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HEALTH FACILITIES & SERVICES REVIEW BOARD

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD
APPLICATION FOR PERMIT

SECTION I. IDENTIFICATION, GENERAL INFORMATION, AND CERTIFICATION

This Section must be completed for all projects.

Facility/Project Identification

Facility Name:	Greater Peoria Specialty Hospital		
Street Address:	500 West Romeo B. Garrett		
City and Zip Code:	Peoria, IL 61605		
County:	Peoria	Health Service Area II	Health Planning Area: C-01

Applicant /Co-Applicant Identification
[Provide for each co-applicant [refer to Part 1130.220].

Exact Legal Name:	Greater Peoria Specialty Hospital, L.L.C.
Address:	500 West Romeo B. Garrett Peoria, IL 61605
Name of Registered Agent:	
Name of Chief Executive Officer:	Steven Schultz, CEO
CEO Address:	500 West Romeo B. Garrett Peoria, IL 61605
Telephone Number:	309/680-1501

Type of Ownership of Applicant/Co-Applicant

☐	Non-profit Corporation	☐	Partnership		
☐	For-profit Corporation	☐	Governmental		
X	Limited Liability Company	☐	Sole Proprietorship	☐	Other

- Corporations and limited liability companies must provide an **Illinois certificate of good standing.**
- Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.

APPEND DOCUMENTATION AS ATTACHMENT-1 IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Primary Contact
[Person to receive all correspondence or inquiries during the review period]

Name:	Ms. Barbara Lankford
Title:	Senior Market Planner
Company Name:	Kindred Healthcare, Inc.
Address:	680 South Fourth Street Louisville, Kentucky 40202
Telephone Number:	502/596-7801
E-mail Address:	Barbara.Lankford@kindredhealthcare.com
Fax Number:	502/596-4007

Additional Contact
[Person who is also authorized to discuss the application for permit]

Name:	Ms. Anne Murphy
Title:	Partner
Company Name:	Holland+Knight, LLP
Address:	131 S. Dearborn Street 30th Floor Chicago, IL 60603
Telephone Number:	312/578-6544
E-mail Address:	anne.Murphy@hklaw.com
Fax Number:	312/578-6666

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ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD
APPLICATION FOR PERMIT

SECTION I. IDENTIFICATION, GENERAL INFORMATION, AND CERTIFICATION

This Section must be completed for all projects.

Facility/Project Identification

Facility Name:	Greater Peoria Specialty Hospital		
Street Address:	500 West Romeo B. Garrett		
City and Zip Code:	Peoria, IL 61605		
County:	Peoria	Health Service Area II	Health Planning Area: C-01

Applicant /Co-Applicant Identification
[Provide for each co-applicant [refer to Part 1130.220].

Exact Legal Name:	Kindred Healthcare, Inc.
Address:	680 South Fourth Street Louisville, KY 40202
Name of Registered Agent:	
Name of Chief Executive Officer:	Paul Diaz, President & CEO
CEO Address:	680 South Fourth Street Louisville, KY 40202
Telephone Number:	502/596-7300

Type of Ownership of Applicant/Co-Applicant

☐	Non-profit Corporation	☐	Partnership		
X	For-profit Corporation	☐	Governmental		
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[Person to receive all correspondence or inquiries during the review period]

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Title:	Senior Market Planner
Company Name:	Kindred Healthcare, Inc.
Address:	680 South Fourth Street Louisville, Kentucky 40202
Telephone Number:	502/596-7801
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[Person who is also authorized to discuss the application for permit]

Name:	Ms. Anne Murphy
Title:	Partner
Company Name:	Holland+Knight, LLP
Address:	131 S. Dearborn Street 30th Floor Chicago, IL 60603
Telephone Number:	312/578-6544
E-mail Address:	anne.Murphy@hklaw.com
Fax Number:	312/578-6666

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD
APPLICATION FOR PERMIT

SECTION I. IDENTIFICATION, GENERAL INFORMATION, AND CERTIFICATION

This Section must be completed for all projects.

Facility/Project Identification

Facility Name:	Greater Peoria Specialty Hospital		
Street Address:	500 West Romeo B. Garrett		
City and Zip Code:	Peoria, IL 61605		
County:	Peoria	Health Service Area II	Health Planning Area: C-01

Applicant /Co-Applicant Identification
[Provide for each co-applicant [refer to Part 1130.220].

Exact Legal Name:	RehabCare Hospital Holdings, L.L.C.
Address:	7733 Forsyth Blvd., Suite 2300 St. Louis, MO 63106
Name of Registered Agent:	
Name of Chief Executive Officer:	John Short, CEO
CEO Address:	7733 Forsyth Blvd., Suite 2300 St. Louis, MO 63106
Telephone Number:	800/677-1238

Type of Ownership of Applicant/Co-Applicant

☐ Non-profit Corporation
☐ For-profit Corporation
X Limited Liability Company
☐ Partnership
☐ Governmental
☐ Sole Proprietorship
☐ Other

- Corporations and limited liability companies must provide an **Illinois certificate of good standing.**
- Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.

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Primary Contact
[Person to receive all correspondence or inquiries during the review period]

Name:	Ms. Barbara Lankford
Title:	Senior Market Planner
Company Name:	Kindred Healthcare, Inc.
Address:	680 South Fourth Street Louisville, Kentucky 40202
Telephone Number:	502/596-7801
E-mail Address:	Barbara.Lankford@kindredhealthcare.com
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Additional Contact
[Person who is also authorized to discuss the application for permit]

Name:	Ms. Anne Murphy
Title:	Partner
Company Name:	Holland+Knight, LLP
Address:	131 S. Dearborn Street 30th Floor Chicago, IL 60603
Telephone Number:	312/578-6544
E-mail Address:	anne.Murphy@hklaw.com
Fax Number:	312/578-6666

Post Permit Contact

[Person to receive all correspondence subsequent to permit issuance-**THIS PERSON MUST BE EMPLOYED BY THE LICENSED HEALTH CARE FACILITY AS DEFINED AT 20 ILCS 3960**

Name:	Ms. Barbara Lankford
Title:	Senior Market Planner
Company Name:	Kindred Healthcare, Inc.
Address:	680 South Fourth Street Louisville, Kentucky 40202
Telephone Number:	502/596-7801
E-mail Address:	Barbara.Lankford@kindredhealthcare.com
Fax Number:	502/596-4007

Site Ownership

[Provide this information for each applicable site]

Exact Legal Name of Site Owner: Cullinan Medical 1, LLC

Address of Site Owner: 211 Fulton Street Suite 700 Peoria, IL 61602

Street Address or Legal Description of Site: 500 West Romeo B. Garrett Peoria, IL 61605

Proof of ownership or control of the site is to be provided as Attachment 2. Examples of proof of ownership are property tax statement, tax assessor's documentation, deed, notarized statement of the corporation attesting to ownership, an option to lease, a letter of intent to lease or a lease.

APPEND DOCUMENTATION AS ATTACHMENT-2, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Operating Identity/Licensee

[Provide this information for each applicable facility, and insert after this page.]

Exact Legal Name: Greater Peoria Specialty Hospital, LLC

Address: 500 West Romeo B. Garrett Peoria, IL 61605

☐	Non-profit Corporation	☐	Partnership		
☐	For-profit Corporation	☐	Governmental		
X	Limited Liability Company	☐	Sole Proprietorship	☐	Other

- Corporations and limited liability companies must provide an Illinois Certificate of Good Standing.
- Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.
- **Persons with 5 percent or greater interest in the licensee must be identified with the % of ownership.**

APPEND DOCUMENTATION AS ATTACHMENT-3, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Organizational Relationships

Provide (for each co-applicant) an organizational chart containing the name and relationship of any person or entity who is related (as defined in Part 1130.140). If the related person or entity is participating in the development or funding of the project, describe the interest and the amount and type of any financial contribution.

APPEND DOCUMENTATION AS ATTACHMENT-4, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Flood Plain Requirements not applicable

[Refer to application instructions.]

Provide documentation that the project complies with the requirements of Illinois Executive Order #2005-5 pertaining to construction activities in special flood hazard areas. As part of the flood plain requirements please provide a map of the proposed project location showing any identified floodplain areas. Floodplain maps can be printed at **www.FEMA.gov** or **www.illinoisfloodmaps.org**. **This map must be in a readable format**. In addition please provide a statement attesting that the project complies with the requirements of Illinois Executive Order #2005-5 **(http://www.hfsrb.illinois.gov)**.

APPEND DOCUMENTATION AS ATTACHMENT -5, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Historic Resources Preservation Act Requirements not applicable

[Refer to application instructions.]

Provide documentation regarding compliance with the requirements of the Historic Resources Preservation Act.

APPEND DOCUMENTATION AS ATTACHMENT-6, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

DESCRIPTION OF PROJECT

1. Project Classification

[Check those applicable - refer to Part 1110.40 and Part 1120.20(b)]

Part 1110 Classification:	Part 1120 Applicability or Classification: [Check one only.]
☐ Substantive	☐ Part 1120 Not Applicable
X Non-substantive	☐ Category A Project
	X Category B Project
	☐ DHS or DVA Project

2. Narrative Description

Provide in the space below, a brief narrative description of the project. Explain **WHAT** is to be done in **State Board defined terms**, **NOT WHY** it is being done. If the project site does NOT have a street address, include a legal description of the site. Include the rationale regarding the project's classification as substantive or non-substantive.

Kindred Healthcare, Inc. ("Kindred") is, through a stock purchase, acquiring RehabCare Group, Inc. ("RehabCare"), which includes 44 long term acute care hospitals, nationwide. RehabCare currently owns, through a subsidiary (RehabCare Hospital Holdings, L.L.C.) a majority (51%) interest in one licensed health care facility in Illinois: Greater Peoria Specialty Hospital, a 50-bed long term acute care hospital ("LTACH"). Methodist Medical Center (Peoria) is a minority owner of Greater Peoria Specialty Hospital, but does not meet any of the requirements to be named as an applicant for the proposed change of ownership. Because of RehabCare's "control" of Greater Peoria Specialty Hospital, a Certificate of Need permit is required.

This *Application for Permit* addresses the resultant change of ownership of Greater Peoria Specialty Hospital, exclusively.

No changes to the services provided or the hospital's number of beds will result from the proposed change of ownership.

This is a "non-substantive" project, pursuant to the definition of non-substantive" projects provided in Section 1110.40.

Project Costs and Sources of Funds

Complete the following table listing all costs (refer to Part 1120.110) associated with the project. When a project or any component of a project is to be accomplished by lease, donation, gift, or other means, the fair market or dollar value (refer to Part 1130.140) of the component must be included in the estimated project cost. If the project contains non-reviewable components that are not related to the provision of health care, complete the second column of the table below. Note, the use and sources of funds must equal.

Project Costs and Sources of Funds			
USE OF FUNDS	**CLINICAL**	**NONCLINICAL**	**TOTAL**
Preplanning Costs			
Site Survey and Soil Investigation			
Site Preparation			
Off Site Work			
New Construction Contracts			
Modernization Contracts			
Contingencies			
Architectural/Engineering Fees			
Consulting and Other Fees			$1,665,000
Movable or Other Equipment (not in construction contracts)			
Bond Issuance Expense (project related)			
Net Interest Expense During Construction (project related)			
Fair Market Value of Leased Space or Equipment			
Other Costs To Be Capitalized			
Acquisition of 51% Interest in GPSH			$11,981,000
TOTAL USES OF FUNDS			**$13,646,000**
SOURCE OF FUNDS	**CLINICAL**	**NONCLINICAL**	**TOTAL**
Cash and Securities			
Pledges			
Gifts and Bequests			
Bond Issues (project related)			
Mortgages			$13,646,000
Leases (fair market value)			
Governmental Appropriations			
Grants			
Other Funds and Sources			
TOTAL SOURCES OF FUNDS			**$13,646,000**

NOTE: ITEMIZATION OF EACH LINE ITEM MUST BE PROVIDED AT ATTACHMENT-7, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Related Project Costs

Provide the following information, as applicable, with respect to any land related to the project that will be or has been acquired during the last two calendar years:

Land acquisition is related to project ☐ Yes X No
Purchase Price: $_____
Fair Market Value: $_____

The project involves the establishment of a new facility or a new category of service
X Yes ☐ No

If yes, provide the dollar amount of all **non-capitalized** operating start-up costs (including operating deficits) through the first full fiscal year when the project achieves or exceeds the target utilization specified in Part 1100.

Estimated start-up costs and operating deficit cost is $ ___none_____.

Project Status and Completion Schedules

Indicate the stage of the project's architectural drawings:

X None or not applicable ☐ Preliminary

☐ Schematics ☐ Final Working

Anticipated project completion date (refer to Part 1130.140): ___by July 1, 2011_____

Indicate the following with respect to project expenditures or to obligation (refer to Part 1130.140):

☐ Purchase orders, leases or contracts pertaining to the project have been executed.
☐ Project obligation is contingent upon permit issuance. Provide a copy of the contingent "certification of obligation" document, highlighting any language related to CON Contingencies
X Project obligation will occur after permit issuance.

APPEND DOCUMENTATION AS ATTACHMENT-8, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

State Agency Submittals

Are the following submittals up to date as applicable:

☐ Cancer Registry **not applicable**
☐ APORS **not applicable**
X All formal document requests such as IDPH Questionnaires and Annual Bed Reports been submitted
X All reports regarding outstanding permits
Failure to be up to date with these requirements will result in the application for permit being deemed incomplete.

Cost Space Requirements not applicable

Provide in the following format, the department/area **DGSF** or the building/area **BGSF** and cost. The type of gross square footage either **DGSF** or **BGSF** must be identified. The sum of the department costs **MUST** equal the total estimated project costs. Indicate if any space is being reallocated for a different purpose. Include outside wall measurements plus the department's or area's portion of the surrounding circulation space. **Explain the use of any vacated space.**

		Gross Square Feet		Amount of Proposed Total Gross Square Feet That Is:			
Dept. / Area	**Cost**	**Existing**	**Proposed**	**New Const.**	**Modernized**	**As Is**	**Vacated Space**
REVIEWABLE							
Medical Surgical							
Intensive Care							
Diagnostic Radiology							
MRI							
Total Clinical							
NON REVIEWABLE							
Administrative							
Parking							
Gift Shop							
Total Non-clinical							
TOTAL							

APPEND DOCUMENTATION AS ATTACHMENT-9, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Facility Bed Capacity and Utilization

Complete the following chart, as applicable. Complete a separate chart for each facility that is a part of the project and insert following this page. Provide the existing bed capacity and utilization data for the latest **Calendar Year for which the data are available. Include observation days in the patient day totals for each bed service.** Any bed capacity discrepancy from the Inventory will result in the application being deemed **incomplete**.

FACILITY NAME: Greater Peoria Specialty Hospital		**CITY:** Peoria			
REPORTING PERIOD DATES:		**From:** January 1, 2010	**to:** December 31, 2010		
Category of Service	**Authorized Beds**	**Admissions**	**Patient Days**	**Bed Changes**	**Proposed Beds**
Medical/Surgical					
Obstetrics					
Pediatrics					
Intensive Care					
Comprehensive Physical Rehabilitation					
Acute/Chronic Mental Illness					
Neonatal Intensive Care					
General Long Term Care					
Specialized Long Term Care					
Long Term Acute Care	50	280	8351	none	50
Other (identify)					
TOTALS:	50	280	8351	none	50

CERTIFICATION

The application must be signed by the authorized representative(s) of the applicant entity. The authorized representative(s) are:

- in the case of a corporation, any two of its officers or members of its Board of Directors;
- in the case of a limited liability company, any two of its managers or members (or the sole manger or member when two or more managers or members do not exist);
- in the case of a partnership, two of its general partners (or the sole general partner, when two or more general partners do not exist);
- in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and
- in the case of a sole proprietor, the individual that is the proprietor.

This Application for Permit is filed on the behalf of KINDRED HEALTHCARE, INC.* in accordance with the requirements and procedures of the Illinois Health Facilities Planning Act. The undersigned certifies that he or she has the authority to execute and file this application for permit on behalf of the applicant entity. The undersigned further certifies that the data and information provided herein, and appended hereto, are complete and correct to the best of his or her knowledge and belief. The undersigned also certifies that the permit application fee required for this application is sent herewith or will be paid upon request.

SIGNATURE

Gregory C. Miller
PRINTED NAME

Senior Vice President, Corporate Development and Financial Planning
PRINTED TITLE

Notarization:
Subscribed and sworn to before me
this 31 day of January - 2011

Signature of Notary

Seal comm. exp. 10/07/2012

SIGNATURE

Douglas L. Curnutte
PRINTED NAME

Vice President, Facilities and Real Estate Development
PRINTED TITLE

Notarization:
Subscribed and sworn to before me
this 31 day of January - 2011

Signature of Notary

Seal comm. exp. 10/07/2012

*Insert EXACT legal name of the applicant

CERTIFICATION

The application must be signed by the authorized representative(s) of the applicant entity. The authorized representative(s) are:

- in the case of a corporation, any two of its officers or members of its Board of Directors;
- in the case of a limited liability company, any two of its managers or members (or the sole manger or member when two or more managers or members do not exist);
- in the case of a partnership, two of its general partners (or the sole general partner, when two or more general partners do not exist);
- in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and
- in the case of a sole proprietor, the individual that is the proprietor.

This Application for Permit is filed on the behalf of _RehabCare Hospital Holdings, L.L.C.* in accordance with the requirements and procedures of the Illinois Health Facilities Planning Act. The undersigned certifies that he or she has the authority to execute and file this application for permit on behalf of the applicant entity. The undersigned further certifies that the data and information provided herein, and appended hereto, are complete and correct to the best of his or her knowledge and belief. The undersigned also certifies that the permit application fee required for this application is sent herewith or will be paid upon request.

SIGNATURE

Patricia S. Williams
PRINTED NAME

SVP, GC & Secretary
PRINTED TITLE

Notarization:
Subscribed and sworn to before me
this 31st day of January, 2011

Kristina L. Ripper
Signature of Notary

Seal

KRISTINA L. RIPPER
My Commission Expires
August 16, 2012
Franklin County
Commission #08491069

SIGNATURE

Sam Duggan
PRINTED NAME

Vice President & Treasurer
PRINTED TITLE

Notarization:
Subscribed and sworn to before me
this 31st day of January, 2011

Kristina L. Ripper
Signature of Notary

Seal

KRISTINA L. RIPPER
My Commission Expires
August 16, 2012
Franklin County
Commission #08491069

*Insert EXACT legal name of the applicant

CERTIFICATION

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- in the case of a limited liability company, any two of its managers or members (or the sole manger or member when two or more managers or members do not exist);
- in the case of a partnership, two of its general partners (or the sole general partner, when two or more general partners do not exist);
- in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and
- in the case of a sole proprietor, the individual that is the proprietor.

This Application for Permit is filed on the behalf of Greater Peoria Specialty Hospital, L.L.C* in accordance with the requirements and procedures of the Illinois Health Facilities Planning Act. The undersigned certifies that he or she has the authority to execute and file this application for permit on behalf of the applicant entity. The undersigned further certifies that the data and information provided herein, and appended hereto, are complete and correct to the best of his or her knowledge and belief. The undersigned also certifies that the permit application fee required for this application is sent herewith or will be paid upon request.

SIGNATURE

Donald Adam
PRINTED NAME

Member
PRINTED TITLE

Notarization:
Subscribed and sworn to before me
this 31st day of January, 2011

Kristina L. Ripper
Signature of Notary

Seal

KRISTINA L. RIPPER
My Commission Expires
August 16, 2012
Franklin County

SIGNATURE

PRINTED NAME

PRINTED TITLE

Notarization:
Subscribed and sworn to before me
this _____ day of _____

Signature of Notary

Seal

*Insert EXACT legal name of the applicant

CERTIFICATION

The application must be signed by the authorized representative(s) of the applicant entity. The authorized representative(s) are:

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SIGNATURE

W. Brock Hardaway

PRINTED NAME

PRINTED TITLE

Notarization:
Subscribed and sworn to before me
this 1st day of February 2011

Signature of Notary

Seal

DONNA LEONARD
MY COMMISSION EXPIRES
December 6, 2013

SIGNATURE

PRINTED NAME

PRINTED TITLE

Notarization:
Subscribed and sworn to before me
this _____ day of _____

Signature of Notary

Seal

*Insert EXACT legal name of the applicant

SECTION III – BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES - INFORMATION REQUIREMENTS

This Section is applicable to all projects except those that are solely for discontinuation with no project costs.

Criterion 1110.230 – Background, Purpose of the Project, and Alternatives

READ THE REVIEW CRITERION and provide the following required information:

BACKGROUND OF APPLICANT

1. A listing of all health care facilities owned or operated by the applicant, including licensing, and certification if applicable.

2. A certified listing of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application.

3. Authorization permitting HFSRB and DPH access to any documents necessary to verify the information submitted, including, but not limited to: official records of DPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. **Failure to provide such authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.**

4. If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this criterion. In such instances, the applicant shall attest the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed, to update and/or clarify data.

APPEND DOCUMENTATION AS ATTACHMENT-11, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM. EACH ITEM (1-4) MUST BE IDENTIFIED IN ATTACHMENT 11.

PURPOSE OF PROJECT

1. Document that the project will provide health services that improve the health care or well-being of the market area population to be served.

2. Define the planning area or market area, or other, per the applicant's definition.

3. Identify the existing problems or issues that need to be addressed, as applicable and appropriate for the project. [See 1110.230(b) for examples of documentation.]

4. Cite the sources of the information provided as documentation.

5. Detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being.

6. Provide goals with quantified and measurable objectives, with specific timeframes that relate to achieving the stated goals as **appropriate**.

For projects involving modernization, describe the conditions being upgraded if any. For facility projects, include statements of age and condition and regulatory citations if any. For equipment being replaced, include repair and maintenance records.

NOTE: Information regarding the "Purpose of the Project" will be included in the State Agency Report.

APPEND DOCUMENTATION AS ATTACHMENT-12, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM. EACH ITEM (1-6) MUST BE IDENTIFIED IN ATTACHMENT 12.

ALTERNATIVES

1) Identify **ALL** of the alternatives to the proposed project:

Alternative options **must** include:

A) Proposing a project of greater or lesser scope and cost;

B) Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or a portion of the project's intended purposes; developing alternative settings to meet all or a portion of the project's intended purposes;

C) Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project; and

D) Provide the reasons why the chosen alternative was selected.

2) Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of total costs, patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation. **FOR EVERY ALTERNATIVE IDENTIFIED THE TOTAL PROJECT COST AND THE REASONS WHY THE ALTERNATIVE WAS REJECTED MUST BE PROVIDED.**

3) The applicant shall provide empirical evidence, including quantified outcome data that verifies improved quality of care, as available.

APPEND DOCUMENTATION AS ATTACHMENT-13, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

SECTION VI - MERGERS, CONSOLIDATIONS AND ACQUISITIONS/CHANGES OF OWNERSHIP

This Section is applicable to projects involving merger, consolidation or acquisition/change of ownership.

NOTE: For all projects involving a change of ownership THE TRANSACTION DOCUMENT must be submitted with the application for permit. The transaction document must be signed dated and contain the appropriate contingency language.

A. Criterion 1110.240(b), Impact Statement

Read the criterion and provide an impact statement that contains the following information:

1. Any change in the number of beds or services currently offered.
2. Who the operating entity will be.
3. The reason for the transaction.
4. Any anticipated additions or reductions in employees now and for the two years following completion of the transaction.
5. A cost-benefit analysis for the proposed transaction.

B. Criterion 1110.240(c), Access

Read the criterion and provide the following:

1. The current admission policies for the facilities involved in the proposed transaction.
2. The proposed admission policies for the facilities.
3. A letter from the CEO certifying that the admission policies of the facilities involved will not become more restrictive.

C. Criterion 1110.240(d), Health Care System

Read the criterion and address the following:

1. Explain what the impact of the proposed transaction will be on the other area providers.
2. List all of the facilities within the applicant's health care system and provide the following for each facility.
   a. the location (town and street address);
   b. the number of beds;
   c. a list of services; and
   d. the utilization figures for each of those services for the last 12 month period.
3. Provide copies of all present and proposed referral agreements for the facilities involved in this transaction.
4. Provide time and distance information for the proposed referrals within the system.
5. Explain the organization policy regarding the use of the care system providers over area providers.
6. Explain how duplication of services within the care system will be resolved.
7. Indicate what services the proposed project will make available to the community that are not now available.

APPEND DOCUMENTATION AS ATTACHMENT-19, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

The following Sections DO NOT need to be addressed by the applicants or co-applicants responsible for funding or guaranteeing the funding of the project if the applicant has a bond rating of A- or better from Fitch's or Standard and Poor's rating agencies, or A3 or better from Moody's (the rating shall be affirmed within the latest 18 month period prior to the submittal of the application):

- **Section 1120.120 Availability of Funds – Review Criteria**
- **Section 1120.130 Financial Viability – Review Criteria**
- **Section 1120.140 Economic Feasibility – Review Criteria, subsection (a)**

VIII. - **1120.120 - Availability of Funds**

The applicant shall document that financial resources shall be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources from the following sources, as applicable: **Indicate the dollar amount to be provided from the following sources:**

_____	a)	Cash and Securities – statements (e.g., audited financial statements, letters from financial institutions, board resolutions) as to: 1) the amount of cash and securities available for the project, including the identification of any security, its value and availability of such funds; and 2) interest to be earned on depreciation account funds or to be earned on any asset from the date of applicant's submission through project completion;
_____	b)	Pledges – for anticipated pledges, a summary of the anticipated pledges showing anticipated receipts and discounted value, estimated time table of gross receipts and related fundraising expenses, and a discussion of past fundraising experience.
_____	c)	Gifts and Bequests – verification of the dollar amount, identification of any conditions of use, and the estimated time table of receipts;
_$13,646,000_	d)	Debt – a statement of the estimated terms and conditions (including the debt time period, variable or permanent interest rates over the debt time period, and the anticipated repayment schedule) for any interim and for the permanent financing proposed to fund the project, including: 1) For general obligation bonds, proof of passage of the required referendum or evidence that the governmental unit has the authority to issue the bonds and evidence of the dollar amount of the issue, including any discounting anticipated; 2) For revenue bonds, proof of the feasibility of securing the specified amount and interest rate; 3) For mortgages, a letter from the prospective lender attesting to the expectation of making the loan in the amount and time indicated, including the anticipated interest rate and any conditions associated with the mortgage, such as, but not limited to, adjustable interest rates, balloon payments, etc.; 4) For any lease, a copy of the lease, including all the terms and conditions, including any purchase options, any capital improvements to the property and provision of capital equipment; 5) For any option to lease, a copy of the option, including all terms and conditions.
_____	e)	Governmental Appropriations – a copy of the appropriation Act or ordinance accompanied by a statement of funding availability from an official of the governmental unit. If funds are to be made available from subsequent fiscal years, a copy of a resolution or other action of the governmental unit attesting to this intent;
_____	f)	Grants – a letter from the granting agency as to the availability of funds in terms of the amount and time of receipt;
_____	g)	All Other Funds and Sources – verification of the amount and type of any other funds that will be used for the project.
$13,646,000		**TOTAL FUNDS AVAILABLE**

APPEND DOCUMENTATION AS ATTACHMENT-39, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

IX. 1120.130 – Financial Viability

All the applicants and co-applicants shall be identified, specifying their roles in the project funding or guaranteeing the funding (sole responsibility or shared) and percentage of participation in that funding.

Financial Viability Waiver

The applicant is not required to submit financial viability ratios if:

1. **All of the projects capital expenditures are completely funded through internal sources**
2. **The applicant's current debt financing or projected debt financing is insured or anticipated to be insured by MBIA (Municipal Bond Insurance Association Inc.) or equivalent**
3. **The applicant provides a third party surety bond or performance bond letter of credit from an A rated guarantor.**

See Section 1120.130 Financial Waiver for information to be provided

APPEND DOCUMENTATION AS ATTACHMENT-40, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

The applicant or co-applicant that is responsible for funding or guaranteeing funding of the project shall provide viability ratios for the latest three years for which **audited financial statements are available and for the first full fiscal year at target utilization, but no more than two years following project completion.** When the applicant's facility does not have facility specific financial statements and the facility is a member of a health care system that has combined or consolidated financial statements, the system's viability ratios shall be provided. If the health care system includes one or more hospitals, the system's viability ratios shall be evaluated for conformance with the applicable hospital standards.

Kindred Healthcare, Inc.

Provide Data for Projects Classified as:	Category A or Category B (last three years)			Category B (Projected)*
Enter Historical and/or Projected Years:	2009	2008	2007	2012
Current Ratio	1.4	1.6	1.6	1.3
Net Margin Percentage	1.5%	1.5%	1.0%	1.8%
Percent Debt to Total Capitalization	13%	28%	24%	50%
Projected Debt Service Coverage	24.9	12.7	10.5	3.7
Days Cash on Hand	23.4	41.7	33.5	14.5
Cushion Ratio	29.1	25.5	18.7	1.7

Provide the methodology and worksheets utilized in determining the ratios detailing the calculation and applicable line item amounts from the financial statements. Complete a separate table for each co-applicant and provide worksheets for each.

2. Variance

Applicants not in compliance with any of the viability ratios shall document that another organization, public or private, shall assume the legal responsibility to meet the debt obligations should the applicant default.

APPEND DOCUMENTATION AS ATTACHMENT 41, IN NUMERICAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

*please see footnote 4 to ATTACHMENT 41

X. 1120.140 - Economic Feasibility

This section is applicable to all projects subject to Part 1120.

A. Reasonableness of Financing Arrangements

The applicant shall document the reasonableness of financing arrangements by submitting a notarized statement signed by an authorized representative that attests to one of the following:

1) That the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation; or

2) That the total estimated project costs and related costs will be funded in total or in part by borrowing because:

A) A portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order to maintain a current ratio of at least 2.0 times for hospitals and 1.5 times for all other facilities; or

B) Borrowing is less costly than the liquidation of existing investments, and the existing investments being retained may be converted to cash or used to retire debt within a 60-day period.

B. Conditions of Debt Financing

This criterion is applicable only to projects that involve debt financing. The applicant shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:

1) That the selected form of debt financing for the project will be at the lowest net cost available;

2) That the selected form of debt financing will not be at the lowest net cost available, but is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs and other factors;

3) That the project involves (in total or in part) the leasing of equipment or facilities and that the expenses incurred with leasing a facility or equipment are less costly than constructing a new facility or purchasing new equipment.

C. **Reasonableness of Project and Related Costs**

Read the criterion and provide the following:

1. Identify each department or area impacted by the proposed project and provide a cost and square footage allocation for new construction and/or modernization using the following format (insert after this page).

COST AND GROSS SQUARE FEET BY DEPARTMENT OR SERVICE

Department (list below)	A	B	C	D	E	F	G	H	Total Cost (G + H)
	Cost/Square Foot New	Cost/Square Foot Mod.	Gross Sq. Ft. New	Gross Sq. Ft. Circ.*	Gross Sq. Ft. Mod.	Gross Sq. Ft. Circ.*	Const. $ (A x C)	Mod. $ (B x E)	
Contingency									
TOTALS									

* Include the percentage (%) of space for circulation

D. Projected Operating Costs

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct cost means the fully allocated costs of salaries, benefits and supplies for the service.

E. Total Effect of the Project on Capital Costs

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

APPEND DOCUMENTATION AS ATTACHMENT 42, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

XII. Charity Care Information

Charity Care information MUST be furnished for ALL projects.

1. All applicants and co-applicants shall indicate the amount of charity care for the latest three **audited** fiscal years, the cost of charity care and the ratio of that charity care cost to net patient revenue.

2. If the applicant owns or operates one or more facilities, the reporting shall be for each individual facility located in Illinois. If charity care costs are reported on a consolidated basis, the applicant shall provide documentation as to the cost of charity care; the ratio of that charity care to the net patient revenue for the consolidated financial statement; the allocation of charity care costs; and the ratio of charity care cost to net patient revenue for the facility under review.

3. If the applicant is not an existing facility, it shall submit the facility's projected patient mix by payer source, anticipated charity care expense and projected ratio of charity care to net patient revenue by the end of its second year of operation.

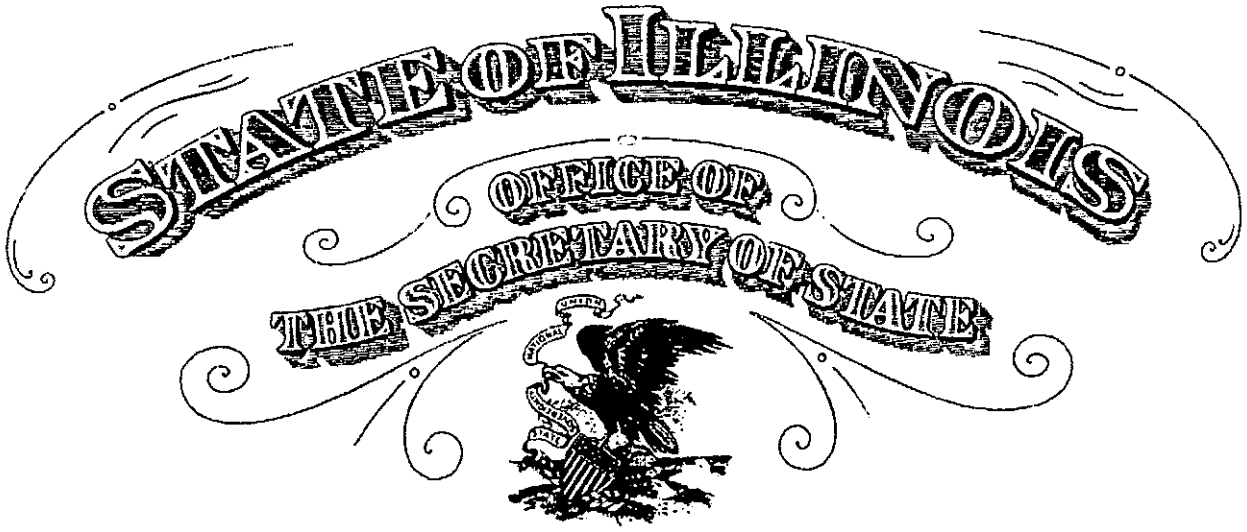
Charity care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer. (20 ILCS 3960/3) Charity Care must be provided at cost.

