the Asset Purchase Agreement entitled "Essential Services" Prospect has agreed to maintain the Newco Hospitals as acute care hospitals with a "full

[73] Initial Application Response to Question 59(c).
[74] Exhibit 18 to Initial Application, Asset Purchase Agreement, Section 13.14; *see also* Response to S3-14.
[75] Interview of Thomas Reardon.
[76] Response to Supplemental Question 4-25.
[77] R.I. Gen. Laws §§ 23-17.14-15(a)(1), (b) and (d).
[78] *See* Initial Application Exhibit 18, Asset Purchase Agreement, Article 13.14 and Management Agreement.

complement of essential clinical services for a period of at least five years immediately following the Closing Date."[79] In addition, Prospect has stated that there are no current plans to discontinue any CCHP systems services, accreditations, and certifications, including those of the CCHP affiliates.[80] These include health care and non-healthcare community benefits.[81] As with any acquisition, it is likely that some changes will take place after Prospect takes over the Existing Hospitals. In fact, Prospect has indicated that it will be undertaking strategic initiatives collaboratively to improve services rendered to patients.[82] Further, as part of its long term capital commitment to CCHP, Prospect has also committed to making improvements of a bricks and mortar nature to the Existing Hospitals.[83] Accordingly, the Proposed Transaction does include a potential that some changes will occur at the Existing Hospitals.

3. Foundation for Proceeds

In addition to addressing charitable assets, the Hospital Conversions Act requires an independent foundation to hold and distribute proceeds from a hospital conversion consistent with the acquiree's original purpose.[84] With regard to the Proposed Transaction, the Asset Purchase Agreement does not include a purchase price that will produce traditional proceeds as it is structured upon payment of certain obligations and commitment to future investments in the hospital. Accordingly, R.I. Gen. Laws § 23-17.14-22 does not require a foundation for receipt of proceeds. Nonetheless, CCHP Foundation is an existing publicly supported foundation which stands ready to receive the restricted funds associated with the Heritage Hospitals in accordance with the plan described above. It is anticipated that the amount of such funds are sufficient for

[79] *See* Asset Purchase Agreement Article 13.15; Initial Application Response to Questions 53, 57 and 59.
[80] Response to Supplemental Question S3-53.
[81] *See e.g.* Exhibit S3-19; Exhibit S4-20, and Final Supplemental Response 4-20.
[82] Initial Application, Exhibit 18 Asset Purchase Agreement Article 13.13.
[83] Initial Application, Response to Question 1.
[84] R.I. Gen. Laws § 23-17.14-22(a) and R.I. Gen. Laws § 23-17.14-7(c)(16).

the operation of an independent community health care foundation. However, should the CCHP Foundation board determine in the future that it would be more cost effective to do so, it may seek *Cy Pres* approval to transfer the restricted assets to an independent foundation consistent with the Hospital Conversions Act.

E. TAX IMPLICATIONS

There are three criteria in the Hospitals Conversions Act that deal with the tax implications of the Proposed Transaction.[85] Currently, CCHP and the Existing Hospitals are non-profit corporations organized pursuant to Rhode Island law. Upon the purchase of their assets by Prospect, the resulting entities will be for-profit entities and no longer immune from certain tax obligations. Clearly, this has an impact on the tax status of these entities.[86] This transaction represents the second hospital conversion transaction in Rhode Island where nonprofit hospitals are changing to for-profit entities. Review of the Initial Application indicates that this decision to become for-profit entities was made after careful consideration by CCHP that the terms of this transaction were the best available to CCHP among the proposals from the remaining interested parties.[87] Accordingly, the wisdom of choosing a for-profit company to purchase a non-profit hospital is not a matter that warrants in-depth consideration given the circumstances.

With regard to tax implications, one of Prospect's conditions of closing the transaction with CharterCARE stated in the Initial Application referenced that the closing is contingent upon property tax stabilization/exemption ordinances with the host communities of Providence and

[85] *See* R.I. Gen. Laws §§ 23-17.14-7(c)(20), (21) and (25)(ii).
[86] The question posed by R.I. Gen. Laws § 23-17.14-7(c)(21) is whether the tax status of the existing hospital is jeopardized." This characterization does not apply to the Proposed Transaction as not only is it jeopardized, it is knowingly being changed from non-profit to for-profit.
[87] See Initial Application, Response to Request 55.

North Providence.[88] The Transacting Parties have indicated that these negotiations are ongoing with the communities to be affected and are anticipated to be resolved with a potential need for further procedural hearings to occur after May 16, 2014.[89] The Attorney General is advised by Prospect that they are progressing steadily toward a resolution of this issue. The determination as to whether tax stabilization or exemption will be granted to Prospect for the Existing Hospitals is beyond the Attorney General's jurisdiction and is therefore left to the affected communities to determine.

In addition to real estate taxes, typically Prospect would be required to pay Rhode Island sales and use tax in certain situations. *See* R.I. Gen. Laws § 44-18-1 *et seq.,* and 44-19-1, *et. seq.*

As for the remaining review criteria contained in R.I. Gen. Laws §23-17.14-7(c)(20), regarding "whether the conversion is proper under applicable state tax code provisions," the Transacting Parties are required to obtain a certificate from the State of Rhode Island prior to closing that the Proposed Transaction is proper under applicable state tax code provisions. Accordingly, the Attorney General finds that once the required certificate has been obtained from the State of Rhode Island, which is a requirement of closing of the Proposed Transaction, that this particular criterion under the Hospital Conversions Act will be met.

CCHP also sought legal counsel regarding federal tax implications with respect to CCHP serving as the 15% member of for–profit Prospect CharterCARE, LLC. CCHP has stated that the structure of the Proposed Transaction permits it to act exclusively in furtherance of its exempt purposes and only incidentally for the benefit of PMH. However, because this area of tax law may continue to evolve in the future, should CCHP's tax-exempt status ever be jeopardized due to its participation in the Prospect CharterCARE, LLC, CCHP may cause PMH

[88] See Initial Application, Response to Question 45.
[89] Response to Supplemental Question S4-12.

to buy out its interest if there is no other satisfactory resolution. This process and the distribution of the additional proceeds would be subject to Attorney General oversight consistent with this decision.[90] Finally, CCHP has stated that it will take any reasonable steps to ensure that both it and the CCHP Foundation will preserve their current exempt status following the close of the Proposed Transaction[91].

Regarding the tax status of the entity receiving the proceeds, no proceeds are contemplated and the new entities will be for-profit. *See* R.I. Gen. Laws § 23-17.14-7(c)(25)(ii).

F. NEW ENTITY

The Attorney General must review certain criteria pursuant to the Hospital Conversions Act that deals with the corporate governance of the new hospitals after the completion of the Proposed Transaction.[92] Below is an outline of the review of such requirements.

1. Bylaws and Articles of Incorporation

One issue that must be examined is whether the new entity has bylaws and articles of incorporation. The new corporate entity that will purchase the assets of CCHP is Prospect Medical Holdings, Inc. ("PMH"). PMH is a Delaware corporation incorporated on May 14, 1999 with its principal place of business in Los Angeles, California. *See* Initial Application Exhibit 10(a). The current bylaws for PMH were provided by the Transacting Parties. *Id.* Therefore, bylaws and articles of incorporation have been provided for PMH.[93]

PMH is a health care services company that owns and operates hospitals and manages the provision of health care services for managed care enrollees through its network of specialists and primary care physicians. PMH is the parent entity with regard to the eight (8) acute care and

[90] Response to Question S10
[91] Final Supplemental Responses Miscellaneous p. 6.
[92] *See e.g.*, Hospital Conversions Act, R.I. Gen. Laws §§ 23-17.14-7(c)(25) (i), (v), (vi), (vii), (viii), and (ix).
[93] Initial Application Exhibit 10A-1.

behavioral hospitals located in California and Texas. In total, PMH owns and operates approximately 1,082 licensed beds and a network of specialty and primary care clinics.[94]

PMH is owned by Ivy Intermediate Holdings, Inc. ("IIH"), a Delaware corporation, incorporated on July 23, 2010, with its registered place of business in Wilmington, Delaware. [95] The current bylaws for IIH were provided by the Transacting Parties. *Id.* Therefore, bylaws and articles of incorporation have been provided for IIH.[96]

Ivy Holdings, Inc. ("IH"), a Delaware corporation, incorporated on December 14, 2010, with its registered place of business in Wilmington, Delaware, owns 100% of the stock of IIH.[97] IH is a holding company for this stock ownership, having no other assets, liabilities or operations.[98] Bylaws were provided by the Transacting Parties for IH.[99]

Pursuant to the Asset Purchase Agreement,[100] the ownership interest of PMH will be held by a newly formed LLC, Prospect East Holdings, Inc., ("Prospect East") a Delaware LLC, formed on August 20, 2013, with its principal place of business located in Wilmington, Delaware.[101] Prospect East is structured to be the PMH entity that will hold ownership interest in any health care facilities acquired by PMH on the East Coast. The current bylaws for Prospect East were provided by the Transacting Parties. *Id.* Therefore, bylaws and articles of incorporation have been provided for Prospect East. [102]

Prospect CharterCARE, LLC, a Rhode Island limited liability company, is a joint venture between Prospect East and CCHP and will hold 100% of the ownership interests in the entities

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[94] Initial Application p. 1.
[95] Initial Application, Exhibit 10A-12.
[96] Id.
[97] Initial Application, Exhibit 10A-11.
[98] Initial Application, p. 2.
[99] Initial Application, Exhibit 10A-11.
[100] Asset Purchase Agreement, p. 2.
[101] Initial Application, p. 2, Ex. 10A-6.
[102] Id.

that will hold the licensure for the Existing Hospitals, post conversion.[103] Prospect CharterCARE, LLC was formed on August 20, 2013, with its principal place of business in Los Angeles, California and will be owned 85% by Prospect East and 15% by CCHP. Prospect East is the managing member of Prospect CharterCARE, LLC and is responsible for the day-to-day management of the Newco Hospitals with certain decisions subject to Board approval pursuant to Section 8.3 of the Prospect CharterCARE Operating Agreement. Prospect East as the managing member of Prospect CharterCARE, LLC has delegated through the Management Agreement the day-to-day management of the Newco Hospitals to Prospect Advisory Services, LLC ("Prospect Advisory"), an affiliate of PMH. The governing board of Prospect CharterCARE, LLC will be a 50/50 board[104] (the "Board") with half of its members selected by and through Prospect East's ownership and the other half of the members selected by and through CCHP's ownership. The Board shall be the organized, governing body responsible for the management and control of the operations of the licensed hospitals, their conformity with all federal, state and local laws and regulations regarding fire, safety, sanitation, communicable and reportable diseases and other relevant health and safety requirements.[105] The Board shall define the population and communities to be served and the scope of services to be provided.[106] The Board shall also determine policy with regard to the qualifications of personnel, corporate governance, and the policy for selection and appointment of medical staff and granting of clinical privileges.[107] Bylaws were not provided for Prospect CharterCARE, LLC as typically

[103] Newco Hospitals.
[104] Initial Application, Revised 7(c).
[105] Id.
[106] Id.
[107] Id.

such organizations do not have Bylaws. However, an operating agreement was provided by the Transacting Parties.[108]

Prospect Advisory, a Delaware Limited Liability Company was formed on August 20, 2013, with its principal place of business in Los Angeles, California and is solely owned and controlled by PMH.[109] As described above, Prospect East has delegated the day-to-day management of the Newco Hospitals to Prospect Advisory through the Management Agreement and Prospect Advisory will receive a monthly management fee equal to two percent (2%) of the Net Revenues[110] of Prospect CharterCARE, LLC. Prospect Advisory will work with the Executive Team of Prospect CharterCARE, LLC to run the day-to-day operations of the Newco Hospitals. The Executive Team shall be subject to the day-to-day supervision of Prospect Advisory, and together the Executive Team and Prospect Advisory will report to Prospect CharterCARE, LLC's Board and certain PMH executives. Prospect CharterCARE, LLC's Board will continue to have ultimate power and authority over certain decisions pursuant to Section 8.3 of Prospect CharterCARE Operating Agreement. The Bylaws were not provided for Prospect Advisory, as typically such organizations do not have Bylaws. It does not have a board of directors. [111] However, an operating agreement was provided by the Transacting Parties.[112]

Prospect CharterCARE RWMC, LLC ("Newco RWMC"), is a Rhode Island limited liability company, which will own and hold the licensure for Roger Williams Medical Center

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[108] Initial Application, Ex. 18.
[109] Initial Application, p. 35, Ex. 10A-7.
[110] Net Revenues means total operating revenues derived, directly or indirectly, by Prospect CharterCARE, LLC with respect to the Newco Hospitals, whether received on a cash or on a credit basis, paid or unpaid, collected or uncollected, as determined in accordance with generally accepted accounting principles net of (A) allowance for third party contractual adjustments and (B) discounts and charity care amounts (not including any bad debt amounts), in each case as determined in accordance with GAAP. Management Agreement, Section 5.2(b).
[111] Id.
[112] Initial Application, Ex. 10A-7.

post-conversion. Newco RWMC will be wholly-owned by Prospect CharterCARE, LLC[113] and its principal business office will be located in Los Angeles, California. Bylaws were not provided for Newco RWMC, as typically such organizations do not have Bylaws. However, an operating agreement was provided by the Transacting Parties.[114] It will be solely operated by Prospect CharterCARE, LLC.[115]

Prospect CharterCARE SJHSRI, LLC ("Newco Fatima") is a Rhode Island limited liability company, with its principal business office located in Los Angeles, California.[116] It will own[117] and hold the licensure for Our Lady of Fatima Hospital post-conversion. Bylaws were not provided for Prospect CharterCARE SJHSRI, LLC, as typically such organizations do not have Bylaws. However, an operating agreement was provided by the Transacting Parties.[118] It will be solely operated by Prospect CharterCARE, LLC.[119]

Prospect CharterCARE Ancillary Services, LLC ("Ancillary Services") is a Rhode Island limited liability company, with its principal place of business located in Los Angeles, California. It will hold the licensure for Prospect CharterCARE labs.[120] Bylaws were not provided for Prospect CharterCARE Ancillary Services, LLC, as typically such organizations do not have Bylaws. However, an operating agreement was provided by the Transacting Parties. It will be solely operated by Prospect CharterCARE, LLC.

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[113] Initial Application Response to Question 5.
[114] Initial Application, Ex. 10A-9.
[115] Id.
[116] Initial Application Ex. 10-10.
[117] Initial Application response to Question 5.
[118] Initial Application, Ex. 10A-9.
[119] Id.
[120] First Amendment to Asset Purchase Agreement, Response to Supplemental Question S3-15; Miscellaneous Exhibit 1.

Prospect CharterCARE, LLC, which will hold the ownership of the entities that hold the licensure for the Existing Hospitals, post conversion,[121] will be managed by Prospect East Holdings, Inc, a Delaware corporation, whose registered place of business is Wilmington, Delaware and is wholly-owned by PMH.[122] Bylaws were provided by the Transacting Parties for Prospect East Holdings.[123]

Accordingly, R.I. Gen. Laws § 23-17.14-7(c)(25)(v) has been satisfied.

2. Board Composition

In addition to bylaws and articles of incorporation, specific criteria that must be considered regarding the new corporate entities include analysis of the composition of the new boards. Specifically, the Hospital Conversions Act requires review of:

> (vi) whether the board of any new or continuing entity will be independent from the new hospital;
>
> (vii) whether the method for selecting board members, staff, and consultants is appropriate;
>
> (viii) whether the board will comprise an appropriate number of individuals with experience in pertinent areas such as foundations, health care, business, labor, community programs, financial management, legal, accounting, grant making and public members representing diverse ethnic populations of the affected community; and
>
> (ix) whether the size of the board and proposed length of board terms are sufficient.

See R.I. Gen. Laws §§ 22-17.14-7(c)(25)(vi), (vii), (viii) and (ix).

First, it is important to state that in the Asset Purchase Agreement, PMH and CCHP have proposed a post-conversion structure in which those two entities will form a joint venture, Prospect CharterCARE, LLC, to own and operate all of the health care entities associated with CCHP including, without limitation, the two acute-care, community hospitals that currently operate as Roger Williams Medical Center and Our Lady of Fatima Hospital, as well as an

[121] Newco Hospitals.
[122] Initial Application p. 2, Exhibit 12A-2, 10A-6.
[123] Initial Application, Ex. 10A-6.

extended care facility in Providence known as Elmhurst Extended Care. Prospect CharterCARE, LLC would operate under a 50/50 board composition, which will permit CCHP to retain a significant degree of control in the ongoing ownership and governance of Prospect CharterCARE, LLC to ensure the continuance of its local mission, as well as to provide it with access to the capital and other resources held by PMH to address the challenges of today's health care industry and continue to serve the citizens of Rhode Island.[124] Given the unique structure of the Proposed Transaction, it is necessary to also discuss the powers that will continue to be held by CCHP to advance these objectives.

Pursuant to the Prospect CharterCARE Operating Agreement, the Transacting Parties have agreed to form a board of directors that has the overall oversight and ultimate authority over the affairs of Prospect CharterCARE, LLC and its Subsidiaries.[125] As stated above, the Prospect CharterCARE Board will be a 50/50 board with half of its members selected by and through Prospect East's ownership and the other half of the members selected by and through CCHP's ownership.[126]

The Board would be comprised of eight (8) members: four (4) directors appointed by CCHP (including at least one (1) physician) and four directors appointed by Prospect East.[127] Board members would serve for a term of one to three years, at the discretion of the owner that elected or appointed the individual.[128] Board members could be removed with or without cause by the owner that elected or appointed the director.[129] However, if CCHP's ownership interest in Prospect CharterCARE, LLC is reduced to 5%, at any time, because it elects not to or is unable

[124] Initial Application p. 7, Exhibit 18, Prospect CharterCARE Operating Agreement, Section 8.3.
[125] The Newco Hospitals, Prospect CharterCARE Elmhurst, LLC, and Prospect CharterCARE Physicians, LLC, p. 1 of Prospect CharterCARE Operating Agreement.
[126] Exhibit 18, Prospect CharterCARE Operating Agreement, Section 12.1.
[127] Id.
[128] Id.
[129] Id.

to contribute to a capital call then one of the CCHP appointed directors would resign and CCHP would only appoint three (3) directors.[130] In this case, the Board would be comprised of seven (7) instead of eight (8) directors.[131] Note that Prospect has stated that it does not expect to make any such capital calls within the first three (3) years post-closing.[132]

As previously described, Prospect East is the managing member of Prospect CharterCARE, LLC and is responsible for the day-to-day management of the Newco Hospitals with certain decisions subject to Board approval pursuant to Section 8.3 of Prospect CharterCARE's Operating Agreement. Prospect East as the managing member of Prospect CharterCARE, LLC has delegated through the Management Agreement the day-to-day management of the Newco Hospitals to Prospect Advisory. Prospect Advisory will work with the Executive Team of Prospect CharterCARE, LLC to run the day-to-day operations of the Newco Hospitals. The Executive Team shall be subject to the day-to-day supervision of Prospect Advisory, and together the Executive Team and Prospect Advisory will report to Prospect CharterCARE, LLC's Board and certain PMH executives. Prospect CharterCARE, LLC's Board will have ultimate power and authority over certain decisions.

Section 8.3 of Prospect CharterCARE's Operating Agreement sets forth the Board's reserved powers including but not limited to: changing the mission or the and purpose of Prospect CharterCARE, LLC or any of its Subsidiaries, decisions involving development and approval of strategic planning, decisions regarding annual operating and capital budgets, changes to the charity policy of Prospect CharterCARE, LLC and its Subsidiaries, approving reduction of essential services at either Newco Hospital, engaging in any merger, consolidation, share exchange or reorganization of Prospect CharterCARE, LLC and its Subsidiaries, and approving a

[130] Id.
[131] Id.
[132] Response to Supplemental Question S4-3.

decision to dissolve or liquidate the Prospect CharterCARE, LLC or any of its Subsidiaries.[133] Board approval would be exercised by the Board as a body with each owner's directors having a majority vote.[134] Thus, through this agreement, the leadership of CCHP retains significant decision making input into the continued operations of Prospect CharterCARE, LLC and its Subsidiaries. Meetings of the Board are required to occur at least on a quarterly basis with at least one meeting held in person (face-to-face).[135] Special meetings of the Board may be called by Prospect Advisory as the manager, the chairman or any three (3) members of the Board.[136]

In addition to the Board, Prospect CharterCARE, LLC will also form a local board for each of the Newco Hospitals.[137] These local boards would be comprised of at least six (6) individuals.[138] One half the of the local board members would be physicians from the Newco Hospitals' medical staff, and the other half of the local board members would be the Newco Hospitals' local CEOs and community representatives.[139] Local board members would be limited to three (3) year terms.[140] The local boards would be responsible for matters such as medical staff credentialing, recommendations regarding strategic and capital plans, providing guidance to the Prospect CharterCARE, LLC board on local market and community concerns, considerations, strategies, issues and politics as well as responding to other requests made by Prospect CharterCARE, LLC's board of directors.[141]

In Response to Question 7 of the Initial Application, the Transacting Parties state that PMH has yet to determine the identities of the four (4) board members comprising its 50% share

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[133] Section 8.3 of Prospect CharterCARE's Operating Agreement.
[134] Id. at Sections 1.6, 11.12, 12.2.
[135] Id. at Section 12.3.
[136] Id.
[137] Id. at Section 12.4.
[138] Id.
[139] Id.
[140] Id.
[141] Id.

of the Prospect CharterCARE, LLC Board. Meanwhile, CCHP has designated its four (4) board members comprising its share 50% of the Board. The Transacting Parties further state that the members of the Board of Directors of Newco RWMC and Newco Fatima have been determined since the filing of the Initial Application.

Accordingly, the composition of the boards of Prospect CharterCARE, LLC and those of the Newco Hospitals are sufficiently clear to ensure the independence from the hospitals and the diversity of experience required by the Hospital Conversions Act. There is no overlap between and among the boards of the CCHP Foundation, CCHP, the Heritage Hospitals, Prospect CharterCARE, LLC and the Newco Hospitals' boards. *See* R.I. Gen. Laws §22-17.14-7(c)(25)(v)(vi) and (viii).[142] As discussed above, the initial boards have been set and there is a methodology in place for their selection as well as the number and terms of directors. *See* R.I. Gen. Laws §22-17.14-7(c)(25)(vii). Therefore, the Hospital Conversions Act criteria regarding the boards of the new entities has been fully met.

G. CHARACTER, COMMITMENT, COMPETENCE AND STANDING IN THE COMMUNITY

An important and encompassing portion of the Hospital Conversions Act review criteria requires review of "[w]hether the character, commitment, competence and standing in the community, or any other communities served by the transacting parties are satisfactory" *See* R.I. Gen. Laws § 23-17.14-7(c)(28). As stated above, although PMH is the owner/operator of eight (8) other hospitals[143] through its established chain of command through the various associated limited liability company entities discussed above, PMH will exercise its primary control over CCHP and the Existing Hospitals through its subsidiary Prospect CharterCARE, LLC. As

[142] Response to Supplemental Questions S3-8, S3-12.
[143] Initial Application, p. 1, Response to Question 4.

described above, Prospect CharterCARE, LLC will be comprised of a 50/50 board, each appointed by PMH and CCHP.[144]

1. **Character**

As stated above, PMH was incorporated on May 14, 1999. *See* Initial Application Exhibit 10A-1. PMH is a health care services company that owns and operates approximately 1,082 licensed beds and a network of specialty and primary care clinics.[145] The central function of operating hospitals is patient care. DOH's review focuses more directly on the topic of character of the acquiring entity and has identical review criteria regarding this topic;[146] therefore, the Attorney General will rely on and defer to DOH's expertise and experience relating to Prospect's character in the communities in which it operates. Nonetheless, the Attorney General did not find any types of complaints against the current owners of Prospect, such as from the Department of Justice or the Office of Inspector General.

2. **Commitment**

Pursuant to the Asset Purchase Agreement, PMH has agreed to a number of financial commitments, including an up to $50 million dollar capital commitment to CCHP within four (4) years of the closing of the Proposed Transaction, in addition to normal and routine capital expenditures of at least $10 million dollars per year.[147] These improvements include investing in technology, equipment, quality improvements, expanded services and physician recruitment.[148] Other than financial commitments, Prospect has promised that the Newco Hospitals will continue to provide a full complement of essential clinical services for the term of

[144] Initial Application, Response to Question 1, Exhibit 18, Asset Purchase Agreement, Section 12.1.
[145] Initial Application, Response to Question 1.
[146] *See* R.I. Gen. Laws § 23-17.14-8 (b)(1).
[147] *See* Asset Purchase Agreement, Section 2.5 and Initial Application Response to Question 1. PMH has since agreed to guarantee Prospect's obligations under the Asset Purchase Agreement regarding this $50 million dollar commitment.
[148] *See* Responses to Initial Application Questions 1, 57, Asset Purchase Agreement Section 13.17.

five (5) after the closing date.[149] Prospect agrees to maintain the Catholic identity of all legacy SJHSRI locations and ensure that all services at SJHSRI locations are rendered in full compliance with the Ethical and Religious Directives.[150] Prospect has also made a commitment that, should a conflict arise between the charitable purposes of the Existing Hospitals and profit-making that the charitable purposes of the Existing Hospitals shall prevail.[151] A commitment has also been made with respect to limitations on a sale of the interests held by PMH and Prospect East for a period of five (5) years. *See* Asset Purchase Agreement Section 13.18(b).[152] In addition, Prospect has asserted that it is committed to preservation of jobs at the Existing Hospitals, post conversion, which will assist in providing continuity in care and leadership under the 50/50 board of Prospect CharterCARE, LLC post conversion.[153]

3. Competence

As stated above, PMH has a track record of operating eight (8) hospitals in other states over the course of 15 years, some of which were financially distressed when acquired.[154] Moreover, Prospect indicates that it has never abandoned or closed a hospital that it has purchased.[155] In addition, Prospect has indicated that, should the Newco Hospitals fail to meet financial expectations that have been projected, Prospect would provide further funding to support them.[156]

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[149] Initial Application, Response to Question 57; *See* Asset Purchase Agreement Section 13.15.
[150] Ethical and Religious Directives ("ERDs") promulgated by the United States Conference of Catholic Bishops and adopted by the Bishop of the Roman Catholic Diocese of Providence, RI.; *See* Asset Purchase Agreement Section 13.16.
[151] Exhibit 18 to Initial Application, Asset Purchase Agreement, Section 13.14; *see also* Response to S3-14.
[152] Additional options exist to the Transacting Parties, which commence on the fifth anniversary of the closing date. *See* Asset Purchase Agreement, Sections 13.18 (b)(c) and (d) and in the Prospect CharterCARE Operating Agreement.
[153] *See* Initial Application, response to Question 1, Exhibit 18 Asset Purchase Agreement, Article VIII.
[154] Interview of Thomas Reardon.
[155] Response to Supplemental Question S4-25.
[156] Id.

The term competence can have multiple meanings and connotations. The Attorney General reviewed the relevant competence with a focus on the ability to successfully operate the Newco hospitals after the Proposed Transaction. The central function of operating hospitals is patient care. DOH's review focuses more directly on health services and has identical review criteria regarding this topic;[157] therefore, the Attorney General will rely on and defer to DOH's expertise and experience relating to Prospect's track record for quality services in its other hospitals. Prospect has made several representations about patient care and health services. Specifically, it represents that its hospitals are currently accredited by the Joint Commission and in good standing.[158] The other relevant component to competence in this context is the ability to manage the business side of a hospital. In its fifteen (15) year history, Prospect has acquired eight (8) hospitals, many of which were financially-distressed. During interviews conducted pursuant to the Hospital Conversions Act review, the Attorney General found that Prospect's management team has years of experience in operating community hospitals. Further, as outlined hereafter, the Attorney General's expert has found that the finances of Prospect are in line with companies acquiring distressed community hospitals which appears to be a signal of some level of success.

4. <u>Standing in the Community</u>

The issue of standing in the community is interrelated with overlapping inquiries to the question of character. Overall, given the totality of the circumstances, the Attorney General finds that Prospect's character, commitment, competence, and standing in the community meet the threshold and are satisfactory for the purposes of a Hospital Conversions Act review.

[157] *See* R.I. Gen. Laws § 23-17.14-8 (b)(1).
[158] *See* Initial Application Response to Question 64.

H. MISCELLANEOUS

In addition to the provisions outlined above, there are also a few additional requirements of the Hospital Conversions Act that do not fit into any of the categories outlined above. They are outlined individually below.

1. Rhode Island Nonprofit Corporations Act

The Hospital Conversions Act requires that a hospital conversion comply with the Rhode Island Nonprofit Corporations Act. R.I. Gen. Laws §§ 7-6-1, *et. seq.* (the "Nonprofit Act").[159] The Nonprofit Act is comprised of 108 sections. Many of these sections discuss the governance requirements of non-profit corporations. First, the Attorney General makes no finding regarding whether the Prospect entities, as they are all for profit entities and the Nonprofit Act does not apply to them. With respect to CCHP, the Proposed Transaction is permissible under the Non-Profit Corporation Act and the Proposed Transaction was approved by the CCHP Board who has been represented by legal counsel throughout these proceedings and during negotiations.[160] Based upon the above, the Attorney General finds that this condition has been satisfied.

2. Right of First Refusal

The Hospital Conversions Act requires review of whether the Proposed Transaction involves a right of first refusal to repurchase the assets. *See* R.I. Gen Laws § 23-17.14-7 (c)(27). The Asset Purchase Agreement contains no such right of first refusal to CCHP to repurchase the assets being acquired by Prospect.

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[159] *See* R.I. Gen Laws § 23-17.14-7 (c)(19).
[160] *See* R.I. Gen Laws §§ 7-6-5 and 7-6-49; Initial Application Response to Question 1; Response to Supplemental Question S3-17.

3. Control Premium

With regard to the one remaining review provision of the Hospital Conversions Act, there is no control premium included in the Proposed Transaction. R.I. Gen. Laws § 23-17.14-7(c)(29).

4. Additional Issues

There are four issues that the Attorney General will address in addition to the enumerated review criteria that have come to light during the review process.

a. Prospect's Ability to Fund Transaction

The Attorney General's expert, Carris has reviewed the financial information provided by Prospect and has concluded as follows:

Does Prospect have the Resources to Finance this Transaction as Well as Ongoing Commitments to CCHP?

As reported in Prospect's 2013 audited financial statements, Prospect generated approximately $80 million in operating income for the year ended September 30, 2013. Operating revenues totaled $713.6 million and operating expenses totaled $633.6 million. Earnings before interest, taxes, depreciation and amortization (EBITDA) for 2013 totaled $98.7 million. Prospect's audited financial statements show consistent growth and profitability from 2010 through 2013.

Prospect's September 2013 balance sheet shows cash & equivalents of $86.3 million, total current assets of $241.7 million and total assets of $578.9 million. For liabilities, the financial statements report current liabilities of $148.2 million, total liabilities of $610 million and net equity of ($32.0) million. The current ratio for 2013 was 1.63.

In 2013, Prospect distributed $88 million to its primary investor. Prospect's management and representatives have given assurances that this was a one-time event and that there are no plans to make a similar distribution in the foreseeable future.

Prospect will fund this transaction out of existing cash and an available line of credit. Based on the APA, Prospect will fund $45 million at closing and an additional $12.5 million in year one (one-fourth of $50 million), for a total of $57.5 million in the first 12 months.

During various meetings, representatives of Prospect's senior leadership team made further representations that the financial status of Prospect permits it to fund the closing of the transaction and also meet the ongoing capital commitments. The parties also gave assurances that the $50 million capital commitment has been disclosed and agreed to by Prospect's board of

directors and lenders. Assurances were also given that the $50 million is being funded out of available liquidity and will not violate any of Prospect's existing loan covenants.

Based on the financial documentation submitted by Prospect and the representations of its management and other representatives, the company has the financial resources to fund this transaction, including the $50 million in long-term capital commitments. Prospect capacity to meet future capital commitments could be constrained if the company enters into other transactions that (in total) exceed its available financial resources and/or its ability to access capital. Future commitments could also be constrained by a deterioration of financial performance or a material change in market conditions.

Given the opinion of Carris, absent any exigent circumstances or, as aptly pointed out by Carris, any acquisition plan or other commitments that would over-extend Prospect, it currently appears to have the financial ability to fund the Proposed Transaction.

b. Mandatory Conditions

Among the changes to the Hospital Conversions Act in 2012 was the imposition of mandatory conditions on for-profit acquirors. *See* R.I. Gen. Laws § 23-17.14-28. The Legislature crafted eight (8) such conditions for DOH with a wide variety of topics. *See* R.I. Gen. Laws § 23-17.14-28(b). As for the Attorney General, one such condition was imposed, namely: "the acquiror's adherence to a minimum investment to protect the assets, financial health, and well-being of the new hospital and for community benefit." *See* R.I. Gen. Laws § 23-17.14-28(c). With regard to these pre-determined conditions, if either Department deems them "not appropriate or desirable in a particular conversion," such Department must include rationale for not including the condition. *See* R.I. Gen. Laws § 23-17.14-28(b) and (c). The Attorney General finds that to the extent that such condition is applicable, the Transacting Parties have satisfied it by the obligations contained in the Asset Purchase Agreement and no additional condition will be added other than those already imposed.

c. Use of Monitor

Another change to the Hospital Conversions Act in 2012 was to include a requirement that a for-profit acquiror file reports for a three (3) year period. *See* R.I. Gen. Laws § 23-17.14-28(d)(1). In addition, such section requires that the Attorney General and DOH "monitor, assess and evaluate the acquiror's compliance with all of the conditions of approval." *See* R.I. Gen. Laws § 23-17.14-28(d)(2). Further, there shall be an annual review of "the impact of the conversion on health care costs and services within the communities served." *Id.* The costs of these reviews will be paid by the acquiror and placed into escrow during the monitoring period. *See* R.I. Gen. Laws § 23-17.14-28(d)(3). No Initial Application can be approved until an agreement has been executed with the Attorney General and the Director of the DOH for the payment of reasonable costs for such review. *Id.* The Transacting Parties have executed a Reimbursement Agreement dated, January 24, 2014. The Attorney General's conditions will be monitored by an individual or entity chosen by the Attorney General and paid for by Prospect. An agreement with such monitor and Prospect will be drafted and executed prior to the Closing on the Proposed Transaction.

d. Health Planning

As during the course of any HCA review, there has been some discussion in the health care community about the continuing role of CCHP in the Rhode Island health care system, post-acquisition, particularly since the Existing Hospitals will become for profit entities. The Attorney General notes that the Hospital Conversions Act in its present form is not a health planning tool. Although there has been much talk about creating a so-called state health plan, that goal has not yet been reached. Therefore, it is not the position of the Attorney General to

use the Hospital Conversion Act to effectuate health planning that should be properly done elsewhere with input from a variety of groups. The Hospital Conversion Act contains a set of criteria, it does not allow for the Attorney General to opt for a different model or to suggest a different suitor for CCHP. However, the question to be answered by this review is whether this particular transaction meets the criteria of the Hospital Conversions Act.

V. CONCLUSION

While the Act is no guarantee that a hospital will not be sold to an entity with a different plan in mind than what the surrounding community may value, the Act at the very least provides a minimum framework for review of a hospital transaction. The Attorney General hopes that Prospect CharterCARE, LLC becomes everything it has promised to be for the citizens of Rhode Island. As with all of the Attorney General's reviews pursuant to the Hospital Conversions Act, this Decision represents this Department's best efforts and a careful review of the Proposed Transaction given the information available.

Wherefore, based upon the information provided above in this Decision, the Proposed Transaction is **APPROVED WITH CONDITIONS.** These conditions are outlined below.

VI. CONDITIONS

1. There shall be no board or officer overlap between or among the CCHP Foundation, CCHP, and Heritage Hospitals.

2. There shall be no board or officer overlap between or among the Prospect entities and the CCHP Foundation, CCHP and the Heritage Hospitals.

3. Complete appointment of board members for Prospect CharterCARE, LLC and its Subsidiaries, and for CCHP Foundation, CCHP and Heritage Hospitals, within sixty (60) days after the close of the transaction, and provide final notice to the Attorney General of the identities of such appointees, along with a description of their experience to serve as board members.

4. For the next three (3) years following the close of the transaction, provide the Attorney General the names, addresses and affiliations of all members appointed to any board of

Prospect CharterCARE, LLC and its Subsidiaries, CCHP Foundation, CCHP and the Heritage Hospitals.

5. For the next three (3) years following the close of the transaction, Prospect CharterCARE, LLC and its Subsidiaries, and CCHP Foundation, CCHP and the Heritage Hospitals shall provide corporate documents to the Attorney General to evidence compliance regarding board composition as required by this Decision. In addition, the aforementioned entities shall provide to the Attorney General any proposed amendments to their corporate documents 30 days prior to amendment.

6. For the next three (3) years following the close of the transaction, upon any change in what was represented by the Transacting Parties in the Initial Application and supplemental responses in connection with the approval of this transaction, reasonable prior notice shall be provided to the Attorney General.

7. For the next three (3) years following the close of the transaction, provide reasonable prior notice to the Attorney General identifying any post closing contracts between any of the Transacting Parties and any of the current officers, directors, board members or senior management.

8. That (a) a proposed opening balance sheet for the CCHP Foundation and the Heritage Hospitals as of the close of the transaction identifying the source and detail of all charitable assets to be transferred to the CCHP Foundation be provided to the Attorney General promptly following the close of the transaction; (b) a proposed *Cy Pres* petition satisfactory to the Attorney General be prepared promptly following the close of the transaction allowing certain charitable assets to be transferred to the CCHP Foundation and requesting that other charitable assets remain with the Heritage Hospitals, in each case for disbursement in accordance with donor intent, with such proposed modifications as agreed to by the Attorney General, and (c) the approved *Cy Pres* petition be filed with the Rhode Island Superior Court.

9. That the transaction be implemented as outlined in the Initial Application, including all Exhibits and Supplemental Responses.

10. That all unexecuted agreements provided in support of the Initial Application and Supplemental Responses be executed by the Transacting Parties in the form and substance presented.

11. Promptly after the 180th day following the close of the transaction, brief in an interview with the Attorney General the terms of the final Prospect CharterCARE, LLC's Strategic Plan adopted by the Board. In the event the Attorney General requires a copy of such plan, Prospect CharterCARE, LLC may seek a court order protecting the confidentiality thereof.

12. For the next three (3) years following the close of the transaction, provide the Attorney General with a copy of any notices provided to or received by a party under the Asset

Purchase Agreement.

13. For the next three (3) years following the close of the transaction, provide the Attorney General with a copy of any notice(s) out of the ordinary course; e.g., Office of Inspector General, Securities and Exchange Commission, Internal Revenue Service and Centers for Medicare and Medicare Services, received by the Transacting Parties from any regulatory body.

14. That the Transacting Parties comply with applicable state tax laws.

15. All CCHP entities being acquired (e.g. not CCHP, CCHP Foundation or the Heritage Hospitals) shall be wound down and dissolved and all necessary documents must be filed with applicable state agencies, including, but not limited to the Secretary of State and the Division of Taxation.

16. That all costs and expenses due from the Transacting Parties pursuant to the Reimbursement Agreement dated, January 24, 2014, be paid in full prior to close of the transaction.

17. That PMH guarantee the full amount of Prospect East's financial obligations contained in the Asset Purchase Agreement pursuant to the form of guaranty approved by the Attorney General.

18. Prospect CharterCARE, LLC shall report annually to the Attorney General on the proposed form submitted to the Attorney General concerning the funding of its routine and non-routine capital commitments under the Asset Purchase Agreement until the long term capital commitment as defined in the Asset Purchase Agreement has been satisfied.

19. That Prospect provide information on a timely basis requested by the Attorney General to determine its compliance with the Asset Purchase Agreement and the Conditions of this Decision.

20. The Transacting Parties shall enter into an amendment to the Reimbursement Agreement dated January 24, 2014 for retention by the Attorney General of expert(s) to assist the Attorney General until all matters relating to the approval of the Initial Application are fully and finally resolved.

21. That Prospect complies with the Reimbursement Agreement dated, January 24, 2014, for retention by the Attorney General of an expert to assist the Attorney General with enforcing compliance with these Conditions. Further, Prospect shall enter into an additional agreement outlining the terms of its obligations regarding cooperation with the Attorney General and any expert retained to assist the Attorney General with enforcing compliance with these Conditions.

22. That Prospect CharterCARE, LLC and its affiliates shall provide any transition services to CCHP Foundation, CCHP and the Heritage Hospitals pursuant to separate agreements, terminable by the CCHP affiliate at will and provided by the Prospect affiliate at cost.

23. For the next three (3) years following the close of the transaction, notify the Attorney General of any actions out of the ordinary course taken in connection with the SJHSRI pension or any material changes in its operation and/or structure.

24. For the next three (3) years following the close of the transaction, provide the Attorney General notice of a proposed change of ownership of Prospect East or PMH.

25. For the next three (3) years following the close of the transaction, provide CCHP Foundation, CCHP and the Heritage Hospitals with a right of first refusal to match the price to acquire any asset comprised of a line of business or real estate of Prospect CharterCARE, LLC and its Subsidiaries that it proposes to sell.

26. For the next three (3) years following the close of the transaction to the extent there is a sale of any Purchased Assets comprised of a line of business or real estate, the associated sale proceeds shall remain within Prospect CharterCARE, LLC for the benefit of the operation of the Newco hospitals.

27. The Transacting Parties shall provide a Tax Certificate from the State of Rhode Island that the transaction is proper under state tax laws prior to closing.

28. In connection with a sale of assets as defined in paragraph 26 above, if at the time of such a sale Prospect CharterCARE, LLC's membership interest has been diluted to less than fifteen (15%) percent, then fifteen (15%) of the net sales proceeds from the transaction shall go to CCHP to restore its membership interest up to fifteen (15%) percent. Said monies shall be credited against any future member distributions made to CCHP by Prospect CharterCARE, LLC.

29. Anyone subject to the Ethics Commission shall not be eligible to be a board member.

30. Within three (3) years of the closing of this Transaction, provide notice to the Attorney General of any complaints received from OIG, CMS or state agencies.

All of the above Conditions are directly related to the proposed conversion. The Attorney General's APPROVAL WITH CONDITIONS is contingent upon the satisfaction of the Conditions. The Proposed Transaction shall not take place until Conditions 10, 14, 16, 17, 20, 21 and 27 have been satisfied. The Attorney General shall enforce compliance with these

Conditions pursuant to the Hospital Conversions Act including R.I. Gen. Laws § 23-17.14-30.

Peter F. Kilmartin
Attorney General
State of Rhode Island

Genevieve M. Martin
Assistant Attorney General

NOTICE OF APPELLATE RIGHTS

Under the Hospital Conversions Act, this decision constitutes a final order of the Department of Attorney General. Pursuant to R.I. Gen. Laws § 23-17.14-34, any transacting party aggrieved by a final order of the Attorney General under this chapter may seek judicial review by original action filed in the Superior Court.

CERTIFICATION

I hereby certify that on this 16th day of May, 2014, a true copy of this Decision was sent via electronic and first class mail to counsel for the Transacting Parties:

Patricia K. Rocha, Esq.
Adler Pollack & Sheehan
One Citizens Plaza -8th Floor
Providence, RI 02903

W. Mark Russo, Esq.
Ferrucci Russo, P.C.
55 Pine Street- 4th Floor
Providence, RI 02903

Exhibit 4

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

In re: CHARTERCARE HEALTH PARTNERS FOUNDATION, ROGER WILLIAMS HOSPITAL and ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND	:	C.A. No. PC14-_____

PETITION FOR APPROVAL OF DISPOSITION OF CHARITABLE ASSETS INCLUDING APPLICATION OF DOCTRINE OF *CY PRES*

PARTIES

1. Petitioner, CharterCARE Health Partners Foundation, is a Rhode Island 501(c)(3) non-profit corporation ("CCHP Foundation"). CCHP Foundation's sole member is CharterCARE Community Board, formerly known as CharterCARE Health Partners ("CCCB"). Prior to June 20, 2014, the CCHP Foundation's mission included raising funds for the benefit of CCCB and its affiliates, Roger Williams Hospital ("RWH"), formerly known as Roger Williams Medical Center, and St. Joseph Health Services of Rhode Island ("SJHSRI"). RWH and SJHSRI are collectively referred to as the "Heritage Hospitals" herein. On June 20, 2014, a closing on the transaction approved by the Rhode Island Department of Health ("DOH") and Rhode Island Attorney General's Office ("AG") occurred in which certain of the assets of CCCB, RWH and SJHSRI were transferred to the newly formed for-profit joint venture between CCCB and Prospect Medical Holdings, Inc. ("PMH") known as Prospect CharterCARE, LLC, and its affiliates (the "Joint Venture"). Subsequent to June 20, 2014 and in recognition that the charitable assets at issue in this Petition cannot be used for the benefit of the for-profit Joint Venture, the CCHP Foundation changed its mission to reflect service as a community resource to provide accessible, affordable and responsive health care and health care related services,

including, without limitation, disease prevention, education and research grants, scholarships, clinics and activities within the communities the Heritage Hospitals previously provided services, to facilitate positive changes in the health care system (the "Foundation Mission"). A copy of the Amendment to CCHP Foundation's Articles of Incorporation is attached at **Exhibit A**.

2. Petitioner, RWH, formerly known as Roger Williams Medical Center, is a Rhode Island 501(c)(3) non-profit corporation that, prior to the June 20, 2014 Joint Venture closing, owned and operated a 220-bed acute care community hospital located in Providence, Rhode Island.

3. Petitioner, SJHSRI is a Rhode Island 501(c)(3) non-profit corporation that, prior to the June 20, 2014 Joint Venture closing, owned and operated a 278-bed acute care community hospital located in North Providence, Rhode Island, known as Our Lady of Fatima Hospital.

4. CCCB is a Rhode Island 501(c)(3) non-profit corporation and the sole member of the CCHP Foundation, RWH and the controlling member of non-religious matters of SJHSRI, with religious matters in the control of the Roman Catholic Bishop of the Diocese of Providence, or his designee.

JURISDICTION

5. This Petition is brought pursuant to R.I. General Laws § 18-4-1 *et seq*. entitled "Application of Cy Pres Doctrine" § 18-9-1 *et seq*. entitled "Division of Charitable Assets" and § 18-12.1-1 *et seq*. entitled "Uniform Prudent Management of Institutional Funds Act" ("UPMIFA").

6. Peter F. Kilmartin, in his capacity as Attorney General for the State of Rhode Island, and pursuant to his statutory and common law responsibilities with respect to the preservation and protection of charitable assets, has been given notice of this Petition.

7. Bank of America, N.A., the trustee of certain trusts referenced in paragraphs 27–30 herein, has been given notice of this Petition.

BACKGROUND

8. In 2008 and 2009, RWH and SJHSRI combined were losing in excess of $8 million a year in operations alone. In an effort to stem those losses, those independent systems agreed to affiliate through the creation of CharterCARE Health Partners ("Old CharterCARE"). The purpose of the affiliation was to realize approximately $15M in savings over five years, utilizing efficiencies created by the combined hospital systems, as well as to preserve and expand health care services to the existing hospitals' communities. In 2009, the proposed affiliation was approved by the DOH and the AG. If Old CharterCARE had not been approved, the RWH and SJHSRI systems would have had difficulty operating independently. As part of the Old CharterCARE affiliation and in connection with the approval of a Petition for Cy Pres, In Re: CharterCARE Health Partners Foundation, P.B. No. 11-6822, the organizational documents of St. Joseph Health Services Foundation, Inc., originally created to hold and raise funds for the behalf of SJHSRI, were revised to change the entity's name to CharterCARE Health Partners Foundation, to make CCCB its sole member and to change the mission to raise funds for the benefit of Old CharterCARE and its affiliates. On September 9, 2011, CCHP Foundation secured from the IRS a determination that it was 1) exempt from tax under section 501 (c) (3) of the Internal Revenue Code (IRC) and 2) a public charity under section 509 (a) (3) of the IRC.

9. As a result of the formation of Old CharterCARE, significant operational efficiencies were achieved based on operating revenue alone. Old CharterCARE reduced operating losses to approximately $3 million per year. Although a significant improvement, the parties recognized that those continuing losses could not be sustained. Furthermore, although capital expenditures were made, the physical plants at the existing hospitals were aging and in need of upgrading. In addition, there were additional concerns regarding the SJHSRI pension funding. In fiscal year 2012, taking into consideration pension losses, Old CharterCARE sustained losses of over $8 million. The parties recognized that such level of loss could not be maintained. Notwithstanding Old CharterCARE's laudable efforts to drastically reduce such losses, the parties recognized the need for access to additional capital to ensure that the existing hospitals could continue to provide high-quality, accessible services to the communities they served.