A table in the following format must be provided for all facilities as part of Attachment 44.

CHARITY CARE			
	2009	**Year**	**Year**
Net Patient Revenue	**$878,756**		
Amount of Charity Care (charges)	$0		
Cost of Charity Care	$0		

APPEND DOCUMENTATION AS ATTACHMENT 44, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

File Number 6417-464-9



To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that

KINDRED HEALTHCARE, INC., INCORPORATED IN DELAWARE AND LICENSED TO TRANSACT BUSINESS IN THIS STATE ON APRIL 29, 2005, APPEARS TO HAVE COMPLIED WITH ALL THE PROVISIONS OF THE BUSINESS CORPORATION ACT OF THIS STATE RELATING TO THE PAYMENT OF FRANCHISE TAXES, AND AS OF THIS DATE, IS A FOREIGN CORPORATION IN GOOD STANDING AND AUTHORIZED TO TRANSACT BUSINESS IN THE STATE OF ILLINOIS.

Authentication #: 1102501744

Authenticate at: http://www.cyberdriveillinois.com

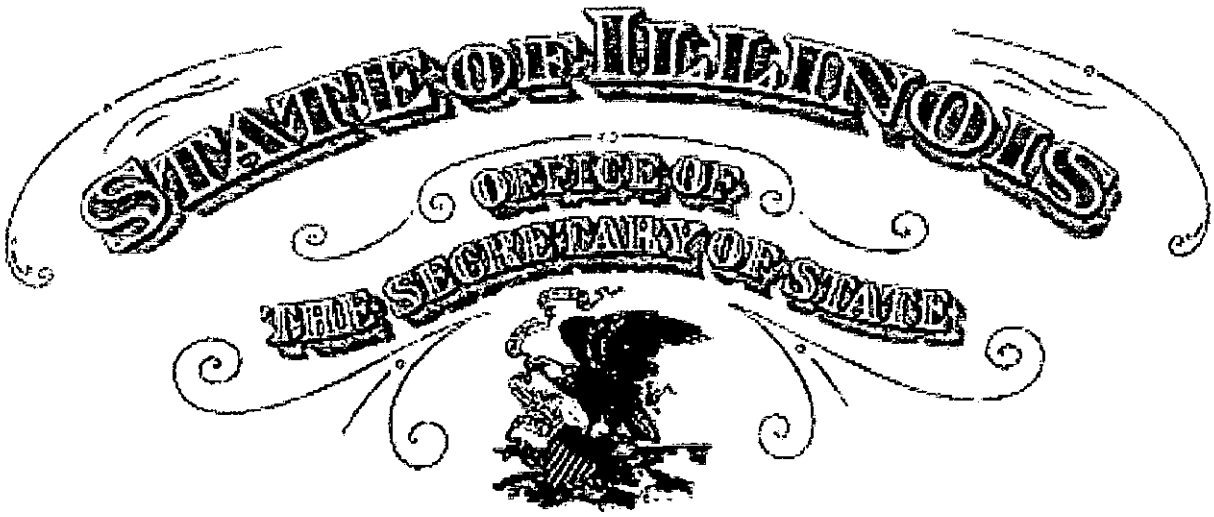
In Testimony Whereof, *I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this* 25TH *day of* JANUARY *A.D.* 2011 .

Jesse White

SECRETARY OF STATE

ATTACHMENT 1

File Number 0196418-6



To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that

REHABCARE HOSPITAL HOLDINGS, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY HAVING OBTAINED ADMISSION TO TRANSACT BUSINESS IN ILLINOIS ON SEPTEMBER 11, 2006, APPEARS TO HAVE COMPLIED WITH ALL PROVISIONS OF THE LIMITED LIABILITY COMPANY ACT OF THIS STATE, AND AS OF THIS DATE IS IN GOOD STANDING AS A FOREIGN LIMITED LIABILITY COMPANY ADMITTED TO TRANSACT BUSINESS IN THE STATE OF ILLINOIS.

Authentication #: 1034701758

Authenticate at: http://www.cyberdriveillinois.com

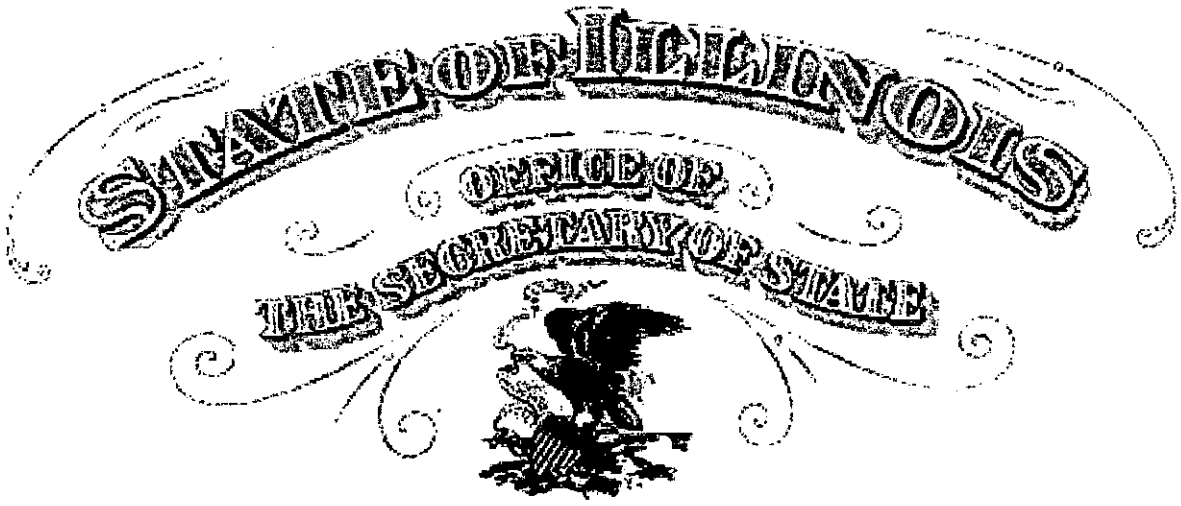
In Testimony Whereof, *I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this* 13TH *day of* DECEMBER *A.D.* 2010 .

Jesse White

SECRETARY OF STATE

ATTACHMENT 1

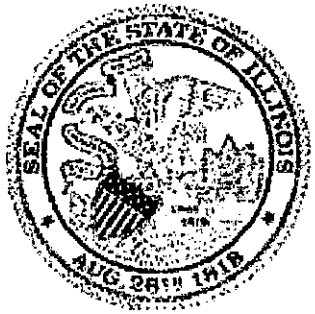
File Number 0174560-3



To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that

GREATER PEORIA SPECIALTY HOSPITAL, LLC, A DELAWARE LIMITED LIABILITY COMPANY HAVING OBTAINED ADMISSION TO TRANSACT BUSINESS IN ILLINOIS ON JANUARY 26, 2006, APPEARS TO HAVE COMPLIED WITH ALL PROVISIONS OF THE LIMITED LIABILITY COMPANY ACT OF THIS STATE, AND AS OF THIS DATE IS IN GOOD STANDING AS A FOREIGN LIMITED LIABILITY COMPANY ADMITTED TO TRANSACT BUSINESS IN THE STATE OF ILLINOIS.



Authentication #: 1034701710

Authenticate at: http://www.cyberdriveillinois.com

In Testimony Whereof, *I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this* 13TH *day of* DECEMBER *A.D.* 2010 .

Jesse White

SECRETARY OF STATE

ATTACHMENT 1

LEASE AGREEMENT

by and between

CULLINAN MEDICAL 1, LLC

an Illinois limited liability company

as

"Landlord"

And

GREATER PEORIA SPECIALTY HOSPITAL, LLC

A Delaware limited liability company

as

"Tenant"

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confidential
Gregory Miller
Kindred Healthcare
Dec 02, 2010 13:17

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") dated effective as of December 21, 2007 (the "Effective Date") is entered into by and between CULLINAN MEDICAL 1, LLC, an Illinois limited liability company, having its principal office at 211 Fulton Street, Suite 700, Peoria, Illinois 61602 ("Landlord") and GREATER PEORIA SPECIALTY HOSPTIAL, LLC, a Delaware limited liability company having its principal office at 221 Northeast Glen Oak Avenue, Peoria, Illinois 61636-0002 ("Tenant").

ARTICLE 1.

LEASED PROPERTY; TERM

Upon and subject to the terms and conditions hereinafter set forth, Landlord leases to Tenant and Tenant rents from Landlord all of Landlord's rights and interest in and to the following real property (collectively, the "Leased Property"):

(a) the real property more particularly described on Exhibit A attached hereto together with all covenants, licenses, privileges and benefits thereto belonging, any and all easements, rights-of-way, rights of ingress and egress or other interests of Landlord in, on or to any land, highway, street, road or avenue, open or proposed, in, on, across, in front of, abutting or adjoining such real property, including all strips and gores adjacent to or lying between such real property and any adjacent real property (the "Land");

(b) all buildings, structures, Fixtures (as hereinafter defined) and other improvements of every kind including all alleyways and connecting tunnels, crosswalks, sidewalks, landscaping, parking lots and structures and roadways appurtenant to such buildings and structures presently or hereafter situated upon the Land, and Capital Additions financed by Landlord (but specifically excluding Capital Additions financed by Tenant), drainage and all above-ground and underground utility structures (collectively, the "Leased Improvements");

(c) all permanently affixed equipment, machinery, fixtures and other items of real and/or personal property, including all components thereof, now and hereafter located in, on or used in connection with, and permanently affixed to or incorporated into the Leased Improvements, including all furnaces, boilers, heaters, electrical equipment, heating, plumbing, lighting, ventilating, refrigerating, incineration, air and water pollution control, waste disposal, air-cooling and air conditioning systems and apparatus, sprinkler systems and fire and theft protection equipment, carpet, moveable or immoveable walls or partitions and built-in oxygen and vacuum systems, all of which are hereby deemed by the parties hereto to constitute real estate, together with all replacements, modifications, alterations and additions thereto, but specifically excluding all items included within the category of Personal Property (collectively, the "Fixtures"); and

(d) to the extent permitted by law, all permits, approvals and other intangible property or any interest therein now or hereafter owned or held by Landlord in connection with the Leased Property or any business or businesses now or hereafter conducted by Tenant or with the use thereof, including all contract rights, agreements, trade names, water rights and reservations,

zoning rights, business licenses and warranties (including those relating to construction or fabrication) related to the Leased Property or any part thereof, but specifically excluding the general corporate trademarks, service marks, logos or insignia or books and records of Tenant; and

(e) all site plans, surveys, soil and substrata studies, architectural drawings, plans and specifications, engineering plans and studies, floor plans, landscape plans, and other plans and studies that relate to the Land or the Leased Improvements and are in Tenant's possession or control; and

(f) Intentionally Omitted

SUBJECT, HOWEVER, to the matters set forth on Exhibit B attached hereto, the Facility Mortgage (the "**Permitted Exceptions**"), to have and to hold for a fixed term of fifteen (15) years (the "**Initial Term**") from and after the Commencement Date (hereafter defined) of the Lease and continuing for any Extension Term properly and timely elected pursuant to Article 33 hereof. The "**Term**" of this Lease shall be the Initial Term and any Extension Term hereunder. The "Commencement Date" of this Lease shall be defined as that date which is forty-five (45) days from the later of (i) delivery of the Leased Property to the Tenant by the Landlord, or (ii) issuance of Certificates of Occupancy from the City of Peoria, Illinois and issuance of an occupancy letter from the Illinois Department of Public Health (provided that the issuance of an occupancy letter from the Illinois Department of Public Health contingency shall be deemed satisfied if the delay in the issuance of the occupancy letter is not related to the physical condition of the Facility within the control of the Landlord, but rather is related to operational or similar issues within the control of Tenant). The taking of possession of the Leased Property by Tenant shall evidence Tenant's acceptance of the Leased Property and Landlord's Work, subject in all respects to the terms of this Lease (including, without limitation, the Work Letter). The Tenant's taking of possession shall not relieve Landlord from any obligation to complete or correct any work to be performed or corrected by Landlord under the terms of this Lease (including, without limitation, the Work Letter).

ARTICLE 2.

RENT

2.1 Minimum Rent and Adjustments to Minimum Rent. Commencing upon the Commencement Date and during the Term hereof, Tenant shall pay to Landlord, without notice, demand, set off or counterclaim, in advance in lawful money of the United States of America, at Landlord's address set forth herein or at such other place or to such other person, firms or corporations as Landlord from time to time may designate in writing, the Minimum Rent, as adjusted annually pursuant to Section 2.1(b) hereof during the Term . Landlord and Tenant agree that upon the execution of this Lease, the minimum rent amounts payable to Landlord in each Lease Year as set forth on Exhibit C - Rent Schedule are only estimated minimum rents based upon a Preliminary Project Budget. Landlord and Tenant shall finalize the Final Construction Documents for the Project and the Final Project Budget in accordance with the terms of the Work Letter attached hereto as Exhibit D. The term "Minimum Rent" used throughout this Lease shall mean the minimum rent amounts payable to Landlord in each Lease Year based upon the Final Construction Documents and Final Project Budget, as such Final

Construction Documents and Final Project Budget are agreed upon pursuant to the terms of the Work Letter attached hereto as Exhibit D and further as such Minimum Rent may be established and adjusted under Sections 2.1(a) and 2.1(b) hereof.

The Minimum Rent shall be payable in advance in 12 equal, consecutive monthly installments, on the first day of each calendar month of the Term. Minimum Rent shall be prorated as to any partial month, and is subject to adjustment as provided in Sections 2.1(b) and 9.3(b)(iv) below. Minimum Rent shall commence on the Commencement Date and shall be prorated on a daily basis if the Commencement Date is not the first day of a month for the remainder of that month. Rent shall be payable without notice, set-off or abatement, except as otherwise permitted under this Lease, at such address as Landlord may designate from time to time by written notice to Tenant.

(a) Minimum Rent — Establishing Year One of the Lease Term. Once the Final Project Plans and Final Project Budget have been finally approved by both Landlord and Tenant in accordance with the terms of the Work Letter at Exhibit D, then the annual Minimum Rent for Year One of the Lease Term shall be calculated as follows: the approved Final Project Budget multiplied by a rental factor of ten percent (10%).

(b) Increases to Minimum Rent. Minimum Rents due and payable for all years of the Lease Term shall increase every five (5) Lease Years at a rate of ten percent (10%). The below chart illustrates by example the manner in which the increases to Minimum Rent shall be calculated and accrued, using the Preliminary Budget minimum rent estimates based upon estimated total cost of construction of Eighteen Million Six Hundred Eighty-Three Thousand Eight Hundred Forty-Seven and 00/100 Dollars ($18,683,847.00) multiplied by a rental factor of ten percent (10%) for the initial minimum annual rent due for Lease Years 1 – 5.. Landlord and Tenant shall use the same formula for the calculation of the increases to Minimum Rent after the Final Construction Documents and Final Project Budget have been approved by both Landlord and Tenant pursuant to the terms of the Work Letter attached hereto as Exhibit D.

Lease Years	Minimum Rent Increase Calculation For Following 5 Year Lease Period	Minimum Annual Rent Due
1 - 5		$1,884,393.00
6 - 10	$188,439.00	$2,072,832.00
11 - 15	$207,283.00	$2,280,115.00

Upon approval of the Final Construction Documents and Final Project Budget by Landlord and Tenant, Landlord and Tenant shall execute a revised Exhibit C - Rent Schedule reflecting the final Minimum Rent due in each year of the Initial Lease Term and any Extension Terms and each shall attach this revised Exhibit C- Rent Schedule to this Lease and clearly mark and identify it as having been calculated upon the Final Construction Documents and Final Project Budget. Tenant will pay to Landlord as rent (the "Minimum Rent") for the Leased Property the sums set forth in Exhibit C - Rent Schedule attached hereto and made a part hereof for all purposes.

2.2 Intentionally Omitted

2.3 **Additional Charges**. Tenant will also pay and discharge as and when due (a) all other amounts, liabilities, obligations and Impositions which Tenant assumes or agrees to pay under this Lease including, to the extent applicable, any amounts due by Landlord under any assessments, tax, fees, or other charges related to the ownership and leasing of the Leased Property that accrue during the Term of this Lease, and (b) in the event of any failure on the part of Tenant to pay any of those items referred to in clause (a) above, Tenant will also promptly pay and discharge every fine, penalty, interest and cost which may be added for non-payment or late payment of such items (the items referred to in clauses (a) and (b) above being referred to herein collectively as the "Additional Charges"), and Landlord shall have all legal, equitable and contractual rights, powers and remedies provided in this Lease, by statute or otherwise, in the case of non-payment of the Additional Charges, as well as the Minimum Rent. If any installment of Minimum Rent or Additional Charges (but only as to those Additional Charges which are payable directly to Landlord) shall not be paid within ten (10) days after the date when due, Tenant will pay Landlord on demand, as Additional Charges, interest (to the extent permitted by law) computed at the Overdue Rate on the amount of such installment, from the date when due to Landlord to the date of payment in full thereof. In the event Landlord provides Tenant with written notice of failure to timely pay any installment of Minimum Rent or any Additional Charges pursuant to Section 15.1(b) more than three (3) times within any twelve-month period, Tenant shall pay an administrative fee to Landlord in the amount of Five Hundred and 00/100 Dollars ($500.00) for each additional written notice Landlord gives pursuant to Section 15.1(b) during the next twelve months. To the extent that Tenant pays any Additional Charges to Landlord pursuant to any requirement of this Lease, Tenant shall be relieved of its obligation to pay such Additional Charges to the entity to which such Additional Charges would otherwise be due.

The Minimum Rent, Additional Charges and Impositions are collectively referred to herein as "Rent."

2.4 **Net Lease**. Except for Landlord's construction obligations set forth in the Work Letter - Exhibit D to this Lease, such other expenses specific to Landlord set forth in Article 3.5, Landlord repair and maintenance obligations set forth in Article 8.1, and any indemnity obligations owing by Landlord to Tenant under the terms of this Lease, this is an absolutely net lease and the Minimum Rent, Additional Charges and all other sums payable hereunder by Tenant shall be paid without notice (except as expressly provided herein), demand, set-off, counterclaim, abatement, suspension, deduction or defense. It is the intention of the parties hereto that the Minimum Rent shall be an absolutely net return to Landlord throughout the Term of this Lease. In order that such Minimum Rent shall be absolutely net to Landlord, Tenant shall pay when due, and save Landlord harmless from and against, any and all costs, charges and expenses attributable to the Leased Property accruing during the Term of this Lease, including each fine, fee, penalty, charge (including governmental charges), assessments, sewer rent, Impositions, insurance premiums required under Article 12 hereof or otherwise required of Tenant by Facility Mortgagee, utility expenses, costs, expenses and obligations of every kind and nature whatsoever, general and special, ordinary and extraordinary, foreseen and unforeseen, the payment for which Landlord or Tenant is, or shall become liable by reason of any rights or interest of Landlord or Tenant in, to or under the Leased Property or this Lease or in any manner relating to the ownership, leasing, operation, management, maintenance, repair, rebuilding, use or occupation of the Leased Property, or of any portion thereof; provided, however, that nothing

herein contained shall be construed as imposing upon Tenant any obligation to pay any Excluded Taxes of Landlord arising out of, or levied in connection with, this Lease or Landlord's right or interest in the Leased Property or the Rent.

2.5 Security for Lease. No Security Deposit shall be required of Tenant in connection with this Lease.

(a) Bankruptcy Remote/Control of Tenant. Tenant represents and warrants to Landlord that upon the execution of this Lease and further covenants that at all times thereafter and during the Term of this Lease (including any Extension Terms), it is and shall be a special purpose entity formed under the Laws of the State of Illinois exclusively for the purpose of owning and operating a hospital and other purposes incidental or ancillary thereto located on the Leased Property. Tenant further represents and warrants to Landlord that its initial members (the "Initial Members") are RehabCare Hospital Holdings, LLC ("RehabCare Hospital Holdings"), a Delaware limited liability company, owning a 51% membership interest in Tenant, and The Methodist Medical Center of Illinois ("Methodist"), an Illinois not for profit corporation owning a 49% membership in Tenant. Tenant represents, warrants and covenants to Landlord that except in the event of a permitted assignment of this Lease or assignment of an Initial Member's interest in Tenant under Section 22.4 hereof, then throughout the Term of this Lease, including any Extension Terms, the Initial Members and/or any Affiliate of the Initial Members, shall own and Control at least 100% membership in Tenant. The distribution of profits or proceeds to Tenant's members under the Regulations and/or Operating Agreement of Tenant is subordinate to the payment of Rent under this Lease and Tenant's Regulations and/or Operating Agreement shall so provide throughout the Initial Term and any Extension Term of this Lease. Provided, however, that so long as there is no default in the payment of said Rent, Tenant may distribute any profits or proceeds to its members as Tenant sees fit."

(b) Tenant's Guaranty. Tenant unconditionally guarantees the full and faithful performance of all of the provisions and covenants to be performed under the Lease within the time and in accordance with the terms of the Lease; including, without limitation, the obligation to pay Rent, as the same may be adjusted under the Lease, and any other charges required to be paid by Tenant hereunder. The preceding guarantee by Tenant in no manner waives or releases any rights, defenses, actions or remedies available to Tenant as set forth in this Lease or available at law.

(c) Guaranty of Methodist and RehabCare Group, Inc. Methodist and RehabCare Group, Inc ("RehabCare Group"), a Delaware corporation (RehabCare Group is a related entity to RehabCare Hospital Holdings) shall each guaranty the Tenant's obligations under the terms, covenants and obligations of the Lease in the following proportions: (i) Methodist shall guaranty 49% of all Tenant monetary obligations arising under the terms, covenants and obligations of the Lease, and (ii) RehabCare Group shall guaranty 51% of all Tenant monetary obligations arising under the terms, covenants and obligations of the Lease. The form of the guaranty to be executed is attached hereto as Exhibit I, and the same shall be executed contemporaneously with this Lease and is expressly incorporated herein by reference.

ARTICLE 3.

IMPOSITIONS

3.1 **Payment of Impositions**. Subject to Article 11 relating to permitted contests, Tenant will pay, or cause to be paid, all Impositions accruing after the Commencement Date of this Lease and during the Term of this Lease before any fine, penalty, interest or cost may be added for non-payment, such payments to be made directly to the taxing authorities where feasible, and Tenant will promptly, upon request, furnish to Landlord copies of official receipts or other satisfactory proof evidencing such payments. Tenant's obligation to pay such Impositions and the amount thereof shall be deemed absolutely fixed upon the date such Impositions become a lien upon the Leased Property or any part thereof. If any such Imposition may lawfully be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Tenant may exercise the option to pay the same (and any accrued interest on the unpaid balance of such Imposition) in installments and, in such event, shall pay such installments during the Term hereof as the same become due and before any fine, penalty, premium, further interest or cost may be added thereto. Landlord, at its expense, shall, to the extent permitted by applicable law, prepare and file all tax returns and reports as may be required by governmental authorities in respect of Landlord's net income, gross receipts, franchise taxes and taxes on its capital stock. Tenant, at its expense, shall, to the extent permitted or required by applicable laws and regulations, prepare and file all other tax returns and reports in respect of any Imposition as may be required by governmental authorities. If any refund shall be due from any taxing authority in respect of any Imposition paid by Tenant, the same shall be paid over to or retained by Tenant if no Event of Default shall have occurred hereunder and be continuing. Any such funds retained by Landlord due to an Event of Default shall be applied as provided in Article 15. Landlord and Tenant shall, upon request of the other, provide such data as is maintained by the party to whom the request is made with respect to the Leased Property as may be necessary to prepare any required returns and reports. In the event governmental authorities classify any property covered by this Lease as personal property, Tenant shall file all such personal property tax returns in such jurisdictions where filing is required. Landlord and Tenant will provide the other party, upon request, with cost and depreciation records necessary for filing returns for any property so classified as personal property. Where Landlord is legally required to file personal property tax returns, and Tenant is obligated for the same hereunder, Tenant will be provided with copies of assessment notices in sufficient time for Tenant to file a protest. Tenant may, upon giving 30 days' prior written notice to Landlord, at Tenant's option and at Tenant's sole cost and expense, protest, appeal, or institute such other proceedings as Tenant may deem appropriate to effect a reduction of real estate or personal property assessments and Landlord, if requested by Tenant and at Tenant's expense as aforesaid, shall fully cooperate with Tenant in such protest, appeal, or other action. Billings for reimbursement by Tenant to Landlord of personal property taxes shall be accompanied by copies of an invoice therefor and payments thereof which identify the personal property with respect to which such payments are made. Landlord will cooperate with Tenant in order that Tenant may fulfill its obligations hereunder, including the execution of any instruments or documents reasonably requested by Tenant. Promptly after the Commencement Date of this Lease, Tenant shall direct the applicable taxing authorities to send all tax notices, statements and other correspondence directly to Tenant rather than to Landlord. Upon the occurrence of an Event of Default by Tenant, Landlord may direct

the applicable taxing authorities to send all tax notices, statements and other tax related correspondence directly to Landlord.

3.2 **Proration of Impositions**. Impositions imposed in respect of the tax-fiscal period during which the Term commences and terminates shall be prorated between Landlord and Tenant, whether or not such Imposition is imposed before or after such termination, and Tenant's and Landlord's obligation to pay their prorated shares thereof shall survive such termination. General Real Estate Taxes shall be prorated as of the commencement date of the Lease and any such taxes are due for a year prior to the commencement date shall be paid by the Landlord.

3.3 **Utility Charges**. Tenant will contract for, in its own name, and will pay or cause to be paid all charges for, electricity, power, gas, oil, water, telephone, cable television or satellite television, high-speed data connections and other utilities used in the Leased Property during the Term.

3.4 **Insurance Premiums**. Tenant will contract for, in its own name, and will pay or cause to be paid all premiums for, the insurance coverage required to be maintained by Tenant pursuant to Article 12 during the Term or such other insurance coverage reasonably required by Facility Mortgagee from time to time.

3.5 **Excluded Expenses**. Tenant shall in no manner be liable for any of the following obligations, and such shall not be included in any calculation of Minimum Rent, nor shall such be an Imposition to be paid by Tenant, and Landlord shall pay, or cause to be paid, the following: any costs occurred by Landlord's breach of any covenants or obligations under this Lease, any costs for testing, handling, remediating or abating of any environmental matters resulting from Landlord's acquisition of Land contaminated by Hazardous Materials or costs resulting from violation of any environmental or Hazardous Materials Laws during construction of the Leased Property or the cost to purchase environmental insurance, costs necessary to correct faulty design or defective construction of the Leased Property, any expenses for overhead, office costs, staff salary of any Landlord or affiliated entity, any fines Landlord must pay as a result of a failure to comply with laws, ordinances or municipal codes and the like during acquisition of the Land and construction of the Leased Property; any costs incurred because of Landlord's negligence; and any fees and expenses paid to affiliates of Landlord in excess of market rates.

ARTICLE 4
NO TERMINATION

Except as may be otherwise expressly provided in this Lease, Tenant shall remain bound by this Lease in accordance with its terms and shall neither take any action without the consent of Landlord to modify, surrender or terminate the same, or set-off against the Rent, nor shall the respective obligations of Landlord and Tenant be otherwise affected by reason of (a) any damage to, or destruction of, the Leased Property or any portion thereof from whatever cause or any Taking of the Leased Property or any portion thereof, (b) the lawful or unlawful prohibition of, or restriction upon, Tenant's use of the Leased Property, or any portion thereof, or the interference with such use by any person, corporation, partnership or other entity, or by reason of eviction by paramount title, (c) any bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding up or other proceedings affecting Landlord or any assignee or transferee of Landlord, or (d) for any other cause whether similar or dissimilar to any of the foregoing. Except as otherwise expressly provided for in this Lease, Tenant hereby specifically waives all rights arising from any occurrence whatsoever which may now or hereafter be conferred upon it by law to (i) modify, surrender or terminate this Lease or quit or surrender the Leased Property or any portion thereof, or (ii) entitle Tenant to any abatement, reduction, suspension or deferment of the Rent or other sums payable by Tenant hereunder. The obligations of Landlord and Tenant hereunder shall be separate and independent covenants and agreements and the Rent and all other sums payable by Tenant hereunder shall continue to be

payable in all events unless the obligations to pay the same shall be terminated pursuant to the express provisions of this Lease or unless Tenant has a specific right of offset against Rent or indemnity from Landlord pursuant to the terms of this Lease. Notwithstanding the foregoing, Tenant shall have the right by separate and independent action to pursue any claim or seek any damages it may have against Landlord as a result of a breach by Landlord of the terms of this Lease.

ARTICLE 5.

OWNERSHIP OF LEASED PROPERTY

5.1 Ownership of the Property. Tenant acknowledges that the Leased Property is the property of Landlord and that Tenant has only the right to the possession and use of the Leased Property during the Term hereof and upon the terms and conditions of this Lease.

5.2 Personal Property. Tenant may (and shall as provided herein below), at its expense, install, affix or assemble or place on any parcels of the Land or in any of the Improvements any items of the Personal Property, and may remove, replace or substitute for the same from time to time in the ordinary course of Tenant's business. Tenant shall provide and maintain during the entire Term all such Personal Property as shall be necessary in order to operate the Facility in compliance with all licensure and certification requirements, in compliance with all applicable Legal Requirements and Insurance Requirements and otherwise in accordance with customary practice in the industry for the Primary Intended Use.

ARTICLE 6.

CONDITION AND USE OF LEASED PROPERTY

6.1 Condition of the Leased Property. Landlord shall deliver the Leased Property to Tenant in such condition that the Leased Improvements shall not encroach upon any property, street or right-of-way adjacent to the Leased Property, and shall not violate the agreements or conditions contained in any applicable Legal Requirement, and the Permitted Exceptions, and shall not impair the rights of others under any easement or right-of-way to which the Leased Property is subject. The taking possession of the Leased Property by Tenant at the Commencement Date, and subject to the completion of all Punchlist Items by Landlord in a good and workmanlike manner, shall be conclusive evidence as against Tenant that the Leased Property, as to those things patent and not latent, were in good and satisfactory condition when possession was taken. Landlord shall construct and complete the Leased Improvements and install the Fixtures, any other improvements, fixtures or personal property or other work or matters to be completed, pursuant to the Work Letter and Building Standards attached hereto as Exhibits "D" and "G" and that are necessary as Landlord's work and responsibility, and that are necessary for Tenant to obtain any required license(s), approvals(s), permit(s), certification(s) or accreditation(s) to operate the Leased Property for its Primary Intended Use. As clarification, all such license(s), approval(s), permit(s), certification(s) or accreditation(s) to commence operations of the Leased Property for its Primary Intended Use (other than certificate of occupancy) shall be applied for by Tenant. Landlord is not responsible for completing such license(s), approvals(s), permit(s), certification(s) or accreditation(s), however, Landlord shall

construct and complete the Leased Improvements in such manner and condition that the Leased Property will not cause Tenant license(s), approvals(s), permit(s), certification(s) or accreditation(s) to fail, be rejected, or fail to be approved due to Landlord's failure to construct and complete the Leased Improvements per the Work Letter and Building Standards attached hereto as Exhibits "D" and "G" and that are necessary as Landlord's work and responsibility. In no way shall Landlord be responsible for a failure, rejection or denial of approval due to Tenant's failure to perform its responsibilities pursuant to the Work Letter attached as Exhibit "D" hereto or complete Tenant's work after Landlord has completed its work, whether occurring prior to or after Substantial Completion. In no matter shall Substantial Completion be achieved if the Leased Property is not delivered in such condition that Tenant may obtain any required license(s), approvals(s), permit(s), certification(s) or accreditation(s) to commence operations of the Leased Property for its Primary Intended Use. Prior to the taking of possession, Tenant and Landlord will prepare the Punchlist related to the Leased Property in the manner contemplated in the Work Letter attached hereto as Exhibit D. All Punchlist Items will be completed or corrected at the expense of Landlord, if the Punchlist Items are part of Landlord's Work under the Work Letter attached hereto as Exhibit D. Tenant's taking of possession prior to the completion of the Punchlist Items shall not relieve Landlord from any obligation to complete any of Landlord's Work to be performed by Landlord under the terms of the Work Letter attached hereto as Exhibit D. Provided, however, that nothing herein shall prohibit Tenant from pursuing against the Contractor and/or Architect any and all warranties provided to Landlord by said Contractor and/or Architect under the Construction Agreement or the AIA Contract between the Owner and Architect.

(a) **State Licensure Related to the Condition of the Leased Property**. Landlord and Tenant acknowledge that the Commencement Date of this Lease shall be triggered by Landlord's Substantial Completion of Landlord's Work under the Work Letter attached hereto as Exhibit D. Once Substantial Completion of the Leased Property has first been obtained as such relates to the condition of the Leased Property only, then Landlord's obligations to maintain the Leased Property in a condition or state or repair necessary to maintain such approval(s), license(s) or permit(s) shall terminate except as provided in Article 8.1 regarding Landlord's repair and maintenance obligations, and thereafter, except as provided in Article 8.1 regarding Landlord's repair and maintenance obligations, Tenant shall be solely responsible, at its own cost and expense, to maintain, repair, or modify the Leased Property in such a manner necessary to maintain such license(s), approval(s), permit(s) and accreditation to use the Leased Property for its Primary Intended Use.

(b) **State Licensure and Accreditation Related to Operations of the Leased Property**. Except for Landlord's responsibilities to construct and complete the Leased Improvements and to install the Fixtures pursuant to the Work Letter and Building Standards attached hereto as Exhibits "D" and "G," any other improvements, fixtures or personal property or other work or matters to be completed that are necessary for Tenant to obtain any required license(s), approvals(s), permit(s), certification(s) or accreditation(s) to operate the Leased Property for its Primary Intended Use shall be Tenant's sole responsibility and cost.

6.2 **Use of the Leased Property and Exclusivity.** After the Commencement Date and during the entire Term, Tenant shall use or cause to be used the Leased Property as a licensed hospital, a licensed long-term acute care hospital facility, an out-patient rehabilitation

facility, an out-patient surgery center, a psychological hospital, a skilled nursing facility, or an in-patient rehabilitation facility and for such other uses as may be necessary, incidental, profitable or complementary to such use and for any lawful use as permitted by local or state ordinance or regulation (the "Primary Intended Use"). Tenant shall not use the Leased Property or any portion thereof for any other use or business activity without the prior written consent of Landlord.