10. In an effort to ensure the continued viability of the existing hospitals, in December 2011, Old CharterCARE issued a Request for Proposal ("RFP") seeking a partner. The RFP process was comprehensive, transparent and evaluated a variety of partners who responded to the RFP, including PMH. In March 2013, after a joint meeting of the boards of Old CharterCARE and the existing hospitals, and with the aid of outside consultants who evaluated the different proposals, Old CharterCARE chose PMH's proposal. In March, 2013, the parties executed a Letter of Intent. After an extended period of due diligence, the parties executed an Asset Purchase Agreement on September 24, 2013 (the "APA").

11. Pursuant to the terms of the APA, PMH and Old CharterCARE would own an 85% and 15% interest, respectively, in the Joint Venture; however, the governing structure would include a "50/50 Board" with PMH and Old CharterCARE each appointing 50% of the

Prospect CharterCARE LLC board membership, ensuring that Old CharterCARE would have a significant stake in the continued governance of the hospitals. Accordingly, the existing hospitals would retain their local community mission and local leadership representation while, at the same time, receiving access to necessary capital and resources that PMH could provide. After the transaction, for tax purposes, Prospect CharterCARE LLC would be classified as a for-profit entity and the CCHP Foundation, CCCB, RWH and SJSHRI would each retain their status as tax-exempt organizations under Section 501(c)(3) of the Tax Code. Accordingly, the charitable assets held by the CCHP Foundation, RWH and SJHSRI, post closing, could not be used for the operations of the existing hospitals due to the change of the entities comprising Prospect CharterCARE, LLC and its affiliates to for-profit status.

12. In order to structure the Joint Venture with PMH (and ensure the continued viability of the hospitals to provide high quality, cost-effective, accessible services to the communities they serve) and to secure PMH's commitment to contribute funds at the closing and on a future basis for growth of the hospitals, it was necessary for each of the Heritage Hospitals at the closing to discharge various pre-existing liabilities incurred during the period the Heritage Hospitals provided services to their patients prior to the closing and satisfy outstanding pre and post closing liabilities during their subsequent wind-down period (the "Outstanding Pre and Post Closing Liabilities") as is more fully set forth in the APA.

13. On October 18, 2013, the transacting parties submitted the required Hospital Conversions Act ("HCA") Application to the DOH and the AG. During the HCA review, the transacting parties responded to numerous inquiries by DOH and the AG, including six sets of AG supplemental questions consisting of 213 questions. In addition, the AG conducted interviews of representatives of both Old CharterCARE and PMH.

14. On May 16, 2014 and May 19, 2014, both the AG and the DOH, respectively, approved the HCA Application with conditions. The AG decision discussed the proposed disposition of charitable assets at pages 23 through 32 having reviewed draft cy pres petition outlines submitted during the HCA review. Among other things, it approved the concept of (1) the transfer of certain of the charitable assets to the CCHP Foundation and (2) the use of certain of the charitable assets during the Heritage Hospitals' wind down to satisfy the Outstanding Pre and Post Closing Liabilities subject to cy pres approval from this Court. It also required the filing of this Petition to address such disposition of the charitable assets post closing. A copy of the charitable assets section of the Decision is attached as **Exhibit B**[1].

15. On June 20, 2014, the Joint Venture transaction was consummated. Accordingly, Prospect CharterCARE, LLC, the for-profit joint venture company, doing business as CharterCARE Health Partners, now operates Roger Williams Medical Center and Fatima Hospital. PMH and CCCB equally share seats on the Prospect CharterCARE LLC's eight-member governing board, with Edwin Santos, the former Chair of Old CharterCARE serving as the new Chair of the Board of Directors.

16. During the course of the AG HCA review, Old CharterCARE submitted a proposed Sources and Uses of Funds Analysis (the "Analysis") as of the closing date, and Estimated Opening Summary Balance Sheets for CCHP Foundation and the Heritage Hospitals, as well as outlines for the proposed *cy pres* petitions for RWH and SJHSRI, all of which were reviewed by the AG with the understanding that final Sources and Uses Analysis and Summary Balance Sheets would be submitted after closing. A comparison of the proposed and final

[1] None of the charitable assets at issue in this Petition are owned by CCCB. They are owned by CCHP Foundation, RWH and SJHSRI. CCCB's assets include its ownership interests in CCHP Foundation, RWH and SJHSRI. Accordingly, the only assets available to satisfy the Outstanding Pre and Post Closing Liabilities are those described in this Petition and identified in Exhibits C, D and E.

Sources and Uses of Funds Analyses as of the June 20, 2014 closing is attached as **Exhibit C**. The final Summary Balance Sheets for CCHP Foundation and the Heritage Hospitals, respectively, are attached as **Exhibits D**[2] **and E**.

17. As set forth on Exhibit C, at the Joint Venture closing, certain obligations of RWH and SJHSRI were paid, i.e., bond, pension and account payable liabilities, using sales proceeds from PMH and unrestricted cash. In addition, the Outstanding Pre and Post Closing Liabilities remain to be paid, including, without limitation, malpractice insurance tail policies, third party payor obligations and worker's compensation payments. It is anticipated that the Outstanding Pre and Post Closing Liabilities will be paid during the wind-down period of RWH and SJHSRI over the next approximately three years. The SJHSRI pension funding obligation will continue after the wind-down period concludes.

18. As set forth in the AG Decision, during the course of the HCA review, the parties recognized that notwithstanding the expected proceeds that would be received by the Heritage Hospitals post-closing, including Medicare settlements, *i.e.*, reconciliation of monies due and paid for the fiscal years 2011, 2012, 2013 and 2014, the liabilities of the Heritage Hospitals would exceed the available funds. Accordingly, Old CharterCARE, subject to Court approval, proposed that certain RWH and SJHSRI assets remain with the Heritage Hospitals during their wind-down period to satisfy the Outstanding Pre and Post Closing Liabilities.

19. The Petitioners bring this Petition for approval of the disposition of charitable assets including the application of the doctrine of *cy pres* because the charitable assets cannot be used for the benefit of the for-profit Joint Venture.

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[2] As set forth further herein, the proposed $8,410,287.66 transfer to CCHP Foundation exceeds the projected transfer of $7,200,000 identified during the HCA review process.

CCHP FOUNDATION

20. CCHP Foundation requests that this Court grant *cy pres* approval for the use of the following remaining funds in the amount of $17,465.79, at the discretion of the CCHP Foundation's Board of Directors to serve the Foundation Mission[3]:

Account No.	Description	Amount
11.2900.3076	Dental School Graduation Fund	$2,888.00
11.2900.4007	Fatima Annual Campaign	$75.00
11.2900.4008	2014 Golf Tournament	$13,467.79
11.2900.4009	RWMC Campaign	$1,000.00
11.2900.4018	Elmhurst Extended Care Campaign	$35.00
		Total: $17,465.79

The underlying documentation for such accounts is included at **Tab 1** of the disk to be provided to the Court.

ROGER WILLIAMS HOSPITAL
TRANSFER TO CCHP FOUNDATION

21. RWH requests that this Court grant *cy pres* approval for the transfer of the temporarily restricted funds in the total amount of $284,710.34 to CCHP Foundation to be used as close to the original donors' intent as possible, at the discretion of CCHP Foundation's Board of Directors to serve the Foundation Mission. A breakdown of such funds is attached as **Exhibit F** and the underlying documentation is included at **Tabs F1-F23** of the disk to be provided to the Court[4].

22. RWH requests that this Court grant *cy pres* approval for the transfer of permanently restricted assets in the amount of $4,209,523 to CCHP Foundation with annual

[3] The $17,465.79 was raised to provide direct support for the Heritage Hospitals. As a result of the Joint Venture for-profit status, the funds cannot be used for the existing hospitals.
[4] By way of example, and without limitation, such funds may be used for cancer and arthritis research and support.

income therefrom, to be used as close to the original donors' intent as possible[5], at the discretion of the CCHP Foundation's Board of Directors' to serve the Foundation Mission as follows:

Wanebo Surgical Oncology	$ 146,791
Free Care	$ 348,421
General Use	$3,714,310
Total:	$4,209,522

A breakdown of the permanently restricted assets is attached as **Exhibit G** and the underlying documentation is included at **Tabs G1-G47** of the disk to be provided to the Court. The average annual income from the permanently restricted assets referenced above is $210,000.

23. RWH requests that this Court grant *cy pres* approval for the transfer of $2,242,366 reflecting unrestricted accumulated earnings from RWH permanently restricted assets subject to UPMIFA, to be used at the discretion of the CCHP Foundation's Board of Directors to serve the Foundation Mission.

TO REMAIN WITH RWH

24. RWH requests that this Court grant approval to use the $12,288,848[6], reflecting unrestricted accumulated earnings from RWH permanently restricted assets subject to UPMIFA, to satisfy the Outstanding Pre and Post Closing Liabilities as and when due, as more fully described in Exhibit C.

25. RWH requests that this Court grant *cy pres* approval to use $326,660.04 in temporarily restricted funds, including Continuing Medical Education ("CME") funds in the amount of $26,310.29 and Dedicated Funds in the aggregate amount of $300,349.75 as follows:

[5] By way of example, and without limitation, income from permanently restricted assets designated for free care at the Heritage Hospitals may be used for free health care services to those in need and funds designated for scholarships to the former St. Joseph School of Nursing may be used for scholarships for community nursing school students.

[6] Although the $12,288,848 exceeds the seven percent calculation set forth in RIGL §18-12.1-4(d), it is prudent under the circumstances to use such funds to satisfy the Outstanding Pre and Post Closing Liabilities.

A) The CME Funds, with a balance of $26,310.29, maintained annual registration fees and a variety of program expenses for CME programs for medical staff at RWMC. RWH requests that this Court grant *cy pres* approval to use these funds to support CME for the medical staff at RWMC over and above the routine, budgeted costs of necessary CME at RWMC to the extent that RWH is satisfied that such expenditure provides a community benefit.

B) The Dedicated Funds identified below, in the aggregate amount of $300,349.75, were established to provide surgical oncology training and academic and research programs for on-staff physicians and fellows at RWMC. RWH requests that this Court grant *cy pres* approval to use these funds to enhance surgical oncology training and academic and research programs over and above the routine, budgeted cost of necessary training and academic and research programs for on-staff physicians and fellows at RWMC to the extent that RWH is satisfied that such expenditures provide a community benefit.

- Account No. 24.2750.1801
  Name: Dedicated Fund Somasundar
  Balance: $43,485.60

- Account No. 24.2750.1802
  Name: Dedicated Fund Katz
  Balance: $8,486.50

- Account No. 24.2750.1803
  Name: Dedicated Fund Koness
  Balance: $51,060.66

- Account No. 24.2750.1806
  Name: Dedicated Fund Dr. Espat
  Balance: $193,618.40

- Account No. 24.2750.1807
  Name: Dedicated Fund Baldwin
  Balance: $3,698.59

The underlying documentation for the CME and Dedicated Funds is included at **Tabs F24-F28** of the disk, to be provided to the Court.

SJHSRI
TRANSFER TO CCHP FOUNDATION

26. SJHSRI requests that this Court grant *cy pres* approval for the transfer of the following funds to CCHP Foundation to be used as close to the original donors' intent as possible, at the discretion of CCHP Foundation's Board of Directors, to serve the Foundation Mission.

1) $258,961.61 in restricted cash,

2) $196,496 in endowment investment earnings (temporarily restricted scholarship funds in the amount of $76,254 and temporarily restricted endowment interest in the amount of $120,242) and

3) $1,200,765 in permanently restricted scholarship and endowment funds ($134,484.00 in scholarships and $1,066,281.00 in endowments)

A breakdown of such funds is attached as **Exhibit H** and the underlying documentation is included at **Tabs H1-H82** of the disk to be provided to the Court.

TRUST INSTRUMENTS

27. RWH and SJHSRI are the beneficiaries of certain perpetual trusts providing annual income or principal distributions as described further herein. RWH seeks approval for the use of such annual distributions to pay the Outstanding Pre and Post Closing Liabilities on its behalf and after such payments are made in full, RWH seeks *cy pres* approval to transfer such annual distributions to SJHSRI to satisfy the Outstanding Pre and Post Closing Liabilities on its

behalf.[7] Likewise, SJHSRI seeks approval to use such annual distributions to pay the Outstanding Pre and Post Closing Liabilities (both non-pension and pension) on its behalf and when such liabilities have been paid, to transfer use of such annual distributions to the CCHP Foundation. The underlying documentation for the trusts identified in paragraphs 28-30 herein is included at **Tabs G48-G54** of the disk to be provided to the Court.

RWH

28. RWH, consistent with the trusts' language, requests approval for the continued use of the annual income or principal distributions from the five trusts identified below to pay the Outstanding Pre and Post Closing Liabilities on its behalf. The average annual income or principal distributions is $160,000 with trust corpus value of $4,410,154[8].

- The Trust under Will of Sarah S. Brown dated June 21, 1911
  Beneficiary: RWH – 9.5% of total trust's funds

  Pursuant to Article Tenth of the Will and a subsequent Superior Court order dated June 20, 1972, the trustee is to distribute all income in equal shares to Rhode Island Hospital and RWH (originally Homeopathic Hospital) for the use of these two organizations in carrying out the work for which they were incorporated and organized. The trust language includes provision to:

  > distribute…said net income in quarterly payments, share and share alike, equally between the Rhode Island Hospital in Providence and the Homeopathic Hospital of Rhode Island in Providence, both being corporations organized under the laws of Rhode Island, *for the use of said corporations in carrying on the work for which they were created and organized*. (emphasis added)

- The Trust under Will of C. Prescott Knight dated November 14, 1932

[7] Pursuant to the 2009 Old CharterCARE affiliation, RWH and SJSHRI as affiliates of Old CharterCARE shared the same mission; namely, to foster an environment of collaboration among its partners, medical staff and employees that supported high quality, patient focused and accessible care that was responsive to the needs of the communities they served. In addition, the Old CharterCARE Board had reserved powers to make decisions regarding the sale and/or merger of the assets of both RWH and SJSHRI. In order to ensure the success of the Joint Venture, the Old CharterCARE Board approved the use of RWH funds for the benefit of SJSHRI to be used towards payment of the Outstanding Pre and Post Closing Liabilities.

[8] The total trust corpus value including the value of the Boyden trusts described in paragraph 29 is $4,493,495.

Beneficiary: RWH – 3.3% of total trust's funds

Pursuant to Article Twelfth, paragraph 1 of the Will, the trustee is to pay all income of the trust share set aside for RWH (originally Homeopathic Hospital) for its general uses and purposes. The trust language provides:

> …the net income from said trust fund to be paid over by said trustee to said Homeopathic Hospital of Rhode Island and to be used by it *for the general charitable uses and purposes of said corporation*. (emphasis added)

- The Trust under Will of George Luther Flint dated June 25, 1935
  Beneficiary: RWH – 4.9% of total trust's funds

  Pursuant to the Article SECOND of the Will, the trustee is to split the net income between Rhode Island Hospital and RWH (originally Homeopathic Hospital) for the general uses and purposes of each. The trust language provides:

  > …to pay the income…in equal parts, one-half (1/2) part to Rhode Island Hospital located in the City and County of Providence, in the State of Rhode Island, such income to be used for the general uses and purposes of said Hospital, and the other one-half (1/2) part paid to Homeopathic Hospital located in said Providence, *for the general uses and purposes of said Hospital*. (emphasis added)

- The Miriam C. Horton Trust dated August 9, 1948, as amended by its entirety and restated on June 12, 1963 and modified by a Memorandum of Understanding dated June 24, 2004 between Fleet National Bank (now Bank of America, N.A.), RWH and Brown University
  Beneficiary: RWH – 22.3% of total trust's funds

  Pursuant to Article FIFTH, Paragraph C, a sum of up to Five Thousand Dollars ($5,000) of the net income is to be paid, every third year, to RWH for the upkeep and maintenance of a memorial room in the memory of Harry M. Horton, the husband of Miriam C. Horton. Pursuant to Article FIFTH, Paragraph D of the trust, the balance of the net income is to be distributed in such manner as a committee may determine for the use and benefit of such public, charitable, educational and religious purposes which would be deductible from the gross estate of a decedent under §2055 of the Internal Revenue Code. Section 2055 allows for a deduction for any bequest, legacy or devise to a 501(c)(3) organization. Pursuant to Article FIFTH, Paragraph E of the trust, the committee consists of the Superintendent of RWH, the President of Brown University, and the President of Bank of America, N.A. (formerly Industrial National Bank of Providence). Pursuant to Article FIFTH, Paragraph F of the trust, if the

committee does not make a decision three (3) months after the close of the calendar year, the trustee can direct a distribution that is consistent with the terms of the trust. The language of the trust provides:

> …the net income of the fund…shall be expended annually by the Trustee in such manner as said committee shall direct *for the use and benefit of such public, charitable, educational and religious purposes* as, under the provisions of Section 2055 of the Internal Revenue Code…would be the kind or type of public, charitable, educational or religious purpose to which devises, bequests, or legacies are deductible from the gross estate of a decedent; (emphasis added)

On June 24, 2004, the committee agreed by Memorandum of Understanding that beginning in 2005, the trustee would submit to the committee a proposal for distribution of net trust income on an annual basis. Absent the written objection of two or more committee members, the trustee may commence the income distributions as outlined in such proposal. In the event that two or more committee members object, the committee shall meet to determine the income distributes for that year.

- The Trust under Will of Albert K. Steinert dated July 11, 1927
  Beneficiary: RWH – 0.5% of total trust's funds

  Pursuant to Article THIRTEENTH of the Will, the trustee is to pay income as follows:

  one-sixth to Rhode Island Hospital, one-sixth to Miriam Hospital, one-sixth to SJHSRI, one-sixth to RWH (originally Homeopathic Hospital) one-sixth to Lying-In Hospital and one-sixth to be split between Wellesley College for a scholarship and Brown University for a scholarship.

RWH seeks approval to use its annual income or principal distributions identified above to pay the Outstanding Pre and Post Closing Liabilities on its behalf consistent with the language in the respective trust documents. After RWH's liabilities have been paid, RWH seeks *cy pres* approval to transfer the annual income or principal distributions to SJHSRI to satisfy the Outstanding Pre and Post Closing Liabilities on its behalf. Copies of the underlying documentation are included in **Tabs G48-G52** of the disk to be provided to the Court.

29. RWH, consistent with the language of the trusts under the wills of George E. Boyden and Lydia M. Boyden, described below, requests approval to use the trust funds it will receive upon the death of Barbara S. Boyden, currently valued at $83,341.02, to pay the Pre and Post Closing Outstanding Liabilities on its behalf. To the extent such obligations have been paid prior to receipt of the trust funds or are fully paid thereafter, RWH seeks *cy pres* approval to transfer the funds to SJHSRI to satisfy the Pre and Post Closing Outstanding Liabilities on its behalf. Copies of the underlying documentation are included in **Tab G53** of the disk to be provided to the Court.

- The trusts under the Will of George E. Boyden dated April 12, 1932, as amended by codicils dated February 10, 1933 and June 13, 1934, and under the Will of Lydia M. Boyden, dated September 25, 1930, as amended by codicil dated June 13, 1934.

  Article THIRD, Paragraph 4 of George Boyden's Will provides, *inter alia*, that upon the death of his great-granddaughter, Barbara S. Boyden, 20% of the balance of the trust goes to RWH (originally, Homeopathic Hospital of Rhode Island) for its "general purposes." Article SECOND and FIFTH of Lydia Boyden's Will provides, *inter alia*, that upon the death of her great-granddaughter, Barbara S. Boyden, 25% of the balance of the trust goes to RWH (formerly, Homeopathic Hospital of Rhode Island) for its "general purposes."

SJHSRI

30. SJHSRI, consistent with the trust language described below, requests approval for the continued use of the annual income from the following trusts to pay outstanding liabilities. The average annual income is $284,000 with trust corpus value of $6,473,365.

- Herbert G. Townsend Trust dated January 2, 1929, as restated on June 14, 1949, as amended on October 6, 1955, and as modified by agreement dated November 18, 1971
  Beneficiary: St. Joseph's Health Services of Rhode Island – 59% of combined trusts' funds

  Pursuant to Article 1 of the trust and the agreement dated November 18, 1971 between Industrial National Bank of Rhode Island (now Bank of

America, N.A.), as trustee, and Rhode Island Hospital, Providence Lying-in Hospital, and SJHSRI, as beneficiaries, the trustee is to distribute to the beneficiaries, on an annual basis, a sufficient amount of income and principal to avoid taxes and penalties under § 4942 of the Internal Revenue Code. Such distributions shall be made in equal shares to the foregoing beneficiaries to support the charitable work carried on by them.

- The Trust under Will of Albert K. Steinert dated July 11, 1927
  Beneficiary: SJHSRI – 0.5% of combined trusts' funds

  Pursuant to Article THIRTEENTH of the Will, the trustee is to pay income as follows:

  one-sixth to Rhode Island Hospital, one-sixth to Miriam Hospital, one-sixth to SJHSRI, one-sixth to RWH (originally Homeopathic Hospital) one-sixth to Lying-In Hospital and one-sixth to be split between Wellesley College for a scholarship and to Brown University for a scholarship.

After SJHSRI's non-pension and pension liabilities have been paid, SJHSRI seeks *cy pres* approval to transfer use of its annual income to CCHP Foundation. Copies of the underlying documentation are included in **Tabs G54** and **G52**, respectively, of the disk to be provided to the Court.

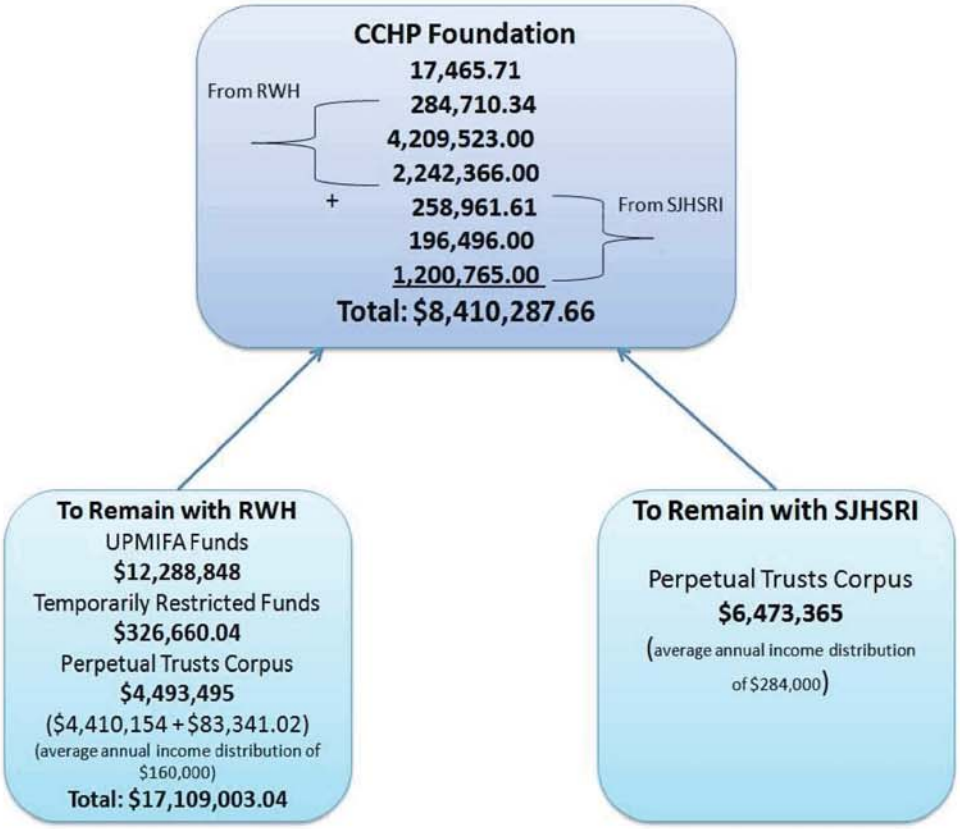
UNKNOWN AND FUTURE CHARITABLE GIFTS

31. RWH and SJHSRI seek *cy pres* approval for any unknown charitable gifts and future charitable gifts that have been or may become known after the June 20, 2014 closing date. At this time, charitable bequests may have already been made naming RWH or SJHSRI as the beneficiary. However, due to the fact that, at times, during the administration of a trust or estate a charity may not be contacted until distributions are ready to be made, RWH or SJHSRI may not be aware of these donations. Also there may be documents already in existence that name RWH or SJHSRI as a charitable beneficiary, but the gift will not vest until the occurrence of some future event. In addition, charitable gifts could be made in the future. RWH and SJHSRI seek *cy pres* approval for the transfer of these unknown and future charitable gifts to CCHP Foundation, if in the discretion of either RWH, SJHSRI or CCCB the gift cannot be used for its

stated purpose, to be used as close to the donors' intent as possible, in the discretion of CCHP Foundation's Board of Directors, to serve the Foundation Mission at such time any bequest becomes known by either RWH, SJHSRI or CCCB.

CONCLUSION

32. Accordingly, the Petitioners seek approval from this Court for use of the charitable assets as described in paragraphs 16 through 31 above and illustrated in the chart[9] below:



[9] This chart includes only the charitable assets identified in this Petition and does not include the other assets indentified in Exhibit E, the disposition of which does not require Court approval, i.e., operating cash, board designated funds and funds held for collateral. As set forth in Exhibit E, the total assets for RWH and SJHSRI are $23,322,597 and $12,102,083, respectively.

WHEREFORE, the Petitioners respectfully request that this Court grant this Petition including the following relief:

1. As set forth in paragraph 20, *cy pres* approval for CCHP Foundation to use the remaining funds identified therein, at the discretion of the CCHP Foundation's Board of Directors, to serve the Foundation Mission.

2. As set forth in paragraphs 21, 22 and 23, *cy pres* approval for the transfer of the following RWH funds to CCHP Foundation to be used as close to the original donors' intent as possible, at the discretion of the CCHP Foundation's Board of Directors, to serve the Foundation Mission:

- Temporarily restricted funds in the amount of $284,710.34
- Permanently restricted funds in the amount of $4,209,522.00
- Temporarily restricted UPMIFA earnings in the amount of $2,242,366.00 reflecting unrestricted accumulated earnings from RWH permanently restricted assets.

3. As set forth in paragraph 24, approval for RWH to use the following funds as follows:

- $12,288,848.00 reflecting unrestricted accumulated earnings from RWH permanently restricted assets subject to UPMIFA to satisfy the Outstanding Pre and Post Closing Liabilities as and when due.

4. As set forth in paragraph 25, *cy pres* approval for RWH to use the following funds as follows:

- Continuing medical education funds in the amount of $26,310.29 to support continuing medical education for the medical staff at RWMC over and above the routine budgeted cost of necessary continuing medical education at RWMC to the extent that RWH is satisfied that such expenditure provides a community benefit.

- Dedicated funds in the aggregate amount of $300,349.75 as more fully identified in paragraph 25B to enhance surgical oncology physician and fellow training and education over and above the routine budgeted costs of necessary academic and research programs at RWMC to the extent that RWH is satisfied that such expenditures provide a community benefit.

5. As set forth in paragraph 26, *cy pres* approval for the transfer of the following SJHSRI funds to CCHP Foundation to be used as close to the original donors' intent as possible, at the discretion of CCHP Foundation's Board of Directors, to serve the Foundation Mission:

- $258,961.61 in restricted cash
- $196,496.00 in endowment investment earnings (temporarily restricted scholarship funds in the amount of $76,254.00 and temporarily restricted endowment interest in the amount of $120,241.00)
- $1,200,765.00 in permanently restricted scholarships and endowments ($1,066,281.00 in endowments and $134,484.00 in scholarships)

6. As set forth in paragraph 28, approval for RWH to use its annual income or principal distributions from the perpetual trusts identified in paragraph 28 to satisfy the Outstanding Pre and Post Closing Liabilities on its behalf and *cy pres* approval to transfer such annual income distributions to SJHSRI after such RWH liabilities have been satisfied.

7. As set forth in paragraph 29, approval for RWH to use the trust funds that it will receive upon the death of Barbara S. Boyden to pay the Outstanding Pre and Post Closing Liabilities. To the extent such obligations have been paid prior to receipt of the trust funds or are fully paid thereafter, cy pres approval to transfer the funds to SJSHRI to satisfy the Outstanding Pre and Post Closing Liabilities on its behalf.

8. As set forth in paragraph 30, approval for SJHSRI to use its annual income or principal distributions from the perpetual trusts identified in paragraph 30 to satisfy the Outstanding Pre and Post Closing Liabilities on its behalf and *cy pres* approval to transfer such annual income distributions to CCHP Foundation after such liabilities have been satisfied.

9. As set forth in paragraph 31, *cy pres* approval to transfer any unknown charitable gifts and future charitable gifts that may become known at a later date on behalf of RWH and SJHSRI to CCHP Foundation to be used as close to the donors' intent as possible, at the discretion of CCHP Foundation's Board of Directors, to serve the Foundation Mission.

10. Such other and further relief as this Court deems appropriate.

Dated: January 13, 2015

CharterCARE Health Partners Foundation
Roger Williams Hospital
St. Joseph Health Services of Rhode Island

By their attorneys,

/s/ Patricia K. Rocha
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CERTIFICATE OF SERVICE

I hereby certify that, on January 13, 2015:

☐ I electronically filed and served this document through the electronic filing system on the following parties:

The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

☐ I served this document through the electronic filing system on the following parties:

The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

☐ I mailed or ✓ hand-delivered this document to the attorney for the opposing party and/or the opposing party if self-represented, whose name and address are:

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Exhibit A

CHARTERCARE HEALTH PARTNERS FOUNDATION

ID NO. 161987

EXHIBIT A
TO
ARTICLES OF AMENDMENT

The following amendment to the Articles of Incorporation was adopted by the corporation:

1. Article 3 of the Articles of Incorporation is hereby amended in its entirety to read as follows:

"3. The specific purpose or purposes for which the corporation is organized are: This Corporation is organized and shall be operated exclusively for charitable, scientific and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended from time to time (the "Code"), and regulations promulgated thereunder. Such purposes shall include serving as a community resource to provide accessible, affordable, and responsive health care and health care related services, including, without limitation, disease prevention, education and research grants, scholarships, clinics and activities within the communities previously served by St. Joseph Health Services of Rhode Island and Roger Williams Hospital in order to facilitate positive changes in the health care system. In addition, the Corporation may conduct such other activities as may be carried out by a corporation organized under the Rhode Island Nonprofit Corporation Act and described in Section 501(c)(3) of the Code."

Exhibit B

STATE OF RHODE ISLAND
DEPARTMENT OF ATTORNEY GENERAL

May 16, 2014

DECISION

Re: Initial Hospital Conversion Application of Prospect Medical Holdings, Inc., Prospect East Holdings, Inc., Prospect East Hospital Advisory Services, LLC, Prospect CharterCARE, LLC, Prospect CharterCARE RWMC, LLC, Prospect CharterCARE SJHSRI, LLC, and Roger Williams Medical Center, St. Joseph Health Services of Rhode Island, CharterCARE Health Partners

The Department of Attorney General has considered the above-referenced application pursuant to R.I. Gen. Laws §§ 23-17.14-1, *et seq.*, the Hospital Conversions Act. In accordance with the reasons outlined herein, the application is **APPROVED WITH CONDITIONS.**

D. CHARITABLE ASSETS

The Attorney General has the statutory and common law duty to protect charitable assets within the State of Rhode Island.[56] In addition, the Hospital Conversions Act specifically includes provisions dealing with the disposition of charitable assets in a hospital conversion generally to ensure that the public's interest in the funds is properly safeguarded.[57] With regard to the charitable assets of CharterCARE, currently they are held by three entities: the CCHP Foundation, Roger Williams Medical Center and St. Joseph Health Services of Rhode Island.[58]

[56] *See e.g.*, R.I. Gen. Laws § 18-9-1, *et seq.*
[57] *See*, R.I. Gen. Laws § 23-17.14-7(c).
[58] Initial Application, Response to Questions 28 and 29.

1. Disposition of Charitable Assets

In the Initial Application, the Transacting Parties were asked to identify and account for all charitable assets held by the Transacting Parties.[59] Voluminous detail was provided which will not be detailed herein, but was thoroughly reviewed. Certain information regarding these assets is outlined below. This requirement has been satisfied by the Transacting Parties pursuant to the Hospital Conversions Act. In addition, it was represented that Prospect CharterCARE, LLC has no plans to change or remove the names associated with former gifts to the Existing Hospitals.[60]

In addition, the Transacting Parties were required to provide proposed plans for the creation of the entity where all charitable assets held by the non-profit entities would be transferred.[61] With regard to restricted funds, pursuant to the Hospital Conversions Act, in a hospital conversion involving a not-for-profit corporation and a for-profit corporation, it is required that any endowments, restricted, unrestricted and specific purpose funds be transferred to a charitable foundation.[62] In furtherance of that requirement, CCHP indicated in the Initial Application that it intends to transfer all currently held specific purpose and restricted funds to the CCHP Foundation,[63] which will use the funds in accordance with the designated purposes. At the outset, the only change in the mission and the purpose of the CCHP Foundation will be that charitable assets will not be used for the operations of what would have become the Newco Hospitals due to their for-profit status. The mission and purpose of the CCHP Foundation would be to ensure use of charitable assets consistent with the historical donors' intent and community based needs. It would continue to serve as a community resource to provide accessible,

[59] Id.
[60] Response to Supplemental Question S-42
[61] Initial Application, Question 29, R.I. Gen. Laws § 23-17.14-7(c)(25) and §23-17.14-22(a).
[62] R.I. Gen. Laws § 23-17.14-22(a).
[63] *See* Initial Application, Response to Questions 28 and 29.

affordable and responsive health care and health care related services including disease prevention, education and research, grants, scholarships, clinics and activities within the community to facilitate positive changes in the health care system. [64] The strategic planning process for CCHP Foundation is ongoing.

Historically, a *Cy Pres* petition to the Rhode Island Superior Court is the legal vehicle to determine whether a donor's intent can be satisfied, and if not, to determine the next best alternative to honor the donor's intent. Because of the change of control of the Existing Hospitals and proposed transfer of their charitable assets to the CCHP Foundation, it was contemplated that a simple *Cy Pres* acknowledging that each Existing Hospital has charitable assets and that post conversion, the CCHP Foundation will honor the intent of the donors, would be the appropriate vehicle. However, as the financial situation of the Existing Hospitals, including with respect to the SJHSRI pension liability, continued to deteriorate during the regulatory review of the Initial Application, CCHP revised its plan as set forth in the Initial Application to reflect a more staggered process with respect to its restricted funds which required some adjustments to the basic form *Cy Pres* described above.

Due to the extent of the Existing Hospitals' liabilities, CCHP proposed that certain RWMC and SJHSRI restricted assets, in addition to unrestricted cash, would remain with the Heritage Hospitals during their wind-down period rather than transferring directly to the CCHP Foundation. Specifically, a total of approximately $19.6 million dollars in restricted assets would be held by the Foundation ($7.2 million dollars) and the Heritage Hospitals ($12.4 million dollars). The revised *Cy Pres* plan was set forth in an outline of the proposed *Cy Pres* petition for each of the Heritage Hospitals with accompanying estimated opening summary balance

[64] Initial Application Response to Question 28.

sheets for both the Heritage Hospitals and the CCHP Foundation, provided to the Attorney General, and is described below.

A multi-year wind-down process is typical in the dissolution of a hospital corporation due to the time it typically takes to settle government cost reports and the like. It is particularly appropriate where the expected hospital's liabilities are projected to exceed the amount of the unrestricted assets available at the time of closing but where there is also an expectation that additional unrestricted assets will be available in the future, as is the case here. The corporation retains during the wind-down process those restricted charitable assets that provide unrestricted earnings which can be used to address its remaining liabilities, and the corporation remains open until such time as it is concluded that it has completed the winding-down of its affairs.

With respect to the period of time after the close of the Proposed Transaction when the Heritage Hospitals remain open, CCHP proposes to carry out the above-described process as follows:

CCHP Foundation

As a threshold matter, CCHP's *Cy Pres* petition would address any needed change in the CCHP Foundation mission to reflect the broader, community health oriented foundation focus. The *Cy Pres* petition will request approval for the transfer of charitable funds to the CCHP Foundation comprised of approximately $7.2 million dollars in restricted assets comprised of restricted cash, endowment and earnings on endowment of approximately $6.9 million dollars from RWMC and $318,000 from SJHSRI.

The RWMC endowments contained within the sum being transferred to the Foundation total approximately $4.2 million dollars. The Cy Pres petition will address the use of the RWMC endowment income for appropriate charitable purposes. The estimated annual income on such

amount is estimated at approximately $210,000 annually assuming existing investment policy and allowing for a 5% distribution, within the 7% recommended maximum distribution.

CCHP also will seek *Cy Pres* approval to use approximately $12.9 million dollars of the total accumulated temporarily restricted earnings on the RWMC endowment of approximately $15.3 million dollars to satisfy RWMC's liabilities. The balance of approximately $2.4 million dollars also would be moved to the CCHP Foundation for charitable purposes as it deems appropriate. The estimated annual income from the temporarily restricted endowments is approximately $118,000 assuming the existing investment policy allowing for a 5% distribution, within the 7% recommended maximum distribution. There are no expected changes in the investment managers during the wind-down period. [65]

RWMC also has a number of temporarily restricted funds whose purpose will not be fully expended before the closing of the Proposed Transaction. It is estimated that approximately $285,000 in such restricted cash funds will be transferred to the CCHP Foundation. The purposes of these funds will be reviewed and adjusted to meet as close to the original donor intent as possible.

Finally, CCHP intends to request that approximately $108,000 in SJHSHR temporarily restricted scholarship and endowment funds, and approximately $209,000 in other temporarily restricted assets be transferred to the CCHP Foundation. The purposes of transferred funds will be similarly reviewed and adjusted to meet as close to the original donor intent as possible.

Heritage Hospitals

CCHP proposes to retain approximately $24.3 million dollars of assets within the Heritage Hospitals for the time being, including approximately $12.4 million dollars in restricted

[65] Response to Supplemental Question 3-30.

assets comprised of perpetual trusts, endowments and scholarships and temporarily restricted assets, as follows:

First, CCHP intends to seek *Cy Pres* approval to change the purpose of the approximately $1.2 million dollars in SJHSRI's permanently restricted scholarship and endowment funds to be used to partially satisfy SJHSRI's liabilities, including but not limited to potential future funds and expenses relating to the pension plan.

Second, each of the Heritage Hospitals will each retain their respective right to the receive distributions from approximately $10.8 million dollars in perpetual trusts, which will be used to pay their respective wind-down expenses. In addition, CCHP intends to seek trustee and *Cy Pres* approval to use the perpetual trust income received by RWMC to partially satisfy the payment of SJHSRI expenses, if needed, after all of RWMC's liabilities have been paid.

Finally, the *Cy Pres* petition will include a request that RWMC retain approximately $421,000 in funds dedicated to expenses unique to RWMC. These include funds restricted for continuing medical education and surgical and oncology academic and research program for which RWMC will seek limited approval to pay only for the costs of such program at Newco RWMC that are over and above the routine, budgeted cost of operating these programs going forward.

To summarize, the *Cy Pres* disposition addressing the transfers to the CCHP Foundation on the one hand and adjustments to funds retained within the Heritage Hospitals on the other, as described above, will ensure that the Existing Hospital charitable assets are used for their intended purposes when that is consistent with law, and will seek court approval for an appropriate, comparable charitable use when the intended use would no longer be consistent with law, for example, because it would require that funds go to a successor, for-profit hospital.

In addition, at one or more future dates, upon confirmation that perpetual trust distributions and endowment earnings are no longer needed to address the liabilities of one or both Heritage Hospitals, one or more additional *Cy Pres* disposition(s) of any remaining restricted and unrestricted charitable assets of the Heritage Hospitals will take place to transfer funds to the CCHP Foundation. Trustee approval also will be required to re-direct future perpetual trust distributions to the CCHP Foundation.

With appropriate agreements with the CCHP Foundation, the Heritage Hospitals and CCHP that are approved by the court in *Cy Pres* proceedings to manage the restricted assets, the Attorney General finds that the Proposed Transaction will not harm the public's interest in the property given, devised or bequeathed to the Existing Hospitals for charitable purposes.[66]

Promptly following the closing of the Proposed Transaction, CCHP will close the books on SJHSRI and RWMC and seek preliminary approval from the Attorney General as to the form and content of the post-closing *Cy Pres* petition described above. Thereafter, the RI Superior Court's consideration of said initial petition will take place within a reasonable period following closing of the Proposed Transaction.

Lastly, inasmuch as none of the existing CCHP entities are trustees for any of the holdings, they are not responsible for completing annual filings as required by R.I. Gen. Laws §18-9-13. *See* R.I. Gen. Laws §23-17.14-7(c)(26).

2. Maintenance of the Mission, Agenda and Purpose of The Existing Hospitals

The Hospital Conversion Act at R.I. Gen. Laws § 23-17.14-7(c)(16) and R.I. Gen. Laws § 23-17.14-7(c)(25)(iii) requires consideration of the following:

- Whether the proposed conversion results in an abandonment of the original purposes of the existing hospital or whether a resulting entity will depart from the

[66] R.I. Gen. Laws § 23-17.14-7(c) (1).

traditional purposes and mission of the existing hospital such that a cy pres proceeding would be necessary; and

- Whether the mission statement and program agenda will be or should be closely related with the purposes of the mission of the existing hospital.

RWMC and SJHSRI share the same mission; namely, "as an Affiliate of the System shall be to foster an environment of collaboration among its partners, medical staff and employees that supports high quality, patient focused and accessible care that is responsive to the needs of the communities it serves."[67] CCHP "is organized and shall be operated exclusively for the benefit of and to support the charitable purposes of Roger Williams Hospital, St. Joseph Health Services of Rhode Island and Elmhurst Extended Care Services, Inc....."[68] CCHP Foundation finds its origins in the SJ Foundation, formed on February 27, 2007 "to hold and administer charitable donations on behalf of SHHSRI."[69] In December of 2011, a Petition for Cy Pres, *In Re: CharterCARE Health Partners Foundation, P.B. No. 11-6822,* was filed and granted by the Rhode Island Superior Court (Silverstein, J.) allowing the transfer of the restricted funds that were raised by the SJ Foundation to SJHSRI."[70] "Subsequent to and as part of the CCHP affiliation, on August 25, 2011, the organizational documents of SJ Foundation were revised to change its name to CharterCARE Health Partners Foundation and to make CCHP its sole member."[71] "On September 9, 2011, CCHP Foundation secured from the IRS a determination that it was 1) exempt from tax under section 501(c)(3) of the Internal Revenue Code (IRC), and 2) a public charity under section 509(a)(3) of the IRC."[72]

While implied in Prospect's for-profit status that profit is an issue that will be considered, Prospect has committed that Prospect CharterCARE, LLC "will adopt, maintain and adhere to

[67] Initial Application, Exhibit 10(C)(D), *See also* Response to Supplemental Question S5-2.
[68] Initial Application, Exhibit 10(B), *See also* Response to Supplemental Question S5-2.
[69] Initial Application, Response to Question 29.
[70] Initial Application, Response to Question 28.
[71] Id.
[72] Id.

CCHP's policy on charity care and or adopt policies and procedures that are at least as favorable to the indigent, uninsured and underserved as CCHP's existing policies and procedures."[73] It has further stated that, should a conflict arise between the charitable purposes of the Existing Hospitals and profit-making that the charitable purposes of the Existing Hospitals shall prevail.[74] The Attorney General finds that R.I. Gen. Laws §23-17.14-7(c)(16) of the Hospital Conversions Act has been satisfied.

The Attorney General has also considered that Prospect has purchased eight other hospitals over the course of its existence, some of which have included distressed hospitals[75], and has stated that it has never closed or sold any of its hospitals.[76] Although there is no evidence that the Proposed Transaction will differ significantly from the stated purposes of the Existing Hospitals, it is necessary that a *Cy Pres* be filed and granted both to ensure the proper utilization of the remaining restricted funds and because this hospital conversion includes the conversion of two non-profit entities' assets for use by for-profit entities.

Further, Rhode Island law requires that all licensed hospitals, whether non-profit or for-profit, provide unreimbursed health care services to patients with an inability to pay.[77] Therefore, Prospect will be required even as a for-profit hospital to provide a certain amount of charity care and has agreed to do so.[78]

Finally, in consideration of whether the new entity will operate with a similar purpose, pursuant to Section 13.15 of the Asset Purchase Agreement entitled "Essential Services" Prospect has agreed to maintain the Newco Hospitals as acute care hospitals with a "full

[73] Initial Application Response to Question 59(c).
[74] Exhibit 18 to Initial Application, Asset Purchase Agreement, Section 13.14; *see also* Response to S3-14.
[75] Interview of Thomas Reardon.
[76] Response to Supplemental Question 4-25.
[77] R.I. Gen. Laws §§ 23-17.14-15(a)(1), (b) and (d).
[78] *See* Initial Application Exhibit 18, Asset Purchase Agreement, Article 13.14 and Management Agreement.

complement of essential clinical services for a period of at least five years immediately following the Closing Date."[79] In addition, Prospect has stated that there are no current plans to discontinue any CCHP systems services, accreditations, and certifications, including those of the CCHP affiliates.[80] These include health care and non-healthcare community benefits.[81] As with any acquisition, it is likely that some changes will take place after Prospect takes over the Existing Hospitals. In fact, Prospect has indicated that it will be undertaking strategic initiatives collaboratively to improve services rendered to patients.[82] Further, as part of its long term capital commitment to CCHP, Prospect has also committed to making improvements of a bricks and mortar nature to the Existing Hospitals.[83] Accordingly, the Proposed Transaction does include a potential that some changes will occur at the Existing Hospitals.

3. Foundation for Proceeds

In addition to addressing charitable assets, the Hospital Conversions Act requires an independent foundation to hold and distribute proceeds from a hospital conversion consistent with the acquiree's original purpose.[84] With regard to the Proposed Transaction, the Asset Purchase Agreement does not include a purchase price that will produce traditional proceeds as it is structured upon payment of certain obligations and commitment to future investments in the hospital. Accordingly, R.I. Gen. Laws § 23-17.14-22 does not require a foundation for receipt of proceeds. Nonetheless, CCHP Foundation is an existing publicly supported foundation which stands ready to receive the restricted funds associated with the Heritage Hospitals in accordance with the plan described above. It is anticipated that the amount of such funds are sufficient for

[79] *See* Asset Purchase Agreement Article 13.15; Initial Application Response to Questions 53, 57 and 59.
[80] Response to Supplemental Question S3-53.
[81] *See e.g.* Exhibit S3-19; Exhibit S4-20, and Final Supplemental Response 4-20.
[82] Initial Application, Exhibit 18 Asset Purchase Agreement Article 13.13.
[83] Initial Application, Response to Question 1.
[84] R.I. Gen. Laws § 23-17.14-22(a) and R.I. Gen. Laws § 23-17.14-7(c)(16).

the operation of an independent community health care foundation. However, should the CCHP Foundation board determine in the future that it would be more cost effective to do so, it may seek *Cy Pres* approval to transfer the restricted assets to an independent foundation consistent with the Hospital Conversions Act.

E. TAX IMPLICATIONS

There are three criteria in the Hospitals Conversions Act that deal with the tax implications of the Proposed Transaction.[85] Currently, CCHP and the Existing Hospitals are non-profit corporations organized pursuant to Rhode Island law. Upon the purchase of their assets by Prospect, the resulting entities will be for-profit entities and no longer immune from certain tax obligations. Clearly, this has an impact on the tax status of these entities.[86] This transaction represents the second hospital conversion transaction in Rhode Island where nonprofit hospitals are changing to for-profit entities. Review of the Initial Application indicates that this decision to become for-profit entities was made after careful consideration by CCHP that the terms of this transaction were the best available to CCHP among the proposals from the remaining interested parties.[87] Accordingly, the wisdom of choosing a for-profit company to purchase a non-profit hospital is not a matter that warrants in-depth consideration given the circumstances.

With regard to tax implications, one of Prospect's conditions of closing the transaction with CharterCARE stated in the Initial Application referenced that the closing is contingent upon property tax stabilization/exemption ordinances with the host communities of Providence and

[85] *See* R.I. Gen. Laws §§ 23-17.14-7(c)(20), (21) and (25)(ii).
[86] The question posed by R.I. Gen. Laws § 23-17.14-7(c)(21) is whether the tax status of the existing hospital is jeopardized." This characterization does not apply to the Proposed Transaction as not only is it jeopardized, it is knowingly being changed from non-profit to for-profit.
[87] See Initial Application, Response to Request 55.