(a) Tenant covenants that at its own cost and expense during the Lease Term, it will obtain and maintain all material governmental approvals needed to use and operate the Leased Property for its Primary Intended Use in compliance with all applicable Legal Requirements.

(b) For a period of ten (10) years following the Commencement Date, Landlord, or any affiliates or subsidiaries, shall not directly or indirectly lease to, enter into any development agreement with any third parties, or manage or operate (collectively "Assist in Development") any other long-term acute care hospital, within the County of Peoria. For the purposes hereof, and without limiting the generality of the foregoing, Landlord shall be deemed to Assist in Development such a business indirectly if Landlord shall become a member of a joint venture or partnership, or manager, shareholder, officer or director of a corporation, that engages in such competitive business. In the event of any termination of this Lease by reason of Landlord's default, Landlord agrees not to Assist in Development of any such competitive business within the Illinois County of Peoria for a period equal to the remainder of the term of this Lease if it had not been terminated.

Upon the violation of this covenant by Landlord, Tenant shall have the right to immediately terminate the Lease upon delivery of written notice to Landlord, without prejudice to any other right or remedy Tenant may have under law.

(c) Tenant's failure to continuously operate the Leased Property in accordance with its Primary Intended Use and to maintain its certifications for reimbursement and licensure and its accreditation, shall not be an Event of Default under this Lease. Tenant's failure to continuously operate the Leased Property does not relieve Tenant from any other duties set forth in this Lease, specifically including all duties regarding payment of Minimum Rent, Additional Charges, and all duties regarding maintenance and repair of the Leased Property.

(d) Tenant shall not commit or suffer to be committed any material waste on the Leased Property, or in the Facility, nor shall Tenant cause or permit any nuisance thereon.

(e) Tenant shall neither suffer nor permit the Leased Property or any portion thereof, including any Capital Addition whether or not financed by Landlord, to be used in such a manner as (i) might reasonably tend to impair Landlord's (or Tenant's, as the case may be) title thereto or to any portion thereof, or (ii) may reasonably result in a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Leased Property or any portion thereof.

(f) Tenant will not utilize any Hazardous Materials on the Leased Property except in accordance with applicable Legal Requirements and will not permit any contamination or release of Hazardous Materials which may require remediation under any applicable Hazardous

Materials Law. Tenant agrees not to dispose of any Hazardous Materials or substances within the sewage system of the Leased Property, and that it will handle all "red bag" wastes in accordance with applicable Hazardous Materials Laws.

6.3 **Management of Facility**. The Facility shall be self-managed by Tenant or its Affiliates.

At its own cost and expense, Tenant shall employ such clinical, clerical and administrative personnel as may be required for proper operation of the Facility ("Tenant Employees") or shall enter into service contracts for such clinical, clerical and administrative personnel as may be required for proper operation of the Facility ("Service Contract Employees"). Tenant shall supervise, control and direct all Tenant Employees and ensure that Tenant Employees comply with Landlord's policies and procedures regarding employee conduct in Landlord's hospital. Tenant shall be solely responsible for all employment or employment-related decisions with respect to Tenant Employees. Tenant Employees and Service Contract Employees shall not for any purpose be, be deemed to be, or be considered to be employees of Landlord.

Tenant shall be solely responsible for the satisfaction of any and all obligations it assumes with respect to Tenant Employees, including without limitation, payment of wages and salaries, withholding of federal, state and local taxes, employee benefits, wage and hour obligations (including overtime), workers' compensation, Social Security and unemployment insurance. Tenant shall comply with all federal, state and local laws, rules and regulations respecting the employment and the provision of equal employment opportunities to Tenant Employees working in the Facility and those respecting occupational health and safety of hospital workers.

6.4 **Landlord to Grant Easements**. Landlord will, from time to time, at the request of Tenant and at Tenant's cost and expense, but subject to the consent of Landlord, which consent shall not be unreasonably withheld or delayed (a) grant easements and other rights in the nature of easements, (b) release existing easements or other rights in the nature of easements which are for the benefit of the Leased Property, (c) dedicate or transfer unimproved portions of the Leased Property for road, highway or other public purposes, (d) execute petitions to have the Leased Property annexed to any municipal corporation or utility district, (e) execute amendments to any covenants and restrictions affecting the Leased Property and (f) execute and deliver to any person any instrument appropriate to confirm or effect such grants, releases, dedications and transfers (to the extent of its interest in the Leased Property). Accompanying any request by Tenant to Landlord for any of the foregoing matters, Tenant shall deliver to Landlord an Officer's Certificate stating that such grant, release, dedication, transfer, petition or amendment is required or beneficial for and not detrimental to the proper conduct of the business of Tenant on the Leased Property and does not materially reduce its Fair Market Value or otherwise materially and negatively impact Landlord's interests in the Leased Property in Tenant's reasonable business judgment.

ARTICLE 7.

LEGAL, INSURANCE AND FINANCIAL REQUIREMENTS

7.1 **Compliance with Legal and Insurance Requirements**. Subject to Article 11 relating to permitted contests, Tenant, at its expense, will promptly (a) comply with all material Legal Requirements and Insurance Requirements in respect of the use, operation, maintenance, repair and restoration of the Leased Property, whether or not compliance therewith shall require structural change in any of the Leased Improvements or interfere with the use and enjoyment of the Leased Property, and (b) directly or indirectly with the cooperation of Landlord, but at Tenant's sole cost and expense, procure, maintain and comply with all material licenses, certificates of need and other authorizations required for (i) the use and operation of the Leased Property for its Primary Intended Use, and for (ii) the proper erection, installation, operation and maintenance of the Leased Improvements or any part thereof, including any Capital Additions.

7.2 **Legal Requirement Covenants**. Tenant covenants and agrees that the Leased Property shall not be used for any unlawful purpose. Tenant shall, directly or indirectly with the cooperation of Landlord, but at Tenant's sole cost and expense, acquire and maintain all material licenses, certificates, permits and other authorizations and approvals needed to operate the Leased Property in its customary manner for the Primary Intended Use and any other use conducted on the Leased Property as may be permitted by Landlord from time to time hereunder. Tenant further covenants and agrees that Tenant's use of the Leased Property and Tenant's maintenance, alteration, and operation of the same and all parts thereof, shall at all times conform to all applicable Legal Requirements.

ARTICLE 8.

REPAIRS; RESTRICTIONS

8.1 **Maintenance and Repair**

(a) Repair and maintain (and derivations of such terms) as used in this Article shall mean the performance and furnishing of all repairs, replacements and renewals. The maintenance and repair obligations of the Landlord and the Tenant regarding the Premises and the Leased Property shall be as follows:

(i) Landlord, at its expense, will repair and maintain the **exterior** of the Facility, and shall keep the same in good order and repair (whether or not the need for such repairs occurs as a result of Tenant's normal wear and tear, the elements, or the age of the Facility). By way of example and not of limitation, Landlord shall repair and maintain all of the structural elements and exterior surfaces of the Facility including roof, roof membrane, roof covering, walls, concrete slab, footings, and electrical and plumbing systems exterior to the Facility. Landlord, except as otherwise provided in Articles 13 and 14, with reasonable promptness, will make all necessary and appropriate exterior repairs thereto of every kind and nature, structural or non-structural, capital or non-capital, ordinary or extraordinary, foreseen or unforeseen or arising by reason of a condition first arising after the Commencement Date of this Lease (concealed or

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otherwise). All repairs shall, to the extent reasonably achievable, be at least equivalent in quality to the original work performed by Landlord and shall be accomplished by a party selected by Landlord, subject to Tenant's reasonable written approval thereof. Landlord will not take or omit to take any action the taking or omission of which might materially impair the value or usefulness of the Leased Property or any part thereof for the Primary Intended Use. Provided, however, that Landlord shall not be responsible for any items of exterior repair or maintenance caused or required by Tenant's negligence or covered under the Contractor's or Architect's warranties. Notwithstanding anything contained herein to the contrary, Landlord shall have no obligation to maintain, repair, or replace any improvements or Capital Additions to the Facility or the Leased Property financed or paid for by Tenant.

(ii) Tenant, at its expense, will repair and maintain the interior of the Facility, all improvements appurtenant thereto, landscaping exterior to the Facility, and all private roadways, parking lots, sidewalks and curbs appurtenant to the Leased Property, and shall keep the same in good order and repair (whether or not the need for such repairs occurs as a result of Tenant's use, any prior use, the elements, the age of the Leased Property or any portion thereof). By way of example and not of limitation, Tenant shall repair and maintain the interior walls; interior floors and ceilings; the heating, ventilating and air conditioning system(s) (whether located upon the interior or the exterior of the Facility); all additional Facility mechanicals including electrical, oxygen and plumbing systems (whether located upon the interior or the exterior of the Facility); and the Facility windows and doors. Tenant, except as otherwise provided in Articles 13 and 14, with reasonable promptness, will make all necessary and appropriate exterior repairs thereto of every kind and nature, structural or non-structural, capital or non-capital, ordinary or extraordinary, foreseen or unforeseen, or arising by reason of a condition first arising after the Commencement Date of this Lease (concealed or otherwise). All repairs shall, to the extent reasonably achievable, be at least equivalent in quality to the original work performed by Landlord and shall be accomplished by a party selected by Tenant. Tenant will not take or omit to take any action the taking or omission of which might materially impair the value or usefulness of the Leased Property or any part thereof for the Primary Intended Use. Provided, however, that Tenant shall not be responsible for any items of repair or maintenance caused or required by Landlord's negligence or covered under the Contractor's or Architect's warranties.

(b) Except as set forth in this Article 8, and except for the use of any insurance proceeds as set forth in Sections 13.1 and 13.2 hereof, Landlord shall not under any circumstances be required to build or rebuild the Leased Improvements on the Leased Property (or any Capital Additions that may become part of the Leased Property), or to make any repairs, replacements, alterations, restorations, or renewals of any nature or description to the Leased Property, whether ordinary or extraordinary, structural or non-structural, capital or non-capital, foreseen or unforeseen, or to make any expenditure whatsoever with respect thereto in connection with this Lease, or to maintain the Leased Property in any way.

(c) Nothing contained in this Lease and no action or inaction by Landlord shall be construed as giving Tenant any right, power or permission to contract for or permit the performance of any labor or services or the finishing of any materials or other property in such

fashion as would permit the making of any claim against Landlord in respect thereof or to make any agreement that may create, or in any way be the basis for, any right, title, interest, lien, claim or other encumbrance upon the estate of Landlord in the Leased Property or any portion thereof.

(d) Unless Landlord shall convey any of the Leased Property to Tenant pursuant to the provisions of this Lease, Tenant will, upon the expiration or prior termination of this Lease, vacate and surrender the Leased Property to Landlord in the condition in which the Leased Property was originally received from Landlord, except for: (i) ordinary wear and tear (subject to the obligation of Tenant to maintain the Property in good order and repair during the entire Term); (ii) damage caused by the gross negligence or willful acts of Landlord; (iii) damage or destruction described in Article 13; (iv) damage resulting from a Taking described in Article 14 which Tenant is not required by the terms of this Lease to repair or restore; and (v) except as repaired, rebuilt, restored, altered or added to as permitted or required by the provisions of this Lease.

8.2 Encroachments; Restrictions. If any of the Leased Improvements shall, at any time, encroach upon any property, street or right-of-way adjacent to the Leased Property, or shall violate the agreements or conditions contained in any applicable Legal Requirement, or the Permitted Exceptions, or shall impair the rights of others under any easement or right-of-way to which the Leased Property is subject, then promptly upon the request of Landlord, Tenant shall, at its expense, subject to its right to contest the existence of any encroachment, violation or impairment, (a) obtain valid and effective waivers or settlements of all claims, liabilities and damages resulting from each such encroachment, violation or impairment, whether the same shall affect Landlord or Tenant, or (b) make such changes in the Leased Improvements, and take such other actions, as Landlord in the good faith exercise of its judgment deems reasonably practicable, to remove such encroachment or to end such violation or impairment, including, if necessary, the alteration of any of the Leased Improvements, and in any event take all such actions as may be necessary in order to be able to continue the operation of the Facility for the Primary Intended Use substantially in the manner and to the extent the Facility was operated prior to the assertion of such violation or encroachment. However, Tenant shall have no such liability or obligations if such encroachment, violation, or impairment was present at the Commencement Date of the Lease. Any such alteration shall be made in conformity with the applicable requirements of Article 9. Tenant's obligations under this Section 8.2 shall be in addition to and shall in no way discharge or diminish any obligation of any insurer under any policy of title or other insurance and Tenant shall be entitled to a credit for any sums recovered by Landlord under any such policy of title or other insurance.

8.3 Intentionally Omitted.

ARTICLE 9.

CAPITAL ADDITIONS

9.1 Construction of Capital Additions to the Leased Property.

(a) If no Event of Default shall have occurred and be continuing, Tenant shall have the right, upon and subject to the terms and conditions set forth below, and further subject to

Landlord's maintenance and repair obligations under Article 8, to construct or install Capital Additions on the Leased Property with the prior written consent of Landlord, which consent shall not be unreasonably withheld; provided that Tenant shall not be permitted to create any Encumbrance on the Leased Property in connection with such Capital Addition without first complying with Section 9.1(b) hereof. Prior to commencing construction of any Capital Addition, Tenant shall submit to Landlord in writing a proposal setting forth in reasonable detail any proposed Capital Addition, together with plans and specifications, permits, licenses, contracts and other information concerning the proposed Capital Addition (the "Request"). Without limiting the generality of the foregoing, such Request shall indicate the approximate projected cost of constructing and time to complete construction of such Capital Addition and the use or uses to which it will be put. Within 15 days after receipt of Tenant's Request, Landlord shall request any additional information that it may require in order to evaluate Tenant's Capital Addition proposal.

(b) Prior to commencing construction of any Capital Addition, Tenant shall first request Landlord to provide funds to pay for such Capital Addition in accordance with the provisions of Section 9.3. If Tenant and Landlord do not reach a mutual agreement regarding financing provided by Landlord, Tenant shall have the right to terminate negotiations with Landlord and obtain financing by other means.

(c) Notwithstanding any other provision of this Article 9 to the contrary, no prior written consent of Landlord shall be required for Tenant to construct a Capital Addition unless the Capital Addition, when aggregated with the costs of all other Capital Additions made by Tenant, would exceed One Million and 00/100 Dollars ($1,000,000.00) or would diminish the Fair Market Value of the Leased Property. Tenant shall provide Landlord with notice of any such Capital Addition not requiring Landlord's consent. In no event shall Tenant be required to obtain the consent of Landlord to construct a Capital Addition that is budgeted to cost less than Fifty Thousand Dollars ($50,000.00), which will be self-funded by Tenant, unless when aggregated with the costs of all other Capital Additions made by Tenant such Capital Addition would exceed One Million and 00/100 Dollars ($1,000,000.00) or would diminish the Fair Market Value of the Leased Property.

(d) Additionally, Landlord shall reasonably cooperate with Tenant regarding the grant of any consents or easements or the like necessary or appropriate in connection with any Capital Addition. Further, no Capital Addition shall be made which would tie in or connect any Leased Improvements on the Leased Property with any other improvements on property adjacent to the Leased Property (and not part of the Land covered by this Lease), including tie-ins of buildings or other structures or utilities, unless Tenant shall have obtained the prior written approval of Landlord, which approval shall not be unreasonably withheld. All proposed Capital Additions shall be architecturally integrated and consistent with the Leased Improvements.

9.2 **Capital Additions Financed by Tenant**. If Tenant provides or arranges to finance any Capital Addition with a party other than Landlord after compliance with the terms of Section 9.3 hereof, or if Tenant pays cash for any Capital Addition (which Landlord either did not agree to finance pursuant to Section 9.3 or for which Tenant was not required to obtain Landlord's consent to pursuant to Section 9.1(c) hereof) this Lease shall be and hereby is amended to provide as follows:

(a) There shall be no adjustment in the Minimum Rent by reason of any such Capital Addition.

(b) Any third-party or non-Landlord financing obtained by Tenant for the construction of any Capital Additions ("Tenant Capital Addition Encumbrance") shall be subordinate to the Facility Mortgage. Upon the expiration or earlier termination of this Lease, Tenant shall be solely responsible for the prompt removal of any Tenant Capital Additional Encumbrance filed against title to the Leased Property, and shall indemnify and hold harmless Landlord from any and all costs and expenses incurred by Landlord in conjunction with any Tenant Capital Addition Encumbrance. Upon the expiration or earlier termination of this Lease, Tenant shall, within ninety (90) days of receipt of notice from Landlord regarding such Tenant Capital Addition Encumbrance, cause the Tenant Capital Addition Encumbrance to be discharged at no cost to Landlord.

(c) All Capital Additions financed by Tenant pursuant to this Section 9.2, and that are made to or installed upon the Leased Property will remain upon the Leased Property at the termination of the Lease, and will be surrendered with the Leased Property as Landlord's sole and exclusive property.

9.3 **Capital Additions Financed by Landlord**.

(a) Together with any Request not exempt from Landlord consent requirements under Section 9.1(c) hereof Tenant shall request that Landlord provide or arrange financing for any Capital Addition.

(b) If the proposed Capital Addition, when aggregated with the costs of all other prior Capital Additions made by Tenant, does not exceed the Landlord Addition Threshold as defined under Section 9.3(c) hereof, Landlord may, but shall be under no obligation to provide or obtain the funds necessary to meet the Request.

(c) If the proposed Capital Addition, when aggregated with the costs of all other prior Capital Additions made by Tenant, does exceed the Landlord Addition Threshold, Landlord, at Tenant's option, shall provide or obtain the funds necessary to meet the Request, subject to the following conditions:

(i) Tenant (and any guarantors of Tenant's monetary obligations under the Lease) shall be obligated to present sufficient financial information to Landlord, as in Landlord's sole discretion, will assure Landlord of the Tenant's ability to satisfy the Tenant's additional Lease obligations arising from construction of the requested Capital Addition.

(ii) Landlord and Tenant shall enter into an amendment to the Lease whereby the Lease term shall be extended fifteen (15) years from the date of the execution of the amendment to the Lease ("Capital Addition Extension") (subject to the limitations set forth in Section 9.3(c)(iv) hereof on extensions beyond the Initial Leasehold Interest).

(iii) The Capital Addition Extension amendment to Lease shall reflect that Minimum Rent shall be increased during the first five (5) years of the Capital Addition

Extension term in an amount sufficient to allow a return to Landlord upon the total costs required to complete construction of the Capital Addition of that percentage rate computed by the addition of the Prime Rate in effect at the date of the Capital Addition Extension Lease amendment *plus* two and one half percent (2.50%) ("Capital Addition Minimum Rent"). Further, the Capital Addition Extension amendment to the Lease shall reflect that there shall be ten (10%) increases in the Capital Addition Minimum Rent for each subsequent five (5) year period of the Capital Addition Extension term, including extensions thereof, subject to the limitations set forth in Section 9.3(c)(iv).

(iv) Landlord and Tenant acknowledge that the Lease Initial Term is fifteen (15) years, and Tenant has five (5) consecutive Extension Terms arising after the Initial Term of five (5) years each, for a total initial potential leasehold interest of forty (40) years ("Initial Leasehold Interest"). Any Capital Addition Extension within the Initial Leasehold Interest shall cause any available Extension Term to abate accordingly, such that no Extension Term may be exercised beyond the Initial Leasehold Interest. A Capital Addition Extension exercised inside of the Initial Leasehold Interest may effect an extension beyond the Initial Leasehold Interest, but not beyond the Initial Leasehold Interest *plus* the Capital Addition Extension term of fifteen years, for a total extended potential leasehold interest of fifty-five (55) years ("Extended Leasehold Interest"). A Capital Addition Extension exercised beyond the Initial Leasehold Interest which would extend beyond the Extended Leasehold Interest if such Capital Addition Extension term was fifteen (15) years shall be reduced in term accordingly. For example, a Capital Addition Extension arising in the twentieth (20th) year of the Initial Leasehold Interest would result in one remaining Extension Term being available to Tenant, exercise of which would allow expiration of the Lease upon the fortieth (40th) Lease Year. By way of further example, a Capital Addition Extension arising in the thirty-fifth (35th) year of the Initial Leasehold Interest would result in no further Extension Terms being available to Tenant and expiration of the lease upon the fiftieth (50th) Lease Year. By way of even further example, a Capital Addition Extension arising in the fiftieth (50th) year of the Extended Leasehold Interest would result in no further Extension Terms being available to Tenant and expiration of the Lease upon the fifty-fifth (55th) Lease Year, for a reduced Capital Addition Extension term of five (5) years. For Capital Addition Extensions arising within the last fifteen (15) years of the Extended Leasehold Interest, the Minimum Rent shall be equitably recalculated to provide an equivalent return to Landlord over the diminished Capital Addition Extension term, as the Landlord would have received over the full fifteen (15) years of an undiminished Capital Addition Extension term.

(v) Landlord Addition Threshold: One Million and 00/100 Dollars ($1,000,000.00). The Landlord Addition Threshold shall be reset to Zero Dollars ($0.00) with each Capital Addition Extension entered into by the parties, as of the date of each such amendment.

(d) Within 30 days of the later of: (i) Landlord's receipt of a Request; or (ii) Tenant's delivery of other reasonable information timely requested by Landlord related to a Request as set forth in Section 9.1(a) and 9.3(b) hereof, Landlord shall notify Tenant as to whether it will finance the proposed Capital Addition and, if so, the terms and conditions upon which it would do so, including the terms of any amendment to this Lease. Landlord's failure to timely respond

to a Request shall be deemed an approval of Tenant's proposed Capital Addition and a rejection of Landlord's opportunity to provide for or arrange financing for such proposed Capital Addition. Any Capital Addition not financed by Landlord and not otherwise exempt from consent under Section 9.1(c) hereof must still be approved in writing by Landlord pursuant to the terms of Section 9.1 hereof, which consent will not be unreasonably withheld. Tenant may withdraw its Request by notice to Landlord at any time before or after receipt of Landlord's terms and conditions.

(e) Within 30 days of the later of: (i) Landlord's receipt of a Request; or (ii) Tenant's delivery of other reasonable information timely requested by Landlord related to a Request as set forth in Section 9.1(a) and 9.3(c) hereof, and subject to the terms and conditions contained in Section 9.3(c), Landlord shall notify Tenant of the means by which it will finance the proposed Capital Addition and the terms and conditions upon which it will do so, including the terms of any amendment to this Lease. Tenant's failure to timely respond to Landlord's notification shall be deemed to be a rejection of Tenant's option to require Landlord to provide for or arrange financing for such proposed Capital Addition. Any Capital Addition not financed by Landlord and not otherwise exempt from consent under Section 9.1(c) hereof must still be approved in writing by Landlord pursuant to the terms of Section 9.1 hereof, which consent will not be unreasonably withheld. Tenant may withdraw its Request by notice to Landlord at any time before or after receipt of Landlord's terms and conditions. If Landlord finances the proposed Capital Addition, Landlord's obligation to advance any funds shall be subject to receipt of all of the following, in form and substance reasonably satisfactory to Landlord:

(i) such documentation as may be required by Landlord;

(ii) any information, certificates, licenses, permits or documents requested by Landlord or any lender with whom Landlord has agreed or may agree to provide financing which are necessary to confirm that Tenant will be able to use the Capital Addition upon completion thereof in accordance with the Primary Intended Use, including all required federal, state or local government licenses and approvals;

(iii) an Officer's Certificate and, if requested, a certificate from Tenant's architect, setting forth in detail reasonably satisfactory to Landlord the projected (or actual, if available) cost of the proposed Capital Addition;

(iv) an amendment to this Lease, duly executed and acknowledged, in form and substance satisfactory to Landlord and Tenant (the "Lease Amendment"), and containing such provisions as may be necessary or appropriate due to the Capital Addition, including any appropriate changes in the legal description of the Land and the Minimum Rent, all such changes to be mutually agreed upon by Landlord and Tenant;

(v) a deed conveying title to Landlord to any land and improvements or other rights acquired for the purpose of constructing the Capital Addition, free and clear of any liens or encumbrances except those approved in writing by Landlord and, both prior to and following completion of the Capital Addition, an as-built survey thereof reasonably satisfactory to Landlord;

(vi) endorsements to any outstanding policy of title insurance covering the Leased Property or a supplemental policy of title insurance covering the Leased Property reasonably satisfactory in form and substance to Landlord (A) updating the same without any additional exceptions, except as may be permitted by Landlord; and (B) increasing the coverage thereof by an amount equal to the Fair Market Value of the Capital Addition (except to the extent covered by the owner's policy of title insurance referred to in subparagraph (vii) below);

(vii) if required by Landlord, (A) an owner's policy of title insurance insuring fee simple title to any land conveyed to Landlord pursuant to subparagraph (v), free and clear of all liens and encumbrances except those approved by Landlord and (B) a lender's policy of title insurance satisfactory in form and substance to Landlord and the Lending Institution advancing any portion of the Capital Addition Cost;

(viii) if the cost to construct the Capital Addition is in excess of One Hundred Thousand and 00/100 Dollars ($100,000.00) and if required by Landlord upon completion of the Capital Addition, an M.A.I. appraisal of the Leased Property; and

(ix) such other certificates (including endorsements increasing the insurance coverage, if any, at the time required by Section 12.1), documents, customary opinions of Tenant's counsel, appraisals, surveys, certified copies of duly adopted resolutions Tenant's Managing Member and a required interest of Tenant's membership under Tenant's Membership Agreement, if required under the terms and conditions thereof, authorizing the execution and delivery of the Lease Amendment and any other instruments as may be reasonably required by Landlord.

(f) Upon making a Request to finance a Capital Addition, whether or not such financing is actually consummated, Tenant shall pay or agree to pay mutually agreed upon reasonable costs and expenses of Landlord and any Lending Institution which has committed to finance such Capital Addition paid or incurred in connection with the financing of the Capital Addition, including (i) the fees and expenses of their respective counsel, (ii) the amount of any recording or transfer taxes and fees, (iii) documentary stamp taxes, if any, (iv) title insurance charges, appraisal fees, if any, and (v) loan commitment fees, if any.

9.4 **Remodeling and Non-Capital Additions**. Tenant shall have the right and the obligation to make additions, modifications or improvements to the Leased Property which are not Capital Additions, from time to time as may reasonably be necessary for its uses and purposes and to permit Tenant to comply fully with its obligations set forth in this Lease; provided that such action will be undertaken expeditiously, in a workmanlike manner and will not significantly alter the character or purpose or detract from the value or operating efficiency of the Leased Property and will not significantly impair the revenue producing capability of the Leased Property or adversely affect the ability of Tenant to comply with the provisions of this Lease. Title to all non-Capital Additions, modifications and improvements shall, without payment by Landlord at any time, be included under the terms of this Lease and, upon expiration or earlier termination of this Lease, shall pass to and become the property of Landlord.

9.5 **Intentionally Omitted**.

ARTICLE 10.

LIENS

Subject to the provisions of Article 11 relating to permitted contests, Tenant will not directly or indirectly create or suffer to exist and will promptly discharge at its expense any lien, encumbrance, attachment, title retention agreement or claim upon the Leased Property or any attachment, levy, claim or encumbrance in respect of the Rent, not including, however, (a) this Lease, (b) the Permitted Exceptions set forth in Exhibit B attached hereto, (c) the Facility Mortgage, (d) restrictions, liens and other encumbrances which are consented to in writing by Landlord, or any easements granted pursuant to the provisions of Section 6.4 of this Lease, (e) liens for those taxes of Landlord which Tenant is not required to pay hereunder, (f) subleases permitted by Article 22, (g) liens for Impositions or for sums resulting from noncompliance with Legal Requirements so long as (1) the same are not yet payable or are payable without the addition of any fine or penalty or (2) such liens are in the process of being contested as permitted by Article 11, (h) liens of mechanics, laborers, materialmen, suppliers or vendors for sums either disputed or not yet due, provided that (1) the payment of such sums shall not be postponed for more than 60 days after the completion of the action (including any appeal from any judgment rendered therein) giving rise to such lien and such reserve or other appropriate provisions as shall be required by law or generally accepted accounting principles shall have been made therefor or (2) any such liens are in the process of being contested as permitted by Article 11, (i) any Encumbrance placed on the Leased Property by Landlord, and (j) any Encumbrance placed upon the Leased Property in connection with a Capital Addition as set forth in Article 9 hereof, provided such Tenant Capital Addition Encumbrance is subordinate to this Lease and the Facility Mortgage, and further provided that such Tenant Capital Addition Encumbrance is subject to the removal and discharge provisions of Article 9 upon termination or earlier expiration of this Lease.

ARTICLE 11.

PERMITTED CONTESTS

Tenant, after ten days' prior written notice to Landlord, on its own or on Landlord's behalf (or in Landlord's name), but at Tenant's expense, may contest, by appropriate legal proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any Imposition, Legal Requirement, Insurance Requirement, lien, attachment, levy, encumbrance, charge or claim (collectively, "Charge") not otherwise permitted by Article 10, which is required to be paid or discharged by Tenant; provided that (a) in the case of an unpaid Charge, the commencement and continuation of such proceedings, or the posting of a bond or certificate of deposit as may be permitted by applicable law, shall suspend the collection thereof from Landlord and from the Leased Property; (b) neither the Leased Property nor any Rent therefrom nor any part thereof or interest therein would be in any immediate danger of being sold, forfeited, attached or lost; (c) Landlord would not be in any immediate danger of civil or criminal liability for failure to comply therewith pending the outcome of such proceedings; (d) in the event that any such contest shall involve a sum of money or potential loss

in excess of Five Thousand and 00/100 Dollars ($5,000.00), then Tenant shall deliver to Landlord and its counsel an Officer's Certificate as to the matters set forth in clauses (a), (b) and (c); (e) in the case of an Insurance Requirement, the coverage required by Article 12 shall be maintained; and (f) if such contest be finally resolved against Landlord or Tenant, Tenant shall, as Additional Charges due hereunder, promptly pay the amount required to be paid, together with all interest and penalties accrued thereon, or otherwise comply with the applicable Charge; provided further that nothing contained herein shall be construed to permit Tenant to contest the payment of Rent, or any other sums payable by Tenant to Landlord hereunder. Landlord, at Tenant's expense, shall execute and deliver to Tenant such authorizations and other documents as may reasonably be required in any such contest and, if reasonably requested by Tenant or if Landlord so desires and then at its own expense, Landlord shall join as a party therein. Landlord shall do all things reasonably requested by Tenant in connection with such action. Tenant shall indemnify and save Landlord harmless against any liability, cost or expense of any kind that may be imposed upon Landlord in connection with any such contest and any loss resulting therefrom.

ARTICLE 12.

INSURANCE

12.1 General Insurance Requirements. During the Term of this Lease, Tenant shall at all times keep the Leased Property, and all property located in or on the Leased Property insured with the kinds and amounts of insurance as described below and written by companies reasonably acceptable to Landlord, authorized to do insurance business in the state in which the Leased Property is located, having an A.M. Best Insurance Reports rating of not less than "A," and a financial size category of not less than "VIII." The policies must name Tenant as the insured and Landlord as an additional insured, and losses shall be payable to Landlord and/or Tenant as provided in Article 13. In addition, the policies shall name as an additional insured the holder ("Facility Mortgagee") of any mortgage, deed of trust or other security agreement securing any Encumbrance placed on the Leased Property in accordance with the provisions of Article 31 ("Facility Mortgage"), if any, by way of a standard form of mortgagee's loss payable endorsement. Any loss adjustment in excess of Ten Thousand and 00/100 Dollars ($10,000.00) shall require the written consent of Landlord, and each affected Facility Mortgagee. Evidence of insurance shall be deposited with Landlord and, if requested, with any Facility Mortgagee(s). If any provision of any Facility Mortgage which constitutes a first lien on the Leased Property requires deposits of insurance to be made with such Facility Mortgagee, Tenant shall either pay to Landlord monthly the amounts required and Landlord shall transfer such amounts to such Facility Mortgagee or, pursuant to written direction by Landlord, Tenant shall make such deposits directly with such Facility Mortgagee. The policies on the Leased Property, including the Leased Improvements, the Fixtures and the Personal Property, shall insure against the following risks:

(a) Loss or damage by fire, vandalism and malicious mischief, extended coverage perils commonly known as "Special Form" (formerly "All Risk") and all physical loss perils, including sprinkler leakage, in an amount not less than 100% of the then Full Replacement Cost thereof (as defined below in Section 12.2) with a replacement cost endorsement sufficient to prevent Tenant from becoming a co-insurer together with an agreed value endorsement and

business interruption insurance (in an amount at least equal to twelve (12) months of Fixed Rent due under this Lease);

(b) Loss or damage by explosion of steam boilers, pressure vessels or similar apparatus now or hereafter installed in the Facility, in such limits with respect to any one accident as may be reasonably requested by Landlord from time to time;

(c) Loss of rental under a rental value insurance policy covering risk of loss during the first 12 months of reconstruction necessitated by the occurrence of any of the hazards described in Sections 12.1(a) or 12.1(b), in an amount sufficient to prevent Tenant from becoming a co-insurer; provided that in the event that Tenant shall not be in default hereunder and Landlord shall receive any proceeds from such rental insurance which, when added to rental amounts received with respect to the applicable time period, exceed the amount of rental owed by Tenant hereunder, Landlord shall immediately pay such excess to Tenant;

(d) Loss or damage by hurricane, earthquake, or any natural disaster in the amount of the Full Replacement Cost, after deductible;

(e) Claims for personal injury or property damage under a policy of comprehensive general public liability insurance, including insurance against assumed or contractual liability including indemnities under this Lease, with amounts not less than Three Million and 00/100 Dollars ($3,000,000.00) per occurrence in respect of bodily injury and death and Three Million and 00/100 Dollars ($3,000,000.00) for property damage and an umbrella policy in an amount of Three Million and 00/100 Dollars ($3,000,000.00);

(f) Flood (when the Leased Property is located in whole or in part within a designated flood plain area) and such other hazards and in such amounts as may be customary for comparable properties in the area and if available from insurance companies authorized to do business in the state in which the Leased Property is located;

(g) If Tenant shall engage or cause to be engaged any contractor to perform any material work on the Leased Property (for purposes of this particular provision material shall mean in excess of One Thousand and 00/100 Dollars ($1,000.00), including work related to the construction of any Capital Addition by Tenant, Tenant shall require such contractor to carry and maintain insurance coverage comparable to the foregoing requirements set forth in Section 12.1(e) above and builder's risk insurance in amounts sufficient to cover the Full Replacement Cost of the Leased Property (excluding the Land), at no expense to Landlord; provided that Tenant may allow any such contractor to carry or maintain alternative coverage in reasonable amounts upon Landlord's prior written consent, which shall not be unreasonably withheld. In the event of the construction of any Capital Addition to the Leased Property, whether financed by Landlord or not, Tenant and/or its general contractor(s) shall obtain and maintain during the course of such Capital Addition construction, builder's risk insurance in amounts sufficient to cover the budgeted cost of the Capital Addition and Full Replacement Cost of the Leased Property (excluding the Land).