Exhibit C

Sources and Uses of Funds Analysis-Revised

Closing Sources and Uses:		
Sources of Funds:		
Permanantely Restricted Funds		16,377,148
Temp Restricted Funds		15,615,508
Proceeds from Sales		45,000,000
Funds held with Bond Trustee		297,501
Unrestricted Cash remaining		3,335,622
Unrestricted Case used at Closing Prospect		5,269,944
Unrestricted Cash used at closing-Cain Brother		676,109
Board Designated Funds		6,898,296
Funds Held in Workders Comp Trust Account		270,539
	Subtotal : Sources	93,740,667
Uses of Funds:		
N/P Inter-parish SJLC, plus interest		638,838
SJHSRI RIHEBC Rax Exempt Revenue Bonds - Series 1999	payoff amount	14,590,778
RWMC RIHEBC Tax Exempt Revenue Bonds - Series 1998	payoff amount	10,082,033
Citizen Bank - Finance Redemption		1,541,879
SWAP Liability		173,000
RWR Mortgage Note Payable		6,093,413
Operating Loss Loan	paid off prio to close	-
Debt Interest - included in payoff amounts above		-
RT Note Payable plus interest		650,595
Closing /Affiliation Shared Costs		371,803
Cain Brothers		676,109
Interim Management Fee (plus expenses)		427,605
Insurance Tail Policies		-
Pension Liability		14,000,000
Working Capital True-up		-
Proceeds from Sale of Joint Venture Ownership		1,700,000
Permanently Restricted Funds Transferred to Foundation		4,209,522
Permanently Restricted Funds Transferred to Foundation		1,200,765
Permanently Restricted Funds remaining in Heritage Hospitals		10,966,860
Temporarily Restricted Funds remaining in Heritage Hospitals		326,660
Temp Restricted Funds Transferred to Foundation		3,000,000
	Subtotal : Uses	70,649,861
	Excess/(shortage)	23,090,806

Post Close Sources and Uses:		
Sources of Funds:		
Excess cash from closing/Funds held in WC Trust		23,090,806
Split Dollar Policy Premium refunds		1,147,433
	Subtotal : Sources	24,238,239
Uses of Funds:		
Working Capital Adjustment		2,125,407
Insurance Tail Policies		7,199,497
Workers Comp Reserve		443,296
Unassumed Affiliation Liabilities		1,890,309
Insurance Deductible (W/C & Mal)RWMC		300,000
Third Party Settlements		6,218,991
Unassumed Contracts:		
Diagnostic Imaging:		
	Physician Contract	1,031,611
	Billable to JV	(318,750)
Physician Advisor-SJ		14,400
Transition Agreement work		225,000
Foundation Employees		125,000
Acctng Fees		50,000
	Subtotal : Uses	19,304,761
	Excess/(shortage)	*4,933,478*
Collateral Requirement for W/C - Cash not not be used		1,800,000
Adjusted Excess/shortage		3,133,478*

Sources and Uses of Funds Analysis-Original

Closing Sources and Uses:		
Sources of Funds:		
Permanantely Restricted Funds		16,190,569
Temp Restricted Funds		15,905,632
Proceeds from Sales		45,000,000
Funds held with Bond Trustee		4,301,096
Unrestricted Cash remaining		5,735,560
Unrestricted Case used at Closing Prospect		-
Unrestricted Cash used at closing-Cain Brother		-
Board Designated Funds		6,666,874
Funds Held in Workders Comp Trust Account		839,630
	Subtotal : Sources	94,639,361
Uses of Funds:		
N/P Inter-parish SJLC		622,566
Revenue Bonds - Series 1999		16,550,000
Revenue Bonds - Series 1998		11,062,500
Citizen Bank - Finance Redemption		1,597,222
SWAP Liability		192,836
RWR Mortgage Note Payable		5,864,253
Operating Loss Loan		291,462
Debt Interest		863,762
RT Note Payable		625,000
Closing Costs (Cain/Prospect)		820,000
Insurance Tail Policies		7,943,098
Pension Liability		14,000,000
Working Capital True-up		2,500,000
Proceeds from Sale of Joint Venture Ownership		1,700,000
Permanently Restricted Funds Transferred to Foundation		4,209,522
Permanently Restricted Funds Transferred to Heritage Hospitals		1,200,514
Permanently Restricted Funds remaining in Heritage Hospitals		10,780,533
Temp Restricted Funds Transferred to Foundation		3,000,000
	Subtotal : Uses	83,823,268
	Excess/(shortage)	10,816,093

Post Close Sources and Uses:		
Sources of Funds:		
Excess cash from closing/Funds held in WC Trust		10,816,093
Medicare Settlement		335,000
Insurance Premium refund (net)		527,500
	Subtotal : Sources	11,678,593
Uses of Funds:		
Working Capital Adjustment		0
Insurance Tail Policies		-
Workers Comp Reserve		496,582
Unassumed Affiliation Liabilities		1,029,786
Insurance Deductible		300,000
Third Party Settlements		7,700,000
	Subtotal : Uses	9,526,368
	Excess/(shortage)	*2,152,225*

*There is a dispute between the Joint Venture and CCCB regarding the disposition of the split dollar policy premium refunds, a non-charitable asset, that may result in a reduction in the Adjusted Excess/Shortage Amount of $3,133,478 to $2,229,781. However, an additional $567,053 from a recent Medicaid disproportionate share of hospital (DSH) audit is expected to increase the Adjusted Excess/Shortage Amount to $2,796,834. Additional third party settlements may likewise impact the Adjusted Excess/Shortage Post Close Amount. The dispute between the Joint Venture and CCCB is a separate legal matter, as to which CCCB has its own legal counsel. If those two parties do not resolve this dispute between themselves, the dispute will be resolved, as expeditiously as possible, pursuant to the dispute resolution procedure set forth in the Asset Purchase Agreement.

Exhibit D

CHARTERCARE FOUNDATION
ESTIMATED OPENING
SUMMARY BALANCE SHEET *

	Foundation	FATIMA	RWMC	Foundation TOTAL
Restricted Cash	17,466	258,962	284,710	561,138
Endowment investments		1,200,765	4,209,523	5,410,288
Endowment investment earnings -		196,496		196,496
Endowment investment earnings			2,242,366	2,242,366
Total assets	17,466	1,656,223	6,736,599	8,410,288
Net Assets				
All Other donor	17,466	258,962	284,710	561,138
Endowment Interest		120,242	2,242,366	2,362,608
Scholarships		76,254		76,254
Temp Restricted:	17,466	455,458	2,527,076	3,000,000
Endowments	-	1,066,281	4,209,523	5,275,804
Scholarships		134,484	-	134,484
Perm Restricted:	-	1,200,765	4,209,523	5,410,288
Total Net Assets	17,466	1,656,223	6,736,599	8,410,288

* Amounts have been rounded up.

Exhibit E

Heritage Hospitals
ESTIMATED OPENING
REVISED SUMMARY BALANCE SHEET

	FATIMA	RWMC	EEC	TOTAL
Cash - operating - unrestricted	458,850	2,144,081	107,079	2,710,010
Restricted Cash -Temp Restricted	625,612	326,660		952,272
Assets Whose Use is Limited:				
Funds held by trustee		297,501		297,501
Perpetual Trusts	6,473,365	4,493,495		10,966,860
Board Designated	3,700,000	1,398,296		5,098,296
Funds Spending Policy		12,288,848		12,288,848
Funds Held as Collateral		1,800,000		1,800,000
Funds Held for Insurance	270,539			270,539
Intercompany Receivable		-		
Insurance Policy Premium Rec	573,717	573,717		1,147,433
Total assets	12,102,083	23,322,597	107,079	35,531,759
Current Liabilities				
-Accounts Payable/Accrued Expenses	708,820	1,158,626	22,863	1,890,309
Intercompany Payable				
- Third Party Payor	1,080,564	5,054,211	84,216	6,218,991
- unassumed contracts	-	1,127,261		1,127,261
- workes compensation (TPA)	403,296	40,000		443,296
- Working Capital Adjustment liability	1,062,704	1,062,704		2,125,407
- Insurance Tails	3,544,645	3,654,852		7,199,497
-other Liabilities		300,000		300,000
	6,800,029	12,397,654	107,079	19,304,761
Long Term Liabilities				
- pension liability	62,410,940	-		62,410,940
Net Assets				
Unrestricted	(63,582,251)	(6,184,059)	(0)	(69,766,311)
Temp Restricted donor accounts		12,615,508		12,615,508
Grants	-			-
Temp Restricted:		12,615,508		12,615,508
Perpetual Trusts	6,473,365	4,493,495		10,966,860
Endowments				
Scholarships				
Perm Restricted:	6,473,365	4,493,495	-	10,966,860
Total Net Assets	(57,108,886)	10,924,944	(0)	(46,183,943)
Total Liabilities & Net Assets	12,102,083	23,322,597	107,079	35,531,799

Exhibit F

Exhibit F

Fund Number	Fund Name	Description	Amount as of 7/31/14	Exhibits
24.2750.1706	Cancer Center	Donations are for Cancer	1,377.47	F1
24.2750.1710	Dr. Michael Macko Fund	RWH doctor who died and memorial was set up in his honor	27,586.14	F2
24.2750.1715	Alice Harvey Memorial Fund		1,155.00	F3
24.2750.1719	Medical Students	Donations in support of medical students	1,827.63	F4
24.2750.1721	Goss memorial	Temp Restricted – Cancer Research. Grant award for Cancer Research – We receive annual disbursement from Goss for roughly $300	1,019.00	F5
24.2750.1727	Surgical Oncology	Surgical Oncology donation	12,587.97	F6
24.2750.1728	Breast Cancer Research	Breast Cancer Research	1,984.15	F7
24.2750.1729	Day Treatment Room	General Day Treatment Room. Prior to the Cancer Center the Day Treatment Center was used. There is no Day Treatment Center today but it likely these donations are for cancer support	7,500.00	F8
24.2750.1733	Dept of Psychiatry		29.97	F9
24.2750.1734	Sarcoma Symposium	In support of Cancer Research	93,801.85	F10
24.2750.1736	Stroke Center		.08	F11
24.2750.1739	OR Construction	Temp Restricted – new OR	59,435.41	F12
24.2750.1741	Millar Alcohol	No documentation can be found – donation given prior to 1997. It is believed the donations were made in memory of a patient to be used for the Alcohol treatment program.	4,088.26	F13

Exhibit F

Fund Number	Fund Name	Description	Amount as of 7/31/14	Exhibits
24.2750.1747	Beauregard Memorial Fund	Temp restricted – Cancer Research – Donation made prior to 1997. Balance unchanged until 2006.	3,863.45	F14
24.2750.1751	Whitmarsh		47,582.80	F15
24.2750.1752	Other VFR Reserve Funds	Funds were received prior 1997. No documentation available	5,902.07	F16
24.2750.1756	Interfaith Chapel		310.90	F17
24.2750.1767	Arthritis Fund	Restricted – Arthritis Research – no change since 1997	545.43	F18
24.2750.1778	Horton Health Library	Used for maintenance of the Miriam Horton family room	575.41	F19
24.2750.1795	Decof Cancer Center		3,760.06	F20
24.2750.2923	Paolino Memorial	Cancer Research – Unchanged since 2000	5,139.46	F21
24.2750.8125	Research Colvin	Restricted – Donations were made to support research being conducted by Colvin. Physician has left the Hospital.	178.66	F22
24.2800.2804	Champlin Fund (Second Century)		4,459.17	F23
Total Temporary Restricted Fund Balances			**$284,710.34**	

Exhibit F

CY PRES PETITION – DEDICATED FUNDS

Fund	Exhibit
Dedicated Fund Somasundar	F24
Dedicated Fund Katz	F25
Dedicated Fund Koness	F26
Dedicated Fund Dr. Espat	F27
Dedicated Fund Baldwin	F28

Exhibit G

Exhibit G

Wanebo:

Fund Name	Description	Year	Amount as of 7/31/14	Exhibit
Wanebo	Surgical T&R	2007	$146,791	G1

Free Care:

*CPI calculations begin in the year of 1913, these items have establish dates before 1913

Fund Name	Description	Year	Amount as of 7/31/14	Exhibit
Elise Rice*	Free Bed	1911	5,000	G2
Tito & Louisa Tirocchi	Free Bed		2,000	G3
Olive Aborn	Free Bed	1946	5,000	G3
John Aldrich	Free Bed	1937	4,000	G4
Frances Knight Atwood	Free Bed	1937	4,000	G3
Lillie Atwood	Free Bed	1937	4,000	G3
Dr Walter Bongartz	Free Bed	1940	4,000	G5
George & Anna Bunce	Free Bed	1961	5,000	G6
Elizabeth Burdick	Free Bed	1914	4,000	G7
Edwin H & Eliza Burlingame	Free Bed	1958	5,000	G3
Arthur Burrington	Free Bed	1922	5,000	G3
Ira Calef	Free Bed	1915	4,000	G3
Rev William Chapin	Free Bed	1922	5,000	G3
Hester Cheek	Free Bed	1953	5,000	G3
Mr. Cornstock	Free Bed		5,000	G3
Fredric Cooper	Free Bed	1933	2,000	G8
Edward Dart	Free Bed	1941	5,000	G3
Katherine Farnum	Free Bed	1929		G9

			4,000	
Jeoffrey Hawes	Free Bed	1942	5,000	G3
William Henderson	Free Bed	1913	4,000	G3
Cottrell & Mary Hoxsie	Free Bed	1947	5,000	G3
Sylvester & Mary Jackson*	Free Bed	1896	9,760	G10
Franklin Jewett	Free Bed	1948	5,000	G11
Caroline Keith	Free Bed	1947	5,000	G12
James Dean Kimball	Free Bed		10,000	G3
Lucy Fenner Knight	Free Bed	1937	4,000	G3
Stephen A Knight	Free Bed	1948	5,000	G11
Juliet Lathrop*	Free Bed	1897	4,000	G13
George A Lindvall	Free Bed	1940	12,746	G14
A Louise Mathewson	Free Bed	1945	5,000	G15
William W, Phoebe and Walter Maxfield	Free Bed	1955	5,000	G3
Dr John McVickar*	Free Bed	1909	4,000	G3
Giles M & Betsy Nichols	Free Bed	1946	5,000	G16
Hezekiah Palmer*	Free Bed	1905	4,000	G17
George Parks	Free Bed	1935	5,000	G18
Charles & Mary Phillips	Free Bed	1939-41	4,800	G19
Helen Pierce & John Paine	Free Bed	1938	5,000	G20
Catherine Durfee Pike	Free Bed	1939-40	10,000	G21
Charles Potter	Free Bed	1948	5,000	G22
Helen Potter	Free Bed	1948	5,000	G23

Ferdinand Potter	Free Bed	1948	5,000	G3
Judge Elmer Rathburn	Free Bed	1957	5,000	G24
J R Rathom	Free Bed	1922	5,000	G3
Joseph William Rice*	Free Bed	1911	4,000	G2
Mary Wilkinson & Martha Fessenden Sayles*	Free Bed	1895	16,000	G3
Walter Simpson	Free Bed		10,000	G3
Scott Smith	Free Bed	1927	5,000	G3
Theodore Burgess Smith	Free Bed	1925	5,000	G25
Smith S Sweet*	Free Bed	1899	4,000	G3
Mary Abby Tefft	Free Bed	1954	5,000	G26
James Edward Thompson	Free Bed	1956	4,000	G27
George H & Margaret Thurston	Free Bed	1937	5,000	G28
A C Tiffany	Free Bed		5,000	G3
Mary B Tourtellot	Free Bed	1928	5,000	G29
Dr William VonGottschalck	Free Bed	1940	4,000	G30
Emily Waterman*	Free Bed	1886	3,000	G3
Hattie Carpenter Webb	Free Bed	1946	5,000	G31
Samuel Augustus Wesson	Free Bed	1940	4,000	G32
Charles J Wheeler*	Free Bed	1897	4,000	G33
Lulu White	Free Bed	1926	4,500	G3
Dr H A Whitmarsh	Free Bed	1920	4,000	G34
Harriet Wilcox*	Free Bed	1896	4,000	G3
Ruth Scott Estate	Free Bed	1971		G35

(11/22/71)			6,250	
Lillian Lake Horton (2/27/76)	Free Bed	1976	15,000	G36
William F Goff	Free Bed	1965	5,000	G3
Annie Peckham	Neurology	1954	2,000	G37
Loutit Charitable Fund	Maternity	1954	240	G3
Charlotte Pritchard	Blood Bank		125	G3
	Fund Balance:		**$348,421**	

General Use:

Fund Name	Description	Year	Amount as of 7/31/14	Exhibit
Georgiana Barnes		1956	500	G3
Sarah Barnes		1956	500	G3
Ira C Calef	Endowment gift in 1916	1916	4,000	G3
D M Dennis		1958	100	G3
Joseph E & Laura S Farnham	Joseph E. C. and Laura S Farnham Fund - Permanent endowment fund with income used for the purposes of the hospital	1933	3,887	G38
Estate of Percy A Harden	Permanent endowment fund with income used for the purposes of the hospital	1953-1955	37,135	G39
Louise J Hathaway	William A. Hathaway and Louise J. Hathaway Fund	1954	7,500	G40

Julia M Hill		1928	2,500	G3
Estate of Webster Knight		1934	50,000	G3
Mabel Muney			8,000	G3
Elizabeth N J Olds		1956-1957	26,426	G3
Charles A Russell	Add to permanent fund income to be for the general purposes	1941	1,000	G41
A E Winkleman	Money to be added to the endowment fund	1954	100	G42
Unidentified			40,000	G3
Maude P Morrissey (8/13/71)	Endowment fund with income used for the purposes of the hospital	1971	200,000	G43
Maude P Morrissey (5/19/72)	Endowment fund with income used for the purposes of the hospital	1972	40,000	G43
Robert Rothman (3/1/72)		1972	675	G3
Maude P Morrissey (10/26/72)		1972	40,000	G43
Robert Rothman (1/17/73)		1973	667	G3
Robert Rothman (2/7/74)		1974	820	G3
L Levin Foundation (9/30/74)		1974	620	G3
Robert Rothman (2/10/75)		1975	1,000	G3
L Levin Foundation (1/15/76)		1976	1,775	G3
Annie Weeden Trust (12/6/76)		1976	20,000	G3
Frank Hazard (12/6/76)		1976		G3

			10,000	
Robert Rothman (12/22/76)		1976	825	G3
Reinhardt Scholar (12/13/77)		1977	333	G3
Carolann & Co (1/17/80)		1980	800	G3
Maude Morrissey (11/10/81)		1981	3,393	G43
Calista Lamberton Memorial Fund		1965	5,000	G44
Samuel M & Rose Magid			500	G3
Specific Purpose Fund (1971)		1971	3,000	G3
Specific Purpose fund (1975)		1975	21,975	G3
W Waite Trust 1992	William H. and Mary J. Waite Fund. Income to be used for its uses and purposes	1992	500,000	G45
William F Goff	Radium		5,000	G3
Charlotte Pritchard	Cancer Res		4,000	G3
Nursing Education Scholarship	Scholarship	1935	1,000	G3
Estate of T. Hammond (1988)	Income only for its uses and purposes	1988	25,000	G46
Florence E & Clarence Owen	Children's Ward	1956	14,059	G47
	Fund Balance:		**$3,714,310**	

Exhibit G

CY PRES PETITION – TRUST DOCUMENTATION

Trust	Exhibit
The Trust under Will of Sarah S. Brown dated June 21, 1911	G48
The Trust under Will of C. Prescott Knight	G49
The Trust under Will of George Luther Flint dated June 25, 1935	G50
The Miriam C. Horton Trust Dated August 9, 1948, as amended by its entirety and restated on June 12, 1963	G51
The Trust under Will of Albert K. Steinert dated July 11, 1927	G52
George & Lydia Boyden Will	G53
Herbert G. Townsend Trust dated January 2, 1929, as amended on June 14, 1949	G54

Exhibit H

Exhibit H

- $258,962 restricted cash

Fund Number	Fund Name	Description	Amount as of 7/31/14	Exhibit
01.2900.3002	Health Fair SJF Restr-Oncology	Annual community outreach event donations	67.95	H1
01.2900.3072	Pingatore Mem FD	Furniture/equipment for outpatient oncology at Fatima	118.47	H2
01.2900.3549	SJH Blanche Walsh Charity-DRC	For diabetes resource center patient needs	91.83	H3
01.2900.3537	SJF Amica Companies Foundation	Support of the Diabetes & APC clinics	376.00	H4
01.2900.3085	Fatima Statue Fund	Donations for Fatima Statute refurbishment	420.00	H5
01.2900.3004	Andrew W. Rotelli-Memorial Fund	Donations for hyperbaric medicine program	462.94	H6
01.2900.3553	SJH Fatima Health Center-Equipment (Bristol County Savings)	Health center equipment grant	602.25	H7
01.2900.3049	Critical Care Unit	Donations for CCU patient & staff needs	738.04	H8
01.2900.3506	RIDOH-WCSP SCH of Cytotech	School of Cytotechnologist needs	1,000.00	H9
01.2900.3018	Employee Assistance Fund	To assist employees experience undue hardship (ie fire)	1,060.87	H10
01.2900.3091	Performance IMP DPT Staff ED		1,094.00	H11
01.2900.3074	SJF K. Jordan Memorial Fund-CCU	Restricted to CCU needs only	1,592.69	H12
01.2900.3001	Nursing Department	For any unmet nursing needs	1,515.79	H13
01.2900.3039	Hyperbaric Medicine for Pedi & Young Adults	Hyperbaric medicine therapy for young burn victims	1,608.05	H14
01.2900.3036	SJ Center Psych Care/Lecture	Speaker series for Psych Department donations earmarked for Fatima	1,772.27	H15
01.2900.3034	School of Nursing	Alumni donations for SON general unmet	386.02	H16

Exhibit H

		needs @ discretion of the director		
01.2900.3073	Mulholland Fund		2,181.03	H17
01.2900.3017	H & H SVC. Single Mothers	Health center program for single mothers	2,216.66	H18
012900.3524	SJF Shriners of RI Dental Patient Care	Pediatric Dental Center care fund for annual dental graduation activities	30,539.64	H19
01.2900.3076	SJF Dental Graduation		2,844.74	H20
01.2900.3088	Restricted-Cardiology Education Fund	1/3 of Assent III clinical trials funding earmarked for Cardiology Department for education	2,525.10	H21
01.2900.3023	SNERC	Donations for Southern New England Rehab dept	1,331.63	H22
01.2900.3026	Children's Christmas Party	Donations for pedi patients/families holiday party @ SJHSC	2,600.54	H23
01.2900.3025	Pedi Dental Clinic	Donations for Pediatric Dental Clinic at SJHSC	8,396.22	H24
01.2900.3028	Harold Johnson Memorial Fund	ICU/4th Pavillon waiting room enhancements	746.63	H25
01.2900.3051	Pastoral Care	Donations to pastoral care at Fatima & St. Joe's	676.35	H26
01.2900.3062	New England Tech/OT	Stipends/N.E. Tech Occupational Therapy Students	3,349.94	H27
01.2900.3058	Fatima Chapel Renovations	Donations only for chapel renovations	4,224.86	H28
01.2900.3092	SJH Chapel Fund	Chapel repairs	1,000.00	H29
01.2900.3093	Trivett	Fundraising for Book nook	7,153.69	H30
01.2900.3048	Breast Care Center Restricted	Donations for Breast Cancer programs	10,585.37	H31
01.2900.3514	Wal-Mart Foundation - ACC	Ambulatory Care Ctr for Pedi waiting room needs	202.39	H32
01.2900.3516	RIDOH Oral Health WF (2) - Dental	Government contract with RI Dept of Health	5,069.14	H33
01.2900.3546	SJH Episcopal	To purchase emergency	3,500.00	H34

Exhibit H

	Charities of RI	medications for diabetics		
01.2900.3528	Daisy Stride Memorial Foundation - SON	School of nursing equipment	600.00	H35
01.2900.3556	SJH John Clarke Trust – Pedi	Infant/toddler safety packet distribution thru Pedi Clinic	3,800.00	H36
01.2900.3557	SJH Episcopal Charity Fund/Asthma	Grant for asthma program/medications @ St. Joe's	1,609.12	H37
01.2900.3070	Buonanno Memorial Fund	Restricted; purpose to be determined by Dr. A. Buonanno	3,813.23	H38
01.2900.3059	Restricted-Medical Staff OME	Other medical education expenses	4,365.02	H39
01.2900.3535	SJF The Rite Aid Foundation SS	Spanish speaking cancer support group; no staff available	4,635.07	H40
01.2900.3513	SJF Cavanagh Company-DRC	Diabetes Resource Center patient needs	4,837.89	H41
01.2900.3020	Adult Primary Care-Educational Fund	Education programs for adults being treated at SJHSC Primary Care facility	1,539.78	H42
01.2900.3525	SJF Ida Ballou Memorial Trust	Diabetes medications for uninsured patients	7,064.00	H43
01.2900.3038	School of Nursing-Scholarship Fund	Alumni donations for School of Nursing Scholarships	8,333.78	H44
01.2900.3079	Annual Diabetes Fair	Annual community outreach & educational program	8,146.09	H45
01.2900.3033	Health Center	Donations for Health Center patient/staff needs	3,619.95	H46
01.2900.3016	Ed. Opportunities-Nursing Department	Educational programs for nurses	1,767.00	H47
01.2900.3012	Restructuring	Pediatric Dental Center and Stroke Center	12,726.00	H48
01.2900.3050	Mary Ronci Fund	Education funds for X-Ray technicians	12,884.91	H49
01.2900.3013	North Providence Communications System	Water tower lease caveat to benefit community programs	31,645.09	H50
01.2900.3035	SJH – Psychiatric	Donor dollars given for	45,523.53	H51

Exhibit H

	Unit	expansion of Psych Unit		
TEMPORARILY RESTRICTED ASSETS			$258,961.61	

- $196,496 (temporarily restricted scholarship funds $77,811 and temporarily restricted endowment interest $118,685)
- Total temporarily restricted scholarship funds

Fund Number	Fund Name	Description	Amount as of 7/31/14	Exhibit
01.2900.3300	Bishop McVinney Scholarship Fund-Interest	Investment income earned on endowment not yet distributed. Post graduate nursing education for SON alumni	37,909.10	H52
01.2900.3301	Kane Memorial Scholarship Fund-Interest	Investment income earned on endowment not yet distributed. Nursing scholarship.	244.56	H53
01.2900.3302	Grace R. Felmann Memorial Scholarship-Interest	Investment income earned on endowment not yet distributed. Nursing scholarship.	2711.91	H54
01.2900.3303	Helen Morris Deblinger Memorial Scholarship-Interest	Investment income earned on endowment not yet distributed. Nursing scholarship.	8,250.37	H55
01.2900.3301	McLaughlin Fund-Interest	Interest earned for educational purposes at St. Joseph's Hospital	1,785.25	H56
01.2900.3305	Bill Pires Memorial Scholarship Fund	Pharmacy student scholarship for child of employee	418.56	H57
01.2900.3306	Farrar Memorial Scholarship Fund	Investment income earned on endowment not yet distributed.	1625.75	H58
01.2900.3307	Son E. Pinto Franko Scholarship	Nursing scholarship	221.49	H59
01.2900.3308	Dr. J. Migliori Scholarship Fund	Anesthesiology School scholarship	23,086.60	H60
01.2900.3405	Cardi School of	Investment income	1,557.48	H61

Exhibit H

	Nursing-Scholarship-Interest	earned on endowment not yet distributed. Nursing scholarship		
TOTAL TEM RESTRICTED SCHOLARSHIP FUNDS			**$77,811**	

- Temporarily restricted endowment interest

Fund Number	Fund Name	Description	Amount as of 7/31/14	Exhibit
01.2900.3400	O'Connor-Interest	Investment earn on endowment not yet distributed. St. Joseph Children's Department at St. Joe's	31,674.29	H62
01.2900.3401	Dr. Sarni Endowment-Interest	Investment earned on endowment not yet distributed. Establish fund for family practice at St. Joseph Hospital for patient care.	4,267.28	H63
01.2900.3402	Dr. Buonanno Endowment-Interest	Investment earn on endowment not yet distributed. Establish fund for orthopaedic services or equipment for uninsured Fatima patients only	2,929.88	H64
01.2900.3403	Colagiovanni-Interest	Investment earn on endowment not yet distributed. Urology related services, equipment and education at Fatima and name a pavilion for Marco Colagiovanni, MD	54,386.25	H65
01.2900.3404	Deceased Medical Staff & Families Endowment-Interest	Investment earn on endowment not yet distributed. Memorial donations for deceased members of	1,590.99	H66

Exhibit H

		medical staff and families.		
01.2900.3406	Hammond Trust	Income is unrestricted	20,643.65	H67
01.2900.3408	SJF DK Endowment Fund-Interest	Investment earn on endowment not yet distributed. Unmet patient needs, pedi dental	3,192.96	H68
TEMP RESTRICTED ENDOWMENT INTEREST			**$118,685**	

Exhibit H

Account No.	Endowment Funds	Amount as of 7/31/14	Description	Exhibit
01.2900.3701	O'Connor Endowment Principal	272,303.65	SJHS Children's Dept	H69
01.2900.3702	Sarni Endowment Principal	36,684.41	Family practice at SJHS	H70
01.2900.3703	Buonanno Endowment Principal	25,188.12	Orthopedic services for uninsured patients	H71
01.2900.3704	Colagiovanni Fund	467,357.50	Urologic patient services/uninsured patients	H72
01.2900.3705	Deceased Medical Staff Endowment	4,225.76	Memorial donations re dec. family members	H73
01.2900.3801	Bishop McVinny Endowment	4,000.00	Graduate nursing education	H74
01.2900.3802	Kane Memorial Scholarship	4,953.00	Nursing scholarship	H75
01.2900.3803	Felmann Memorial Scholarship	17,275.66	Nursing scholarship	H76
01.2900.3804	Deblinger Scholarship	76,000.00	Nursing scholarship at St. Joe's	H77
01.2900.3805	McLaughlin Fund	5,000.00	Educational purposes	H78
01.2900.3807	Alphonso & Cardi Endowment	10,000.00	Nursing scholarship at St. Joe's	H79
01.2900.3808	Farrar Memorial Scholarship	17,255.00	Will bequest for St. Joe's Hospital	H80
01.2900.3706	Hammond trust	** 234,010.38	Will bequest for St. Joe's Hospital	H81
01.2900.3707	Daniel J. Kane, DMD Fund	26,511.00	Unmet needs/pedi dental	H82
	Total Principal	**1,200,764.48**		

Exhibit 5

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

In re: CHARTERCARE HEALTH PARTNERS FOUNDATION, ROGER WILLIAMS HOSPITAL and ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND	:	C.A. No. KM-2015-0035

ENTRY OF APPEARANCE

James J. Nagelberg and Paul A. Silver hereby enter their appearance for Bank of America, N.A. ("BOA"), in its capacity as trustee of certain perpetual trusts.[1]

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[1] The trusts at issue are: (1) The Trust under Will of Sarah S. Brown dated June 21, 1911 (Relevant Beneficiary: RWH); (2) The Trust under Will of C. Prescott Knight dated November 14, 1932 (Relevant Beneficiary: RWH); (3) The Trust under Will of George Luther Flint dated June 25, 1935 (Relevant Beneficiary: RWH); (4) The Miriam C. Horton Trust dated August 9, 1948, as amended in its entirety and restated on June 12, 1963 and modified by a Memorandum of Understanding dated June 24, 2004 between Fleet National Bank (now BOA), RWH and Brown University (Relevant Beneficiaries: RWH is a specified discretionary beneficiary under Article FIFTH C of the trust. Discretionary distributions under Article FIFTH D are determined on an annual basis based on input of an advisory committee. Historically RWH has also received distributions pursuant to Article FIFTH D.); (5) The Trust under Will of Albert K. Steinert dated July 11, 1927 (Relevant Beneficiaries: RWH and SJHSRI); (6) The Trusts under the Will of George E. Boyden dated April 12, 1932, as amended by codicils dated February 10, 1933 and June 13, 1934 (Relevant Beneficiary: RWH upon death of great-granddaughter Barbara S. Boyden), and under the Will of Lydia M. Boyden, dated September 25, 1930, as amended by codicil dated June 13, 1934 (Relevant Beneficiary: RWH upon death of great-granddaughter Barbara S. Boyden); (7) Herbert G. Townsend Trust dated January 2, 1929, as restated on June 14, 1949, as amended on October 6, 1955, and as modified by agreement dated November 18, 1971 (Relevant Beneficiary: SJHSRI). See Petition ¶¶ 27-30.

BANK OF AMERICA, N.A., in its capacity as trustee,

By its Attorneys,

/s/ James J. Nagelberg
/s/ Paul A. Silver
James J. Nagelberg (#8210)
Paul A. Silver (#1629)
Hinckley, Allen & Snyder LLP
50 Kennedy Plaza, Suite 1500
Providence, Rhode Island 02903
Telephone: (401) 274-2000
Facsimile: (401) 277-9600
jnagelberg@hinckleyallen.com
psilver@hinckleyallen.com

Dated: February 6, 2015

CERTIFICATE OF SERVICE

I hereby certify that, on the 6th day of February, 2015, I filed and served this document through the electronic filing system on the following counsel of record:

Patricia K. Rocha, Esq.
Joseph Avanzato, Esq.
Leslie D. Parker, Esq.
Adler Pollock & Sheehan P.C.
One Citizens Plaza, 8th Floor
Providence, RI 02903

Genevieve Martin, Esq.
Chrisanne Wyrzykowski, Esq.
Office of the Rhode Island Attorney General
150 South Main Street
Providence, RI 02903

The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ James J. Nagelberg

Exhibit 6

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

In re: CHARTERCARE HEALTH PARTNERS FOUNDATION, ROGER WILLIAMS HOSPITAL and ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND	:	C.A. No. KM – 2015-0035

ORDER ON PETITION FOR APPROVAL OF DISPOSITION OF CHARITABLE ASSETS

This matter came before the Court on April 6, 2015 on CharterCARE Health Partners Foundation ("CCHP Foundation"), Roger Williams Hospital ("RWH") and St. Joseph Health Services of Rhode Island's ("SJHSRI") Petition for Approval of Disposition of Charitable Assets Including Application Of The Doctrine Of *Cy Pres* (the "Petition"), and after review of the Petition, and Responses by the Attorney General for the State of Rhode Island (the "Attorney General"), and Trustee Bank of America, N.A. (the "Trustee"), as well as argument by counsel for the Petitioners, the Attorney General, and the Trustee, it is hereby ORDERED:

The Petition is granted as set forth herein, referencing fund amounts as of July 31, 2014:

1. As set forth in paragraph 20 of the Petition, *cy pres* approval is granted for CCHP Foundation to use the funds in the amount of $17,465.79, at the discretion of CCHP Foundation's Board of Directors, to serve the Foundation mission.

2. As set forth in paragraphs 21, 22 and 23 of the Petition, *cy pres* approval is granted for the transfer of the following RWH funds to CCHP Foundation, to be used as close to the original donors' intent as possible, at the discretion of CCHP Foundation's Board of Directors, to serve the Foundation mission:

- Temporarily restricted funds in the amount of $284,710.34

- Permanently restricted funds in the amount of $4,209,522.00

- Temporarily restricted earnings in the amount of $2,242,366.00 reflecting unrestricted accumulated earnings from RWH permanently restricted assets.

3. As set forth in paragraph 24 of the Petition, approval is granted for RWH to use the following funds:

- $12,288,848.00 reflecting unrestricted accumulated earnings from RWH permanently restricted assets to satisfy the Outstanding Pre and Post Closing Liabilities as and when due.

4. As set forth in paragraph 25 of the Petition, *cy pres* approval is granted for RWH to use the following funds:

- Continuing medical education funds in the amount of $26,310.29 to support continuing medical education for the medical staff at RWMC over and above the routine budgeted cost of necessary continuing medical education at RWMC to the extent that RWH is satisfied that such expenditure provides a community benefit.

- Dedicated funds in the aggregate amount of $300,349.75 as more fully identified in paragraph 25B of the Petition to enhance surgical oncology physician and fellow training and education over and above the routine budgeted costs of necessary academic and research programs at RWMC to the extent that RWH is satisfied that such expenditures provide a community benefit.

5. As set forth in paragraph 26 of the Petition, *cy pres* approval is granted for the transfer of the following SJHSRI funds to CCHP Foundation, to be used as close to the original donors' intent as possible, at the discretion of CCHP Foundation's Board of Directors, to serve the Foundation mission:

- $258,961.61 in restricted cash

- $196,496.00 in endowment investment earnings (temporarily restricted scholarship funds in the amount of $76,254.00 and temporarily restricted endowment interest in the amount of $120,241.00)

- $1,200,765.00 in permanently restricted scholarships and endowments ($1,066,281.00 in endowments and $134,484.00 in scholarships)

6. As set forth in paragraph 28 of the Petition, (a) approval is granted for RWH to use the annual income or principal distributions from the perpetual trusts identified therein to satisfy the Outstanding Pre and Post Closing Liabilities on its behalf, and (b) *cy pres* approval is granted for RWH and/or the Trustee (or any successor Trustee) to transfer such annual income or principal distributions to SJHSRI after such RWH liabilities have been satisfied and to transfer such annual income or principal distributions to CCHP Foundation after the Outstanding Pre and Post Closing Liabilities of SJHSRI have been satisfied.

7. As set forth in paragraph 29 of the Petition, approval is granted for RWH to use the trust funds that it will receive, if any, upon the death of Barbara S. Boyden to pay the Outstanding Pre and Post Closing Liabilities. To the extent such obligations have been paid prior to receipt of the trust funds or are fully paid thereafter, *cy pres* approval is granted for RWH and/or the Trustee (or any successor Trustee) to transfer the trust funds to SJSHRI to satisfy the Outstanding Pre and Post Closing Liabilities on its behalf.

8. As set forth in paragraphs 28 through 30 of the Petition, (a) approval is granted for SJHSRI to use the annual income or principal distributions from the perpetual trusts identified therein to satisfy the Outstanding Pre and Post Closing Liabilities on its behalf, and (b) *cy pres* approval is granted for SJHSRI and/or the Trustee (or any successor Trustee) to transfer such annual income or principal distributions to CCHP Foundation after such liabilities have been satisfied.

9. As set forth in paragraph 31 of the Petition, *cy pres* approval is granted to transfer any unknown charitable gifts and future charitable gifts that may become known at a later date on behalf of RWH and SJHSRI to CCHP Foundation, to be used as close to the donors' intent as

possible, at the discretion of CCHP Foundation's Board of Directors, to serve the Foundation mission.

10. At least sixty (60) days prior to the completion of the wind-down period for RWH and SJHSRI, respectively, RWH and SJHSRI shall give written notice to the Trustee of such status.

11. CCHP Foundation shall comply with the following reporting requirements:

1. CCHP Foundation shall submit a report to the Health Care Advocate at the Rhode Island Department of Attorney General of the expenditures of the funds transferred to the CCHP Foundation (the "Report").
2. The Report shall include the amount of funds expended, the purpose of the expenditure, the beneficiary of the funds, and the name and contact information for such beneficiary.
3. The Report shall be submitted annually, with a copy of CCHP Foundation's IRS Form 990 ("990"), five business days after the date the 990 is filed with the IRS, commencing with the 990 filing for the fiscal year ending September 30, 2015. A report shall also be submitted if an expenditure of over $200,000 occurs more than ninety (90) days after the reporting date, or more than ninety (90) days prior to the reporting date, whichever occurs first.
4. If, at any time, CCHP Foundation decides to relinquish custody and control and transfer the funds to another charitable institution for administration of such funds, regardless of the amount, notice of said transfer shall be provided to the Health Care Advocate at the Rhode Island Department of Attorney General, at least thirty (30) days prior to the transfer. Notice shall precede the

transfer and contain the amount of funds transferred and the name of the institution receiving the funds, and the contact information for the person(s) managing the funds.

5. If and when any assets of the charitable trusts are transferred to CCHP Foundation, it shall provide to the Trustee (or any successor Trustee) copies of all reports and notices under this paragraph when submitted to the Health Care Advocate at the Rhode Island Department of Attorney General.

ENTER:

/s/ Brian P. Stern
Stern, J. 4/20/15

PER ORDER:

/s/ Carin Miley
Clerk (Deputy)

Presented by:

CharterCARE Health Partners Foundation
Roger Williams Hospital
St. Joseph Health Services of Rhode Island

By their attorneys,

/s/ Patricia K. Rocha
PATRICIA K. ROCHA (#2793)
JOSEPH AVANZATO (#4774)
LESLIE D. PARKER (#8348)
ADLER POLLOCK & SHEEHAN P.C.
One Citizens Plaza, 8th Floor
Providence, RI 02903
Tel: 401-274-7200
Fax: 401-351-4607
procha@apslaw.com
Dated: April 6, 2015

CERTIFICATE OF SERVICE

I hereby certify that, on April 6, 2015

☒ I electronically filed and served this document through the electronic filing system on the following parties:

Genevieve Martin, Esq.
Kathryn D. Enright, Esq.
Chrisianne Wyrzykowski, Esq.
Office of the Rhode Island Attorney General
150 South Main Street
Providence, RI 02903

Paul A. Silver, Esq.
James Nagelberg, Esq.
Hinckley, Allen & Snyder LLP
50 Kennedy Plaza, #1500
Providence, RI 02903

And emailed a copy to the above listed counsel.

The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

☐ I served this document through the electronic filing system on the following parties:

The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

☐ I mailed or hand-delivered this document to the attorney for the opposing party and/or the opposing party if self-represented, whose name and address are:

/s/ Patricia K. Rocha

Exhibit 7

STATE OF RHODE ISLAND SUPERIOR COURT
PROVIDENCE, SC.

In re: CHARTERCARE HEALTH PARTNERS FOUNDATION, ROGER WILLIAMS HOSPITAL and ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND	:	C.A. No. KM-2015-0035

ENTRY OF APPEARANCE

Amanda A. Garganese of Hinckley, Allen & Snyder LLP hereby enters her appearance for Interested Party Bank of America, N.A., in its capacity as trustee of certain perpetual trusts, in the above-reference matter.

Interested Party BANK OF AMERICA, N.A.

By its Attorneys,

/s/ Amanda A. Garganese

Amanda A. Garganese (#9656)
Hinckley Allen & Snyder LLP
100 Westminster Street, Suite 1500
Providence, RI 02903-2319
T: (401) 274-2000
F: (401) 277-9600
agarganese@hinckleyallen.com

Dated: November 7, 2019

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2019, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's Electronic Filing System.

/s/ Amanda A. Garganese

59253040 (70467.162876)

Exhibit 8

HEARING DATE: November 21, 2019 at 2:00 p.m.

STATE OF RHODE ISLAND **SUPERIOR COURT**
KENT, SC.

In re: CHARTERCARE HEALTH PARTNERS	**:**	
FOUNDATION, ROGER WILLIAMS	**:**	**C.A. KM-2015-0035**
HOSPITAL and ST. JOSEPH HEALTH	**:**	
SERVICES OF RHODE ISLAND	**:**	

RESPONSE OF THE RHODE ISLAND ATTORNEY GENERAL TO THE JOINT PETITION TO MODIFY APRIL 20, 2015 CY PRES ORDER, VACATE JUNE 29, 2018 ORDER CONCERNING PRESERVATION OF CCF ASSETS, AND FOR ENTRY OF FINAL JUDGMENT

Now comes Attorney General Peter F. Neronha ("Attorney General") and hereby responds to the Joint Petition to Modify April 20, 2015 *Cy Pres* Order, Vacate June 29, 2018 Order Concerning Preservation of CCF Assets, and for Entry of Final Judgment (the "Petition") filed by CharterCARE Health Partners Foundation n/k/a CharterCARE Foundation ("CCF"), Roger Williams Hospital ("RWH"), and St. Joseph Health Services of Rhode Island ("SJHSRI") (collectively the "Petitioners"), together with Respondents/Third Party Petitioners, Stephen Del Sesto, as Receiver (the "Receiver") and Administrator of the St. Joseph Health Services of Rhode Island Retirement Plan (the "Plan"), Gail J. Major, Nancy Zompa, Ralph Bryden, Dorothy Willner, Caroll Short, Donna Boutelle, and Eugenia Levesque (collectively hereinafter "Counter Petitioners") and Third Party Respondent Rhode Island Community Foundation d/b/a Rhode Island Foundation ("RIF"). This Response will address the request to approve a transfer of $3,900,000 (or up to $4,500,000) of CCF's funds to the Receiver to be used (after payment of Counter Petitioners' counsel fees and expenses) for the benefit of the Plan pursuant to the Proposed

Settlement Agreement dated November 21, 2018 ("PSA" or "Settlement B"), affirm the continued validity and enforceability of the 2015 *Cy Pres* Order, and enter Final Judgment.

I. Attorney General's Role

The Attorney General files this Response pursuant to his statutory and common law authority to protect charitable assets and charitable trusts within the state. The Attorney General is charged with representing "the interests of beneficiaries and the public under charitable trusts and bequests for charitable uses." See Israel v. National Bd. Of Young Men's Christian Ass'n, 369 A.2d 646, 649 (R.I. 1977) (citing Powers v. Home for Aged Women, 179 A. 610, 612 (R.I. 1935)).

II. Background

The Attorney General understands that this Honorable Court is well versed in the facts of this matter, so will be brief. On June 20, 2014, a closing on the transaction that was approved by the Attorney General and the Department of Health[1] occurred in which certain assets of CharterCARE Community Board, formerly known as CharterCARE Health Partners ("CCCB"), RWH, and SJHSRI were transferred to the newly formed for-profit joint venture between CCCB and Prospect Medical Holdings, Inc. ("PMH") known as Prospect CharterCARE, LLC, and its affiliates (the "Joint Venture").

As part of the close of the transaction and in accordance with the Attorney General's HCA Decision, a Petition of Approval of Disposition of Charitable Assets Including Application of Doctrine of Cy Pres ("2015 *Cy Pres* Petition") was filed requesting that certain assets be

[1] The transaction was approved by a Decision of the Attorney General on May 16, 2014 ("Attorney General's Decision" or "HCA Decision") and by the Department of Health on May 19, 2014. The approvals followed extensive reviews performed pursuant to the Hospital Conversions Act, R.I. Gen Laws §§ 23-17.14-1, et seq. ("HCA").

transferred to CCF to be used in accordance with donor intent and the mission of CCF, and that other charitable assets remain with RWH and SJHSRI to satisfy various pre and post-closing liabilities, including SJHSRI's pension liability. On April 20, 2015, this Court entered an Order granting the 2015 *Cy Pres* Petition, approving the transfer of certain assets to CCF, allowing other assets to remain with RWH and SJHSRI, and imposing reporting requirements on CCF to report to the Attorney General for the funds at issue.

Thereafter, in August 2017, SJHSRI filed a petition seeking appointment of a receiver to administer the Plan, which was granted. As a result of an investigation by the Receiver's Special Counsel, a Federal Court Complaint was filed against CCF (and many other defendants). See Stephen Del Sesto, as Receiver and Administrator of the St. Joseph Health Services of Rhode Island Retirement Plan v. Prospect CharterCARE, LLC et al., No. 1:18-cv-00328. In addition to other claims, the Receiver asserts that, as creditors of a dissolving non-profit, the Plan's claims were priority to any transfer of charitable assets pursuant to the doctrine of *cy pres*. Thereafter, the Parties entered into Settlement B, under which CCF agrees to pay the Receiver a total of $4,500,000 for the benefit of the Plan. Pursuant to the terms of Settlement B, $3,900,000 will come from CCF's funds and $600,000 from CCF's insurance policy.[2]

III. CCF's Transfer of $3,900,000 in Charitable Assets to the Plan

As more fully explained below, the Attorney General does not object to the transfer of $3,900,000 of CCF's assets pursuant to the terms of Settlement B.

[2] The Attorney General's response assumes that the amount paid from CCF's charitable assets is limited to $3,900,000 because CCF's counsel has represented that absent extenuating circumstances, CCF's insurance will make the $600,000 payment. The Attorney General reserves the right to respond to the transfer of the additional $600,000 should CCF's insurance company not make the payment as expected.

Unquestionably, it would be the Attorney General's preference that the entirety of CCF's charitable assets stay with CCF to be used to accordance with the charitable mission. In fact, under different circumstances, the Attorney General may have insisted on such an outcome. However, this Office appreciates the unique circumstances presented here – the complexity of the case, novelty of legal issues, and the inherent uncertainty that comes with litigation.

The Attorney General previously commented on the transfer of CCF's charitable assets to the Plan during this Honorable Court's review of Settlement A in the Receivership Proceeding. See Resp. of the Rhode Island Attorney General to the Receiver's Pet. for Instructions, C.A. No. PC-2017-3856, at 10. (Sept. 27, 2018). Specifically, the Attorney General requested that any transfer of charitable assets be limited to those that were identified as "General Use" in the 2015 *Cy Pres* Petition, which was represented as approximately $3,714,310. Id.[3]

According to the Petition, CCF has experienced net appreciation of approximately 10.6% since 2015.[4] See ¶ 18. Given this rate of appreciation since 2105, $3,900,000 roughly correspond to the $3,714,310 figure attributed to "General Use" fund is in the 2015 *Cy Pres* Petition. Id. The

[3] As was noted in the Statement of CharterCARE Foundation Regarding Paragraph 18 of October 15, 2019 Joint Petition filed on Nov. 8, 2019, the 2015 *Cy Pres* Petition cited to Exhibit G for a breakdown of the "General Use" assets, however, the general use funds identified on the chart amount to only $1,082,090. This discrepancy was only recently uncovered. CCF asserts the "discrepancy is not significant with respect to the Court's action on the Joint Petition, inasmuch as the Settling Parties would have made the same settlement." Id. at 2. Likewise, the Receiver asserts that the discrepancy is "immaterial to the Court's action on the Joint Petition." See Statement of Resp'ts and Third Party Pet'rs Regarding Paragraph 18 of October 15, 2019 Joint Pet., at 1. (November 18, 2019).