12.2 **Replacement Cost**. The term "Full Replacement Cost" as used herein shall mean the actual replacement cost of the Facility from time to time, without deduction for physical

depreciation, and including an increased cost of construction endorsement. In the event either Landlord or Tenant believes that the Full Replacement Cost has increased or decreased at any time during the Term, either party shall have the right, although such right may not be exercised by a single party more frequently than once in a single five (5) year period, and at the electing party's expense to have such Full Replacement Cost re-determined by the insurance company which is then providing the largest amount of casualty insurance carried on the Leased Property, hereinafter referred to as the "impartial appraiser." The party desiring to have the Full Replacement Cost so re-determined shall forthwith, on receipt of such determination by the impartial appraiser, give written notice thereof to the other party hereto. The determination of such impartial appraiser shall be final and binding on the parties hereto, and Tenant shall forthwith increase, or may decrease, the amount of the insurance carried pursuant to this Article to the amount so determined by the impartial appraiser.

12.3 **Additional Insurance**. In addition to the insurance described above, Tenant shall maintain such additional insurance as may be reasonably required from time to time by Landlord or any Facility Mortgagee which is consistent with insurance coverage for similar buildings in the city, county and state where the Leased Property is located, or required pursuant to any applicable Legal Requirement and shall at all times maintain adequate worker's compensation insurance coverage for all persons employed by Tenant on the Leased Property, in accordance with all applicable Legal Requirements.

12.4 **Waiver of Subrogation**. All insurance policies carried by either party covering the Leased Property, the Fixtures, the Facility and/or the Personal Property, including contents, fire and casualty insurance, shall expressly waive any right of subrogation on the part of the insurer against the other party. The parties hereto agree that their policies will include such a waiver clause or endorsement so long as the same is obtainable without extra cost, and in the event of such an extra charge the other party, at its election, may request and pay the same, but shall not be obligated to do so.

12.5 **Form of Insurance**. All of the policies of insurance referred to in this Section shall be written in form reasonably satisfactory to Landlord and in compliance with the requirements of the Facility Mortgagee by insurance companies reasonably satisfactory to Landlord and Tenant shall not be self-insured, except to the extent of the permitted deductible levels set forth in this Section 12.5; provided that the deductibles for insurance required by Sections 12.1(a) and (b) shall be no greater than Fifty Thousand and 00/100 Dollars ($50,000.00) and the deductible for coverage required by Section 12.1(c) shall be no greater than Fifty Thousand and 00/100 Dollars ($50,000.00). Tenant shall pay all premiums therefor, and deliver such policies or certificates thereof to Landlord prior to their effective date (and, with respect to any renewal policy, at least 30 days prior to the expiration of the existing policy). In the event of the failure of Tenant to effect such insurance in the names herein called for or to pay the premiums therefor, or to deliver such policies or certificates thereof to Landlord at the times required, Landlord shall be entitled, but shall have no obligation, to enact such insurance and pay the premiums therefor, which premiums shall be repayable by Tenant to Landlord upon written demand therefor and shall be deemed Additional Charges hereunder, and failure to repay the same shall constitute an Event of Default within the meaning of Section 15.1(c). Each insurer mentioned in this Section shall agree, by endorsement on the policy or policies issued by it, or by

independent instrument furnished to Landlord, that it will give to Landlord prior written notice before the policy or policies in question shall be altered, allowed to expire or canceled.

12.6 Change in Limits. In the event that Landlord shall at any time reasonably and in good faith believe the limits of the personal injury, property damage or general public liability insurance then carried to be insufficient, the parties shall endeavor to agree on the proper and reasonable limits for such insurance to be carried and such insurance shall thereafter be carried with the limits thus agreed on until further change pursuant to the provisions of this Section. If the parties shall be unable to agree thereon, the proper and reasonable limits for such insurance shall be determined by an impartial third party selected by the parties the costs of which shall be divided equally between the parties. Such re-determinations, whether made by the parties or by arbitration, shall be made no more frequently than every five (5) years. Nothing herein shall permit the amount of insurance to be reduced below the amount or amounts reasonably required by any Facility Mortgagee.

12.7 Blanket Policy. Notwithstanding anything to the contrary contained in this Section, Tenant's obligations to carry the insurance provided for herein may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Tenant; provided that the coverage afforded Landlord will not be reduced or diminished or otherwise be different from that which would exist under separate policies meeting all other requirements of this Lease; provided further that the requirements of this Article 12 are otherwise satisfied.

12.8 No Separate Insurance. Without the prior written consent of Landlord, Tenant shall not, on Tenant's own initiative or pursuant to the request or requirement of any third party, take out separate insurance concurrent in form or contributing in the event of loss with that required in this Article 12 to be furnished by, or which may reasonably be required by a Facility Mortgagee to be furnished by, Tenant, or increase the amounts of any then-existing insurance required under this Article 12 by securing an additional policy or additional policies, unless all parties having an insurable interest in the subject matter of the insurance, including in all cases Landlord and all Facility Mortgagees, are included therein as additional insureds and the loss is payable under said insurance in the same manner as losses are required to be payable under this Lease. Tenant shall immediately notify Landlord of the taking out of any such separate insurance or of the increasing of any of the amounts of the then-existing insurance required under this Article 12 by securing an additional policy or additional policies.

ARTICLE 13.

FIRE AND CASUALTY

13.1 Insurance Proceeds. All proceeds payable by reason of any loss or damage to the Leased Property or any portion thereof (but specifically excluding proceeds payable to Tenant on account of loss or damage to any of Tenant owned personal property), and insured under any policy of insurance required by Article 12 of this Lease shall be paid to Landlord and held by Landlord in trust (subject to the provisions of Section 13.7) and shall be made available for reconstruction or repair, as the case may be, of any damage to or destruction of the Leased Property, or any portion thereof, and shall be paid out by Landlord from time to time for the

reasonable cost of such reconstruction or repair in accordance with this Article 13 after Tenant has expended an amount equal to or exceeding the deductible under any applicable insurance policy. Any excess proceeds of insurance remaining after the completion of the restoration or reconstruction of the Leased Property shall be retained by Tenant free and clear upon completion of any such repair and restoration except as otherwise specifically provided below in this Article 13; provided that in the event neither Landlord nor Tenant is required or elects to repair or restore the Leased Property, then all such insurance proceeds shall be retained by Landlord. All salvage resulting from any risk covered by insurance shall belong to Tenant, including any salvage relating to Capital Additions paid for by Tenant.

13.2 Reconstruction in the Event of Damage or Destruction Covered by Insurance.

(a) Except as provided in Section 13.7, if during the Term, the Facility is totally or partially destroyed from a risk covered by the insurance described in Article 12 and the Facility thereby is rendered Unsuitable for its Primary Intended Use in Landlord's commercially reasonable opinion, Tenant shall have the option, by giving notice to Landlord within thirty (30) days following the date of such destruction, to (i) apply all proceeds payable with respect thereto to restore the Facility to substantially the same condition as existed immediately before the damage or destruction, or (ii) offer to acquire the Leased Property from Landlord for a purchase price equal to the Minimum Purchase Price of the Leased Property immediately prior to such damage or destruction. Such Tenant notice shall include Tenant's opinion as to whether or not the casualty has rendered the Leased Property Unsuitable for its Primary Intended Use. Landlord shall, within ten (10) days after receipt of Tenant's notice, shall, in writing, either concur or disagree with Tenant's opinion of whether the Leased Property has been rendered Unsuitable for its Primary Intended Use in Landlord's commercially reasonable opinion. Landlord's determination shall be final and conclusive. Tenant may, by giving notice to Landlord prior to the closing of the purchase of the Leased Property within the time frame set forth in Article 17 hereof, withdraw its offer to purchase the Leased Property and proceed to restore the Facility to substantially the same condition as existed immediately before the damage or destruction.

(b) Except as provided in Section 13.7, if during the Term, the Facility is partially destroyed from a risk covered by the insurance described in Article 12, but the Facility is not thereby rendered Unsuitable for its Primary Intended Use in Landlord's commercially reasonable opinion, Tenant shall restore the Facility to substantially the same condition as existed immediately before the damage or destruction. Such damage or destruction shall not terminate this Lease.; provided that if Tenant cannot within a reasonable time obtain all necessary governmental approvals, including building permits, licenses, conditional use permits and any certificates of need, after diligent efforts to do so, in order to be able to perform all required repair and restoration work and to operate the Facility for its Primary Intended Use in substantially the same manner as immediately prior to such damage or destruction, Tenant may offer to purchase the Leased Property from Landlord for a purchase price equal to the Minimum Purchase Price of the Leased Property immediately prior to such damage or destruction, but the right to purchase under this Section 13.2(b) shall only be available to Tenant if the damage or destruction to the Leased Property has occurred on or after the fourteenth (14th) anniversary of the Commencement Date of this Lease and Landlord shall have the right to reject Tenant's offer.

(c) In the event Landlord accepts Tenant's offer to purchase the Leased Property, this Lease shall terminate upon payment of the Minimum Purchase Price and execution and delivery of all reasonably necessary or appropriate documentation to conclude the purchase and sale of the Leased Property, and Landlord shall remit to Tenant, or allow Tenant a credit against the purchase price in an amount equal to, all insurance proceeds being held in trust by Landlord.

13.3 Reconstruction in the Event of Damage or Destruction Not Covered by Insurance. Except as provided in Section 13.7 below, if during the Term the Facility is totally or materially destroyed (in Landlord's commercially reasonable opinion) by a risk not covered by the insurance described in Article 12, whether or not such damage or destruction renders the Facility Unsuitable for its Primary Intended Use, Tenant at its option shall either (a) restore the Facility to substantially the same condition it was in immediately before such damage or destruction and such damage or destruction shall not terminate this Lease, or (b) acquire the Leased Property from Landlord for a purchase price equal to the Minimum Purchase Price immediately prior to such damage or destruction. If such damage or destruction is not total or material in the commercially reasonable opinion of Landlord, again without regard to whether or not the damage or destruction renders the Facility Unsuitable for its Primary Intended Use, Tenant shall restore the Leased Property.

13.4 Tenant's Property. In the event that Tenant rebuilds or repairs the Leased Property rather than acquires the Leased Property if permitted under any of Section 13.2 or Section 13.3, then Tenant shall use any insurance proceeds payable by reason of any loss of or damage to any of the Tenant's personal property to restore such Tenant owned personal property to the Leased Property with items of substantially equivalent value to the items being replaced.

13.5 Restoration of Tenant's Property. If Tenant is required or elects to restore the Facility as provided in Sections 13.2 or 13.3, Tenant shall also restore any of Tenant's personal property as required pursuant to Section 13.4 and all Capital Additions paid for or financed by Landlord. Any insurance proceeds payable by reason of damage to Capital Additions paid for or financed by Landlord shall be paid to Landlord and Landlord shall hold such insurance proceeds in trust to pay the cost of repairing or replacing such Capital Additions in the event Tenant does not purchase the Leased Property as provided above.

13.6 No Abatement of Rent. Unless this Lease is terminated by the closing of any purchase right exercised by Tenant pursuant to this Article 13, this Lease shall remain in full force and effect and Tenant's obligation to pay Rent when due as required by this Lease shall remain unabated during any period required for repair and restoration.

13.7 Damage Near End of Term. Notwithstanding any provisions of Sections 13.2 or 13.3 to the contrary, if damage to or destruction of the Facility occurs during the last twenty-four (24) months of the Initial Term or an Extension Term, and if in Landlord's commercially reasonable opinion, such damage or destruction cannot be fully repaired and restored within the lesser of (i) six (6) months or (ii) the period remaining in the Term immediately following the date of loss, either party shall have the right to terminate this Lease by giving notice to the other within thirty (30) days after the date of damage or destruction, in which event Landlord shall be entitled to retain the insurance proceeds and Tenant shall pay to Landlord on demand the amount of any deductible or uninsured loss arising in connection therewith; provided that any such notice

given by Landlord shall be void and of no force and effect if Tenant exercises any available option to extend the Term for one Extension Term, or one additional Extension Term, as the case may be, within thirty (30) days following receipt of such termination notice.

13.8 Waiver. Tenant hereby waives any statutory or common law rights of termination which may arise by reason of any damage or destruction of the Facility.

ARTICLE 14.

CONDEMNATION

14.1 Parties' Rights and Obligations. If during the Term there is any Taking of all or any part of the Leased Property or any interest in this Lease by Condemnation, the rights and obligations of the parties shall be determined by this Article 14.

14.2 Total Taking. If there is a Taking of all of the Leased Property by Condemnation, this Lease shall terminate effective as of the Date of Taking, and the Minimum Rent and all Additional Charges paid or payable hereunder shall be apportioned and paid to the Date of Taking.

14.3 Partial Taking. If there is a Taking of a portion of the Leased Property by Condemnation such that the Facility is not thereby rendered Unsuitable for its Primary Intended Use in the commercially reasonable opinion of Landlord and Tenant, this Lease shall remain in effect. If, however, the Facility is thereby rendered Unsuitable for its Primary Intended Use in Landlord or Tenant's commercially reasonable opinion, Tenant shall have the right, subject to the terms of the Facility Mortgage (a) to take such proceeds of any Award as shall be necessary and restore the Facility, at its own expense, to the extent possible, to substantially the same condition as existed immediately before the partial Taking, or (b) to terminate this Lease and acquire the remainder of the Leased Property (after the partial Taking) from Landlord, but subject to Landlord's right to reject Tenant's offer, for a purchase price equal to the Minimum Purchase Price of the Leased Property immediately prior to such partial Taking, in which event this Lease shall terminate upon payment of the purchase price and execution and delivery of all appropriate and reasonable documents necessary to close on the purchase and sale of the Leased Property. Tenant shall immediately provide Landlord with notice of any partial Taking and Tenant's opinion concerning the suitability of the Leased Property for its Primary Intended Use. Landlord shall, within thirty (30) days after such notice of partial Taking, advise Tenant of its opinion concerning whether or not the Leased Property is, after the partial Taking rendered Unsuitable for its Primary Intended Use. Tenant shall exercise any one of its above stated options by giving Landlord notice thereof within sixty (60) days after Tenant receives Landlord's notice concerning the suitability of the Leased Property for its Primary Intended Use after the partial Taking. Landlord shall accept or reject Tenant's offer by notice given to Tenant not later than thirty (30) days following Landlord's receipt of Tenant's notice and if Landlord fails to either accept or reject Tenant's offer, then it shall be deemed to have accepted Tenant's offer. In the event that Landlord rejects Tenant's offer, this Lease shall terminate effective as of the Date of Taking, and the Minimum Rent and all Additional Charges paid or payable hereunder shall be apportioned and paid to the Date of Taking.

14.4 Restoration. If there is a partial Taking of the Leased Property and this Lease remains in full force and effect pursuant to Section 14.3, Tenant shall accomplish all necessary restoration of the Leased Property.

14.5 Award Distribution. In the event Landlord accepts Tenant's offer to purchase the Leased Property, the entire Award shall belong to Tenant and Landlord agrees to assign to Tenant all of its rights thereto, after deduction of all reasonable and mutually agreed upon legal fees and other costs and expenses, including without limitation, expert witness fees, incurred by Landlord in connection with obtaining any such Award. Except as otherwise provided in Section 14.3 above, in any other event, the entire Award shall belong to and be paid to Landlord, except that, if this Lease is terminated, and subject to the rights of the Facility Mortgagee, Tenant shall be entitled to receive from the Award, if and to the extent such Award includes such items, the following: any sum attributable to the Capital Additions for which Tenant would be entitled to reimbursement at the end of the Term pursuant to the provisions of Section 9.2(b). Tenant shall be entitled to a separate award or damages equal to the value of any trade fixtures installed by Tenant at its own cost on the Leased Property, Tenant Work, and any further improvements, repairs or additions paid for by Tenant; Tenant shall be entitled to seek separate award and damages for relocation expenses and loss of business resulting from such Taking; Tenant shall be entitled to such award or damages only to the extent such award does not diminish the award or damages to which the Leased Property would otherwise be entitled. Landlord and Tenant agree to work together in a coordinated effort in the filing of their respective separate claims for any such awards and shall each file all necessary pleadings or other documents to support the other's position. If Tenant is required or elects to restore the Facility, Landlord agrees that, subject to the rights of the Facility Mortgagees, its portion of the Award shall be used for such restoration and it shall hold such portion of the Award in trust for application to the cost of the restoration.

14.6 Temporary Taking. The Taking of the Leased Property, or any part thereof, by military or other public authority shall constitute a Taking by Condemnation only when the use and occupancy by the Taking authority has continued for longer than twelve (12) months. During any such twelve (12) month period all the provisions of this Lease shall remain in full force and effect and the Rent shall not be abated or reduced during such period of Taking; provided that Tenant will receive any compensation from the Taking authority as a result of such temporary Taking.

ARTICLE 15.

DEFAULT

15.1 Events of Default. The occurrence of any one or more of the following events shall constitute events of default (individually, an "Event of Default" and, collectively, "Events of Default") hereunder:

(a) if Tenant shall fail to make a payment of the Rent or any other sum required to be paid by Tenant hereunder when the same becomes due and payable and such failure continues for a period of ten (10) days after written notice from Landlord to Tenant, or, after Landlord has provided such ten (10) days' prior written notice twice in any twelve (12) month period, then if Tenant shall fail to make a payment of the Rent when the same becomes due and payable, or

(b) if Tenant shall fail to observe or perform any other term, covenant or condition of this Lease and such failure is not cured by Tenant within a period of sixty (60) days after receipt by Tenant of notice thereof from Landlord, unless such failure cannot with due diligence be cured within a period of sixty (60) days, in which case such failure shall not be deemed to continue if Tenant proceeds promptly and with due diligence to cure the failure and diligently completes the curing thereof, or

(c) if Tenant, any of its subsidiaries, or members shall:

(i) admit in writing its inability to pay its debts generally as they become due,

(ii) file a petition in bankruptcy or a petition to take advantage of any insolvency law,

(iii) make an assignment for the benefit of its creditors,

(iv) consent to the appointment of a custodian (including without limitation a trustee or receiver) of itself or of the whole or any substantial part of its property, or

(v) file a petition or answer seeking reorganization or arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof, or

(d) if final judgment for the payment of money shall be rendered against Tenant, any of its subsidiaries or members and Tenant or any such subsidiary or member, as the case may be, shall not discharge or cause the same to be discharged within 30 days from the entry thereof, or shall not appeal therefrom or from the order, decree or process upon which or pursuant to which said judgment was granted, based or entered and secure a stay of execution pending such appeal, or

(e) if any of the representations or warranties made by Tenant, any of its subsidiaries or members and Tenant or any such subsidiary or member, as the case may be, in this Lease prove to have been untrue in any material respect when made, and to the extent such untrue representation or warranty is not cured within thirty (30) days after receipt by Tenant of written notice thereof from Landlord, or

(f) if the Financial Statements of any of Tenant, any of its subsidiaries or members and Tenant or any such subsidiary or member, as the case may be, provided under this Lease to Landlord in connection with the execution of this Lease prove to have been untrue in any material respect when made, and reliance on such Financial Statements causes an adverse impact to Landlord.

15.2 Remedies. If an Event of Default shall have occurred, Landlord shall have the right at its election, then or at any time thereafter, to pursue any one or more of the following remedies, in addition to any remedies which may be permitted by law or by other provisions of this Lease, without further notice or demand, except as hereinafter provided:

(a) Without any notice or demand whatsoever, Landlord may take any one or more actions permissible at law to ensure performance by Tenant of Tenant's covenants and obligations under this Lease. In this regard, it is agreed that if Tenant abandons or vacates the Leased Property, Landlord may enter upon and take possession of such Leased Property in order to protect it from deterioration and continue to demand from Tenant the monthly Minimum Rent and the Additional Charges provided in this Lease. Landlord shall use reasonable efforts to relet but shall have no absolute obligation to relet. If Landlord does, at its sole discretion, elect to relet the Leased Property, such action by Landlord shall not be deemed as an acceptance of Tenant's surrender of the Leased Property unless Landlord expressly notifies Tenant of such acceptance in writing, Tenant hereby acknowledging that Landlord shall otherwise be reletting as Tenant's agent. It is further agreed in this regard that in the event of any Event of Default described in this Article 15, Landlord shall have the right to enter upon the Leased Property and do whatever Tenant is obligated to do under the terms of this Lease; and Tenant agrees to reimburse Landlord on demand for any reasonable expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, and further agrees that Landlord shall not be liable for any damages resulting to Tenant from such action provided that Landlord is not negligent in the performance of Tenant's lease obligations.

(b) Landlord may terminate this Lease by written notice to Tenant, in which event Tenant shall immediately surrender the Leased Property to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which Landlord may have for possession or arrearage in rent (including any interest which may have accrued pursuant to Section 2.3 of this Lease or otherwise), enter upon and take possession of the Leased Property and expel or remove Tenant and any other person who may be occupying the Leased Property or any part thereof. In addition, Tenant agrees to pay to Landlord on demand the amount of all loss and damage which Landlord may suffer by reason of any termination effected pursuant to this subsection (b), said loss and damage to be determined, at Landlord's option, by any of the following alternative measures of damages:

(i) Although Landlord shall be under no absolute obligation to attempt and shall be obligated only to use reasonable efforts, to relet the Leased Property, until the Leased Property is relet Tenant shall pay to Landlord on or before the first day of each calendar month the monthly Minimum Rent and other Additional Charges provided in this Lease. After the Leased Property has been relet by Landlord, Tenant shall pay to Landlord on the 10th day of each calendar month the difference between the monthly Minimum Rent and Additional Charges provided in this Lease for the preceding calendar month and that actually collected by Landlord for such month; provided that such collections are less than the Minimum Rental and Additional Charges due under this Lease. If it is necessary for Landlord to bring suit in order to collect any deficiency, Landlord shall have a right to allow such deficiencies to accumulate and to bring an action on several or all of the accrued deficiencies at one time. Any such suit shall not prejudice in any way the right of Landlord to bring a similar action for any subsequent deficiency or deficiencies. Any amount collected by Landlord from subsequent tenants for any calendar month in excess of the monthly Minimum Rent and Additional Charges provided in this Lease shall be credited to Tenant in reduction of Tenant's liability for any calendar month for which the amount collected by Landlord will be less than the monthly

Minimum Rent and Additional Charges provided in this Lease; but Tenant shall have no right to such excess other than the above described credit; or

(ii) When Landlord desires, Landlord may demand a final settlement in an amount not to exceed the greater of (1) the Fair Market Value of the Leased Property at the time of such final settlement, or (2) the aggregate sum of (x) the Final Project Budget, (y) any Tenant Change Request (as defined in the Work Letter at Exhibit D hereof) paid for or financed by Landlord and (z) Capital Additions that have been paid for or financed by Landlord, or (3) the outstanding principal balance of any loans to Landlord that are secured by a first lien position on the Leased Property, not to exceed a fair and reasonable allocation of such balance to the Leased Property as among the Leased Property and other Property of Landlord or its affiliates securing such loans. In the event Landlord elects final settlement, it shall deliver a notice thereof to Tenant specifying a Payment Date occurring no less than ninety (90) days subsequent to the date of such notice, upon which Tenant shall purchase the Leased Property, and the Leased Property shall be thereupon conveyed in accordance with the provisions of Article 17. Upon demand for a final settlement, Landlord shall have a right to, and Tenant hereby agrees to pay, the difference between the total of all Minimum Rent and Additional Charges provided in this Lease for the remainder of the Term and the Fair Market Rental Value of the Leased Property for such period (including a reasonable time to relet the Leased Property), as determined pursuant to the provisions of Article 37 hereof, such difference to be discounted to present value at a rate equal to the lowest rate of capitalization (highest present worth) reasonably consistent with industry standards at the time of such determination and allowed by applicable law.

(iii) After an Event of Default has occurred and prior to any final settlement action taken by Landlord under Section 15.2(b)(ii) above, in order to collect upon and manage the Additional Charges (which are not required to be paid to Landlord monthly under the other provisions of this Lease), Landlord shall be permitted to make a reasonable estimate of the Additional Charges due under this Lease during each Lease Year and may require Tenant to pay the estimated Additional Charges together with the monthly Minimum Rent prorated on a monthly basis. Landlord shall be obligated to remit to Tenant any excess over actual Additional Charges collected by Landlord within 120 days after the end of each Lease Term. All such sums collected by Landlord as estimated Additional Charges shall be used by Landlord to pay such Additional Charges, except to the extent that Tenant has failed to make all Minimum Rent payments to Landlord, in which event, Landlord may, at its election, apply such sums collected as estimated Additional Charges to past due Minimum Rent payments and any late fees charged to Tenant.

The rights and remedies of Landlord hereunder are cumulative, and pursuit of any of the above remedies shall not preclude pursuit of any other remedies prescribed in other sections of this Lease and any other remedies provided by law or equity. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an Event of Default shall not be deemed or construed to constitute a waiver of such Event of Default.

(c) **Additional Expenses**. In addition to payments required pursuant to subsections (a) and (b) of Section 15.2 above, Tenant shall compensate Landlord for all reasonable expenses incurred by Landlord in repossessing the Leased Property (including any increase in insurance premiums caused by the vacancy of the Leased Property), all reasonable expenses incurred by Landlord in reletting (including repairs, remodeling, replacements, advertisements and brokerage fees), all reasonable concessions granted to a new tenant upon reletting (including renewal options), all fees and expenses incurred by Landlord as a direct or indirect result of any appropriate action by a Facility Mortgagee, any expenses of Landlord incurred for the installation of separate lines or meters for any public utilities not previously metered separately from adjacent property of Tenant and a reasonable allowance for Landlord's administrative efforts, salaries and overhead attributable directly or indirectly to Tenant's default and Landlord's pursuing the rights and remedies provided herein and under applicable law.

15.3 Waiver. If this Lease is terminated pursuant to law or the provisions of Section 15.1, Tenant waives, to the extent permitted by applicable law, (a) any right of redemption, reentry or repossession and (b) the benefit of any laws now or hereafter in force exempting property from liability for rent or for debt.

15.4 Application of Funds. All payments otherwise payable to Tenant which are received by Landlord under any of the provisions of this Lease during the existence or continuance of any Event of Default shall be applied to Tenant's obligations in the order which Landlord may reasonably determine or as may be prescribed by the laws of the state in which the Facility is located.

15.5 Notices by Landlord. The provisions of this Article 15 concerning notices shall be liberally construed insofar as the contents of such notices are concerned, and any such notice shall be sufficient if it shall generally apprise Tenant of the nature and approximate extent of any default.

ARTICLE 16.

LANDLORD'S RIGHT TO CURE

If Tenant, without the prior written consent of Landlord, shall fail to make any payment, or to perform any act required to be made or performed under this Lease and to cure the same within the relevant time periods provided in Section 15.1, Landlord, without waiving or releasing any obligation or Event of Default, may (but shall be under no obligation to) make such payment or perform such act for the account and at the expense of Tenant, and may, to the extent permitted by law, enter upon the Leased Property for such purpose and take all such action thereon as, in Landlord's opinion, may be necessary or appropriate therefor. No such entry shall be deemed an eviction of Tenant. All sums so paid by Landlord, together with a late charge thereon (to the extent permitted by law) at the Overdue Rate from the date on which such sums or expenses are paid or incurred by Landlord, and all costs and expenses (including reasonable attorneys' fees and expenses, in each case, to the extent permitted by law) so incurred shall be paid by Tenant to Landlord on demand. The obligations of Tenant and rights of Landlord contained in this Article shall survive the expiration or earlier termination of this Lease.

ARTICLE 17.

PURCHASE OF THE LEASED PROPERTY

In the event Tenant purchases the Leased Property from Landlord pursuant to any right or option to purchase under the terms of this Lease, the closing of such purchase shall occur within 45 days after Tenant provides Landlord with its notice of intent to purchase the Leased Property. Landlord shall, upon receipt from Tenant of the purchase price (as applicable under the particular purchase provision elsewhere set forth in this Lease), together with full payment of any unpaid Rent due and payable with respect to any period ending on or before the closing date of the purchase and any other amounts owing to Landlord hereunder, deliver to Tenant an appropriate special warranty deed and any other documents reasonably requested by Tenant to convey the interest of Landlord in and to the Leased Property, subject only to the Permitted Exceptions and the Permitted Liens, to Tenant, and such other standard documents usually and customarily prepared in connection with such transfers, free and clear of all encumbrances other than (a) those that Tenant has agreed hereunder to pay or discharge, (b) those mortgage liens, if any, which Tenant has agreed in writing to accept and to take title subject to, (c) any other Encumbrances permitted to be imposed on the Leased Property under the provisions of Article 31 which are assumable at no cost to Tenant, and (d) any matters affecting the Leased Property on or as of the Commencement Date. The difference between the applicable purchase price and the total of the encumbrances assigned or taken subject to shall be paid in cash to Landlord, or as Landlord may direct, in federal or other immediately available funds except as otherwise mutually agreed by Landlord and Tenant. All expenses of such conveyance, including the cost of title examination or standard coverage title insurance, attorneys' fees incurred by Landlord in connection with such conveyance, and transfer taxes, shall be paid by Landlord. Recording fees and similar charges shall be paid for by Tenant.

ARTICLE 18.

HOLDING OVER

If Tenant shall for any reason remain in possession of the Leased Property after the expiration of the Term or any earlier termination of the Term hereof, such possession shall be construed to be a monthly tenancy during which time Tenant shall pay as rental each month, for the first three months of such month to month tenancy, (a) monthly Minimum Rent as set forth in the immediately preceding complete rent year, increased by Ten percent (10%) plus (b) all Additional Charges accruing during such month; and plus (c) all other sums, if any, payable pursuant to the provisions of this Lease with respect to the Leased Property. Following the initial three (3) months of such month to month tenancy following expiration or early termination of the Term, Tenant shall pay as rental each month a One Hundred Thirty percent (130%) of one-twelfth (1/12th) of the aggregate Minimum Rent payable with respect to the immediately preceding complete Lease Year; plus (b) all Additional Charges accruing during such month; and plus (c) all other sums, if any, payable pursuant to the provisions of this Lease with respect to the Leased Property. During such period of tenancy, Tenant and Landlord shall be obligated to perform and observe all of the terms, covenants and conditions of this Lease and to continue its occupancy and use of the Leased Property. Nothing contained herein shall constitute the

consent, express or implied, of Landlord to the holding over of Tenant after the expiration or earlier termination of this Lease.

ARTICLE 19.

ABANDONMENT

19.1 Right to Close Operations. Landlord agrees that nothing in this Lease shall be construed as compelling Tenant to conduct or operate or continue operations of any business whatsoever in or upon the Leased Property, and that Tenant shall have the right and privilege of closing any business in or upon the Leased Property at any time, provided Tenant shall continue to pay the Minimum Rent and Additional Charges and to make all other payments and to perform all other obligations required by this Lease to be paid or performed by Tenant.

19.2 Obsolescence of the Leased Property; Offer to Purchase. If, in the reasonable good faith judgment of Tenant, the Leased Property becomes uneconomical or Unsuitable for its Primary Intended Use, all as set forth in an Officer's Certificate delivered to Landlord, Tenant, if Landlord has not terminated this Lease as provided in Section 15.2, shall have the right, but only after the fourteenth (14^{th}) anniversary of the Commencement Date of this Lease, to purchase the Leased Property for a purchase price equal to the Minimum Purchase Price on the first Payment Date occurring not less than one hundred twenty (120) days after the date of such Officer's Certificate, or upon such alternative date as is mutually agreed upon between the parties.

19.3 Conveyance of Leased Property. In the event Tenant elects to purchase the Leased Property pursuant to Section 19.2, then on the first Payment Date occurring not less than one hundred twenty (120) days after the date of the Officer's Certificate referenced in Section 19.2, or upon such alternative date as is mutually agreed upon between the parties, Landlord shall, upon receipt from Tenant of the purchase price provided for above and any Rent or other sums then due and payable under this Lease (excluding the installment of Minimum Rent due on the date of conveyance), convey the Leased Property to Tenant on such date in accordance with the provisions of Article 17 and this Lease shall thereupon terminate as to the Leased Property.

ARTICLE 20.

RISK OF LOSS

Except as otherwise provided in this Lease, during the Term of this Lease, the risk of loss or of decrease in the enjoyment and beneficial use of the Leased Property in consequence of the damage or destruction thereof by fire, the elements, casualties, thefts, riots, wars or otherwise, or in consequence of foreclosures, attachments, levies or executions (other than by Landlord and those claiming from, through or under Landlord) is assumed by Tenant and, Landlord shall in no event be answerable or accountable therefor nor shall any of the events mentioned in this Section entitle Tenant to any abatement of Rent except as specifically provided in this Lease.

ARTICLE 21.

INDEMNIFICATION

21.1 **Tenant's Indemnity**. Subject to Section 12.4 hereof, Tenant will protect, indemnify, save harmless and defend Landlord from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including reasonable attorneys' fees and expenses), to the extent permitted by law, imposed upon or incurred by or asserted against Landlord by reason of: (a) any accident, injury to or death of persons or loss to property occurring on or about the Leased Property, including any claims of malpractice, caused by Tenant or Tenant's agents, (b) any use, misuse, no use, condition, maintenance or repair by Tenant of the Leased Property, (c) any Impositions (which are the obligations of Tenant to pay pursuant to the applicable provisions of this Lease), (d) any failure on the part of Tenant to perform or comply with any of the terms of this Lease, (e) the non-performance of any of the terms and provisions of any and all existing and future subleases of the Leased Property to be performed by Tenant as landlord thereunder and (f) the violation of any Hazardous Materials Law occurring during the Lease Term, but excluding any period of time during which Landlord has re-entered and repossessed the Leased Property after Tenant's abandonment thereof. Any amounts which become payable by Tenant under this Section 21.1 shall be paid within thirty (30) days after liability therefor on the part of Landlord is finally determined by litigation or otherwise (including the expiration of any time for appeals) and, if not timely paid, shall bear interest (to the extent permitted by law) at the Overdue Rate from the date of such determination to the date of payment. Tenant, at its expense, shall contest, resist and defend any such claim, action or proceeding asserted or instituted against Landlord, or may compromise or otherwise dispose of the same as Tenant sees fit. Landlord shall cooperate with Tenant in a reasonable manner to permit Tenant to satisfy Tenant's obligations hereunder, including the execution of any instruments or documents reasonably requested by Tenant. Nothing herein shall be construed as indemnifying Landlord or its agents for their own negligent acts or omissions or willful misconduct. Tenant's liability for a breach of the provisions of this Section 21.1 shall survive any termination of this Lease.

21.2 **Landlord's Indemnity**. Landlord will protect, indemnify, save harmless and defend Tenant from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including reasonable attorneys' fees and expenses), to the extent permitted by law, imposed upon or incurred by or asserted against Tenant by reason of: (a) any accident, injury to or death of persons or loss to property occurring on or about the Leased Property which either (i) arises prior to the Commencement Date of the Lease or (ii) is caused by Landlord or its agents; (b) any use, misuse, no use, condition, maintenance or repair by Landlord of the Leased Property; (c) any Impositions (which are not the obligations of Tenant to pay pursuant to the applicable provisions of this Lease), (d) any failure on the part of Landlord to perform or comply with any of the terms of this Lease, and (e) the violation of any Hazardous Materials Law during any period of time during which Landlord has re-entered and repossessed the Leased Property after Tenant's abandonment thereof. Any amounts which become payable by Landlord under this Section 21.2 shall be paid within thirty (30) days after liability therefor on the part of Tenant is finally determined by litigation or otherwise (including the expiration of any time for appeals) and, if not timely paid, shall bear interest (to the extent permitted by law) at the Overdue Rate from the date of such determination to the date of payment. Landlord, at its

expense, shall contest, resist and defend any such claim, action or proceeding asserted or instituted against Tenant or may compromise or otherwise dispose of the same as Landlord sees fit. Tenant shall cooperate with Landlord in a reasonable manner to permit Landlord to satisfy Landlord's obligations hereunder, including the execution of any instruments or documents reasonably requested by Landlord. Nothing herein shall be construed as indemnifying Tenant or its agents for their own negligent acts or omissions or willful misconduct. Landlord's liability for a breach of the provisions of this Section 21.2 shall survive any termination of this Lease.

ARTICLE 22.

SUBLETTING AND ASSIGNMENT

22.1 Subletting and Assignment. Except as expressly permitted under Sections 22.3 or 22.4 hereof, Tenant shall not do any of the following without the prior written consent of Landlord: (i) assign, either directly or indirectly (including an assignment of Tenant's rights hereunder occurring by merger, conversion, whether occurring directly or indirectly, or by other operation of law), or delegate all or any portion of Tenant's rights or obligations under or in respect to the leasehold estate created under this Lease, (ii) sublet all or any portion of the Leased Property, and/or (iii) permit the use of all or any part of the Leased Property by any persons other than Tenant or its Affiliates. In no event shall any assignee or subtenant use the Leased Property for any purpose other than that permitted in Article 6 of this Lease without Landlord's consent, and in no event may Leased Property be used for a Prohibited Use. In the event Tenant desires to make a sublease or assignment, Tenant shall deliver prior written notice thereof and thereafter Landlord shall provide Tenant with written information on any prohibited or limited uses of the Leased Property to any assignee or sublessee. Tenant acknowledges that making any sublease or assignment without Landlord's prior written consent shall be void, except as set forth in Sections 22.3 and 22.4, and if Tenant makes any sublease or assignment without such consent, Landlord shall have the right (but not the obligation) at any time to declare an Event of Default hereunder. Except as to a Permitted Assignment set forth in Sections 22.3 or 22.4 hereof, Landlord may require, as a condition precedent to consenting to any sublease or assignment, that the assignee or sublessee establishes to Landlord's sole, absolute and uncontrolled satisfaction (a) such assignee's or sublessee's financial ability to consistently perform the terms and obligations of this Lease, (b) in the case of a subletting, the subtenant shall comply with the provisions of Sections 22.2, (c) in the case of an assignment, the assignee shall assume in writing and agree to keep and perform all of the terms of this Lease on the part of Tenant to be kept and performed and shall be and become jointly and severally liable with Tenant for the performance thereof, (d) an original counterpart of each such sublease or assignment and assumption, duly executed by Tenant and such subtenant or assignee, as the case may be, in form and substance reasonably satisfactory to Landlord, shall be delivered promptly to Landlord, and (e) in case of either an assignment or subletting, Tenant shall remain primarily liable, as principal rather than as surety, for the prompt payment of the Rent and for the performance and observance of all of the covenants and conditions to be performed by Tenant hereunder. In the event Tenant desires to make a sublease or assignment that requires Landlord's consent, Landlord's consent shall not be unreasonably or arbitrarily withheld or delayed.

22.2 Non-Disturbance, Subordination and Attornment. Tenant shall insert in each sublease permitted hereunder provisions to the effect that (a) such sublease is subject and

subordinate to all of the terms and provisions of this Lease and to the rights of Landlord hereunder, (b) in the event this Lease shall terminate before the expiration of such sublease, the subtenant thereunder will, at Landlord's option, attorn to Landlord and waive any right the subtenant may have to terminate the sublease or to surrender possession thereunder as a result of the termination of this Lease, and (c) in the event the subtenant receives a written notice from Landlord or Landlord's assignees, if any, stating that Tenant is in default under this Lease, the subtenant shall thereafter be obligated to pay all rentals accruing under said sublease directly to the party giving such notice, or as such party may direct. All rentals received from the subtenant by Landlord or Landlord's assignees, if any, as the case may be, shall be credited against amounts owing by Tenant under this Lease. Landlord agrees that notwithstanding any default, termination, expiration, sale, entry or other act or omission of Tenant pursuant to the terms of this Lease, or at law or in equity, any subtenant's possession shall not be disturbed unless such possession may otherwise be terminated pursuant to the terms of the applicable sublease. Landlord hereby agrees, upon Tenant's request, to execute a nondisturbance agreement in favor of any subtenant under any sublease permitted under Section 22.1 above; provided that any such subtenant has acknowledged all of the foregoing provisions and executed all documents required by this Section 22.2.

22.3 Permitted Assignment to a Permitted Transferee. Tenant may either directly or indirectly assign this Lease, whether occurring by actual assignment of interests, merger, conversion, or other operation of law, Transfer of membership or partnership interests in Tenant or Transfer of any shares, membership interest, partnership interest, or ownership interest in the legal entity owning the membership or partnership interests in Tenant, to any person or entity, as allowed pursuant to those requirements set forth in Section 22.4 hereof (a "Permitted Transferee" and/or a "Permitted Assignee"). Tenant shall notify Landlord in writing in advance of any change in its ownership structure, the Transfer of shares or ownership interest in the legal entity owning any partnership or membership interests in Tenant or assignment of this Lease to a Permitted Transferee and shall provide to Landlord all reasonably requested documentation relating to any such Transfer.

22.4 Permitted Assignment by Tenant or Initial Members to Third Parties. Landlord shall permit the direct or indirect assignment of this Lease by Tenant and/or sublease of the Lease whether occurring by actual assignment of interests, merger, conversion or other operation of law, to a third party (collectively the "Assignment") if such third party is, in Landlord's commercially reasonable opinion, of equal or better financial strength and capability as Tenant, and further conditioned upon the Tenant's prior provision to Landlord of information detailing the probable source of patients and revenue as to such proposed assignee and/or subtenant.

Landlord shall permit the direct or indirect assignment of any part of an Initial Member's ownership interest in Tenant, whether occurring by actual assignment of interests, merger, conversion or other operation of law, to a third party (also "Assignment") if such third party is, in Landlord's commercially reasonable opinion, of equal or better financial strength and capability as the Initial Member transferring the interest.

At least thirty (30) days prior to the occurrence of any Assignment, merger, conversion or other similar event (collectively, an "other event"), Tenant shall deliver to Landlord notice of

such Assignment or other event, together with information concerning the anticipated date for closing of the Assignment or other event and, the proposed assignee's Financial Statements for then current (in unaudited form if mid-fiscal year for such assignee) and the three (3) prior fiscal years. Within fifteen (15) days after delivery to Landlord of a request for Assignment or other event, Landlord shall advise Tenant whether any additional information is required. Landlord shall provide such consent or reason for withholding consent within fifteen (15) days after delivery to Landlord of notice of such Assignment or other event and such reasonably requested financial information for assignee. Landlord's failure to provide such consent or reason for withholding consent within such fifteen (15) days shall be deemed approval. In the event Tenant desires to make a sublease or assignment of the Lease, or assignment of an Initial Member's ownership interest in Tenant, Landlord's consent shall not be unreasonably or arbitrarily withheld or delayed.

ARTICLE 23.

OFFICER'S CERTIFICATES AND FINANCIAL STATEMENTS

At any time and from time to time within twenty (20) days following written request by Landlord, Tenant will furnish to Landlord an Officer's Certificate certifying that this Lease is unmodified and in full force and effect (or that this Lease is in full force and effect as modified and setting forth the modifications) and the dates to which the Rent has been paid. Any such Officer's Certificate furnished pursuant to this Article may be relied upon by Landlord and any prospective purchaser of the Leased Property.

ARTICLE 24.

INSPECTION

Tenant shall permit Landlord and its authorized representatives to inspect the Leased Property during usual business hours subject to any security, health, safety or confidentiality requirements of Tenant, any governmental agency, any Insurance Requirements relating to the Leased Property, or imposed by law or applicable regulations.

ARTICLE 25.

QUIET ENJOYMENT

So long as Tenant shall pay all Rent as the same becomes due and shall fully comply with all of the terms of this Lease and fully perform its obligations hereunder, Tenant shall peaceably and quietly have, hold and enjoy the Leased Property for the Term hereof, free of any claim or other action by Landlord or anyone claiming by, through or under Landlord, but subject to all liens and encumbrances of record as of the date hereof or hereafter consented to by Tenant. No failure by Landlord to comply with the foregoing covenant shall give Tenant any right to cancel or terminate this Lease, or to fail to pay any other sum payable under this Lease, or to fail to perform any other obligation of Tenant hereunder. Notwithstanding the foregoing, Tenant shall have the right by separate and independent action to pursue any claim or seek any damages it

may have against Landlord as a result of a breach by Landlord of the covenant of quiet enjoyment contained in this Article.

ARTICLE 26.

NOTICES

26.1 All Notices. All notices, demands, requests, consents, approvals and other communications or documents to be provided under this Lease shall be in writing and shall be given to the party at its address or telecopy number set forth below or such other address or telecopy number as the party may later specify for that purpose by notice to the other party. Each notice shall, for all purposes shall be deemed given and received:

(i) If given by telecopy, when the telecopy is transmitted to the party's telecopy number specified below and confirmation of complete receipt is received by that transmitting party during normal business hours on any Business Day or on the next Business Day if not confirmed during normal business hours;

(ii) If hand delivered to a party when the copy of the notice is delivered;

(iii) If given by nationally recognized and reputable overnight delivery service, the day on which the notice is actually received by the party at the address of the party specified below in this Article 26; or

(iv) If given by certified mail, return receipt requested, postage prepaid, two Business Days after posted with the United States Postal Service, at the address of the party specified below, or if so addressed but receipt is refused:

If to Landlord:

CULLINAN MEDICAL 1, LLC
211 Fulton
Suite 700
Peoria, Illinois 61602
Attention: Michael C. Owens
Telephone: 309-999-1700
Telecopy: 309-999-1701

With a copy to:

Richard Joseph
Miller, Hall & Triggs
416 Main Street
Suite 1125
Peoria, Illinois 61602
Telephone: 309-671-9600
Telecopy: 309-671-9616

If intended for Tenant:

GREATER PEORIA SPECIALTY HOSPITAL
221 Northeast Glen Oak Avenue
Peoria, Illinois 61636-0002
Attention: Terry Waters
Telephone:
Telecopy:

With a copy to:

Donald A. Adam
Senior Vice President & Chief Development Officer
Rehab Care
7733 Forsyth Boulevard
Suite 2300
St. Louis, Missouri 63105
Telephone: (314) 659-2200
Telecopy: (866) 812-2832

ARTICLE 27

APPRAISAL

In the event that it becomes necessary to determine the Fair Market Value, the Fair Market Added Value, the Minimum Purchase Price or the Fair Market Rental Value of the Leased Property for any purpose of this Lease, the party required or permitted to give notice of such required determination shall include in the notice the name of a person selected to act as an appraiser on its behalf. Within ten (10) days after receipt of any such notice, Landlord (or Tenant, as the case may be) shall by notice to Tenant (or Landlord, as the case may be) appoint a second person as an appraiser on its behalf. The appraisers thus appointed (each of whom must be a member of the American Institute of Real Estate Appraisers or any successor organization thereto) shall, within forty-five (45) days after the date of the notice appointing the first appraiser, proceed to appraise the Leased Property to determine any of the foregoing values as of the relevant date (giving effect to the impact, if any, of inflation from the date of their decision to the relevant date); provided that if only one appraiser shall have been so appointed, or if two appraisers shall have been so appointed but only one such appraiser shall have made such determination within fifty (50) days after the making of Tenant's or Landlord's request, then the determination of such appraiser shall be final and binding upon the parties. If two appraisers shall have been appointed and shall have made their determinations within the respective requisite periods set forth above and if the difference between the amounts so determined shall not exceed five percent of the lesser of such amounts, then the Fair Market Value or Fair Market Added Value or the Fair Market Rental Value shall be an amount equal to 50% of the sum of the amounts so determined. If the difference between the amounts so determined shall exceed 5% of the lesser of such amounts, then such two appraisers shall have twenty (20) days to appoint a

third appraiser, but if such appraisers fail to do so, then either party may request the American Arbitration Association or any successor organization thereto to appoint an appraiser within twenty (20) days of such request, and both parties shall be bound by any appointment so made within such twenty (20) day period. If no such appraiser shall have been appointed within such twenty (20) days or within ninety (90) days of the original request for a determination of Fair Market Value or Fair Market Added Value or the Fair Market Rental Value, whichever is earlier, either Landlord or Tenant may apply to any court having jurisdiction to have appointment made by such court. Any appraiser appointed, by the American Arbitration Association or by such court, shall be instructed to determine the Fair Market Value or Fair Market Added Value or the Fair Market Rental Value within thirty (30) days after appointment of such appraiser. The determination of the appraiser which differs most in terms of dollar amount from the determinations of the other two appraisers shall be excluded, and 50% of the sum of the remaining two determinations shall be final and binding upon Landlord and Tenant as the Fair Market Value or Fair Market Added Value or the Fair Market Rental Value for such interest. However, in the event that following the appraisal performed by said third appraiser, the dollar amount of two of such appraisals are higher and lower, respectively, than the dollar amount of the remaining appraisal in equal degrees, the determinations of both the highest and lowest appraisal, respectively, shall be rejected and the determination of the remaining appraisal shall be final and binding upon Landlord and Tenant as the Fair Market Value or Fair Market Added Value or the Fair Market Rental Value for such interest. This provision for determination by appraisal shall be specifically enforceable to the extent such remedy is available under applicable law, and any determination hereunder shall be final and binding upon the parties except as otherwise provided by applicable law. Landlord and Tenant shall each pay the fees and expenses of the appraiser appointed by it and each shall pay one-half of the fees and expenses of the third appraiser and one-half of all other costs and expenses incurred in connection with each appraisal.

ARTICLE 28.

PURCHASE RIGHTS

28.1 **Landlord Intended Sale**. During the Term hereof and provided that Tenant is not in default hereunder at such time, and in the event that Landlord desires to sell the Leased Property, Tenant shall have an opportunity to purchase the Leased Property upon the terms and conditions set forth in this Section 28.1. In the event that Landlord desires to sell the Leased Property and/or list the Leased Property for sale, then Landlord shall deliver written notice to Tenant of its intent to sell and/or list the Leased Property and the material terms and conditions of such proposed sale or listing (the "Sale Notice"). The material terms that shall be included in Landlord's Sale Notice to Tenant shall include, at a minimum, (i) the price for the Leased Property and, if applicable, the terms of any owner financing, (ii) brokerage fees to be paid by Landlord, (iii) the due diligence or feasibility period that will be provided a potential buyer of the Leased Property, (iv) the amount of any deposit required in connection with a contract for sale and when such deposit will be earned by Landlord, and (v) the date or time period for closing. Tenant shall have a period of thirty (30) days after receipt of Landlord's Sale Notice to deliver to Landlord a form of purchase and sale agreement meeting the minimum terms and conditions set forth in the Sale Notice. Landlord shall respond to Tenant's purchase and sale agreement within a period of ten (10) days following its delivery to Landlord, either accepting or rejecting the proposed purchase and sale agreement terms and conditions.

28.2 **First Refusal to Purchase**. During the Term hereof and provided that Tenant is not in default hereunder at such time, Tenant shall have a first refusal option to purchase the Leased Property as set forth in this Section 28.2. In the event that Landlord receives a bona fide written offer to purchase the Leased Property from a third party, which offer Landlord intends to accept (or has accepted subject to Tenant's right of first refusal granted herein) (a "Third Party Offer"), then Landlord shall promptly provide Tenant with a copy of such Third Party Offer (the "Third Party Offer Notice") and Tenant shall have thirty (30) days after receipt of the Third Party Offer Notice in which to elect to purchase the Leased Property on the same terms and conditions contained in the Third Party Offer. Tenant shall timely provide written confirmation to Landlord of its rejection of its right to purchase the Leased Property on the terms and conditions stated in any Third Party Offer. If Tenant should fail to timely provide such written confirmation of its rejection, then Tenant shall be deemed to have elected not to meet the terms of the Third Party Offer Notice and Landlord and the third party shall be entitled to proceed with the sale of the Leased Property free and clear of any Tenant right of first refusal to purchase the Leased Property. If Tenant exercises the foregoing option, then such purchase shall be consummated within the time period set forth in the Third Party Offer and in accordance with the provisions of Article 17 hereof to the extent not inconsistent herewith. If Tenant shall not exercise Tenant's option to purchase set forth above within said thirty (30) day period after receipt of the Third Party Offer Notice, Landlord shall be free to sell the Leased Property to the third party, or its assignee or affiliated entity, at the price, terms and conditions set forth in such offer. Notwithstanding anything to the contrary contained in the foregoing, the terms of the Third Party Offer may be adjusted between Landlord and the Third Party after Tenant's refusal or decline to purchase under this Section 28.2 as follows: (i) the purchase price may be increased or decreased by 5% or less; (ii) the sharing of expenses in such sale may be changed in any manner that does not effectively reduce the purchase price by 5% or more; (iii) any time periods for inspection, feasibility or closing may be extended from that set forth in the Third Party Offer Notice for up to ninety (90) days; and (iv) additional earnest money may be required or Landlord may require additional consideration (whether applicable or non-applicable to the purchase price) as a condition of any extension of inspection, feasibility or closing periods. In the event that the Third Party Sale fails to close, for whatever reason, Tenant shall be entitled to exercise its right of first refusal as provided in this Section 28.2, as to any subsequently received bona fide third party offer for purchase of the Leased Property that occurs during the Term of this Lease.

28.3 **Option to Purchase the Personal Property**. Unless the Leased Property is conveyed to Tenant pursuant to the terms hereof, Landlord shall have the option to purchase the personal property belonging to Tenant and used at the Leased Property for its Primary Intended Use and ancillary uses, at the expiration or earlier termination of this Lease upon ten (10) days' prior written notice to Tenant. The purchase price for Tenant's personal property shall be an amount equal to the then-current book value (original cost less accumulated depreciation on the books of Tenant pertaining thereto) subject to and with appropriate price adjustments for all equipment leases, conditional sales contracts, security interests and other encumbrances to which Tenant's Personal Property is subject.

28.4 **Negative Pledge**. Tenant shall not, and shall not permit any of its Affiliates to, create, incur, permit or suffer to exist any lien upon Tenant's property or the Leased Property now owned or hereafter acquired, except for Permitted Liens.

28.5 Landlord's Assignment. Notwithstanding any provision of this Article 28 that may be to the contrary, Landlord may assign its interests in this Lease to an Affiliate of Landlord without being subject to the terms and conditions of Sections 28.1 and 28.2 hereof.

ARTICLE 29.

DEFAULT BY LANDLORD

29.1 Default by Landlord. Landlord shall be in default of its obligations under this Lease if Landlord shall fail to observe or perform any term, covenant or condition of this Lease on its part to be performed and such failure shall continue for a period of sixty (60) days after written notice thereof from Tenant, unless such failure cannot with due diligence be cured within a period of sixty (60) days, in which case such failure shall not be deemed to continue if Landlord, within said sixty (60) day period, proceeds promptly and with due diligence to cure the failure and diligently completes the curing thereof. The time within which Landlord shall be obligated to cure any such failure shall also be subject to extension of time due to the occurrence of any Unavoidable Delay.

29.2 Tenant's Right to Cure. Subject to the provisions of Section 30.1, if Landlord shall breach any covenant to be performed by it under this Lease, Tenant, after notice to and demand upon Landlord in accordance with Section 29.1, without waiving or releasing any obligation of Landlord hereunder, and in addition to all other remedies available hereunder and at law or in equity to Tenant, may (but shall be under no obligation at any time thereafter to) make such payment or perform such act for the account and at the expense of Landlord. All sums so paid by Tenant and all costs and expenses (including reasonable attorneys' fees) so incurred, together with interest thereon at the Overdue Rate from the date on which such sums or expenses are paid or incurred by Tenant, shall be paid by Landlord to Tenant on demand. The rights of Tenant hereunder to cure and to secure payment from Landlord in accordance with this Section 29.2 shall survive the termination of this Lease. Tenant's right to secure payment from Landlord shall include the right to set-off the Rent due hereunder.

ARTICLE 30.

LIMITED MEDIATION / LIMITED ARBITRATION

30.1 Limited Mediation / Limited Arbitration. In the event that a dispute arises between Landlord and Tenant regarding whether the Leased Improvements have become Unsuitable for their Primary Intended Use in the event of a casualty or condemnation as set forth in Articles 13 and 14 of this Lease, then Landlord and Tenant agree, within fifteen (15) business days after a dispute has arisen between them concerning the suitability of the Leased Property for its Primary Intended Use under Articles 13 and 14, to submit their dispute before a mutually agreed upon mediator in Peoria, Illinois and to use good faith efforts to reach an agreement concerning the continued suitability of the Leased Property for its Primary Intended Use. In the event that Landlord and Tenant are unable to settle their dispute, then the parties agree to arbitrate their claim as set forth in this Article 30. Unless agreed to by Landlord and Tenant, no other controversy between the parties hereto shall be required to be settled by arbitration or mediation.

30.2 **Appointment of Arbitrator**. The party or parties requesting arbitration shall serve upon the other a written demand therefor specifying the matter to be submitted to arbitration, and nominating an arbitrator. Within twenty (20) days after receipt of such written demand and notification, the other party shall, in writing, nominate a competent disinterested arbitrators and the two arbitrators so designated shall, within ten (10) days thereafter, select a third (3rd) arbitrator and give immediate written notice of such selection to the parties and shall fix in said notice a time and place for the first (1st) meeting of the arbitrators, which meeting shall be held as soon as conveniently possible after the selection of all arbitrators, at which time and place the parties to the controversy may appear and be heard. All such arbitrators shall be disinterested parties and shall be picked from a pool of professionals and educators in the medical field, such as administrators, senior managers or officers of rehabilitation / long term acute care operating management companies or university personnel qualified in health care administration.

30.3 **Third Arbitrator**. In case the notified party or parties shall fail to make a selection upon notice, as aforesaid, or in case the first two arbitrators selected shall fail to agree upon a third arbitrator within ten (10) days after their selection, then such arbitrator or arbitrators may, upon application made by either of the parties to the controversy, after twenty (20) days' written notice thereof to the other party or parties, have a third arbitrator appointed by any judge of any United States court of record having jurisdiction in the state in which the Leased Property is located or, if such office shall not then exist, by a judge holding an office most nearly corresponding thereto.

30.4 **Arbitration Procedure**. Said arbitrators shall give each of the parties not less than ten (10) days' written notice of the time and place of each meeting at which the parties or any of them may appear and be heard and after hearing the parties in regard to the matter in dispute and taking such other testimony and making such other examinations and investigations as justice shall require and as the arbitrators may deem necessary, they shall decide the questions submitted to them. The decision of said arbitrators in writing signed by a majority of them shall be final and binding upon the parties to such controversy. In rendering such decisions, the arbitrators shall not add to, subtract from or otherwise modify the provisions of this Lease.

30.5 **Expenses**. The expenses of such arbitration shall be divided between Landlord and Tenant unless otherwise specified in the decision of the arbitrators. Each party in interest shall pay the fees and expenses of its own counsel.

ARTICLE 31.

FINANCING OF THE LEASED PROPERTY

Landlord agrees that it will not grant or create any mortgage, deed of trust, lien, encumbrance or other title retention agreement ("Encumbrance") upon the Leased Property other than the Facility Mortgage without the prior written consent of Tenant. However, Landlord shall have the right to enter into any renewals or modifications of the Facility Mortgage without the prior written consent of Tenant. Any such Encumbrance as approved by Tenant shall require the holder of each such Encumbrance to simultaneously with or prior to recording the Encumbrance agree (a) to give Tenant the same notice, if any, given to Landlord of any default or acceleration

of any obligation underlying any such Encumbrance or any sale in foreclosure of such Encumbrance, (b) to permit Tenant to appear with its representatives and to bid at any public foreclosure sale with respect to any such Encumbrance, and (c) to enter into an agreement with Tenant containing the provisions described in Article 32 of this Lease. Following approval by Tenant, Tenant agrees to execute and deliver to Landlord or the holder of an Encumbrance any written agreement required by this Article within ten (10) days of written request thereof by Landlord or the holder of an Encumbrance.

ARTICLE 32.

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE

Subject to the provisions of this Article 32, Tenant agrees that this Lease shall at all times be subject and subordinate to the lien of any Facility Mortgage, and Tenant agrees, upon demand, without cost, to execute instruments as may be reasonably required to further effectuate or confirm such subordination, so long as such subordination recognizes Tenant's rights under this Lease. The subordination contained herein shall be subject to the execution and delivery of a Subordination, Non-Disturbance, and Attornment Agreement by the applicable Facility Mortgagee in substantially the form of the sample agreement attached hereto as Exhibit "E" and made a part hereof with no modifications that would materially diminish the rights of the Tenant set forth in the sample Agreement or herein.

Except as expressly provided in this Lease, by reason of the occurrence of an Event of Default, and as a condition to the subordination described in this Article 32 above or to Tenant's obligation to execute any instruments as otherwise required under this Article 32 above, Tenant's tenancy and Tenant's rights under this Lease or any Easement shall not be disturbed, terminated or otherwise adversely affected, nor shall this Lease be affected, by the existence of, or any default under, any Facility Mortgage, and in the event of a foreclosure or other enforcement of any Facility Mortgage, or sale in lieu thereof, the purchaser at such foreclosure sale shall be bound to Tenant for the Term of this Lease and any Renewal Term, the rights of Tenant under this Lease shall expressly survive, and this Lease shall in all respects continue in full force and effect so long as no Event of Default has occurred and is continuing. Upon Tenant's request, each Facility Mortgagee and each holder of a Facility Mortgage shall enter into a Subordination, Non-Disturbance and Attornment Agreement setting forth the provisions of this Article 32. The Subordination, Non-Disturbance and Attornment Agreement shall be in substantially the form of the sample agreement in Exhibit "E", with no modifications that would materially diminish the rights of the Tenant set forth in the sample Agreement or herein. Tenant shall not be named as a party defendant in any such foreclosure suit, except as may be required by law.

Notwithstanding the provisions of Article 32 above, the holder of any Facility Mortgage to which this Lease is subject and subordinate shall have the right, at its sole option, at any time, to subordinate and subject the Facility Mortgage, in whole or in part, to this Lease by recording a unilateral declaration to such effect.

At any time prior to the expiration of the Term, Tenant agrees, at the election and upon demand of any owner of the Leased Property, or of a Facility Mortgagee who has granted nondisturbance to Tenant pursuant to Article 32 above, to attorn, from time to time, to any such owner or

Facility Mortgagee, upon the terms and conditions of this Lease, for the remainder of the Term. The provisions of this Article 32 shall inure to the benefit of any such owner or Facility Mortgagee, shall apply notwithstanding that, as a matter of law, this Lease may terminate upon the foreclosure of the Facility Mortgage, shall be self-operative upon any such demand, and no further instrument shall be required to give effect to said provisions.

Tenant and Landlord agree that, if requested by the other to, without charge, enter into a Subordination, Non-Disturbance and Attornment Agreement reasonably requested by a Facility Mortgagee or Tenant, as the case may be, provided such agreement contains provisions relating to non-disturbance in accordance with the provisions of Article 32 above, Tenant hereby agrees for the benefit of any Facility Mortgagee whose name and address have been provided to Tenant that Tenant will not, (i) without in each case securing the prior written consent of such Facility Mortgagee, such consent not to be unreasonably withheld, conditioned or delayed, amend or modify this Lease or enter into any agreement with Landlord so to do, (ii) without the prior written consent of such Facility Mortgagee which may be withheld in its sole discretion, cancel or surrender or seek to cancel or surrender the Term hereof, or enter into any agreement with Landlord to do so (the parties agreeing that the foregoing shall not be construed to affect the rights or obligations of Tenant, Landlord or Facility Mortgagee with respect to any termination permitted under the express terms hereof), or (iii) pay any installment of Minimum Rent more than one (1) month in advance of the due date thereof or otherwise than in the manner provided for in this Lease.

If any Person providing financing of Trade Fixtures, requires a landlord's consent or collateral access agreement from Landlord, Landlord shall execute and deliver such consent or such collateral access agreement as is reasonably acceptable to Landlord promptly after Tenant's request therefor, provided that Tenant pays or reimburses Landlord for, all costs and expenses, including reasonable attorneys' fees, incurred by Landlord in connection with such waiver or collateral access agreement.

ARTICLE 33.

EXTENSION TERMS

Tenant and/or its Permitted Assignee or Permitted Transferee shall have the right, at its option, to extend the Initial Term of this Lease for five (5) consecutive extension terms (the "Extension Terms"), each Extension Term being five (5) years in length. Each Extension Term shall commence on the day after the expiration of the preceding Lease Term and shall expire on the fifth (5th) anniversary of the last day of the Initial Term in the case of the first (1st) Extension Term, and in the case of the second (2nd) Extension Term, on the tenth (10th) anniversary of the last day of the Initial Term, and in the case of the third (3rd) Extension Term, on the fifteenth (15th) anniversary of the last day of the Initial Term, and in the case of the fourth (4^{th}) Extension Term, on the twentieth (20^{th}) anniversary of the last day of the Initial Term, and in the case of the fifth (5^{th}) Extension Term, on the twenty-fifth (25^{th}) anniversary of the last day of the Initial Term. The option to extend the Initial Term or any Extension Term of this Lease for an Extension Term as described above must be exercised by Tenant at least one (1) year prior to the last day of the Initial Term or Extension Term, as the case may be. Failure of Tenant to timely exercise any extension right shall terminate all further extension rights. The terms and

conditions of this Lease shall apply to each Extension Term with the same force and effect as if such Extension Term had originally been included in the Initial Term of the Lease. The right of Tenant to exercise its right to extend the Initial Term and for any Extension Term shall be conditioned upon this Lease being in full force and effect, Tenant, its Affiliate or a Permitted Assignee or Permitted Transferee under Article 22 hereof occupying the Leased Property, Tenant accepting the Leased Property during such Extension Term in its "AS IS" condition, and no Event of Default then existing as of both the date that Tenant notifies Landlord of Tenant's decision to extend the term of this Lease for any of the Extension Terms. The Initial Term, together with any Extension Term which Tenant properly exercises its option with respect to, and for which the conditions related thereto are satisfied, shall constitute the "Term" of this Lease.

ARTICLE 34.

CONSTRUCTION OF THE LEASED IMPROVEMENTS

Landlord shall construct the Leased Improvements in accordance with the terms of the Work Letter and Building Standards attached hereto as Exhibits "D" and "G."

ARTICLE 35.

MISCELLANEOUS

35.1 No Waiver. No failure by Landlord or Tenant to insist upon the strict performance of any term hereof or to exercise any right, power or remedy consequent upon a breach thereof, and no acceptance of full or partial payment of Rent during the continuance of any such breach, shall constitute a waiver of any such breach or any such term. To the extent permitted by law, no waiver of any breach shall affect or alter this Lease, which shall continue in full force and effect with respect to any other then existing or subsequent breach.

35.2 Remedies Cumulative. To the extent permitted by law, each legal, equitable or contractual right, power and remedy of Landlord or Tenant now or hereafter provided either in this Lease or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power and remedy and the exercise or beginning of the exercise by Landlord or Tenant of any one or more of such rights, powers and remedies shall not preclude the simultaneous or subsequent exercise by Landlord or Tenant of any or all of such other rights, powers and remedies.

35.3 Surrender. No surrender to Landlord of this Lease or of the Leased Property or any part thereof, or of any interest therein, shall be valid or effective unless agreed to and accepted in writing by Landlord and no act by Landlord or any representative or agent of Landlord, other than such a written acceptance by Landlord, shall constitute an acceptance of any such surrender.

35.4 No Merger of Title. There shall be no merger of this Lease or of the leasehold estate created hereby by reason of the fact that the same person, firm, corporation or other entity may acquire, own or hold, directly or indirectly, (a) this Lease or the leasehold estate created

hereby or any interest in this Lease; or (b) this Lease or the leasehold estate created hereby or any interest in this Lease such leasehold estate and the fee estate in the Land; or (c) this Lease, or the leasehold estate created hereby or any interest in this Lease and a ground lessee interest in the Land.