[4] Even assuming CCF hadn't experienced this level of net appreciation, the Attorney General has identified, at a minimum, approximately $254,653 that was transferred from SJHSRI to CCF pursuant to the 2015 *Cy Pres* Order that could also be designated as funds for general use. See Hammond Trust, identified in Exhibit H of the 2015 *Cy Pres* Petition.

Attorney General requests that the Order make clear that transfer of $3,900,000 to the Plan be from those funds designated as "General Use."[5]

This position is consistent with the Attorney General's position on general purpose assets in the Joint Venture and 2015 *Cy Pres* Petition. At that time, the Attorney General permitted pre and post-closing liabilities be paid with income from certain charitable assets of RWH and SJHSRI, because the funds being used were income funds that are not restricted and therefore were usable for the general purposes of the operations of the hospitals. See Attorney General's Resp. to the Pet. of for Disposition of Charitable Assets Including Application of Doctrine of *Cy Pres*, at 3. (April 1, 2015) (citing pp 24-28 of the HCA Decision).[6]

IV. Conclusion

The Attorney General has reviewed the Petition and the affected charitable assets. The Attorney General does not object to the transfer of $3,900,000 of CCF assets to the Plan, but requests that:

(1) An order granting the Petition direct the transferred funds come from those designated as "General Use."

(2) The order incorporates all other aspects of the 2015 *Cy Pres* Order, including the reporting requirements of CCF to the Attorney General.

[5] Upon information and belief, CCF commingles the funds for management purposes. While this practice is allowable under UPMIFA, the funds should be considered individually for other purposes of the Act, such as spending requirements. See R.I. Gen. Laws § 18-12.1-3(d); see also Unif. Prudent Mgmt. of Institutional Funds Act § 3(d) Comments (2006). It has been represented to the Office that CCF has not been able to specifically identify which money belongs to which funds. This causes concerns. However, this does not change the Attorney General's position on the transfer of the $3,900,000 to the Fund, and for purposes of expediting Settlement B, the Attorney General will reserve any action on this.

[6] The Attorney General also notes that CCF has represented that notification has been sent to all donor that could be reasonably identified, as well as Band of America, who held the RWH funds prior to the 2015 transfer, and has received no objections.

Respectfully submitted,

STATE OF RHODE ISLAND

BY:

PETER F. NERONHA
ATTORNEY GENERAL

/s/ Jessica D. Rider

Jessica D. Rider #8801
Special Assistant Attorney General
150 South Main Street
Providence, RI 02903
Tel: (401) 274-4400 Ext. 2314
Fax: (401) 222-2995
Email: jrider@riag.ri.gov

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 20th day of November, I electronically filed and served this document through the electronic filing system to all on record. The document electronically filed is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Karen M. Ragosta

Exhibit 9

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

In re: CHARTERCARE HEALTH PARTNERS FOUNDATION; ROGER WILLIAMS HOSPITAL; and ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND, INC., Petitioners	:	C.A. NO: KM-2015-0035
v.	:	
STEPHEN DEL SESTO, AS RECEIVER AND ADMINISTRATOR OF THE ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND RETIREMENT PLAN; GAIL J. MAJOR; NANCY ZOMPA; RALPH BRYDEN; DOROTHY WILLNER; CAROLL SHORT; DONNA BOUTELLE; and EUGENIA LEVESQUE, Respondents and Third Party Petitioners	:	
v.	:	
RHODE ISLAND COMMUNITY FOUNDATION, d/b/a RHODE ISLAND FOUNDATION, Third Party Respondent	:	

FINAL JUDGMENT

This action came on before the Court, Stern, Justice, presiding, and for the reasons explained in this Court's bench decision on April 6, 2015, the Court's *Order on Petition for Approval of Deposition of Charitable Assets* dated April 20, 2015 (hereinafter the "2015 *Cy Pres* Order"), and the Court's November 21, 2019 hearing on the parties' *Joint Petition to Modify April 20, 2015 Cy Pres Order, Vacate June 29, 2018 Order Concerning Preservation of CCF Assets, and for Entry of Final Judgment*, it is hereby:

ORDERED, ADJUDGED, and DECREED

1. CharterCARE Foundation ("CCF") shall, within the time frames set forth in the parties' Settlement Agreement dated November 21, 2018, cause the sum of THREE MILLION NINE HUNDRED THOUSAND DOLLARS ($3,900,000.00) to be transferred to Stephen Del Sesto, as Receiver and Administrator of the St. Joseph Health Services of Rhode Island Retirement Plan (the "Plan"), from the funds originally transferred to CCF by virtue of the 2015 *Cy Pres* Order (or up to $4,500,000 if RSUI breaches its side agreement with CCF concerning the aforementioned Settlement Agreement), with such funds to be used by the Receiver (after payment of Counter Petitioners' counsel fees and expenses) for the benefit of the Plan;
2. Excepting the funds to be transferred to the Receiver as described above, all other terms of the Court's 2015 *Cy Pres* Order are hereby affirmed and shall continue to be in full force and effect; and
3. Each party to this action shall bear its own fees, costs, and expenses.

For the avoidance of doubt, the foregoing is intended as a final judgment from which an appeal lies pursuant to R.I. Super. R. Civ. P. 58(a) and/or 54(b).

ORDERED:

Brian P. Stern
Associate Justice

Stern, J.
Dated: December 3, 2019

ENTERED:

/s/ Carin Miley
Dep. Clerk **Deputy Clerk I**
Dated: December 3, 2019

Presented by:

/s/ Andrew R. Dennington
Russell F. Conn (*pro hac vice*)
Andrew R. Dennington (#7528)
Christopher K. Sweeney (#9689)
CONN KAVANAUGH ROSENTHAL
PEISCH & FORD, LLP
One Federal Street, 15th Floor
Boston, MA 02110
617-482-8200
rconn@connkavanaugh.com
adennington@connkavanaugh.com
csweeney@connkavanaugh.com

with

/s/ Scott F. Bielecki
Scott F. Bielecki, Esq. (#6171)
CAMERON & MITTLEMAN, LLP
301 Promenade Street
Providence, RI 02908
Phone: (401) 331-5700
Fax: (401) 331-5787
sbielecki@cm-law.com

Dated: November 25, 2019

CERTIFICATE OF SERVICE

I hereby certify that on November 25, 2019, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's Electronic Filing System.

/s/ Andrew R. Dennington

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Exhibit 10

RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
235 Promenade Street, Providence, RI 02908-5767 TDD 401-222-4462

LETTER OF RESPONSIBILITY

CERTIFIED MAIL 91 7108 2133 3936 0743 2231

December 20, 2017

Demetra Ouellette, President
Roger Williams Hospital
825 Chalkstone Avenue
Providence, RI 02908

RE: The Truk-Away Landfill
Plat 326, Lots 22, 23, 28, 73 and Plat 342, Lots 2, 3, 5, 429
Warwick Industrial Drive
Warwick, RI

Dear Ms. Ouellette:

On November 9, 2011, the Rhode Island Department of Environmental Management (the Department/RIDEM) enacted the amended Rules and Regulations for the Investigation and Remediation of Hazardous Materials Releases (the Remediation Regulations). The purpose of these regulations is to create an integrated program requiring reporting, investigation and remediation of contaminated sites in order to eliminate and/or control threats to human health and the environment in a timely and cost-effective manner. A Letter of Responsibility (LOR) is a preliminary document used by the Department to codify and define the relationship between the Department and a Responsible Party under the Remediation Regulations.

Please be advised of the following facts:

1. The Department is in receipt of the following documents concerning property identified as the Truk-Away Landfill Site, in Warwick, Rhode Island, further designated as Plat 326, Lots 22, 23,28, 73 and Plat 342, Lots 2, 3, 5, 429, of the City of Warwick's Tax Assessor's plat maps (the Site):

    - **ARCS I Final Site Inspection Prioritization, Truk-Away Landfill, Warwick, Rhode Island** dated December 18, 1993, prepared by CDM Federal Programs Corporation for the U.S. Environmental Protection Agency Office of Waste Programs Enforcement;

    - **RIDEM Inter-Office Memo, Re: Mercury contamination at the former Truck-Away Landfill, end of Industrial Lane, Warwick, R.I.** dated May 7, 1999;

    - **Limited Environmental Site Investigation Report, Former Truk-Away Landfill Site, T.F. Green Airport, Warwick, Rhode Island** dated March 2001, prepared by Camp Dresser & McKee Inc. for the Rhode Island Airport Corporation (RIAC);

    - **Groundwater Sampling Report,** dated February 17, 2005 prepared by Lincoln Environmental, Inc. for the Rhode Island Department of Administration;

- **Site Investigation Report, Former Truk-Away Landfill, Warwick Industrial Drive, Warwick, Rhode Island** dated September 2008 prepared by EA Engineering, Science, and Technology, Inc. for the Rhode Island Department of Administration;

2. The abovementioned Site investigation reports identify elevated concentrations of hazardous materials in the form of volatile organic compounds (VOCs), semi volatile organic compounds (SVOCs), polycyclic aromatic compounds (PAHs), polychlorinated biphenyls (PCBs), and metals detected in samples collected from the site. Groundwater samples contain levels of the VOCs - Ethylbenzene, Toluene and 1,1,1 Trichloroethane in excess of the RIDEM GB-Groundwater Objective. The metals mercury and lead were found on-site in exceedence of the RIDEM Industrial/Commercial Exposure Criteria (I/C DEC). The presence of separate phase petroleum was found on-site in exceedence of the upper concentration limits.

3. Based upon the information provided and the presence and nature of the **petroleum (TPH) hazardous materials (Volatile Organic Compounds (VOC's), and Polychlorinated Biphenyls (PCBs)** in the groundwater, and **metals** found on-site, the Department concurs that a **release** of a **hazardous substance** and **petroleum** has occurred as defined by Rules 3.34, 3.59 and 3.63 of the Remediation Regulations.

4. The Department has received the signed Declaration of Frank A. Petrarca, dated: May 16, 2016. Mr. Petrarca stated that as a former employee of Truk-Away of RI, Inc., he worked as a roll-off truck driver and heavy equipment driver at the Truk-Away Landfill on Industrial Drive in Warwick, Rhode Island. Item number 13 of this Declaration states: "While working for Truk-Away, I picked up waste from Roger Williams Hospital in Providence, Rhode Island. Truk-Away had a 42-yard breakaway compactor at this facility. I would pick up waste from this hospital about once per week and dispose of it at the Site during the entire time the Site was open."

As a result of the information known and conditions observed at the site, the Department has determined that you are a Responsible Party as defined by Rule 3.70 of the Remediation Regulations and as such is requiring that you comply with the following:

A. Prior to any additional site investigation or remedial actions at the property, conduct public notice in accordance with Section 7.07A (i) of the Remediation Regulations notifying all property abutters, tenants, and the City of Warwick and any utilities with easements that a Release of petroleum and hazardous materials has occurred at the property and submit copies of all notifications to this Office.

B. In accordance with Section 7.0 (Site Investigation) of the Remediation Regulations, a full Site Investigation and a complete Site Investigation Report (SIR) must be prepared and submitted to the Office of Customer & Technical Assistance (OCTA). On or before **June 1, 2018,** a Site Investigation Work Plan that includes a proposed schedule of work must be submitted to the OCTA. The above referenced Site Investigation Reports listed above in Item 1 are not considered a complete Site Investigation Report. Given that certain environmental work has already been completed during previous investigations, you may wish to incorporate portions of the information gathered to address the requirements of Rule 7.0. The Department requests conclusive information regarding the following environmental issues and questions:

- Determine the source and extent of soil, groundwater and sediment contamination at the site, specifically with respect to potential impacts to nearby surface water bodies.

- Additional delineation of groundwater is necessary in the area of the PCB and TPH release at in the vicinity of MW-3. Said delineation must fully characterize this release and may be jurisdictional under the US EPA Toxic Substances Control Act (TSCA).

- The Department has on file evidence that a 15,000 gallon underground storage tank (UST) is located at the former scale house area of the Site. The Department does not have on file that the subject tank was ever formally registered or removed. An investigation must be performed to determine the location and potential environmental impacts from this UST.

- Additional investigation activities are required which include surface water and sediment sampling and the installation of additional perimeter groundwater monitoring wells.

    i. Submit the complete SIR in accordance with Rule 7.08, to include at least two remedial alternatives other than no action;

    ii. Be prepared to bring the Site into compliance with the Remediation Regulations.

C. Upon completion of the Site Investigation and issuance of a Department Program Letter, conduct public notice in accordance with Rule 7.07A (ii) of the Remediation Regulations.

D. Submit an SIR checklist (appendix I of the Remediation Regulations). The SIR checklist was created as a supplemental tool to expedite the reviewing and approval process by cross referencing specific sections and pages within the SIR that provide detailed information and addresses each stated requirement within Rule 7 of the Remediation Regulations.

E. After submission of a complete SIR and approval by the Department's Program Letter and Remedial Decision Letter (RDL), be prepared to submit a Remedial Action Work Plan (RAWP) within 60 days of the RDL, subject to Department review and approval. After Department approval of the RAWP, implement the remedy, if necessary, that will bring the Site into compliance with the Remediation Regulations.

F. Be advised that any remedial alternatives that propose to leave contaminated soils on-site at levels which exceed Department criteria, will at a minimum necessitate the recording of an institutional control in the form of an Environmental Land Usage Restriction (ELUR) on the deed for the Site, and will likely require implementation of additional engineered controls to restrict human exposure.

Please be advised that prior to the implementation of any field activities, all abutting property owners and tenants must be notified by the Responsible Party that further investigation and remediation is about to occur, in accordance with Rule 7.07 and 7.09 of the Remediation Regulations and the Industrial Properties Remediation and Reuse Act (Rhode Island General Law 23-19.14-5). The notice should briefly indicate the purpose of the investigation, the work to be performed and the approximate scheduled date(s) of planned activities. The Department will require a copy of the public notice letter and a list of all recipients, including but not limited to abutters, tenants, and the City of Warwick. Failure to comply with the aforementioned items may result in enforcement actions as specified in Rhode Island General Laws 23-19.1-17 and 23-19.1-18.

In order to comply with all of the above listed requirements, the Potentially Responsible Parties (PRPs) should coordinate one submittal to RIDEM on behalf of all of the PRPs. The Rhode Island Department of Administration shall be responsible for coordinating all joint communications and responses to the Department. In addition, these individuals shall coordinate the preparation of each technical document (e.g. SIR, RAWP, Progress Reports, Monitoring Reports, Closure Report, etc.) such that only one technical document is submitted on behalf of all of the Potentially Responsible Parties for Department review and approval.

In order further to inform the PRPs regarding the status of the site and to facilitate the PRPs initiation of a Site Investigation, the Department will host a meeting of all PRPs at its offices in Room 300 at 9:30 am on Friday, February 2, 2018.

Please notify this Office within seven (7) days of the receipt of this letter of your plans to comply with the terms of this letter and attend the meeting when these items will be discussed. All correspondence should be sent to the attention of:

Christopher Walusiak, P.E., Principal Civil Engineer
RIDEM Office of Customer & Technical Assistance
235 Promenade Street, Providence, RI 02908-5767
(401) 222-4700, ext.7135; chris.walusiak@dem.ri.gov

If you have any questions regarding this letter or would like the opportunity to meet with us, please feel free to contact Chris Walusiak. Legal questions may be directed to Mary Kay, Esq., Chief, RIDEM - Office of Legal Services, at (401) 222-6607 ext. 2304.

Sincerely,

Ronald N. Gagnon, P.E.
Chief
Office of Customer & Technical Assistance
RI Department of Environmental Management

Cc: Mary Kay, Esq., RIDEM/OLS
Susan Forcier, Esq., RIDEM/OLS
Christopher Walusiak, P.E., RIDEM/OCTA

Exhibit 11

RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
235 Promenade Street, Providence, RI 02908-5767 TDD 401-222-4462

LETTER OF RESPONSIBILITY

CERTIFIED MAIL 91 7108 2133 3936 0743 2248

December 20, 2017

David Hirsch, President
St. Joseph Health Services of Rhode Island
C/O One Park Row, Suite 300
Providence, RI 02903

RE: The Truk-Away Landfill
Plat 326, Lots 22, 23, 28, 73 and Plat 342, Lots 2, 3, 5, 429
Warwick Industrial Drive
Warwick, RI

Dear Mr. Hirsch:

On November 9, 2011, the Rhode Island Department of Environmental Management (the Department/RIDEM) enacted the amended Rules and Regulations for the Investigation and Remediation of Hazardous Materials Releases (the Remediation Regulations). The purpose of these regulations is to create an integrated program requiring reporting, investigation and remediation of contaminated sites in order to eliminate and/or control threats to human health and the environment in a timely and cost-effective manner. A Letter of Responsibility (LOR) is a preliminary document used by the Department to codify and define the relationship between the Department and a Responsible Party under the Remediation Regulations.

Please be advised of the following facts:

1. The Department is in receipt of the following documents concerning property identified as the Truk-Away Landfill Site, in Warwick, Rhode Island, further designated as Plat 326, Lots 22, 23,28, 73 and Plat 342, Lots 2, 3, 5, 429, of the City of Warwick's Tax Assessor's plat maps (the Site):

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   - **Limited Environmental Site Investigation Report, Former Truk-Away Landfill Site, T.F. Green Airport, Warwick, Rhode Island** dated March 2001, prepared by Camp Dresser & McKee Inc. for the Rhode Island Airport Corporation (RIAC);

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2. The abovementioned Site investigation reports identify elevated concentrations of hazardous materials in the form of volatile organic compounds (VOCs), semi volatile organic compounds (SVOCs), polycyclic aromatic compounds (PAHs), polychlorinated biphenyls (PCBs), and metals detected in samples collected from the site. Groundwater samples contain levels of the VOCs - Ethylbenzene, Toluene and 1,1,1 Trichloroethane in excess of the RIDEM GB-Groundwater Objective. The metals mercury and lead were found on-site in exceedence of the RIDEM Industrial/Commercial Exposure Criteria (I/C DEC). The presence of separate phase petroleum was found on-site in exceedence of the upper concentration limits.

3. Based upon the information provided and the presence and nature of the **petroleum (TPH) hazardous materials (Volatile Organic Compounds (VOC's), and Polychlorinated Biphenyls (PCBs)** in the groundwater, and **metals** found on-site, the Department concurs that a **release** of a **hazardous substance** and **petroleum** has occurred as defined by Rules 3.34, 3.59 and 3.63 of the Remediation Regulations.

4. The Department has received the signed Declaration of Frank A. Petrarca, dated: May 16, 2016. Mr. Petrarca stated that as a former employee of Truk-Away of RI, Inc., he worked as a roll-off truck driver and heavy equipment driver at the Truk-Away Landfill on Industrial Drive in Warwick, Rhode Island. Item number 12 of this Declaration states: "While working for Truk-Away, I picked up waste from St. Joe's Hospital in Providence, Rhode Island. Truk-Away had a 42-yard breakaway compactor at this facility. I would pick up waste from this hospital about once per week and dispose of it at the Site during the entire time the Site was open."

As a result of the information known and conditions observed at the site, the Department has determined that you are a Responsible Party as defined by Rule 3.70 of the Remediation Regulations and as such is requiring that you comply with the following:

A. Prior to any additional site investigation or remedial actions at the property, conduct public notice in accordance with Section 7.07A (i) of the Remediation Regulations notifying all property abutters, tenants, and the City of Warwick and any utilities with easements that a Release of petroleum and hazardous materials has occurred at the property and submit copies of all notifications to this Office.

B. In accordance with Section 7.0 (Site Investigation) of the Remediation Regulations, a full Site Investigation and a complete Site Investigation Report (SIR) must be prepared and submitted to the Office of Customer & Technical Assistance (OCTA). On or before **June 1, 2018,** a Site Investigation Work Plan that includes a proposed schedule of work must be submitted to the OCTA. The above referenced Site Investigation Reports listed above in Item 1 are not considered a complete Site Investigation Report. Given that certain environmental work has already been completed during previous investigations, you may wish to incorporate portions of the information gathered to address the requirements of Rule 7.0. The Department requests conclusive information regarding the following environmental issues and questions:

- Determine the source and extent of soil, groundwater and sediment contamination at the site, specifically with respect to potential impacts to nearby surface water bodies.

- Additional delineation of groundwater is necessary in the area of the PCB and TPH release at in the vicinity of MW-3. Said delineation must fully characterize this release and may be jurisdictional under the US EPA Toxic Substances Control Act (TSCA).

- The Department has on file evidence that a 15,000 gallon underground storage tank (UST) is located at the former scale house area of the Site. The Department does not have on file that the subject tank was ever formally registered or removed. An investigation must be performed to determine the location and potential environmental impacts from this UST.

- Additional investigation activities are required which include surface water and sediment sampling and the installation of additional perimeter groundwater monitoring wells.

    i. Submit the complete SIR in accordance with Rule 7.08, to include at least two remedial alternatives other than no action;

    ii. Be prepared to bring the Site into compliance with the Remediation Regulations.

C. Upon completion of the Site Investigation and issuance of a Department Program Letter, conduct public notice in accordance with Rule 7.07A (ii) of the Remediation Regulations.

D. Submit an SIR checklist (appendix I of the Remediation Regulations). The SIR checklist was created as a supplemental tool to expedite the reviewing and approval process by cross referencing specific sections and pages within the SIR that provide detailed information and addresses each stated requirement within Rule 7 of the Remediation Regulations.

E. After submission of a complete SIR and approval by the Department's Program Letter and Remedial Decision Letter (RDL), be prepared to submit a Remedial Action Work Plan (RAWP) within 60 days of the RDL, subject to Department review and approval. After Department approval of the RAWP, implement the remedy, if necessary, that will bring the Site into compliance with the Remediation Regulations.

F. Be advised that any remedial alternatives that propose to leave contaminated soils on-site at levels which exceed Department criteria, will at a minimum necessitate the recording of an institutional control in the form of an Environmental Land Usage Restriction (ELUR) on the deed for the Site, and will likely require implementation of additional engineered controls to restrict human exposure.

Please be advised that prior to the implementation of any field activities, all abutting property owners and tenants must be notified by the Responsible Party that further investigation and remediation is about to occur, in accordance with Rule 7.07 and 7.09 of the Remediation Regulations and the Industrial Properties Remediation and Reuse Act (Rhode Island General Law 23-19.14-5). The notice should briefly indicate the purpose of the investigation, the work to be performed and the approximate scheduled date(s) of planned activities. The Department will require a copy of the public notice letter and a list of all recipients, including but not limited to abutters, tenants, and the City of Warwick. Failure to comply with the aforementioned items may result in enforcement actions as specified in Rhode Island General Laws 23-19.1-17 and 23-19.1-18.

In order to comply with all of the above listed requirements, the Potentially Responsible Parties (PRPs) should coordinate one submittal to RIDEM on behalf of all of the PRPs. The Rhode Island Department of Administration shall be responsible for coordinating all joint communications and responses to the Department. In addition, these individuals shall coordinate the preparation of each technical document (e.g. SIR, RAWP, Progress Reports, Monitoring Reports, Closure Report, etc.) such that only one technical document is submitted on behalf of all of the Potentially Responsible Parties for Department review and approval.

In order further to inform the PRPs regarding the status of the site and to facilitate the PRPs initiation of a Site Investigation, the Department will host a meeting of all PRPs at its offices in Room 300 at 9:30 am on Friday, February 2, 2018.

Please notify this Office within seven (7) days of the receipt of this letter of your plans to comply with the terms of this letter and attend the meeting when these items will be discussed. All correspondence should be sent to the attention of:

Christopher Walusiak, P.E., Principal Civil Engineer
RIDEM Office of Customer & Technical Assistance
235 Promenade Street, Providence, RI 02908-5767
(401) 222-4700, ext.7135; chris.walusiak@dem.ri.gov

If you have any questions regarding this letter or would like the opportunity to meet with us, please feel free to contact Chris Walusiak. Legal questions may be directed to Mary Kay, Esq., Chief, RIDEM - Office of Legal Services, at (401) 222-6607 ext. 2304.