35.5 Transfers by Landlord. If Landlord or any successor owner of the Leased Property shall convey the Leased Property in accordance with the terms hereof (subject to the terms of Article 28 hereof), other than as security for a debt, the grantee or transferee of the Leased Property shall expressly assume all obligations of Landlord hereunder arising or accruing from and after the date of such conveyance or transfer, and shall be reasonably capable of performing the obligations of Landlord hereunder and Landlord or such successor owner, as the case may be, shall thereupon be released from all future liabilities and obligations of Landlord under this Lease arising or accruing from and after the date of such conveyance or other transfer and all such future liabilities and obligations shall thereupon be binding upon the new owner. Again, assignment of this Lease to an Affiliate of Landlord is not subject to the terms and conditions of Sections 28.1 or 28.2 hereof.

35.6 General. Anything contained in this Lease to the contrary notwithstanding, all claims against, and liabilities of, Tenant and Landlord against the other arising out of or relating to this Lease and arising prior to any date of termination of this Lease shall survive such termination. If any term or provision of this Lease or any application thereof shall be invalid or unenforceable, the remainder of this Lease and any other application of such term or provision shall not be affected thereby. If any late charges provided for in any provision of this Lease are based upon a rate in excess of the maximum rate permitted by applicable law, the parties agree that such charges shall be fixed at the maximum permissible rate. Neither this Lease nor any provision hereof may be changed, waived, discharged or terminated except by an instrument in writing and in recordable form signed by Landlord and Tenant. All the terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The headings in this Lease are for convenience of reference only and shall not limit or otherwise affect the meaning hereof. This Lease shall be governed by and construed in accordance with the laws of Illinois, but not including its conflict of laws rules. This Lease may be executed in one or more counterparts, each of which shall be an original but, when taken together, shall constitute but one document.

35.7 Memorandum of Lease. Landlord and Tenant shall, promptly upon the request of either, enter into a short form memorandum of this Lease in form suitable for recording under the laws of the state in which the Leased Property is located in which reference to this Lease, and all options contained herein, shall be made.

35.8 Transfer of Licenses. Upon the expiration or earlier termination of the Term, Tenant shall take all action necessary to effect or useful in effecting the transfer to Landlord or Landlord's nominee of all licenses, operating permits and other governmental authorizations and all service contracts which may be necessary or useful in the operation of the Facility and which relate exclusively to the Facility, which have not previously been transferred or assigned to Landlord and further which are in fact transferable. To the extent Landlord or its nominee operates under Tenant's licenses, operating permits or other governmental authorization or service contracts after the termination of this Lease, then Landlord agrees to indemnify and hold

harmless Tenant against all demands, claims, costs and actions brought against Tenant related to such transferred licenses, operating permits, governmental authorizations or service contracts.

ARTICLE 36.

GLOSSARY OF TERMS

36.1 Definitions. For purposes of this Lease, except as otherwise expressly provided or unless the context otherwise requires, (a) the terms defined in this Article 36 have the meanings assigned to them in this Article 36 and include the plural as well as the singular, (b) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as at the time applicable, (c) all references in this Lease to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this Lease, and (d) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision and (e) the word "including" shall mean "including without limitation." For purposes of this Lease, the following terms shall have the meanings indicated:

"Additional Charges" has the meaning set forth in Section 2.3 hereof.

"Additional Costs" has the meaning given it in the Work Letter attached hereto as Exhibit D.

"Adjustment Date" has the meaning set forth in Section 2.1(b) hereof.

"Affiliate," when used with respect to Tenant, means any person directly or indirectly controlling or controlled by or under direct or indirect common control with Tenant. For the purposes of this definition, "control," as used with respect to any person, shall mean the possession, directly and indirectly, of the power to direct or cause the direction of the management and policies of such person, through the ownership of voting securities, partnership interests or other equity interests.

"Approved Development Costs" has the meaning given it in the Work Letter attached hereto as Exhibit D.

"Award" means all compensation, sums or anything of value awarded, paid or received on a total or partial Condemnation.

"Business Day" means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which national banks in the City of Peoria, Illinois are closed.

"Capital Additions" means one or more new buildings or one or more additional structures annexed to any portion of any of the Leased Improvements, which are constructed on any parcel or portion of the Land during the Term, including the construction of a new wing or new story, or the rebuilding of the existing Leased Improvements or any portion thereof not normal, ordinary or recurring to maintain the Leased Property.

"Capital Addition Cost" means the cost of any Capital Additions proposed to be made by Tenant whether paid for by Tenant or Landlord. Such cost shall include and be limited to (a) the cost of construction of the Capital Additions, including site preparation and improvement, materials, labor, supervision and certain related design, engineering and architectural services and the cost of any fixtures, construction financing and miscellaneous items approved in writing by Landlord, (b) if agreed to by Landlord in writing in advance, the cost of any land contiguous to the Leased Property purchased for the purpose of placing thereon the Capital Additions or any portion thereof or for providing means of access thereto, or parking facilities therefor, including the cost of surveying the same, (c) the cost of insurance, real estate taxes, water and sewage charges and other carrying charges for such Capital Additions during construction, (d) the cost of title insurance, (e) reasonable fees and expenses of legal counsel and accountants, (f) filing, registration and recording taxes and fees, (g) documentary stamp taxes, if any, (h) environmental assessments and boundary surveys and (i) all reasonable costs and expenses of Landlord and any Lending Institution which has committed to finance the Capital Additions, including, (A) the reasonable fees and expenses of their respective legal counsel, (B) all printing expenses, (C) the amount of any filing, registration and recording taxes and fees, (D) documentary stamp taxes, if any, (E) title insurance charges, appraisal fees, if any, (F) rating agency fees, if any, and (G) commitment fees, if any, charged by any Lending Institution advancing or offering to advance any portion of the financing for such Capital Additions.

"Capital Improvements" are defined as major, non-routine or non-recurring repairs, and replacements unrelated to new construction that cost Five Thousand and 00/100 Dollars ($5,000.00) or more; materially add to the value of the property; and appreciably prolong its useful life [such as alterations to rectify code deficiencies, modifications to improve utility systems, repaving, roof repairs, exterior fencing and lighting, and repair projects that restore a facility to its former condition and do not result in changes in facility use]. Capital improvements do not include normal routine maintenance and repair, or repair and replacements costing less than Five Thousand and 00/100 Dollars ($5,000.00). For example, the patching of a roof is not a capital improvement while the partial or complete replacement of the old roof is; repair of a foundation is considered a capital improvement and not a repair. Repairs which are incidental to a capital improvement project, or replacement of an item not normally considered a capital improvement, are not defined as capital improvements.

"Charge" has the meaning set forth in Article 11 hereof.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commencement Date" has the meaning set forth in Article 1.

"Condemnation" means the transfer of all or any part of the Leased Property as a result of (i) the exercise of any governmental power, whether by legal proceedings or otherwise, by a Condemnor or (ii) a voluntary sale or transfer by Landlord to any Condemnor, either under threat of Condemnation or while legal proceedings for Condemnation are pending.

"Condemnor" means any public or quasi-public authority, or private corporation or individual, having the power of Condemnation.

"Contract Documents" has the meaning given it in the Work Letter, attached hereto as Exhibit D.

"Control" means, as used with respect to any person, the possession, directly and indirectly, of the power to direct or cause the direction of the management and policies of such person, through the ownership of voting securities, partnership interests or other equity interests.

"Date of Taking" means the date the Condemnor has the right to possession of the property being condemned.

"Effective Date" has the meaning set forth in the first paragraph of this Lease.

"Encumbrance" has the meaning set forth in Article 32.

"Event of Default" or "Default" has the meaning set forth in Section 15.1.

"Excluded Taxes" means any income or franchise taxes based upon, measured by, or calculated with respect to net income or profits (but not including any franchise tax based upon gross receipts with respect to the Rent), inheritance, estate, succession, transfer or any similar taxes.

"Extension Term" has the meaning set forth in Section 33.

"Facility" means the approximate 56,350 square foot long-term acute care hospital and/or general hospital facility to be constructed and operated at the Leased Property.

"Facility Mortgage" has the meaning set forth in Section 12.1.

"Facility Mortgagee" has the meaning set forth in Section 12.1.

"Fair Market Added Value" means the Fair Market Value (as hereinafter defined) of the Leased Property (including all Capital Additions) less the Fair Market Value of the Leased Property determined as if no Capital Additions paid for by Tenant without financing by Landlord had been constructed.

"Fair Market Rental Value" means the fair market rental value of the Leased Property, (a) assuming the same is unencumbered by this Lease, and (b) determined in accordance with the appraisal procedures set forth in Article 27 or in such other manner as shall be mutually acceptable to Landlord and Tenant and (c) not taking into account any reduction in value resulting from an indebtedness to which the Leased Property may be subject.

"Fair Market Value" means the fair market value of the Leased Property, including all Capital Additions, (a) assuming the same is unencumbered by this Lease, (b) determined in accordance with the appraisal procedures set forth in Article 27 or in such other manner as shall be mutually acceptable to Landlord and Tenant, and (c) not taking into account any reduction in value resulting from any indebtedness to which the Leased Property is subject to (including the Facility Mortgage and/or any liens related to any Capital Additions) or which encumbrance Tenant or Landlord is otherwise required to remove pursuant to any provision of this Lease or

agrees to remove at or prior to the closing of the transaction as to which such Fair Market Value determination is being made. The positive or negative effect on the value of the Leased Property or Substitute Property attributable to the interest rate, amortization schedule, maturity date, prepayment penalty and other terms and conditions of any Encumbrance on the Leased Property, as the case may be, which is not so required or agreed to be removed shall be taken into account in determining such Fair Market Value.

"Financial Statements" means for any fiscal year or other accounting period for Tenant, or such other party identified as being obligated to deliver to Landlord its Financial Statements, audited profit and loss statements for such period and for the period from the beginning of the respective fiscal year of Tenant or such other party to the end of such period and the related balance sheet as at the end of such period, together with the notes thereto, all in reasonable detail and setting forth in comparative form the corresponding figures for the corresponding period in the preceding fiscal year of Tenant, or such other party, and prepared in accordance with generally accepted accounting principles consistently applied, except as noted.

"Final Construction Documents" has the meaning given it in the Work Letter.

"Final Project Budget" has the meaning given it in the Work Letter attached hereto as Exhibit D.

"Fiscal Year" means the 12-month accounting period of the applicable party.

"Fixtures" has the meaning set forth in Article 1.

"Force Majeure" shall have the meaning set forth in the Work Letter, attached hereto as Exhibit D.

"Full Replacement Cost" has the meaning set forth in Section 12.2.

"Hazardous Materials" means any substance, including asbestos or any substance containing asbestos, the group of organic compounds known as polychlorinated biphenyls, flammable explosives, radioactive materials, medical waste, chemicals, pollutants, effluents, contaminants, emissions or related materials and items included in the definition of hazardous or toxic wastes, materials or substances under any Hazardous Materials Law.

"Hazardous Materials Law" means any law, regulation or ordinance relating to environmental conditions, medical waste and industrial hygiene, including the Resource Conservation and Recovery Act of 1976 ("RCRA"), the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Hazardous Materials Transportation Act, the Federal Water Pollution Control Act, the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Safe Drinking Water Act, and all similar federal, state and local environmental statutes and ordinances, whether heretofore or hereafter enacted or effective and all regulations, orders, or decrees heretofore or hereafter promulgated thereunder.

"Impositions" means, collectively, all taxes relating to the Leased Property, including all ad valorem, sales and use, gross receipts, action, privilege, rent (with respect to any ground

leases) or similar taxes, assessments (including all assessments for public improvements or benefits, whether or not commenced or completed prior to the date hereof and whether or not to be completed within the Term), water, sewer or other rents and charges, excises, tax levies, fees (including license, permit, inspection, authorization and similar fees), and all other governmental charges, in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen, of every character in respect of the Leased Property and/or the Rent (including all interest and penalties thereon due to any failure in payment by Tenant), which at any time prior to, during or in respect of the Term hereof may be assessed or imposed on or in respect of or be a lien upon (a) Landlord or Landlord's interest in the Leased Property, (b) the Rent, the Leased Property or any part thereof or any rent therefrom or any estate, right, title or interest therein, or (c) any occupancy, operation, use or possession of, sales from, or activity conducted on, or in connection with, the Leased Property or use of the Leased Property or any part thereof; provided that nothing contained in this Lease shall be construed to require Tenant to pay (1) any tax based on net income (whether denominated as a franchise or capital stock or other tax) imposed on Landlord, (2) any transfer or net revenue tax of Landlord, (3) any tax imposed with respect to the sale, exchange or other disposition by Landlord of any portion of the Leased Property or the proceeds thereof, or (4) except as expressly provided elsewhere in this Lease, any principal or interest on any Encumbrance on the Leased Property, except to the extent that any tax, assessment, tax levy or charge which Tenant is obligated to pay pursuant to this definition and which is in effect at any time during the Term hereof is totally or partially repealed, and a tax, assessment, tax levy or charge set forth in clause (1), (2) or (3) is levied, assessed or imposed expressly in lieu thereof.

"Initial Term" has the meaning set forth in Article 1.

"Insurance Requirements" means all terms of any insurance policy required by this Lease and all requirements of the issuer of any such policy.

"Land" has the meaning set forth in Article 1.

"Landlord" means Cullinan Medical 1, LLC, an Illinois limited liability company.

"Landlord's Work" shall have the meaning given it in the Work Letter, attached hereto as Exhibit D.

"Lease" means this Lease Agreement.

"Lease Year" means each period of twelve (12) full calendar months during the Term of this Lease, and in the event that the Commencement Date is a day other than the first day of the month, then the first Lease Year shall also include the remainder of the month in which the Commencement Date occurred.

"Leased Improvements" and "Leased Property" have the meanings set forth in Article 1.

"Legal Requirements" means all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions affecting the Leased Property or the construction, use or alteration thereof (including zoning ordinances), whether now or hereafter enacted and in force, including any which may (a) require repairs,

modifications or alterations of or to the Leased Property, or (b) in any way adversely affect the use and enjoyment thereof, and all permits, licenses, authorizations and regulations relating thereto, and all covenants, agreements, actions and encumbrances contained in any instruments, either of record or known to Tenant (other than encumbrances created by Landlord without the consent of Tenant), at any time in force affecting the Leased Property.

"Lending Institution" means any insurance company, federally insured commercial or savings bank, national banking association, savings and loan association, employees' welfare, pension or retirement fund or system, corporate profit-sharing or pension plan, college or university, or real estate investment, including any corporation qualified to be treated for federal tax purposes as a real estate investment trust having a net worth of at least $50,000,000.

"Minimum Rent" has the meaning set forth in Section 2.1(a) hereof.

"Minimum Purchase Price" means that price for the Leased Property mutually agreed upon between Landlord and Tenant at the time of repurchase hereunder by Tenant.

"Net Rentable Square Foot" means the number of rentable square feet contained within the Leased Improvements as established by the Project Architect after the completion of Landlord's Work in accordance with the Measurement Method (as defined in the Work Letter, attached hereto as Exhibit D).

"Officer's Certificate" means a certificate of Tenant's general partner or managing member signed by the Chairman of the Board of Directors, the President, any Vice President or another officer authorized to so sign by the Board of Directors or By-Laws of Tenant's general partner or managing member.

"Overdue Rate" means as of any date, a rate per annum equal to the Prime Rate as of such date, plus three percent, but in no event greater than the maximum rate then permitted under applicable law.

"Payment Date" means any due date for the payment of the installments of Minimum Rent under this Lease.

"Permitted Assignee" has the meaning set forth in Section 22.3 hereof.

"Permitted Exceptions" has the meaning set forth in Article 1 hereof.

"Permitted Liens" means (i) liens described on Exhibit B attached hereto, (ii) pledges or deposits made to secure payments of worker's compensation insurance (or to participate in any fund in connection with worker's compensation insurance), unemployment insurance, pensions or social security programs, (iii) liens imposed by mandatory provisions of law such as for materialmen, mechanics, warehousemen and other like liens arising in the ordinary course of business, securing indebtedness whose payment is not yet due and payable, (iv) liens for taxes, assessments and governmental charges or levies if the same are not yet due and payable or if the same are being contested in good faith and as to which adequate cash reserves have been provided, (v) liens arising from good faith deposits in connection with tenders, leases, real estate bids or contracts (other than contracts involving the borrowing of money), pledges or deposits to secure public or statutory obligations and deposits to secure (or in lieu of) surety, stay, appeal or

customs bonds and deposits to secure the payment of taxes, assessments, duties or other similar charges, (vi) liens to secure purchase money indebtedness, so long as the indebtedness incurred to purchase the new asset is secured only by such asset, or (vii) a Tenant Capital Addition Encumbrance as set forth in Section 9.2 hereof.

"Permitted Transferee" has the meaning set forth in Section 22.3 hereof.

"Person" means a natural person, corporation, partnership, trust, association, limited liability company or other entity.

"Personal Property" means the Landlord provided machinery, equipment, furniture, furnishings, computers, signage, trade fixtures and/or other personal property and consumable inventory and supplies used or useful in the operation of the Leased Property for its Primary Intended Use, together with all replacements and substitutions therefor, specifically set forth in Exhibit D attached hereto.

"Preliminary Project Budget" means the estimated budget for the Project attached hereto as Exhibit F.

"Primary Intended Use" has the meaning set forth in Section 6.2.

"Prime Rate" means the annual rate reported by The Wall Street Journal, Eastern Edition (or, if The Wall Street Journal shall no longer be published or shall cease to report such rates, then a publication or journal generally accepted in the financial industry as authoritative evidence of prevailing commercial lending rates) from time to time as being the prevailing prime rate (or, if more than one such rate shall be published in any given edition, the arithmetic mean of such rates). The prime rate is an index rate used by The Wall Street Journal to report prevailing lending rates and may not necessarily be its most favorable lending rate available. Any change in the Prime Rate hereunder shall take effect on the effective date of such change in the prime rate as reported by The Wall Street Journal, without notice to Tenant or any other action by Landlord. Interest shall be computed on the basis that each year contains 360 days, by multiplying the principal amount by the per annum rate set forth above, dividing the product so obtained by 360, and multiplying the quotient thereof by the actual number of days elapsed.

"Prohibited Use" means the use of the Leased Property in connection with: (i) any sexually oriented business as defined by applicable city ordinance; (ii) heavy manufacturing facility or industrial uses; or (iii) other use prohibited under the Permitted Exceptions in effect on the Effective Date of this Lease and applicable to the Leased Property.

"Project Improvements" has the meaning set forth in the Work Letter attached hereto as Exhibit D.

"Punchlist Items" shall have the meaning given to it in the Work Letter attached hereto as Exhibit D.

"Rent" means, collectively, the Minimum Rent and the Additional Charges.

"Request" has the meaning set forth in Section 9.1(a).

"Sale Notice" has the meaning set forth in Section 28.1.

"Substantial Completion" shall mean the latest to occur of the following: (a) Landlord's Work under the Work Letter is sufficiently complete in accordance with the Contract Documents so that Tenant can commence beneficial use and occupancy of the Leased Property as intended, (b) all Project systems included in Landlord's Work are operational as designed and specified, (c) all governmental inspections designated or required for Landlord's Work have been successfully completed, and a certificate of occupancy and other municipal permits or approvals issued by the City of Peoria and (if applicable) County of Peoria for Landlord's Work have been obtained, in each case to the extent required to occupy and use the Project for its Primary Intended Use, (d) all final finishes required by the Contract Documents (as defined in the Work Letter) are in place (except for minor Punchlist Items which do not materially detract from the appearance and utility of the Project for the Primary Intended Use), (e) all remaining Landlord's Work is reasonably estimated to be completed within thirty (30) consecutive calendar days (or as otherwise agreed to by Tenant) following the date of Substantial Completion of Landlord's Work, and (f) Landlord has (i) delivered to Tenant binders containing complete sets of all manufacturer's catalogs, instructions and other similar data covering all mechanical and manually operated devices furnished and/or installed as part of Landlord's Work, and (ii) provided Tenant's property management and operations personnel with the opportunity to be trained in the operation and maintenance of building systems and controls installed as part of Landlord's Work.

"Taking" means a taking or voluntary conveyance during the Term hereof of all or part of the Leased Property, or any interest therein or right accruing thereto or use thereof, as the result of, or in settlement of any Condemnation or other eminent domain proceeding affecting the Leased Property whether or not the same shall have actually been commenced.

"Tenant" means Greater Peoria Specialty Hospital, LLC, an Illinois limited liability company and its Permitted Transferees and/or Permitted Assignees.

"Term" means the Initial Term and any Extension Term as to which Tenant has properly and timely exercised its options to extend contained in Article 33 hereof unless earlier terminated pursuant to the provisions hereof.

"Third Party Offer" has the meaning set forth in Section 28.2.

"Third Party Offer Notice" has the meaning set forth in Section 28.2.

"Unsuitable for Its Primary Intended Use" as used anywhere in this Lease, shall mean that, by reason of damage or destruction, or a partial Taking, in the good faith judgment of Tenant and/or Landlord, reasonably exercised, the Facility cannot be profitably operated for its Primary Intended Use, taking into account, among other relevant factors, the number of usable beds affected by such damage or destruction or partial Taking.

ARTICLE 37.

CONTINGENCIES / TERMINATION RIGHTS

37.1 **Purchase of Land**. This Lease Agreement is expressly contingent upon Landlord's, or Landlord's Affiliate, closing and taking possession and fee simple title to the surface of the Land, which Land, as of the execution of this Lease, is not owned by Landlord. Landlord hereby acknowledges and agrees that Landlord shall provide Tenant all information, documents, or materials in regards to negotiations for purchase of the Land that Tenant may reasonably request during and after such negotiations. If Landlord, or Landlord's Affiliate, is unable to purchase and take fee simple title to the surface of the Land on or before December 17, 2007, then Tenant may at its election, terminate this Lease upon written notice to Landlord and upon Tenant's payment of the Approved Development Costs as defined at Exhibit D hereto, neither party shall have any further obligation under this Lease.

37.2 **Financing Contingency**. This Lease Agreement is expressly contingent upon Landlord, or Landlord's Affiliate, securing of financing to construct the Leased Improvements, install the Fixtures and Personal Property to be provided by Landlord hereunder, upon such terms and conditions as are acceptable to Landlord and Tenant. Landlord hereby acknowledges and agrees that Landlord shall provide Tenant all information, documents, or materials in regards to negotiations to secure financing hereunder that Tenant may reasonably request during and after such negotiations. Loan fees incurred by Landlord or Landlord's Affiliate, in conjunction with said financing shall not exceed one percent (1%) of the amount borrowed, and the rate for such financing shall approximate the general market rates available for similar commercial loans in the State of Illinois at the time such financing is secured. Further, Landlord shall not close on such financing without prior written consent of Tenant. If Landlord shall close on such financing without the prior written consent of Tenant, Landlord hereby acknowledges and agrees that upon the termination of the Lease prior to the Construction Commencement Date, notwithstanding anything set forth elsewhere in this Lease, Tenant shall not be obligated to reimburse Landlord for any costs incurred in connection with the acquisition and closing upon the financing. If Landlord, or Landlord's Affiliate, is unable to secure financing to construct the Leased Improvements, and install the Fixtures and Personal Property to be provided by Landlord hereunder on or before December 17, 2007 then Tenant may at its election, terminate this Lease upon written notice to Landlord and upon Tenant's payment of the Approved Development Costs as defined at Exhibit D hereto, neither party shall have any further obligation under this Lease.

37.3 **Zoning/Subdivision**. If Landlord is required by the City of Peoria to obtain either: (i) the re-zoning of the Project Land (due to a modification in the location of the Project from that shown on the current zoning ordinance or a special use permit, compatible with the Leased Property's Primary Intended Use); or (ii) a final approved subdivision plat for the Land (to the extent such is required under applicable City/County ordinances and regulations) and Landlord is unable to obtain either or both, on or before commencement of construction, then Landlord or Tenant may, at their election, terminate this Lease upon written notice to the other party and upon Tenant's payment of the Approved Development Costs as defined at Exhibit D hereto, neither party shall have any further obligation under this Lease. Landlord shall diligently pursue the prosecution of any required zoning or special use permits and platting of the Land.

Tenant shall use commercially reasonable efforts and join in any necessary applications with Landlord to promptly achieve such required zoning and subdivision, if applicable.

37.4 Insurable Leasehold Interest. This Lease Agreement is expressly contingent upon Landlord being able to deliver to Tenant a leasehold interest, pursuant to the terms of this Lease, that is insurable by a standard form leasehold interest title insurance policy, in such amount reasonably acceptable to Tenant and Landlord which reflects status of title which is acceptable to Tenant and Landlord. If Landlord is unable to deliver to Tenant at Landlord's closing upon the Land pursuant to Article 37.1 hereof, an insurable leasehold interest insured in such amount reasonably acceptable to Tenant and Landlord which reflects status of title which is acceptable to Tenant and Landlord, pursuant to the terms of this Lease, then Tenant may at its election, terminate this Lease upon written notice to Landlord and upon Tenant's payment of the Approved Development Costs as defined at Exhibit D hereto, neither party shall have any further obligation under this Lease or any Guaranties executed pursuant to the Lease.

37.5 Operating Lease. This Lease Agreement is expressly contingent upon the Lease being classified as an operating lease as per the Generally Accepted Accounting Principals (GAAP) Standards set forth in Financial Accounting Standards Board's (FASB) Statement No. 13, Accounting for Leases. If the Lease fails to meet one of the four criteria for classifying the Lease as an operating lease vs. a capital lease, then Landlord and Tenant agree to amend the lease to qualify as an operating lease. Such amendment to be reasonably acceptable to Landlord and Tenant. Landlord and Tenant agree that the following changes are accepted as changes that will be adopted by an executed amendment to the Lease if the Lease (as written on the Effective Date) is not classified as an operating lease. Upon request by Tenant and delivery of reasonable evidence that the Lease has not been classified as an operating lease, Tenant and Landlord will execute an amendment that includes the following changes or language which shall replace existing terms of the Lease:

A. At Article 1, the Initial Term of the Lease will be fifteen (15) years; and

B. Article 33 Extension Terms will be deleted in its entirety and replaced with the following new Article 33 Extension Terms:

> Tenant and/or its Permitted Assignee or Permitted Transferee shall have the right, at its option, to extend the Initial Term of this Lease for five (5) consecutive extension terms (the "Extension Terms"), each being one (1) year in length. Each Extension Term shall commence on the day after the expiration of the preceding Lease Year and shall expire on the first (1st) anniversary of last day of the Initial Term (the "Lease Expiration Date") in the case of the first (1st) Extension Term, and on the second (2nd), third (3rd), fourth (4th) and fifth (5th) anniversaries of the Lease Expiration Date in the case of the second (2nd), third (3rd), fourth (4th) and fifth (5th) Extension Terms, respectively. The option to extend the Initial Term of this Lease for one, one-year Extension Term as described above must be exercised by Tenant at least twelve (12) months prior to end of the first Lease Year of the Initial Term. The option to extend the Term of the Lease for the second (2nd) Extension Term must be exercised by Tenant at least twelve (12) months prior to the end of the second Lease Year of the Initial Term. The option to extend the Term of the Lease for the third (3rd) Extension

Term must be exercised by Tenant at least twelve (12) months prior to the end of the third Lease Year of the Initial Term. The option to extend the Term of the Lease for the fourth (4th) Extension Term must be exercised by Tenant at least twelve (12) months prior to the end of the fourth Lease Year of the Initial Term. The option to extend the Term of the Lease for the fifth (5th) Extension Term must be exercised by Tenant at least twelve (12) months prior to the end of the fifth Lease Year of the Initial Term.

Additionally, if Tenant has exercised each of the five options noted above, then Tenant and/or its Permitted Assignee or Permitted Transferee shall have the right, at its option, to extend the final Extension Term of this Lease for three (3) consecutive extension terms, each additional extension term being five (5) years in length ("Five Year Extension Term"). Each Five Year Extension Term shall commence on the day after the expiration of the preceding Lease Term and shall expire on the fifth (5th) anniversary of the last day of the final Extension Term in the case of the first (1st) Five Year Extension Term, in the case of the second (2nd) Five Year Extension Term, on the tenth (10th) anniversary of the last day of the final Extension Term, and in the case of the third (3rd) Five Year Extension Term, on the fifteenth (15th) anniversary of the last day of the final Extension Term. The option to extend the final Extension Term of this Lease for the first (1st) Five Year Extension Term as described above must be exercised by Tenant at least twelve (12) months prior to the end of the final Extension Term. The option to extend the Term of the Lease for the second (2nd) Five Year Extension Term must be exercised by Tenant at least twelve (12) months prior to the end of the first (1st) Five Year Extension Term. The option to extend the Term of the Lease for the third (3rd) Five Year Extension Term must be exercised by Tenant at least twelve (12) months prior to the end of the second (2nd) Five Year Extension Term.

Failure of Tenant to timely exercise any extension right shall terminate all further extension rights. In the event that any Extension Term is not exercised by Tenant, the terms and conditions of this Lease shall apply to each Extension Term with the same force and effect as if such Extension Term had originally been included in the Initial Term of the Lease. The right of Tenant to exercise its right to extend the Initial Term, any Extension Term, and any Five Year Extension Term shall be conditioned upon this Lease being in full force and effect, Tenant occupying the Leased Property, Tenant accepting the Leased Property during such Extension Term or Five Year Extension Term in its "AS IS" condition, and no Event of Default then existing as of both the date that Tenant notifies Landlord of Tenant's decision to extend the term of this Lease for any of the Extension Terms or Five Year Extension Term(s). The Initial Term, together with any Extension Term or Five Year Extension Term(s) which Tenant properly exercises its option with respect to, and for which the conditions related thereto are satisfied, shall constitute the "Term" of this Lease.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed and attested by their respective officers thereunto duly authorized as of the date first written above.

Landlord:
CULLINAN MEDICAL 1, LLC
an Illinois limited liability company,
by Cullinan Companies, LLC, its Manager

By: Michael C. Cullinan
Name: Michael C. Cullinan
Title: Manager

STATE OF Illinois)
) SS
COUNTY OF Tazewell)

I, Patricia K. Martin, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument as one of the Managers of Cullinan Companies, LLC, an Illinois limited liability company, which is the Manager of Cullinan Medical 1, LLC, an Illinois limited liability company, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the same instrument as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 28 day of December, 2007

Patricia K. Martin
Notary Public
My Commission expires:
4-8-09

Tenant:

GREATER PEORIA SPECIALTY HOSPITAL, a Delaware limited liability company

By: Kurt J. Schultz
Name: KURT J. SCHULTZ
Title: CHAIRPERSON

STATE OF Missouri)
) SS
COUNTY OF St. Louis)

I, Betty D. Cammarata, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Kurt J. Schultz, personally known to me to be the same person whose name is subscribed to the foregoing instrument as the Chairperson of Greater Peoria Specialty Hospital, a Delaware limited liability company, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the same instrument as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 1st day of December, 2007.

Betty D. Cammarata
Notary Public

My Commission expires: 2/23/08

Notary Public Notary Seal State of Missouri

BETTY D. CAMMARATA
St. Louis County
My Commission Expires
February 23, 2008

EXHIBIT A

LAND DESCRIPTION

PART OF BLOCKS 73, 80 AND 89 IN MONSON AND SANFORD'S ADDITION TO THE TOWN (NOW CITY) OF PEORIA, BEING A SUBDIVISION IN PART OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP-8-NORTH, RANGE-8-EAST OF THE FOURTH PRINCIPAL MERIDIAN, CITY OF PEORIA, PEORIA COUNTY, ILLINOIS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 1 IN SAID BLOCK 73, AS THE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED:

FROM THE POINT OF BEGINNING, THENCE SOUTH 89°-59'-45" WEST (BEARINGS ARE FOR DESCRIPTIVE PURPOSES ONLY), ALONG THE SOUTH LINE OF SAID BLOCK 73, A DISTANCE OF 299.99 FEET TO THE SOUTHWEST CORNER LOT 6 IN SAID BLOCK 73; THENCE NORTH 00°-11'-22" EAST, ALONG THE WEST LINE OF SAID LOT 6, A DISTANCE OF 14.97 FEET; THENCE NORTH 89°-58'-14" WEST, PARALLEL WITH THE SOUTH LINE OF SAID BLOCKS 80 AND 89, A DISTANCE OF 602.63 FEET; THENCE NORTH 00°-26'-11" EAST, A DISTANCE OF 128.08 FEET; THENCE SOUTH 89°-59'-45" WEST, PARALLEL WITH THE NORTH LINE OF LOTS 3, 4, 5, AND 6 IN SAID BLOCK 89, A DISTANCE OF 144.87 FEET TO A POINT ON THE WEST LINE OF SAID LOT 6, SAID POINT ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF RICHARD PRYOR PLACE; THENCE, NORTH 00°-26'-11" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 24.10 FEET; THENCE NORTH 89°-59'-45" EAST, PARALLEL WITH THE SOUTH LINE OF LOTS 7, 8, 9, 10 AND 11 IN SAID BLOCK 89, A DISTANCE OF 222.54 FEET; THENCE NORTH 00°-16'-02" EAST, A DISTANCE OF 138.20 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF R.B. GARRETT AVENUE; THENCE SOUTH 89°-49'-31" EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 824.11 FEET TO A POINT ON THE EAST LINE OF LOT 12 IN SAID BLOCK 73, SAID POINT BEING ON THE EAST LINE OF SAID BLOCK 73; THENCE SOUTH 00°-11'-22" WEST, ALONG SAID EAST LINE BLOCK 73, A DISTANCE OF 303.13 FEET TO THE POINT OF BEGINNING, CONTAINING 5.931 ACRES, MORE OR LESS, SUBJECT TO ANY EASEMENTS, RESTRICTIONS AND RIGHT-OF-WAY OF RECORD.

EXHIBIT B

LIST OF PERMITTED EXCEPTIONS

1. Rights or claims of parties in possession not shown by the public records.

2. Any encroachment, encumbrance, violation variation, or adverse circumstance affecting title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.

3. Easements, or claims of easements, not shown by the public records.

4. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

5. Taxes or special assessments that are not shown as existing liens by the public records.

6. Defects, liens, encumbrances, adverse claims, or other matters, if any, created, first appearing in the public records, or attaching subsequent to the Effective Date hereof but prior to the date the Landlord acquires for value of record the estate.

7. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

8. Standby fees, taxes and assessments by any taxing authority for calendar year 2006 and all subsequent years, which taxes are not yet due and payable.

9. Reservation of easements and rights and restrictions as contained in Ordinance No. 16,028, to Vacate Shipman Street and Goodwin Street, between R.B. Garrett Avenue and Fourth Avenue; Fourth Avenue, between Hightower Street and Goodwin Street; and the alleys located in Blocks 73, 80 and 89 of Aiken, Monson and Sanford's Addition to the Town (now City) of Peoria, dated November 21, 2006, and recorded December 11, 2006, as Document No. 06-39913.

10. Ordinance No. 16,034, to amend Ordinance No. 11,051 as adopted on December 28, 1982, expanding the boundaries of the Enterprise Zone, dated November 28, 2006, and recorded April 26, 2007, as Document No. 07-12415.

11. Mutual Easement and Agreement dated February 5, 1945, and recorded February 8, 1945, in Book 626, at Page 126. (affects Lot 12, Block 80).

12. Mutual Easement and Agreement dated February 5, 1945, and recorded February 8, 1945, in Book 626, at Page 126. (affects Lot 12, Block 80).

13. General Easement granted to Illinois Bell Telephone Company a/k/a Ameritech Illinois, dated April 13, 1998, and recorded May 19, 1998, as Document No. 98-18102. (affects Lot 1, Block 73).

14. In order for the company to insure title coming through the sale or transfer of land from the municipality in title, we should be furnished a certified copy of the ordinance or resolution authorizing the conveyance, together with the number of ayes and nays for its passage, and evidence of any required publication. If said municipality is a "home rule unit" pursuant to Article 7, Section 6 of the Illinois Constitution, we should be furnished evidence of compliance with the municipality's ordinance(s) which relate to the sale or transfer of municipal property. This commitment is subject to such additional exceptions, if any, as may be deemed necessary after our review of these materials.

15. Easement reserved in Warranty Deed dated December 26, 1959, and recorded January 6, 1960, in Book 1170, at Page 139.

16. Rights of the public and quasi-public utilities, if any, in said vacated Goodwin Street, Shipman Street, Fourth Avenue and Alleys in Block 73, 80 and 89 in Monson and Sanford's Addition to the City of Peoria for maintenance therein of poles, conduits, sewers and other facilities.

17. Agreement dated May 2, 1984, and recorded May 22, 1984, as Document No. 84-08956.

18. Ordinance No. 11,489 recorded May 9, 1986, as Document No. 86-07992 and amended by document recorded June 20, 1991 as Document No. 91-14538.

19. Ordinances of the City of Peoria, Illinois.

20. The Facility Mortgage.

EXHIBIT C

MINIMUM RENT SCHEDULE

This Exhibit designates the Minimum Rent per Net Rentable Square Foot of space within the Leased Improvements for each Lease Year of the Initial Lease Term.

Lease Years	RENT P.S.F	Sq. Ft.	Annual Rent
1 – 5	$33.44	56,345	$1,884,393.00
6-10	$36.79	56,345	$2,072,832.00
11-15	$40.47	56,345	$2,280,115.00

The exact Net Rentable Square Footage of the Leased Improvements shall be determined by the Project Architect in accordance with the Measurement Standard set forth in the Work Letter after the completion of construction of the Leased Improvements. The certificate of the Project Architect as to the exact Net Rentable Square Feet in the Leased Improvements shall be binding upon Landlord and Tenant. Once the Final Project Plans and Final Project Budget have been finally approved by both Landlord and Tenant in accordance with the terms of the Work Letter at Exhibit D, then the annual Minimum Rent for Year One of the Lease Term shall be calculated and adjusted as follows: the approved Final Project Budget multiplied by a rental factor of ten percent (10%).

EXHIBIT D

WORK LETTER

ARTICLE 1.

Definitions

1.1. Defined Terms. The capitalized terms listed below shall have the following meanings when used in this Work Letter (including in the recitals above):

"Building Standards" means the standards for construction of the Leased Improvements as set forth on Exhibit G of the Lease.

"Construction Drawings and Specifications" means the construction level detailed and coordinated drawings and specifications for Landlord's Work prepared by or on behalf of the Project Architect pursuant and in compliance with Paragraphs 3.3 and 3.7 of this Work Letter.

"Contract Documents" means, collectively, this Work Letter and the Construction Drawings and Specifications.

"Design Documents" means any iteration of progress drawings and specifications for Landlord's Work prepared by or on behalf of the Project Architect pursuant to Paragraph 3.6 of this Work Letter that are prepared prior to the preparation of the final Construction Drawings and Specifications.

"Final Construction Documents" is defined in Section 3.7 of this Work Letter.

"Force Majeure" means each of the following occurrences, in each case to the extent (but only to the extent) that each such occurrence actually delays performance by Landlord or Tenant (provided, in each case, that the party affected by Force Majeure notifies the other party in writing within ten (10) days of the occurrence causing the delay): (i) unusual and unavoidable delay in deliveries which cannot be reasonably anticipated, (ii) fire or other unavoidable casualty, (iii) adverse weather conditions significantly in excess of those which have historically been encountered, or may reasonably be expected to be encountered, at the Project site, (iv) strikes or lockouts not directed at Landlord, its contractors or anyone for whom such parties are responsible; (v) acts of public enemies of the state or the United States, riots, insurrection, terrorism, war, (vi) failures or refusals to perform in accordance with their contractual obligations by suppliers or contractors for the Project, (vii) delays caused by the actions or failures to act of governmental authorities, (viii) failure of a bonding or surety company to perform its obligations under any bonds or insurance policies issued with respect to contractors or subcontractors for the Project, or (ix) any other cause (other than financial) beyond the reasonable control of the party whose performance is so prevented, delayed or stopped which the non delayed party reasonably agrees justifies such delay.

"Landlord Representative" shall mean Michael C. Owens; provided, however, that Landlord can change or replace any Landlord Representative by delivering written notice to Tenant.

"Landlord's Work" means all labor, materials, tools, equipment, machinery, utilities, facilities and services necessary for proper construction, execution and completion of the Project in accordance with the final Construction Drawings and Specifications prepared in accordance with this Work Letter, but not including Tenant furnished and/or required fixtures, furniture or equipment.

"Legal Requirements" means all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions affecting the Leased Property or the construction, use or alteration thereof (including zoning ordinances), whether now or hereafter enacted and in force, including any which may (a) require repairs, modifications or alterations of or to the Leased Property, or (b) in any way adversely affect the use and enjoyment thereof, and all permits, licenses, authorizations and regulations relating thereto, and all covenants, agreements, actions and encumbrances contained in any instruments, either of record or known to Tenant (other than encumbrances created by Landlord without the consent of Tenant), at any time in force affecting the Leased Property.

"Measurement Method" means the Standard Method for Measuring Floor Area in Office Buildings, ANSI/BOMA Z65.1-1966, published by the Building Owners and Manager's Association International, excluding covered canopy and patio areas (which said Leased Property covered canopy and patio areas approximate 2,728 square feet in the Design Documents as of the date of this instrument) and without regard to the 5% variance factor referenced in the preface of said Standard Method for Measuring Floor Area in Office Buildings, ANSI/BOMA Z65.1-1966.

"Project" means the facility including the Land and the Leased Improvements, Fixtures and Landlord provided Personal Property comprising Landlord's Work.

"Project Architect" means Davis Stokes Collaborative P.C. Architects, or other such architectural firm selected by Landlord and approved by Tenant.

"Project Contractor" means the general contractor selected by Landlord and approved by Tenant to perform Landlord's Work.

"Substantial Completion of Landlord's Work" shall be achieved when (a) Landlord's Work is sufficiently complete in accordance with the Contract Documents so that Tenant can commence beneficial use and occupancy of the Project as intended, (b) Landlord delivers the Leased Property to Tenant in such condition that the Leased Improvements shall not encroach upon any property, street or right-of-way adjacent to the Leased Property, and shall not violate the agreements or conditions contained in any applicable Legal Requirement, and the Permitted Exceptions, and shall not impair the rights of others under any easement or right-of-way to which the Leased Property is subject, (c) Landlord delivers the Leased Property and installs the Fixtures any other improvements, fixtures or personal property or other work or matters to be completed that are necessary for Tenant to obtain any required license(s), approvals(s), permit(s), certification(s) or accreditation(s) to operate the Leased Property for its Primary Intended Use, (d) all Project systems included in Landlord's Work are operational as designed and specified, (e) all governmental inspections designated or required for Landlord's Work have been successfully completed, and a certificate of occupancy and other municipal permits or approvals issued by the City of Peoria and (if applicable) Peoria County for Landlord's Work have been

obtained, in each case to the extent required to occupy and use the Project for its Primary Intended Use, (f) all final finishes required by the Contract Documents are in place (except for minor Punchlist Items which do not materially detract from the appearance and utility of the Project for the Primary Intended Use), (g) all remaining Landlord Work is reasonably estimated to be completed within thirty (30) consecutive calendar days (or as otherwise agreed to by Tenant) following the date of Substantial Completion of Landlord's Work, and (h) Landlord has (1) delivered to Tenant binders containing complete sets of all manufacturer's catalogs, instructions and other similar data covering all mechanical and manually operated devices furnished and/or installed as part of Landlord's Work, and (2) provided Tenant's property management and operations personnel with the opportunity to be trained in the operation and maintenance of building systems and controls installed as part of Landlord's Work.

"Tenant Representative" shall mean the duly authorized Manager of Greater Peoria Specialty Hospital, LLC, an Illinois limited liability company provided, however, that Tenant can change or replace any Tenant Representative by delivering written notice to Landlord.

1.2 Other. Other capitalized terms used but not defined in this Work Letter shall have the meanings assigned to them in the Lease.

ARTICLE 2.

REPRESENTATIVES

2.1 Representatives. Tenant Representative shall perform certain services for and on behalf of Tenant during the design and construction phases of the Project and shall receive copies of all notices to which reference is made in this Work Letter given by Landlord to Tenant and shall further make all notices from Tenant to Landlord to which reference is made in this Work Letter. Tenant Representative shall have full authority to act on behalf of, make decisions on behalf of and otherwise bind Tenant in connection with the Project (subject to any limitations set forth in the definition of Tenant Representative). Landlord Representative shall perform certain services for and on behalf of Landlord during the design and construction phases of the Project and shall receive copies of all notices to which reference is made in this Work Letter given by Tenant to Landlord and shall further make all notices from Landlord to Tenant to which reference is made in this Work Letter. Landlord Representative shall have full authority to act on behalf of, make decisions on behalf of and otherwise bind Landlord in connection with the Project.

ARTICLE 3.

PROJECT DESIGN AND CONSTRUCTION

3.1 General. The Project shall be designed, and Landlord's Work shall be performed, by Landlord in accordance with (a) the Contract Documents, (b) all laws, codes, ordinances, rules and regulations of governmental authorities having jurisdiction over the Project, Landlord's Work and/or the Primary Intended Use, and (c) all covenants, conditions and restrictions affecting or relating to the Leased Property, the Building and/or the Project. The location, design and construction of the Project shall not ultimately restrict the Project from

being licensed by the State of Illinois and receiving classification as an LTACH for payment for all Medicare discharges under the Prospective Payment System for facilities of this type as provided under 42 CFR § 412.500 *et seq.* (the "**LTACH License**"), although Landlord and Tenant both recognize that the Project may not receive immediate approval and classification as an LTACH and may be required to operate as a general hospital for some period of time. Upon any revocation or denial of issuance of the LTACH License resulting from Landlord's failure to deliver Leased Property in such physical condition as is required by the Contract Documents, and following Landlord's failure to cure such defect or breach after written notice thereof from Tenant, Tenant shall (i) abate Minimum Rent for such period that defect or breach causes the revocation or denial of issuance of the LTACH License; and (ii) receive reimbursement from Landlord for payment of any Minimum Rent previously paid during such period that such defect or breach existed; and (iii) receive payment from Landlord of the sum of Nine Thousand Five Hundred Eighty Two and 00/100 Dollars ($9,582.00) (the "**Operating Cost Penalty**") for each and every day that Tenant is unable to obtain such LTACH Licenses due to such defect or breach. However, the parties agree that the Minimum Rent Reimbursement and Operating Cost Penalty shall not accrue during that period following the Commencement Date during which Tenant shall be operating the Leased Property as a general hospital in order to qualify the Facility for the LTACH license (the "Trial Period"), so long as Landlord delivers the Leased Property in such physical condition to allow Tenant to obtain its occupancy letter from the Illinois Department of Public Health to operate the facility during the Trial Period. The Trial Period shall be deemed to have expired (i) upon the Facility qualifying for the LTACH license (of which event Tenant shall provide Landlord with prompt written notice), or (ii) upon Tenant's written notice to Landlord of any denial of issuance of the LTACH License resulting from Landlord's failure to deliver Leased Property in such physical condition as is required to obtain and hold the LTACH License. Landlord shall be liable for the Minimum Rent Reimbursement and Operating Cost Penalty due to any defect or breach that prohibits Tenant from receiving or maintaining such LTACH License following the expiration of the Trial Period, provided that written notice of any such defect or breach must be provided by Tenant to Landlord within one year of the expiration of the Trial Period. Any defect or breach by Landlord in delivery of Leased Property in such physical condition that prohibits Tenant from receiving its LTACH license shall be deemed cured upon acquisition and delivery by Landlord of written evidence from appropriate licensing authorities that such defect or breach has been remedied and is no longer a cause prohibiting the issuance of such LTACH License. All (i) materials and equipment furnished under the Contract Documents will be of good quality and new and (ii) Landlord's Work will be performed in a good and workmanlike manner and in substantial accordance with the requirements of the Contract Documents. Subject and pursuant to Sections 3.3, 3.6, 3.7, 3.10, and Article 9 below, and the other provisions of this Work Letter, Tenant will have input regarding the design and quality of such Project, materials and equipment and Tenant shall have the right to approve the Project Contractor and Project Architect, and any replacements thereto; and as of the effective date of the Lease Tenant agrees and approves the Project Architect.

3.2 **Project Schedule**. Landlord, working with Tenant and the Project Architect, shall use its best efforts to design the Project in accordance with the schedule set forth in Article 9 of this Work Letter (the "**Design Schedule**"). Subject to any Tenant Delays and Force Majeure Events, Landlord shall commence Landlord's Work within 30 calendar days after: (i) completion and approval of the final Construction Drawings and Specifications, (ii) closing on the purchase of the Land; (iii) closing on the Project Financing; and (iv) receipt of all required

local governmental permits necessary to commence construction of the Leased Improvements (the "**Construction Commencement Date**"). Dependent upon the successful completion of final Construction Drawings and Specifications within the Design Schedule, no Tenant Delays and subject to Landlord's discretionary right to terminate the Project Architect (pursuant to Section 3.4 below), Landlord anticipates a target commencement date for construction of December 17, 2007 (the "**Target Commencement Date**"), however, Landlord does NOT hereby guarantee that actual commencement of construction of Landlord's Work will in fact occur by the Target Commencement Date due to a failure of any Article 37 Contingency set forth in the Lease.

Landlord shall use its best efforts to perform each phase of Landlord's Work within the time schedule set forth on the attached Exhibit "H" (the "**Project Construction Schedule**") and shall use its best efforts to achieve Substantial Completion of the Project on or before that date which is sixteen (16) months from the date of the issuance of the building permit from the City of Peoria for the construction of the Leased Improvements (the "**Target Substantial Completion Date**"); however, the Target Substantial Completion Date is NOT a guarantee that Landlord's Work will in fact be Substantially Complete by such date. The Project Construction Schedule and the Target Substantial Completion Date shall each be subject to extension for Force Majeure; Tenant Change Requests, any delays caused by weather and material shortages, and the satisfaction of the Article 37 Contingencies set forth in the Lease. The Project Construction Schedule sets forth dates that are critical in ensuring the timely and orderly completion of Landlord's Work in accordance with the requirements of the Contract Documents.

Notwithstanding anything to the contrary contained in the immediately preceding paragraphs, in the event that Landlord fails to reach Substantial Completion of the Project on or before the Target Substantial Completion Date, then Tenant may elect to impose against Landlord the sum of Six Hundred Sixty Seven and 00/100 Dollars ($667.00) for each day accruing between the Target Substantial Completion Date and actual Substantial Completion of the Project (the **Non-Delivery Daily Penalty**"), provided that the Target Substantial Completion Date shall be extended by one day for each day of Tenant Delay. The Non-Delivery Daily Penalty shall be a one-time penalty against Landlord, shall be paid by Landlord to Tenant on demand.

Conversely, if Landlord reaches Substantial Completion of the Project before the Target Substantial Completion Date, then Tenant agrees to pay a premium to Landlord in an amount equal to thirty percent (30%) of the difference between the Final Project Budget less the actual costs of the Project ("Project Premium"). Payment of the Project Premium (if any) shall be effected by the addition of the Project Premium to the approved Final Project Budget, and realized in the calculation of Minimum Rent under Section 2.1 of the Lease. By way of example, if the Final Project Budget is "x", and the Project Premium is "y", then the adjusted Final Project Budget shall be "x + y". "x + y" shall be multiplied by a rental factor of ten percent (10%) to arrive at the annual Minimum Rent for Year One of the Lease Term under Section 2.1(a) of the Lease.

If at any time the performance of Landlord's Work is more than an estimated thirty (30) days behind such projected completion deadlines set forth in the Project Construction Schedule, due to reason of Landlord Delays and after adjustment for Force Majeure, Tenant Change Requests, delays caused by weather or material shortages and satisfaction of the Article 37 Contingencies,

Tenant shall have the right to order Landlord by written notice to take corrective measures necessary to expedite the progress of the construction (the "**Construction Default Notice**"). Upon receipt of a Construction Default Notice from Tenant, Landlord shall have forty-five (45) business days to cause the progress of Landlord's Work to comply with the Project Construction Schedule, without cost to Tenant. Following such forty-five (45) business day period for cure, if Landlord is not substantially in conformance with the Project Construction Schedule, as confirmed by an independent architect selected by Landlord and Tenant, Tenant shall have the right to take any and all actions or corrective measures to expedite the progress of the construction at the expense of Landlord.

The term "commencement of construction" as used herein shall mean that Landlord has contracted with the Project Contractor and given the Project Contractor a notice to proceed with the construction of the Project and the Project Contractor has mobilized and begun preliminary site work.

3.3 **Project Design**. Landlord shall ultimately cause the Project Architect to prepare, and deliver to Tenant (and Landlord) final Construction Drawings and Specifications for the construction of Landlord's Work and to comply with any applicable Permitted Exceptions, applicable City of Peoria building codes and other ordinances (the "**Construction Drawings and Specifications**"). After the preparation and review of progress Design Documents as set forth in Paragraph 3.6 hereof, Landlord shall cause the Project Architect to finalize the Construction Drawings and Specifications, which Construction Drawings and Specifications shall be subject to Tenant input and review in accordance with Paragraph 3.6 of this Work Letter.

3.4 **Project Architect / Project Contractor**. Landlord reserves the right to terminate the Project Architect at any time during the Term of this Work Letter. Landlord's right to terminate the Project Architect may be exercised by Landlord at its sole discretion, for cause or not for cause. In the event that Landlord elects to terminate the Project Architect, Landlord shall promptly engage other qualified architect(s) or architectural firm licensed in the State of Illinois to serve as the Project Architect, subject to the approval of Tenant. In the event that the Project Architect is terminated for cause by Landlord, then any delays in either the Design Schedule or the Project Schedule resulting from their termination, shall not be deemed a Landlord Delay under this Work Letter. Landlord's contract with the Project Architect shall specify that Landlord shall have a License (as defined in Section 8.6 of this Work Letter) to use any Design Documents or final Construction Drawings and Specifications (and any iteration thereof) even after removal of the Project Architect from this Project, in order that Landlord's substituted Project Architect may move forward with the Project commencing with the Design Documents or final Construction Drawings and Specifications developed to the date of the Project Architect's removal from the Project.

"For cause" as used in this Section 3.4 shall mean Project Architect's failure to meet the Design Schedule set forth in Article 9 or the Project Schedule not due to an Tenant Delay or Landlord Delay, or a material error in either the Design Documents or the Final Construction Drawings and Specifications, Project Architect's failure to deliver creative and effective ideas for reducing the Project cost and for meeting the Preliminary Project Budget, or other material breach of Project Architect's contract with Landlord relating to this Project or any other Project which Landlord may have engaged Project Architect's services.

After completion of the Construction Drawings and Specifications, Landlord shall bid the construction of the Project to such number of general contractor(s) as it deems reasonable on a fixed sum basis (as opposed to cost-plus). The selection of the Project Contractor shall be the right of Landlord, subject to the approval of Tenant, which approval shall not be unreasonably withheld.

3.5 Preliminary Project Budget. Landlord has prepared and presented to Tenant a Preliminary Project Budget for the Project. The Preliminary Project Budget is attached to the Lease as Exhibit F (the "**Preliminary Project Budget**") and is the target level budget for the Project desired by Tenant (the "**Target Level**"). Landlord and Tenant acknowledge and agree that the Preliminary Project Budget is only a guideline and target for the Project cost and Landlord does not guarantee that the final price of Landlord's Work shall be equal to or less than the Preliminary Project Budget. Paragraph 3.7 of this Work Letter shall set forth the development of a Final Project Budget.

3.6 Review / Approval Procedures - Design Documents. The parties agree that time is of the essence with respect to the response times set forth in the following sentences and that the deemed approval provisions set forth herein in the event of a failure of either party to timely respond to any request for review and comment or additional information shall be deemed approval. Landlord shall use its best efforts to cause the Project Architect to deliver to Tenant the Design Documents and the Construction Drawings and Specifications in accordance with the Design Schedule set forth in Article 9 of this Work Letter and as set forth in this Paragraph 3.6 and 3.7 in order to allow Tenant an opportunity to review and provide any comments thereon and cause the Project Architect to mark any revision drafts of the Design Documents and Construction Drawings and Specifications by clouding and/or other reasonable technique to show changes made to such revision draft as compared to the previous progress draft delivered to Tenant. Tenant shall deliver written notice of any objection to or comments on any revised progress draft of the Design Documents to Landlord within five (5) business days of delivery of each such revision of the Design Documents to Tenant. For purposes of this Work Letter, any iteration of a progress draft of the drawings and specifications shall be referred to herein as the "Design Documents." Tenant shall deliver written notice to Landlord and the Project Architect of any objection to or comments to the Design Documents within five (5) business days of delivery of the Design Documents to Tenant.

3.7 Final Construction Documents and Specifications. Upon completion of review and approval of the Design Documents which have been reviewed and approved by both Tenant and Landlord, Landlord shall, within thirty (30) business days after completion of Design Document approval, prepare for Tenant a final revised estimated Project Budget based on the final version of the Design Documents (the "**Final Design Budget**"). Within five (5) business days after receipt of the Final Design Budget from Landlord, Tenant shall notify Landlord in writing of its approval or rejection of the Final Design Budget. In the event that Tenant shall reject the Final Design Budget, then Landlord and Tenant shall make commercially reasonable efforts to negotiate a revised Final Design Budget acceptable to both Landlord and Tenant. If the parties cannot agree upon a revised Final Design Budget within ninety (90) days of Landlord's receipt of Tenant's rejection notice, the Landlord shall have the right but not the obligation to terminate the Project. In the event that Landlord elects to terminate the Project, then: (a) Landlord and Tenant shall execute a termination of this Work Letter and the Lease

Agreement as well as any other agreements executed between them with respect to the Project; and (b) Tenant shall pay to Landlord Landlord's Approved Development Costs incurred by Landlord commencing as of June 2006. Tenant's failure to timely approve or reject the Final Design Budget shall be deemed Tenant's approval of same. If both the progress Design Documents and the Final Progress Design Budget are approved or deemed approved by Tenant and Landlord hereunder, then in accordance with the provisions of Article 9 of this Work Letter, Landlord shall instruct the Project Architect to finalize Construction Documents and Specifications for the Project, based upon the final progress Design Documents, which drawings, documents and specifications shall be complete architectural, structural, mechanical, electrical and plumbing drawings ready for permit submission and general construction in such form and detail as reasonably required by Landlord (the "**Final Construction Documents**"), and the Final Design Budget shall be deemed to be the approved final Project Budget (the "**Final Project Budget**") for the purposes herein. Notwithstanding the foregoing, the parties acknowledge that the Final Project Budget shall be revised to allow for increased costs of construction associated with unforeseen soil conditions related to the Land, including issues related to second generation site (e.g., foundation fill) and vacated streets and alleyways.

3.8 **Tenant's Liability for Construction Drawings and Budgets**. Tenant's review or approval of Design Documents and Construction Drawings and Specifications or any other documents relating to Landlord's Work shall create no responsibility or liability on the part of Tenant for their completeness, design, sufficiency, or compliance with any laws, rules, orders, ordinances, directions, regulations or requirements of any federal, state, county or municipal authorities.

3.9 **Permits and Approvals**. Landlord shall: (a) obtain all federal, state, and local licenses, permits and approvals (whether governmental or non-governmental), required to perform, occupy and use Landlord's Work for the Primary Intended Use of the Project, and (ii) work together with Tenant to assist Tenant in obtaining any approval from the Illinois Department of Public Health (if applicable), the Department of Health and Senior Services (if applicable) or other approvals that are not related to the construction of Landlord's Work, but required by Tenant to inhabit and operate the Project for its Primary Intended Use.

3.10 **Tenant Change Requests**. Tenant may from time to time request changes in previously approved Design Documents or Construction Drawings and Specifications (including the Building Standards) (herein, a "**Tenant Change Request**"), subject to the terms and conditions of this paragraph. Each Tenant Change Request shall (a) be in writing delivered to Landlord and (b) be subject to Landlord's consent. Landlord shall not unreasonably withhold, condition or delay its consent to any Tenant Change Request; however, Landlord shall have no obligation to implement any Tenant Change Request which requires the approval of any municipal authority unless and until Landlord receives such approval and Tenant has paid to Landlord the Additional Costs for such Tenant Change Request as provided herein below. Substantial Completion of the Project and the Target Substantial Completion Date shall be extended to the extent of any delay caused by a Tenant Change Request. Any direct, out-of-pocket Approved Development Costs (as hereinafter defined) incurred by Landlord in implementing any Tenant Change Request ("**Tenant Change Costs**") shall be paid by Tenant within five (5) days of Landlord approval of a Tenant Change Request. Any Additional Costs incurred or anticipated to be incurred by Landlord relating to a Landlord approved Tenant

Change Request shall be paid in the manner provided for in Paragraph 9.2 of this Work Letter. As used herein, the term Tenant Change Request excludes any objections or comments to substitutions and/or changes to the Project made or proposed by or on behalf of Landlord that constitute (x) a change in the quantity, quality, programmatic requirements or other substantial deviation between the Space Program and the progress Design Documents, except to the extent that requirements of Tenant's Space Program have been waived or modified by Tenant during the Design Document review process, or any subsequent progress draft of the Construction Drawings and Specifications approved by Tenant or (y) any failure of the iteration of the Construction Drawings and Specifications to comply with applicable legal requirements, Project approvals or other requirements of the Contract Documents, or (z) any errors, omissions or internal inconsistencies contained within the Construction Drawings and Specifications.

3.11 Substantial Completion / Final Completion of Landlord's Work. Landlord shall provide Tenant with written notice when Landlord believes that Substantial Completion of Landlord's Work has been achieved. Such notice shall be accompanied by a list of items (the "**Punchlist Items**") to be completed or corrected. Promptly following delivery of such notice of Substantial Completion of Landlord's Work, duly authorized representatives of Landlord and Tenant shall jointly inspect the Landlord's Work. The Punchlist shall be subject to review and approval by Tenant following such joint inspection. In the event that the parties shall disagree on whether any item is properly included as part of the Punchlist Items, and the parties are unable to reach agreement thereon within five (5) days after such joint inspection, either party may submit such disagreement to the Project Architect for final determination, which determination of the Project Architect shall be binding upon Landlord and Tenant. The failure to include an item on the Punchlist does not alter the responsibility of Landlord to complete all of Landlord's Work in accordance with the Contract Documents. Landlord shall complete the Punchlist Items on or before the date that is thirty (30) days after achieving Substantial Completion of Landlord's Work; provided, however, that Landlord shall have such additional time as may reasonably be required with diligent efforts to complete Punchlist Items of a seasonal nature (such as landscaping) which cannot or should not be performed until a later date. If Landlord shall not complete all required Punchlist Items (excluding the foregoing seasonal related items, however) within such thirty (30) day period, the date of Substantial Completion of Landlord's Work shall be deemed extended by the number of days of such delay, except to the extent that Tenant wrongfully interferes with Landlord in completing such Punchlist Items and Landlord shall continue to diligently pursue the completion of Landlord's Work to Final Completion of the Work without material interruption. Landlord shall cause Project Architect to issue a Certificate of Final Completion of Landlord's Work after the completion of the Punchlist Items and such certificate date shall be the date of "Final Completion" hereunder.

3.12 Assignment of Correction Obligations and Warranties. Following Final Completion of the Project, Landlord shall assign to Tenant, on a non-exclusive basis, (a) any correction obligations or warranties provided by the Project Contractor or any other party on Landlord's Work (including, without limitation, Project Contractor's obligation to timely and diligently correct any defective or non-conforming work) and (b) all extended warranties for the components and equipment included within Landlord's Work. Landlord shall furthermore assist Tenant, at no cost to Landlord, however, in pursuing any available remedies against the design and/or construction professionals engaged to design and/or perform Landlord's Work. Nothing set forth in this Section 3.12 shall affect or limit Landlord's obligations to correct defective or

nonconforming design or work, at the expense of Landlord, as set forth in Article 8.5 of this Work Letter.

3.13 Entry by Tenant Prior to Space Delivery. Tenant and Tenant's agents, employees and/or representatives shall have the right to enter onto the Project site from time to time for the purpose of inspecting the Project and performing the installations of furniture, fixtures and equipment to prepare the Project for Tenant's use and occupancy, provided that such entry shall not unreasonably interfere with the completion by Landlord or its Project Contractor of Landlord's Work at the Project. Tenant and its representatives shall comply with all reasonable requirements of the Contractor regarding such entry by Tenant prior to Final Completion of Landlord's Work.

3.14 Excluded Costs. The following costs (collectively the "**Excluded Costs**") are currently excluded from the Preliminary Project Budget: (i) costs to construct, re-construct, re-surface, widen or otherwise improve any public or private roadway abutting the Land that may be required by the City of Peoria or other applicable authority in order to obtain either a building permit or a certificate of occupancy for the Project; (ii) any costs to construct, expand the capacity of or otherwise improve any water lines, sanitary sewer lines, lift stations, private sanitary sewer plants, off-site or regional detention facilities necessary to serve the Land and the to-be-constructed Leased Improvements; and (iii) Tenant's Work (as defined in Paragraph 9.1 hereof). Excluded Costs denoted in Paragraph 3.14(i) and (ii) shall be included in the Final Design Budget and the Final Project Budget upon which the Minimum Rent shall be calculated as set forth in the Lease), if applicable, however, Excluded Costs denoted in Paragraph 3.14(iii) shall be borne and paid for by Tenant in the same manner as Additional Costs as set forth in Paragraph 9.2 of this Work Letter. Landlord and Tenant anticipate that they will be able to further define and ascertain the impact of any of the Excluded Costs during the design phase of the Project. Landlord agrees and acknowledges that Landlord shall not approve or incur any obligations in regards to items identified as Excluded Costs without the express written approval of Tenant. Landlord further agrees that Landlord shall provide Tenant all information, documents, or materials in regards to negotiations for any items identified as an Excluded Cost and shall provide Tenant the opportunity to materially participate in any negotiations in regards to any Excluded Cost item.

3.15 Landlord Duty to Deliver. Landlord shall deliver the Leased Property to Tenant pursuant to the requirements noted in Article 6 of the Lease.

ARTICLE 4.

TENANT OVERSIGHT

4.1 Tenant Oversight. Landlord hereby acknowledges and agrees that, notwithstanding anything to the contrary: (1) Landlord shall make the site of Landlord's Work available at reasonable times for inspection by Tenant Representative; (2) Landlord shall cause the Project Architect and/or the Project Contractor to promptly furnish Tenant with any information, documents and/or materials relating to the Project that Tenant may reasonably request and respond in a timely manner to all reasonable inquiries by Tenant Representative; (3) Landlord shall provide that a monthly project update meeting be held at which the Project

Architect, Project Contractor, Landlord Representative and Tenant Representative are required to be present; (4) Tenant shall have the right to actively participate in the decision-making process in regards to any and all material decisions affecting the design and construction of the Leased Property; and (5) Landlord shall provide Tenant with reasonable prior notice of, and allow Tenant or its representatives a reasonable opportunity to attend and participate in, all project meetings, in addition to the required monthly meetings.

ARTICLE 5

INDEMNIFICATION

To the fullest extent permitted by law, Landlord shall defend, indemnify and hold harmless Tenant, Tenant's representative(s), their respective subsidiary, affiliated and associated companies, and the directors, officers, shareholders, employees and agents of any of them, and their respective agents and servants (collectively, "**Indemnified Parties**" and singly, an "**Indemnified Party**"), and each of them, of and from any and all claims, demands, causes of action, damages, costs, expenses, losses or liabilities, in law or in equity, of every kind and nature whatsoever ("**Claims**"), including without limitation, costs of defense, settlement and attorneys' fees, attributable to: (a) injury to or death of any person and injury to or destruction of or loss of use of property in whole or in part arising out of or resulting from or related to performance of Landlord's Work prior to the date of Final Completion, which are caused by the acts or omissions of Landlord, the Project Contractor, its subcontractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, except to the extent such death, injury or loss is caused by an Indemnified Party; (b) any and all penalties imposed on or alleged against any Indemnified Party or Landlord's Work on account of the violation of any law, order, or regulation by Landlord, the Project Contractor or subcontractor of Project Contractor except to the extent any such penalty is caused by an Indemnified Party; and/or (c) any and all Claims arising out of or resulting from alleged infringement by the Project design or any means and methods used by Landlord of copyrights, patents or other intellectual property rights held by others.