Sincerely,

Ronald N. Gagnon, P.E.
Chief
Office of Customer & Technical Assistance
RI Department of Environmental Management

Cc: Mary Kay, Esq., RIDEM/OLS
Susan Forcier, Esq., RIDEM/OLS
Christopher Walusiak, P.E., RIDEM/OCTA

Exhibit 12

RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
235 Promenade Street, Providence, RI 02908-5767 TDD 401-222-4462

LETTER OF RESPONSIBILITY

CERTIFIED MAIL 91 7108 2133 3936 0743 2149

December 20, 2017

John J. Holiver, ACHE, CEO
CharterCARE Health Parteners
825 Chalkstone Avenue
Providence, RI 02908

RE: The Truk-Away Landfill
Plat 326, Lots 22, 23, 28, 73 and Plat 342, Lots 2, 3, 5, 429
Warwick Industrial Drive
Warwick, RI

Dear Mr. Holiver:

On November 9, 2011, the Rhode Island Department of Environmental Management (the Department/RIDEM) enacted the amended Rules and Regulations for the Investigation and Remediation of Hazardous Materials Releases (the Remediation Regulations). The purpose of these regulations is to create an integrated program requiring reporting, investigation and remediation of contaminated sites in order to eliminate and/or control threats to human health and the environment in a timely and cost-effective manner. A Letter of Responsibility (LOR) is a preliminary document used by the Department to codify and define the relationship between the Department and a Responsible Party under the Remediation Regulations.

Please be advised of the following facts:

1. The Department is in receipt of the following documents concerning property identified as the Truk-Away Landfill Site, in Warwick, Rhode Island, further designated as Plat 326, Lots 22, 23,28, 73 and Plat 342, Lots 2, 3, 5, 429, of the City of Warwick's Tax Assessor's plat maps (the Site):

   - **ARCS I Final Site Inspection Prioritization, Truk-Away Landfill, Warwick, Rhode Island** dated December 18, 1993, prepared by CDM Federal Programs Corporation for the U.S. Environmental Protection Agency Office of Waste Programs Enforcement;

   - **RIDEM Inter-Office Memo, Re: Mercury contamination at the former Truck-Away Landfill, end of Industrial Lane, Warwick, R.I.** dated May 7, 1999;

   - **Limited Environmental Site Investigation Report, Former Truk-Away Landfill Site, T.F. Green Airport, Warwick, Rhode Island** dated March 2001, prepared by Camp Dresser & McKee Inc. for the Rhode Island Airport Corporation (RIAC);

   - **Groundwater Sampling Report,** dated February 17, 2005 prepared by Lincoln Environmental, Inc. for the Rhode Island Department of Administration;

- **Site Investigation Report, Former Truk-Away Landfill, Warwick Industrial Drive, Warwick, Rhode Island** dated September 2008 prepared by EA Engineering, Science, and Technology, Inc. for the Rhode Island Department of Administration;

2. The abovementioned Site investigation reports identify elevated concentrations of hazardous materials in the form of volatile organic compounds (VOCs), semi volatile organic compounds (SVOCs), polycyclic aromatic compounds (PAHs), polychlorinated biphenyls (PCBs), and metals detected in samples collected from the site. Groundwater samples contain levels of the VOCs - Ethylbenzene, Toluene and 1,1,1 Trichloroethane in excess of the RIDEM GB-Groundwater Objective. The metals mercury and lead were found on-site in exceedence of the RIDEM Industrial/Commercial Exposure Criteria (I/C DEC). The presence of separate phase petroleum was found on-site in exceedence of the upper concentration limits.

3. Based upon the information provided and the presence and nature of the **petroleum (TPH) hazardous materials (Volatile Organic Compounds (VOC's), and Polychlorinated Biphenyls (PCBs)** in the groundwater, and **metals** found on-site, the Department concurs that a **release** of a **hazardous substance** and **petroleum** has occurred as defined by Rules 3.34, 3.59 and 3.63 of the Remediation Regulations.

4. The Department has received the signed Declaration of Frank A. Petrarca, dated: May 16, 2016. Mr. Petrarca stated that as a former employee of Truk-Away of RI, Inc., he worked as a roll-off truck driver and heavy equipment driver at the Truk-Away Landfill on Industrial Drive in Warwick, Rhode Island.

   Item number 12 of this Declaration states: "While working for Truk-Away, I picked up waste from St. Joe's Hospital in Providence, Rhode Island. Truk-Away had a 42-yard breakaway compactor at this facility. I would pick up waste from this hospital about once per week and dispose of it at the Site during the entire time the Site was open."

   Item number 13 of this Declaration states: "While working for Truk-Away, I picked up waste from Roger Williams Hospital in Providence, Rhode Island. Truk-Away had a 42-yard breakaway compactor at this facility. I would pick up waste from this hospital about once per week and dispose of it at the Site during the entire time the Site was open."

As a result of the information known and conditions observed at the site, the Department has determined that you are a Responsible Party as defined by Rule 3.70 of the Remediation Regulations and as such is requiring that you comply with the following:

A. Prior to any additional site investigation or remedial actions at the property, conduct public notice in accordance with Section 7.07A (i) of the Remediation Regulations notifying all property abutters, tenants, and the City of Warwick and any utilities with easements that a Release of petroleum and hazardous materials has occurred at the property and submit copies of all notifications to this Office.

B. In accordance with Section 7.0 (Site Investigation) of the Remediation Regulations, a full Site Investigation and a complete Site Investigation Report (SIR) must be prepared and submitted to the Office of Customer & Technical Assistance (OCTA). On or before **June 1, 2018,** a Site Investigation Work Plan that includes a proposed schedule of work must be submitted to the OCTA. The above referenced Site Investigation Reports listed above in Item 1 are not considered a complete Site Investigation Report. Given that certain environmental work has already been completed during previous investigations, you may wish to incorporate portions of the information gathered to address the requirements of Rule 7.0. The Department requests conclusive information regarding the following environmental issues and questions:

- Determine the source and extent of soil, groundwater and sediment contamination at the site, specifically with respect to potential impacts to nearby surface water bodies.

- Additional delineation of groundwater is necessary in the area of the PCB and TPH release at in the vicinity of MW-3. Said delineation must fully characterize this release and may be jurisdictional under the US EPA Toxic Substances Control Act (TSCA).

- The Department has on file evidence that a 15,000 gallon underground storage tank (UST) is located at the former scale house area of the Site. The Department does not have on file that the subject tank was ever formally registered or removed. An investigation must be performed to determine the location and potential environmental impacts from this UST.

- Additional investigation activities are required which include surface water and sediment sampling and the installation of additional perimeter groundwater monitoring wells.

    i. Submit the complete SIR in accordance with Rule 7.08, to include at least two remedial alternatives other than no action;

    ii. Be prepared to bring the Site into compliance with the Remediation Regulations.

C. Upon completion of the Site Investigation and issuance of a Department Program Letter, conduct public notice in accordance with Rule 7.07A (ii) of the Remediation Regulations.

D. Submit an SIR checklist (appendix I of the Remediation Regulations). The SIR checklist was created as a supplemental tool to expedite the reviewing and approval process by cross referencing specific sections and pages within the SIR that provide detailed information and addresses each stated requirement within Rule 7 of the Remediation Regulations.

E. After submission of a complete SIR and approval by the Department's Program Letter and Remedial Decision Letter (RDL), be prepared to submit a Remedial Action Work Plan (RAWP) within 60 days of the RDL, subject to Department review and approval. After Department approval of the RAWP, implement the remedy, if necessary, that will bring the Site into compliance with the Remediation Regulations.

F. Be advised that any remedial alternatives that propose to leave contaminated soils on-site at levels which exceed Department criteria, will at a minimum necessitate the recording of an institutional control in the form of an Environmental Land Usage Restriction (ELUR) on the deed for the Site, and will likely require implementation of additional engineered controls to restrict human exposure.

Please be advised that prior to the implementation of any field activities, all abutting property owners and tenants must be notified by the Responsible Party that further investigation and remediation is about to occur, in accordance with Rule 7.07 and 7.09 of the Remediation Regulations and the Industrial Properties Remediation and Reuse Act (Rhode Island General Law 23-19.14-5). The notice should briefly indicate the purpose of the investigation, the work to be performed and the approximate scheduled date(s) of planned activities. The Department will require a copy of the public notice letter and a list of all recipients, including but not limited to abutters, tenants, and the City of Warwick. Failure to comply with the aforementioned items may result in enforcement actions as specified in Rhode Island General Laws 23-19.1-17 and 23-19.1-18.

In order to comply with all of the above listed requirements, the Potentially Responsible Parties (PRPs) should coordinate one submittal to RIDEM on behalf of all of the PRPs. The Rhode Island Department of Administration shall be responsible for coordinating all joint communications and responses to the Department. In addition, these individuals shall coordinate the preparation of each technical document (e.g. SIR, RAWP, Progress Reports, Monitoring Reports, Closure Report, etc.) such that only one technical document is submitted on behalf of all of the Potentially Responsible Parties for Department review and approval.

In order further to inform the PRPs regarding the status of the site and to facilitate the PRPs initiation of a Site Investigation, the Department will host a meeting of all PRPs at its offices in Room 300 at 9:30 am on Friday, February 2, 2018.

Please notify this Office within seven (7) days of the receipt of this letter of your plans to comply with the terms of this letter and attend the meeting when these items will be discussed. All correspondence should be sent to the attention of:

Christopher Walusiak, P.E., Principal Civil Engineer
RIDEM Office of Customer & Technical Assistance
235 Promenade Street, Providence, RI 02908-5767
(401) 222-4700, ext.7135; chris.walusiak@dem.ri.gov

If you have any questions regarding this letter or would like the opportunity to meet with us, please feel free to contact Chris Walusiak. Legal questions may be directed to Mary Kay, Esq., Chief, RIDEM - Office of Legal Services, at (401) 222-6607 ext. 2304.

Sincerely,

Ronald N. Gagnon, P.E.
Chief
Office of Customer & Technical Assistance
RI Department of Environmental Management

Cc: Mary Kay, Esq., RIDEM/OLS
Susan Forcier, Esq., RIDEM/OLS
Christopher Walusiak, P.E., RIDEM/OCTA

Exhibit 13

DECLARATION OF FRANK A. PETRARCA

STATE OF RHODE ISLAND)
)ss.
COUNTY OF KENT)

Frank A. Petrarca, being of sound mind, states as follows:

1. I am an adult resident of the State of Rhode Island. I make this declaration upon personal knowledge.
2. I currently reside at 63 E. Greenwich Avenue, West Warwick, Rhode Island 02893.
3. I worked for Truk-Away of RI Inc. (Truk-Away) and its successor companies from 1973 until 2008.
4. From 1973 until 1979, I worked for Truk-Away as a roll-off truck driver and heavy equipment operator at its location on Industrial Drive in Warwick, Rhode Island.
5. I am familiar with the landfill operated by Truk-Away at Industrial Drive in Warwick, Rhode Island ("the Site"). I believe this landfill closed in 1975 or 1976.
6. While working for Truk-Away, I recall picking up waste from the Rhode Island Mall, located on Route 2 in Warwick, Rhode Island. Truk-Away had a 42-yard compactor at this location. I would pick up this waste a few times per week and dispose of it at the Site during the entire time the landfill was open.
7. While working for Truk-Away, I picked up waste from Leesona Corporation which was located up the street from the Site in Warwick, Rhode Island. Truk-Away had a 42-yard compactor at this location. I would pick up this waste once per week and dispose of it at the Site during the entire time the landfill was open.
8. While working for Truk-Away, I picked up waste from Stanley Bostich. This facility manufactured staplers and staples. Its waste included staplers and staples. Truk-Away had a 42-yard compactor at this facility. I would pick up waste from this facility once every week to two weeks and dispose of it at the Site during the entire time the landfill was open.
9. While working for Truk-Away, I picked up a black powder waste from Washburn Wire Company in East Providence, Rhode Island. Truk-Away had a 30-yard open-top roll-off container at this facility. I picked up waste from this facility once or twice per week and disposed of it at the Site until Washburn Wire Company ceased operations.
10. While working for Truk-Away, I picked up waste from Bird & Son which was located in East Providence, Rhode Island. This facility manufactured roofing shingles and its waste included shingles. Truk-Away had a 30-yard open-top

roll-off container at this facility. I would pick up waste from Bird & Son everyday, including Sunday, and dispose of it at the Site during the entire time the Site was open.

11. While working for Truk-Away, I picked up waste from Rhode Island Hospital in Providence, Rhode Island. Truk-Away had a 42-yard breakaway compactor at this facility. I would pick up waste from this hospital three or four times per week and dispose of it at the Site during the entire time the Site was open.
12. While working for Truk-Away, I picked up waste from St. Joe's Hospital in Providence, Rhode Island. Truk-Away had a 42-yard breakaway compactor at this facility. I would pick up waste from this hospital about once per week and dispose of it at the Site during the entire time the Site was open.
13. While working for Truk-Away, I picked up waste from Roger Williams Hospital in Providence, Rhode Island. Truk-Away had a 42-yard breakaway compactor at this facility. I would pick up waste from this hospital about once per week and dispose of it at the Site during the entire time the Site was open.
14. While working for Truk-Away, I picked up waste from Miriam Hospital in Providence, Rhode Island. Truk-Away had a 42-yard breakaway compactor at this facility. I would pick up waste from this hospital about once per week and dispose of it at the Site during the entire time the Site was open.
15. While working for Truk-Away, I picked up waste from Pawtucket Memorial Hospital in Pawtucket, Rhode Island. Truk-Away had a 42-yard breakaway compactor at this facility. I would pick up waste from this hospital about once per week and dispose of it at the Site during the entire time the Site was open.
16. While working for Truk-Away, I recall that Ciba-Geigy Corporation disposed of drums at the Site. Truk-Away hauled these drums to the landfill in a 30-yard open-top roll-off container.
17. While working for Truk-Away, I recall that New England Telephone disposed of waste at the Site. This waste included a lot of wire, poles and drums. Truk-Away had 30-yard open-top roll-off containers at several New England Telephone locations. This waste would be picked up about once per week and disposed at the Site during the entire time the landfill was open.
18. While working for Truk-Away, I recall that Truk-Away picked up waste from about eight or nine Rhode Island Highway Department facilities located throughout the state. This waste consisted of highway cleanup materials. The frequency of pick-ups of this waste varied from once per week to once per month. This waste was disposed at the Site during the entire time the landfill was open.

Frank A. Petrarca

Date: 5/17/16

Exhibit 14

STATE OF RHODE ISLAND **SUPERIOR COURT**
PROVIDENCE, SC.

In Re:	:	
	:	**C.A. No. PC-2019-11756**
CharterCARE Community Board, et al.	:	

EXPLANATION OF PROOF OF CLAIM FOR THE STATE OF RHODE ISLAND, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Now comes the State of Rhode Island and Providence Plantations, by and through the Rhode Island Department of Environmental Management ("RIDEM") and its undersigned counsel, and hereby submits the following explanation of its claims in the above referenced matter. RIDEM's claims arise under the Rhode Island Industrial Property Remediation and Reuse Act, R.I. Gen Laws Ch. 23-19.14 *et seq.*, the Rhode Island Hazardous Waste Management Act of 1978, R.I. Gen. Laws Ch. 46-19.1 *et seq.*, the Rhode Island Groundwater Protection Act of 1985, R.I. Gen. Laws Ch. 46-13.1 *et seq.*, the Rhode Island Water Pollution Control Act, R.I. Gen. Laws 46-12, *et seq.*, and the common law of nuisance and liability. RIDEM's claims include costs that have been and will be incurred by the State in connection with responses to the release and/or disposal of hazardous substances at the Truk-Away Landfill site in Warwick, Rhode Island. The debtor(s) have been identified as potentially responsible parties ("PRPs") for this site. *See Exhibit A, Letters of Responsibility.* The debtor's alleged responsibility at this site is based in part on statements by former employees and waste carriers associated with the site as well as observations of the site.

At present, the site has not yet been fully characterized in terms of extent of waste, nature of contamination, impacts to environmental resources, or potential difficulties to remedy implementation. The presumptive remedy for a landfill in this case would be a RCRA Subtitle

C cap with appropriate groundwater controls, however, a remedy has not yet been selected for the site. A review of costs associated with landfill remediation at other sites in Rhode Island indicate that that this type of presumptive remedy can cost between $1 million and $1.5 million dollars per acre, including investigation, remedy implementation and post-closure monitoring for 30 years. While the Truk-Away Landfill is approximately 36 acres in size on a 52 acre parcel, the liability at this site does not solely belong to the debtor(s). Approximately twenty-six (26) other parties have been notified of their potential liability, and the allocation of each party's liability shall be determined at a later time. Using the most extreme assumptions described above ($1.5 million per acre, total responsibility falling on the debtor(s)), the debtor(s)' liability could be as much as $50 million for the Truk-Away Landfill, and that number has been included in this proof of claim out of an abundance of caution, though it is anticipated that debtor(s) liability will be somewhere less than total.

Based on the above, RIDEM submits this Proof of Claim, and explanation thereof, on behalf of the State of Rhode Island, and estimates the debtor(s) liability to potentially be as high as $50 million.

Respectfully submitted,

JANET L. COIT, DIRECTOR,
RHODE ISLAND DEPARTMENT OF
ENVIRONEMENTAL MANAGEMENT,
By its attorney,

/s/ Susan Forcier

Susan B. Forcier, Esq. (#7278)
RIDEM Office of Legal Services
235 Promenade Street, 4th Floor
Providence, RI 02908
Telephone: (401) 222-6607
Facsimile: (401) 222-3378

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this proof of Claim and accompanying Explanation of Proof of Claim was filed and sent to all parties of record through the electronic filing system, and was sent via electronic mail on this 18th day of May, 2020 to the following:

By electronic mail:
Thomas S. Hemmendinger, Esq.
Brennan, Recupero, Cascione, Scungio & McAllister, LLP
362 Broadway
Providence, RI 02909
themmendinger@brcsm.com

/s/ Susan Forcier

Exhibit 15

ORSON AND BRUSINI LTD
COUNSELORS AT LAW
www.orsonandbrusini.com

Giovanni La Terra Bellina
(401) 331-2635
jlaterra@orsonandbrusini.com
Providence Office

May 15, 2020

VIA HAND DELIVERY

Thomas S. Hemmendinger, Receiver
Brennan, Recupero, Cascione,
Scungio & McAllister, LLP
362 Broadway
Providence, RI 02909

RE: Receivership Proof of Claim – Chartercare Community Board,
St. Joseph Health Services of Rhode Island and/or
Roger Williams Hospital
Truk-Away Landfill Site PPP Group

Dear Tom:

Enclosed please a Proof of Claim on behalf of Truk-Away Landfill Site PPP Group with regard to the above captioned matter.

If you have any questions or concerns with regard to this matter, please feel free to give me a call.

Very truly yours,

Giovanni La Terra Bellina

Enclosure

Send proof of claim form to:
Thomas S. Hemmendinger, Receiver
Brennan, Recupero, Cascione, Scungio & McAllister, LLP
362 Broadway
Providence, RI 02909

RECEIVERSHIP PROOF OF CLAIM— CHARTERCARE COMMUNITY BOARD, ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND, AND/OR ROGER WILLIAMS HOSPITAL

I, Giovanni La Terra Bellina of Truck-Away Landfill Site PPP Group, being duly sworn, depose and say:

1. *[check appropriate creditor type]* ____ I am the Claimant. [OR] ____ I am the Coordinating Counsel (title) of c/o Giovanni La Terra Bellina, Orson and Brusini Ltd., who is the Claimant.

2. The *full* mailing address of the Claimant is 144 Wayland Ave., Providence, RI 02906. The telephone number of the Claimant is 401-223-2100. The email address of the Claimant is jlaterra@orsonandbrusini.com

3. The Debtor in this proof of claim is *[check all that apply]*
   - ____ CharterCARE Community Board
   - _x_ St. Joseph Health Services of Rhode Island
   - _x_ Roger Williams Hospital

4. As of May 14, 2020, the Debtor owed and still owes the Claimant a balance of see attached addendum Dollars ($_____), a statement of which account is attached hereto (please attach all supporting documents).

5. Such account is just, true and correct, and said balance is now due claimant from the Debtor.

6. No part thereof has been paid or satisfied, and there are no set-offs, recoupments or counterclaims thereto, to the knowledge or belief of deponent.

7. No security exists for said debt, except *[if left blank, there is no security]*: _____.

8. *[optional—if left blank, there will be no power of attorney]* The following attorneys named on this Proof of Claim are hereby made and constituted attorneys for the Claimant for all purposes whatsoever in connection with this claim with full power of substitution (if an attorney is filing for you):

(name(s) of attorney(s)) Giovanni La Terra Bellina, Orson and Brusini Ltd.,
(full mailing address of attorney(s)) 144 Wayland Ave., Providence, RI 02906.

____ Check here if your claim is secured, and attach copies of supporting documents.
____ Check here if you believe you have an unsecured priority claim, specify the amount of the claim entitled to priority $_____, and the legal basis to claim such priority:

_____.

Giovanni La Terra Bellina
(claimant name - ~~print~~)

(claimant signature)

STATE OF Rhode Island
COUNTY OF Providence

Subscribed and sworn to before me this 14th day of May, 2020

Notary Public
My commission expires 6/6/21

TRACEY PECCHIA
Notary Public, State of Rhode Island
My Commission Expires June 6, 2021
Notary # 43966

ADDENDUM TO PROOF OF CLAIM

IN RE: St. Joseph Health Services of Rhode Island and

Roger Williams Hospital

CASE NO: PB-2019-11756

The Truk-Away Landfill Site PRP Group and its 12 members expressly reserve and assert all of their rights, including, without limitation, (i) the rights of setoff and recoupment; (ii) to assert any and/or all defenses they may have in connection with the above-referenced matter; (iii) to assert that this claim, or any portion thereof, is an administrative expense and/or is secured by a right of setoff or otherwise; and (iv) to further amend this claim.

Summary of Claim

In the late 1960s and throughout the 1970s land owned (namely Plates 326, Lots 22, 23, 28, 73 and Plat 342, Lots 2, 3, 5, 429) by the City of Warwick was utilized as a landfill and was operated by a company known as Truk-Away of RI, Inc. (the "Landfill"). In 1978, the Landfill ceased operations and the Rhode Island Department of Transportation ("RIDOT") became a party responsible for closing the Landfill. The Rhode Island Department of Administration ("RIDOA") assumed RIDOT's responsibility, by agreement, in 2000.

On or about September of 2015, the Rhode Island Department of Environmental Management ("RIDEM") issued a letter of responsibility to Truk-Away of RI, Inc. relative to alleged contamination of the Landfill. Upon information and belief, RIDEM initiated an investigation to identify any potential responsible parties ("PRPs") that may be jointly and severally responsible for the costs related to cleaning and remediating the Landfill. After RIDOA and RIDOT notified the PRPs of their potential joint and several liability, the parties organized the Truk-Away Landfill Site PRP Group in order to jointly defend claims relative to the Landfill, identify additional PRPs and identify the extent of remediation. The Truk-Away Landfill Site PRP Group includes the following members: (i) RIDOT/RIDOA; (ii) Bird Incorporated; (iii) Care New England; (iv) CNA Holdings, LLC; (v) CharterCARE Health Partners; (vi) City of Newport; (vii) Lifespan; (viii) Memorial Hospital of Rhode Island; (ix) Prospect Medical Holdings; (x) Rhode Island Hospital; (xi) The Miriam Hospital; and (xii) Wage Management (collectively the "Truk-Away Group"). As the Receiver is aware, Roger Williams Hospital and St. Joseph Healh Services of Rhode Island was one of the original members of the Truk-Away Landfill Site PRP Group.

The Truk-Away Group has engaged consultants to assist in the identification of additional PRPs and to determine the extent of potential liability related to remediation of the Landfill. It should be noted that none of the Truk-Away Group members have accepted liability relative to any alleged contamination at the Landfill. The Truk-Away Group members have entered into a joint defense agreement and have agreed to share in the costs relative to the investigation and defense of claims.

The Truk-Away Group has engaged an environmental consultant to determine the extent of potential remediation and to prepare a site investigation report outlining the plan for remediation

along with the costs. The initial estimates for remediation costs total approximately $16,700,000, however, the environmental consultant cautions that the cost could increase due to unforeseen or undiscovered circumstances. The Truk-Away Group reserves the right to amend this proof of claim at a later point. In addition, the Truk-Away Group has ongoing costs relative for the administration of the group to pay for its consultants.

In lieu of the address listed on the Proof of Claim, all notices with respect to this Proof of Claim should be sent as directed on the Proof of Claim form with a copy to:

Michael Donegan, Esq.
Giovanni La Terra Bellina, Esq.
Orson and Brusini Ltd.
144 Wayland Avenue
Providence, RI 02906
mdonegan@orsonandbrusini.com
jlaterra@orsonandbrusini.com