To the fullest extent permitted by law, Tenant shall defend, indemnify and hold harmless Landlord, Landlord's representative(s), their respective subsidiaries, affiliated and associated companies, and the directors, officers, shareholders, employees and agents of any of them, and their respective agents and servants (collectively, "**Indemnified Parties**" and singly, an "**Indemnified Party**"), and each of them, of and from any and all claims, demands, causes of action, damages, costs, expenses, losses or liabilities, in law or in equity, of every kind and nature whatsoever ("**Claims**"), including without limitation, costs of defense, settlement and attorneys' fees, attributable to: (a) injury to or death of any person and injury to or destruction of or loss of use of property in whole or in part arising out of or resulting from or related to performance of Tenant's Work prior to the date of Final Completion, which are caused by the acts or omissions of Tenant, Tenant's contractor, its subcontractors, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, except to the extent such death, injury or loss is caused by an Indemnified Party; (b) any and all penalties imposed on or alleged against any Indemnified Party or Tenant's Work on account of the violation of any law, order, or regulation by Tenant, Tenant's contractor or subcontractor of Tenant's contractor except to the extent any such penalty is caused by an Indemnified Party; and/or (c) any and all

Claims arising out of or resulting from alleged infringement by that portion of the Project design related to Tenant's Work or any means and methods used by Tenant of copyrights, patents or other intellectual property rights held by others.

ARTICLE 6

REQUIRED INSURANCE

Landlord shall carry and maintain at all times during the design and construction of the Project, and shall cause the Project Architect and the Project Contractor to maintain at all times during the design and construction of the Project, and for such longer periods as may be required below, the following types of insurance and minimum coverage amounts written by insurers rated by A.M. Best & Co., with a minimum rating of (or equivalent to) "A," a financial size category of not less than "VIII," and are qualified to do business in the State of Illinois:

6.1 Landlord's Required Insurance.

(a) Workers' compensation insurance in statutory amounts;

(b) Motor vehicle insurance covering owned, non-owned and hired vehicles for personal injury in the amount of $1,000,000.00 combined single limit for bodily injury and for property damage;

(c) Commercial general liability coverage for bodily injury, personal injury and property damage in the amount of $1,000,000.00 per occurrence and $1,000,000.00 aggregate limit;

(d) Property insurance written on a builder's risk "all-risk" or equivalent policy form in the total value for the entire Project at the site on a replacement cost basis without optional deductibles; and

(e) Umbrella Liability Coverage over Commercial General Liability and Motor Vehicle Insurance in the amount of $1,000,000.00.

6.2 Project Architect's Required Insurance.

(a) Workers' compensation insurance in statutory amounts and employer's liability insurance in the minimum amount of $100,000.00 each accident, $100,000.00 disease each employee, and $500,000.00 aggregate disease;

(b) Commercial general liability coverage for bodily injury, personal injury and property damage in the amount of $1,000,000.00 per occurrence and $2,000,000.00 aggregate limit; and

(c) Professional liability coverage for all professional services relating to the Project in the minimum amount of $1,000,000.00 per occurrence and $2,000,000.00 aggregate limit.

6.3 Project Contractor's Required Insurance.

(a) Workers' compensation insurance in statutory amounts and employer's liability insurance in the amount of $100,000.00 each accident, $100,000.00 disease each employee, and $500,000.00 aggregate disease;

(b) Motor vehicle insurance covering owned, non-owned and hired vehicles for personal injury in the amount of $1,000,000.00 combined single limit for bodily injury and for property damage;

(c) Commercial general liability coverage for bodily injury, personal injury and property damage in the amount of $2,000,000.00 per occurrence and $2,000,000.00 aggregate limit; and

(d) Umbrella Liability Coverage over Commercial General Liability and Motor Vehicle Insurance in the amount of $5,000,000.00.

6.4 Other Requirements Regarding Required Insurance. The liability policies required by this Article 6 shall include a contractual liability endorsement covering the indemnification obligations under the Contract Documents. The "other insurance" clause shall be deleted from each policy of insurance carried by Landlord, Project Architect and Project Contractor so as to make it clear that the coverage of each such party's policy is primary and any coverage under any policy or policies of insurance held by Tenant or any other additional insured is secondary. All of the insurance required shall be written on an occurrence basis, except that professional liability and umbrella liability can be written on a claims made basis provided that such coverages are maintained for six years following final payment. Tenant, any lender(s) of Tenant and such other persons designated by Tenant from time to time shall be named as additional insureds on all insurance policies required hereunder except workers' compensation and professional liability policies. Landlord shall, upon demand, provide Tenant with proof that the insurance requirements have been met, which shall be in the form of certificates of insurance (or, at Tenant's request, insurance policies) reasonably acceptable to Tenant. Renewal certificates for all policies that expire during the term of the Contract Documents must also be provided at least thirty (30) days prior to each policy's respective expiration. Nothing in this clause, or any failure of Landlord to secure the above required coverages or otherwise comply with the insurance provisions of the Contract Documents, shall modify, limit or expand Landlord's liability or other obligations under the Contract Documents.

ARTICLE 7.

DEVELOPMENT COSTS

7.1 Approved Development Costs.

(a) A portion of the Final Project Budget (and also included in the Preliminary Project Budget and Final Design Budget submitted to Tenant under Article 3 of this Work

Letter) shall include Landlord's predevelopment costs, some of which have been incurred by Landlord prior to the execution of this Work Letter and others which will be incurred by Landlord after the execution of this Work Letter.

As used herein, the term "**Approved Development Costs**" shall collectively include the pre-execution development costs and the following expenses incurred after the Effective Date of the Lease:

(i) the actual out-of-pocket costs and expenses actually incurred and paid by Landlord to unaffiliated third parties in acquiring, designing, obtaining required permits and approvals for and constructing the Project and otherwise complying with this Work Letter, including, but not limited to costs incurred with the Project Architect, civil engineers, mechanical engineers, surveyors, and counsel;

(ii) the actual out-of-pocket costs and expenses actually incurred and paid by Landlord in connection with the acquisition and closing on the Land, including but not limited to non-refundable and earned earnest money or other non-refundable and earned monies (whether applicable to the purchase price or not) required to be expended by Landlord in connection with the closing on such Land, surveying costs, costs of environmental reports acquired in connection with the closing on the Land, costs of owner's policy of title insurance and any endorsements thereto required by Landlord or the Facility Mortgagee, costs of a mortgagee policy of title insurance and any endorsements thereto required by the Facility Mortgagee, escrow fees, preparation of tax certificates, costs of counsel related to the acquisition of the Land, and other closing costs related to the acquisition of the Land;

(iii) copy charges, telephone charges, reasonable travel expenditures of Landlord and Landlord's Representative to the Project and other similar charges that are directly attributable to this Project and the performance by Landlord of Landlord's Work hereunder;

(iv) any loan commitment fees, points and other charges incurred by Landlord in connection with the financing of the Project, such fees to be justified by current market conditions and the quality of the underlying credit, other than interest charges on any principal balance outstanding on any loan or loans entered into by Landlord in order to finance the acquisition of the Land and Landlord's Work hereunder, but only to the extent that such charges have been earned and are owed to its Facility Mortgagee;

(v) amounts (including without limitation salaries, benefits or fees) paid to or incurred by Landlord (any affiliate of Landlord or any director, officer, member, shareholder or employees of Landlord or any affiliate of Landlord) that are directly attributable to the Project and/or relate to pay periods occurring since June of 2006.

(vi) Landlord's construction principal and interest payments to finance the Project, but only to the extent such charges have been earned by and are owed to the Facility Mortgagee.

(b) Notwithstanding anything to the contrary, the term Approved Development Costs shall not include:

(i) Costs resulting from the negligence, willful misconduct or breach of this Work Letter by Landlord or its design and/or construction professionals (including, without limitation, costs of correcting defective or nonconforming work, disposal and replacement of materials and equipment incorrectly ordered or supplied, and correcting damage to property not forming part of the work);

(ii) Costs of self-insured losses (e.g., losses within the deductible limits).

(iii) Any and all development fees or lost profits of Landlord, any affiliate of Landlord or any director, officer, member, shareholder or employee of Landlord or any affiliate of Landlord resulting from the cancellation of the Lease.

ARTICLE 8.

MISCELLANEOUS

8.1 Permits, Fees and Compliance with Law. Landlord shall secure all permits, licenses and inspections necessary for the execution and completion of Landlord's Work. Landlord shall comply with the terms of all such permits and licenses and with all federal, state and municipal laws, statutes, ordinances, building codes, rules and regulations applicable to Landlord's Work.

8.2 As-Built Documents. Landlord shall provide to Tenant at the conclusion of Landlord's Work As-Built drawings of the Project.

8.3 Construction Procedures. As between Landlord and Tenant, Landlord shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of Landlord's Work.

8.4 Liens. In the event that any direct or indirect contractor, subcontractor, supplier or any other party providing labor or materials related to Landlord's Work establishes a lien against the Project and/or the Project site, Landlord shall, within ninety (90) days of receipt of notice from Tenant regarding such lien, cause the lien to be discharged (either by obtaining and recording a lien discharge bond from a surety and in a form acceptable to Tenant or otherwise) at no cost to Tenant. Landlord agrees to indemnify and hold harmless Tenant from all costs and expenses incurred by Tenant in connection with such liens. Tenant likewise agrees to hold Landlord harmless from and against any mechanics or materialmen's liens imposed upon the Leased Property, or Tenant's interests in the Leased Property relating to any work performed by Tenant in connection with the Project, such as the matters set forth in Paragraph 9.2 of the Lease.

8.5 Landlord's Duty to Correct Defective Work. Landlord shall promptly correct defective or nonconforming design or work after written request from Tenant delivered to Landlord no later than twelve (12) months after the date of Final Completion. Landlord shall also bear the cost of correcting destroyed or damaged property caused by defective or nonconforming design or work. Nothing contained in this paragraph shall be construed to

establish a period of limitation with respect to obligations which Landlord may have under the Lease other than the specific obligation of Landlord to promptly correct defective or nonconforming design or Work contained in this Paragraph. After such twelve (12) month warranty period, Landlord agrees to use commercially reasonable efforts to pursue any claim for defective or nonconforming design or work.

8.6 License for Design Documents. Tenant is hereby granted an irrevocable, duty-free license (the "**License**") to obtain and retain copies, including reproducible copies and copies of computer disks or other computer memory storage devices (e.g., CADD files), of all Design Documents, Construction Drawings and Specifications and other design documents prepared by Project Architect for information and reference in connection with the construction, reconstruction, renovation, repair, maintenance, marketing, use and occupancy of the Project. The License shall be transferable to any Permitted Assignee or Permitted Transferee of Tenant under Article 22 of the Lease. At or prior to Substantial Completion of the Project, Landlord shall cause the Project Architect and any other party providing design services to deliver instruments in form and substance satisfactory to Tenant confirming the grant to Tenant of the License. The Project Architect shall not be responsible for changes made in the final Contract Documents or other documents prepared by the Project Architect by anyone other than the Project Architect or its consultants, or for Tenant's use of the final Contract Documents or other documents prepared by the Project Architect without the participation of the Project Architect. Project Architect's contract or agreement with Landlord shall specifically contemplate the granting to both Tenant and Landlord of the License set forth above in connection with the Project.

8.7 Scope of Project Architect's Work. The Project Architect shall, with Landlord's and Tenant's cooperation and assistance as set forth in this Work Letter, furnish all services necessary for the preparation of the Design Documents and the Construction Drawings and Specifications relating to Landlord's Work and secure such approvals as may, by reason of the nature of the Leased Improvements required to be constructed by Landlord hereunder, be required from any governmental authority having jurisdiction.

8.8 Capitalized Terms. All capitalized terms used, but not defined herein, shall have the meaning given them in the Lease Agreement to which this Work Letter is attached as Exhibit D.

ARTICLE 9.

SCHEDULE

9.1 Design Development Schedule. Pursuant to the schedule set forth in this Article 9, all plans and drawings for the Leased Improvements shall be prepared as follows:

(a) Tenant shall furnish to Project Architect, Tenant's space, equipment, and other special requirements known as ("**Space Program**"). Tenant shall meet with Project Architect and Landlord's Representative to create the Space Program design. The Project Architect shall prepare the written Space Program and submit the same to Landlord and Tenant for review. Tenant shall make any objections, comments or revisions to said written Space Program.

(b) Landlord shall cause the Project Architect to prepare from the approved Space Program draft Design Documents sufficient to convey the architectural design and intended use of the to-be-constructed Leased Improvements within ten (10) business days after finalization of the Tenant Space Program in 9.1(a) above. Tenant and Landlord shall review and provide comments to the Design Documents within ten (10) business days of receipt from the Project Architect and/or Landlord's Representative. Tenant and Landlord shall, at either of their request, meet with the Project Architect to review the Design Documents and provide informal input regarding such Design Document's impact upon the Preliminary Project Budget. Landlord shall approve the Design Documents on or before the conclusion of said ten (10) business day period.

(c) Tenant shall cause any and all of Tenant's special consultants to consult with the Project Architect and engineers within ten (10) business days after the date on which the Design Documents are approved by Landlord in order to prepare Tenant's complete architectural, structural, electrical, mechanical and plumbing drawings necessary for any and all portions of the completed Project.

It shall be Tenant's sole responsibility and work to contract with independent companies or consultants to provide interior design services and to provide and install any and all internal data, telecommunications (television, wireless, satellite, etc.) and/or security systems or other special utility facilities for the Leased Property, all furniture, trade fixtures and equipment related to the operation of the Project for its Primary Intended Use (including, but not limited to medical, food service, exercise and rehabilitation equipment, cubicle partitions and/or curtains and the like), exterior and interior identification or directional signage or graphics relating to the Project's Primary Intended Use, and cleaning equipment, supplies or chemicals related to any pool, spa and/or sauna to be constructed as part of Landlord's Work (collectively "**Tenant's Work**"). To the extent that any portion of Tenant's Work requires specific design or construction features in Landlord's Work, then Tenant shall provide such information to Landlord and the Project Architect for incorporation into the Design Documents.

The Construction Drawings and Specifications shall be in such form and in such detail as may be reasonably required by Landlord and provided to Tenant within thirty (30) business days from finally approved Design Documents. The Construction Drawings and Specifications shall be reviewed by Tenant and Tenant shall provide any objections and/or comments thereto within five (5) business days of receipt. If Tenant disapproves of any portion of the Construction Drawings and Specifications, Tenant shall advise Landlord in writing of such necessary revisions and the reasons therefor. Tenant's failure, if any, to respond with any comments to the submitted Construction Drawings and Specifications within said five (5) business day period shall constitute Tenant's approval of same. For any Tenant Change Requests that Tenant desires to make to the Construction Drawings and Specifications issued by the Project Architect, Tenant will assume all Additional Costs (as defined in Paragraph 9.2 of this Work Letter) therefor. With respect to corrections to the Construction Drawings and Specifications that do not constitute a Tenant Change Request as defined in Paragraph 3.10 hereof, or a Landlord required change to the Construction Drawings and Specifications, Landlord shall then cause the Project Architect to revise the Construction Drawings and Specifications accordingly within five (5) business days and then to resubmit the revised Construction Drawings and Specifications to Landlord, Tenant and, if instructed to do so, to Tenant's special consultants for their review and comment. Tenant, its consultants (if applicable) and Landlord, shall review such revised Construction Drawings

and Specifications and provide any objections, corrections or comments to same within five (5) business days after revised Construction Drawings and Specifications are delivered to them.

9.2 Changes in the Final Construction Documents and Tenant Required Changes. Subject to the limitations on Tenant regarding changes set forth in Paragraph 9.4 below, if a Tenant Change Request requires any changes to the Construction Drawings and Specifications (or any previously approved revision thereto or supplement thereof), then the increased costs (if any) of Landlord's Work caused by such changes shall be borne by Tenant. Any increased costs shall include, without limitation, all architectural, engineering and consulting design fees and expenses in connection therewith in addition to any governmental fees, which may be additionally imposed and costs associated with delays in construction of the Leased Improvements and Landlord's Work caused by such change(s), and the incremental additional hard construction costs associated with the performance and implementation of such change into Landlord's Work ("**Additional Costs**").

9.3 Changes in the Final Construction Documents and Required Landlord Approval. Subject to the limitations on Tenant regarding changes set forth in Paragraph 9.4 below, any Tenant Change Request to the Construction Drawings and Specifications requested by Tenant shall require Landlord's approval, which may be conditioned or withheld, but not delayed. Such decision shall be provided within five (5) business days of such request.

(a) All Additional Costs associated with a Tenant Change Request to the Construction Drawings and Specifications, (herein "**Tenant Change Costs**") shall be paid by Tenant to Landlord in cash within ten (10) business days of Tenant's demand for such change to the Construction Drawings and Specifications. Tenant's failure to pay the Tenant Change Costs within the foregoing required period shall permit Landlord to stop the design process and/or Landlord's Work, as applicable until such amount is paid to Landlord in full, and such cessation of the design process or Landlord's Work shall be deemed a Tenant Delay. Landlord shall not be required to "finance" any of the Tenant Change Costs or to roll such Tenant Change Costs into the calculation of Minimum Rent set forth in the Lease, but Landlord and Tenant may mutually agree that Landlord shall finance certain Tenant Change Costs. If, pursuant to such mutual agreement, Landlord does finance certain Tenant Change Costs, the Final Project Budget shall be altered as agreed upon by the parties to include such Landlord financed Tenant Change Costs, with due revision to the Minimum Rent.

9.4 Certain Limitations. Tenant shall not include in its Tenant Change Requests to the final Construction Drawings and Specifications, and Landlord shall have no obligation to agree to any Tenant Change Request that will:

(i) be incompatible with the design, construction or equipment of the building and/or with the Project Improvements;

(ii) are of inferior quality than that of the Building Standards;

(iii) violate any applicable laws, ordinances and/or the rules and regulations of any governmental authority having jurisdiction; or

(iv) violate any applicable insurance regulations, including but not limited to any such regulation for a fire resistive Class A building.

9.5 Construction

(a) The Project Contractor will competitively bid each construction trade activity.

(b) The following schedule summarizes the time periods for response and review which may also be set forth in other provision of this Work Letter. To the extent there is any conflict between the periods set forth in this Paragraph 9.5(b) and other review and response periods set forth in this Work Letter, then such other provisions shall control over this Paragraph 9.5. This subparagraph is set forth purely for the convenience of the parties hereto, and is not binding upon the parties hereto. Reference to days herein is to Business Days.

(c)

Action	Responsibility	Time for Review and Response
Tenant Required Additional Information	Tenant	5 days
Incorporated Tenant Additional Information	Landlord/Architect	5 days
Tenant review of Incorporated Tenant additional Information	Tenant	5 days
Tenant Signoff Approval of Schematic Floor Plan & Elevation	Tenant	5 days
Tenants Special Consultant Analysis (Medical, Food Service, IT/Data)	Tenant	5 days
Delivery of Final Construction Documents	Landlord/Architect	5 days
Delivery of written notice review/ comments to receipt of Final the Final Construction Documents	Tenant	5 days

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Re-delivery of final Construction Documents (if necessary)	Landlord/Architect	5 days
Delivery of written notice of Change or corrections approved after review of any revised final Construction Documents	Tenant	5 days
Submit Documents to the City of Peoria for approval	Landlord/Architect	5 days

Total design period: 50 Business Days

9.6 Tenant Delay. The term "**Tenant Delay**," as used herein, shall mean and be defined as any actual delay experienced by Landlord, the Project Architect or the Project Contractor and its subcontractors in substantially completing any Landlord's Work; including but not limited to:

(a) Tenant's failure to complete any action or item on or before the due date which is the responsibility of Tenant;

(b) Tenant's changes to Construction Drawings and Specifications after Landlord's approval of same;

(c) Tenant's request for materials, finishes, or installations other than Building Standard items which require lead times greater than required for Building Standard items, which requests Landlord has approved under Paragraph 3.10 hereof;

(d) Any delay of Tenant in making payment to Landlord pursuant to Paragraph 9.2 for Tenant's Change Cost;

(e) Any act, or failure to act by Tenant, Tenant's Representative and/or any other person performing or required to perform services on behalf of Tenant causing delay beyond the originally scheduled time periods agreed in this Work Letter or between Landlord and Tenant;

(f) Any delay due to Tenant Change Requests to the Construction Drawings and Specifications;

(g) Any delay due to untimely responses to Design Documents or the Construction Drawings and Specifications by Tenant's special consultants causing delay beyond the originally scheduled time periods agreed in this Work Letter or between Landlord and Tenant.

9.7 Landlord Delay. The term **"Landlord Delay"** shall mean and be defined as delay in the completion of Landlord's Work that is caused by Landlord, its agents or contractors, including without limitation:

(a) Failure to furnish any approval in a timely manner, per the agreed-to schedule in Article 3 hereof not caused by Tenant;

(b) Interference with access or work of Tenant or Tenant's contractors after Tenant has received Landlord's approval for access to the Project premises;

(c) Failure to cooperate with Tenant's contractors, or governmental permitting and inspecting authorities; or

(d) Failure to perform any work or take any action upon which Tenant's work is dependent.

9.8 Effect of Tenant and Landlord Delays on Substantial Completion and Commencement of Rent. Each day of Landlord Delay shall delay the date by which Substantial Completion of Landlord's Work is reached by the number of days of Landlord Delay and thus delays the Commencement Date of the Lease (and thus the commencement of Rent thereunder). Each day of Tenant Delay shall have no effect on the date of scheduled or projected substantial completion of Landlord's Work (as set forth in the Project Construction Schedule attached hereto as Exhibit "H") and shall not effect a delay of the Commencement Date of the Lease (and the commencement of Rent thereunder).

[End of Work Letter]

EXHIBIT E

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("*Agreement*") is made and entered into as of the 21st day of December, 2007, by and among National City Bank, a national banking association ("*Beneficiary*"), Cullinan Medical 1, LLC, an Illinois limited liability company ("*Landlord*"), and Greater Peoria Specialty Hospital, LLC, a Delaware limited liability company ("*Tenant*").

WITNESSETH:

WHEREAS, Beneficiary is now the owner and holder of that certain Promissory Note ("*Note*") dated December 14, 2007, in the principal sum of EIGHTEEN MILLION NINE HUNDRED THOUSAND AND 00/100 DOLLARS ($18,900,000.00), secured by a first priority Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing Statement ("*Mortgage*"), dated as of December 14, 2007, to or for the benefit of Beneficiary, recorded on December 21, 2007 as Document 07-40824 (Mortgage and Security Agreement), Document 07-40825 (Assignment of Rents and Leases), and Document 16997 (UCC Financing Statement) of the Real Property Records, County of Peoria, State of Illinois, which Mortgage constitutes a lien or encumbrance on the real property described in Exhibit A attached hereto and incorporated herein for all purposes, together with all improvements, appurtenances, other properties (whether real or personal), rights and interests described in the Mortgage ("*Property*"); and

WHEREAS, Tenant is the holder of a leasehold estate in and to a the Property (the property which is the subject of such leasehold estate, together with Tenant's appurtenant easements in the Property, being referred to as the "*Demised Premises*"), pursuant to the terms of that certain [Lease] ("*Lease*") dated December 21, 2007, and executed by Tenant and Landlord; and

WHEREAS, Tenant, Landlord and Beneficiary desire to confirm their understandings with respect to the Lease and the Mortgage.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree and covenant as follows:

1. *Non-Disturbance by Beneficiary.* So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed as would entitle Landlord to terminate the Lease, Tenant's possession and occupancy of the Demised Premises shall not be interfered with or disturbed by Beneficiary during the term of the Lease or any extension thereof duly exercised by Tenant. Beneficiary shall not include Tenant in any foreclosure proceeding involving the Demised Premises, unless required by applicable state law for Beneficiary to accomplish the foreclosure and then not to interfere with or diminish Tenant's rights under said Lease or disturb Tenant's possession.

2. *Attornment by Tenant.* If the interests of Landlord in and to the Demised Premises are owned by Beneficiary by reason of judicial foreclosure, private trustee sale or other

ATTACHMENT 2

proceedings brought by it or by any other manner, including, but not limited to, Beneficiary's exercise of its rights under any collateral assignment(s) of leases and rents, and Beneficiary succeeds to the interest of the Landlord under the Lease, Tenant shall be bound to Beneficiary under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extension thereof duly exercised by Tenant with the same force and effect as if Beneficiary were the Landlord under the Lease. Tenant does hereby attorn to Beneficiary, as its Landlord, said attornment to be effective and self-operative, without the execution of any further instruments on the part of any of the parties hereto, immediately upon Beneficiary's succeeding to the interest of the Landlord under the Lease. Landlord hereby authorizes and directs Tenant to deliver payment to Beneficiary upon receipt of written notice and shall indemnify and hold Tenant harmless from any loss, cost, expense or claim incurred by Tenant in connection with its compliance with this provision. The respective rights and obligations of Tenant and Beneficiary upon such attornment, to the extent of the then remaining balance of the term of the Lease and any such extension, shall be and are the same as now set forth therein, it being the intention of the parties hereto for this purpose to incorporate the Lease in this Agreement by reference, with the same force and effect as if set forth at length herein.

3. *Beneficiary Bound by Terms of Lease.* If Beneficiary shall succeed to the interest of Landlord under the Lease, Beneficiary shall be bound to Tenant under all of the terms, covenants and conditions of the Lease. Notwithstanding the foregoing, Beneficiary shall not in any event have any liability for any default by Landlord under the Lease occurring prior to the date on which Beneficiary shall have succeeded to the rights of Landlord under the Lease.

4. *Subordination of Lease.* Subject to the terms of this Agreement (including, but not limited to, those in Paragraph 2), the Lease and all of Tenant's right, title and interest in and to the Demised Premises, are and shall be subject and subordinate to the Mortgage and the lien thereof, to all the terms, conditions and provisions of the Mortgage and to each and every advance made or hereafter made under the Mortgage, and to all renewals, modifications, consolidations, replacements, substitutions and extensions of the Mortgage, so that at all times the Mortgage shall be and remain a lien on the Demised Premises prior and superior to the Lease for all purposes.

5. *Notice.* Notwithstanding anything to the contrary contained in the Lease, Tenant hereby agrees that in the event of any act, omission or default by Landlord or Landlord's agents, employees, contractors, licensees or invitees which would give Tenant the right, either immediately or after the lapse of a period of time, to terminate the Lease, or to claim a partial or total eviction, or to reduce the rent payable thereunder or credit or offset any amounts against future rents payable thereunder, Tenant will not exercise any such right until it has given written notice of such act, omission or default to Beneficiary by delivering notice of such act, omission or default, by certified or registered mail, addressed to Beneficiary at Beneficiary's address as given hereby or at the last address of Beneficiary furnished to Tenant in writing, and (i) in the case of any such act, omission or default that can be cured by the payment of money, until sixty (60) days shall have elapsed following the giving of such notice or (ii) in the case of any other such act, omission or default, until a reasonable period for remedying such act, omission or default shall have elapsed following the giving of such notice and following the time when Beneficiary shall have become entitled under the Mortgage to remedy the same, including such time as may be necessary to acquire possession of the Demised Premises if possession is

necessary to effect such cure, provided Beneficiary, with reasonable diligence, shall (a) pursue such remedies as are available to it under the Mortgage so as to be able to remedy the act, omission or default, and (b) thereafter shall have commenced and continued to remedy such act, omission or default or cause the same to be remedied. Tenant shall also give a copy of any such notice hereunder to any successor to Beneficiary's interest under the Mortgage, provided that Beneficiary or such successor notifies Tenant of the name and address of the party Tenant is to notify. Beneficiary's cure of Landlord's default shall not be considered an assumption by Beneficiary of Landlord's other obligations under the Lease. If in curing any such act, omission or default, Beneficiary requires access to the Demised Premises to effect such cure, Tenant shall provide access to the Demised Premises to Beneficiary as required by Beneficiary to effect such cure at all reasonable times. Unless Beneficiary otherwise agrees in writing, Landlord shall remain solely liable to perform Landlord's obligations under the Lease (but only to the extent required by and subject to the limitation included with the Lease), both before and after Beneficiary's exercise of any right or remedy under this Agreement. If Beneficiary or any successor or assign becomes obligated to perform as Landlord under the Lease, such person or entity shall be released from those obligations when such person or entity assigns, sells or otherwise transfers its interest in the Demised Premises.

6. *Successors of Beneficiary Also Included.* The term "Beneficiary" shall be deemed to include the Beneficiary stated hereinabove and any of its successors and assigns, including anyone who shall have succeeded to Landlord's interest by, through or under judicial foreclosure or private trustee's sale or other proceedings brought pursuant to the Mortgage, or deed in lieu of such foreclosure or proceedings, or otherwise.

7. *Beneficiary Not Liable.* Tenant agrees that no prepayment of rent or additional rent due under the Lease of more than one month in advance, and no amendment, modification, surrender or cancellation of the Lease, and no waiver or consent by Landlord under the terms of the Lease, shall be binding upon or as against Beneficiary, as holder of the Mortgage and as Landlord under the Lease if it succeeds to that position, unless consented to in writing by Beneficiary.

8. *Beneficiary Consent.* Tenant agrees that (a) the Lease cannot be amended or modified nor shall have any of its terms been waived or consented to by the Landlord, (b) Tenant and Landlord may not terminate, cancel or surrender the term of the Lease, except as expressly permitted by the provisions of the Lease, and (c) Tenant shall not pay any rent for more than the month in advance of the date when due, unless in each case Beneficiary's prior written consent shall have been obtained.

9. *No Modification.* This Agreement may not be modified orally or in any manner other than by an agreement, in writing, signed by the parties hereto and their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors and assigns.

10. *Counterparts.* To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature and acknowledgment of, or on behalf of, each party, or that the signature and acknowledgment of all persons required to bind any party, appear on each counterpart. All counterparts shall

confidential
Gregory Miller
Kindred Healthcare
Dec 02 2010 13:17

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ATTACHMENT 2

collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures and acknowledgment of, or on behalf of, each of the parties hereto. Any signature and acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures and acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature and acknowledgment pages.

11. *Notices.* All notices or other communications required or permitted to be given pursuant to the provisions hereof shall be in writing and shall be deemed served and given at the time of (i) deposit in a depository receptacle under the care and custody of the United States Postal Service, properly addressed to the designated address of the addressee as set forth below, postage prepaid, registered or certified mail with return receipt requested or (ii) delivery to the designated address of the addressee set forth below by a third party commercial delivery service. Notice given in any other manner shall be effective only if and when received by the addressee. For purposes of notices, the addresses of the parties shall be as follows:

If to the Beneficiary: National City Bank
Attn: Michael Zeller
301 S.W. Adams Street
Peoria, IL 61602-1500

Tenant: Greater Peoria Specialty Hospital, LLC
Attention: Terry Waters
221 Northeast Glen Oak Avenue
Peoria, Illinois 61636-0002

Landlord: Cullinan Medical 1, LLC
411 Fulton Street, Suite 700
Peoria, IL 61602

Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by notice to the other parties of such new address at least thirty (30) days prior to the effective date of such new address.

12. *No Merger of Estates.* It is the express intention of Landlord and Tenant that the acquisition by either party of the right, title, interest and estate of the other party in and to the Leased Premises shall not result in termination or cancellation of the Lease by operation of the principle of merger of estates or otherwise, notwithstanding any applicable law to the contrary; provided, however, that in the event Tenant acquires the right, title, interest and estate of Landlord in and to the Demised Premises, whether pursuant to any purchase option or right of first refusal granted in the Lease or otherwise, if either (i) the indebtedness secured by the Mortgage is satisfied or (ii) Tenant assumes or unconditionally guarantees the indebtedness secured by the Mortgage (on a recourse basis), then in such event the estates of Landlord and Tenant in and to the Demised Premises shall merge and the Lease will be extinguished.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

BENEFICIARY:

NATIONAL CITY BANK, a national banking association

By: _____
Name: Michael A. Zeller
Title: Senior Vice President

LANDLORD:

Cullinan Medical 1, LLC, an Illinois limited liability company

By: Cullinan Companies L.L.C., an Illinois limited liability company
Its Manager

By: _____
Name: Michael C. Cullinan
Title: Manager

TENANT:

Greater Peoria Specialty Hospital, LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

ATTACHMENT 2

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

BENEFICIARY:

NATIONAL CITY BANK, a national banking association

By:_____
Name:_____
Title:_____

LANDLORD:

Cullinan Medical 1, LLC, an Illinois limited liability company

By: Cullinan Companies L.L.C., an Illinois limited liability company
Its Manager

By:_____
Name:_____
Title: Manager

TENANT:

Greater Peoria Specialty Hospital, LLC, a Delaware limited liability company

By: [signature]
Name: KURT J. SCHULTZ
Title: CHAIRPERSON

ATTACHMENT 2

STATE OF Illinois)
)
COUNTY OF Peoria)

This instrument was acknowledged before me on the 21 day of December, 2007 by Michael A. Zeller, the Sr. Vice Presiden of National City Bank, a national banking association, on behalf of said National City Bank.

Lynn M. Cox
Notary Public, State of Illinois

OFFICIAL SEAL
LYNN M COX
(SEAL) NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:05/22/09

STATE OF Illinois)
)
COUNTY OF Tazewell)

This instrument was acknowledged before me on the 10 day of December, 2007 by Michael C. Sievers the Manager of Cullinan Companies L.L.C., an Illinois limited liability company, on behalf of said Cullinan Companies L.L.C.

Patricia L. Martin
Notary Public, State of Illinois

OFFICIAL SEAL
PATRICIA L MARTIN
(SEAL) NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:4/18/09

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ATTACHMENT 2

STATE OF Missouri)
)
COUNTY OF St. Louis)

I, Betty D. Cammarata, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Kurt J. Schultz, personally known to me to be the same person whose name is subscribed to the foregoing instrument as the Chairperson of Greater Peoria Specialty Hospital, a Delaware limited liability company, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the same instrument as his/her free and voluntary act, for the uses and purposes therein set forth

Betty D. Cammarata
Notary Public, State of Missouri
My commission expires: 2/23/08

(SEAL)

Notary Public Notary Seal State of Missouri

BETTY D. CAMMARATA
St. Louis County
My Commission Expires:
February 23, 2008

confidential
Gregory Miller
Kindred Healthcare
Dec 02, 2010 13:17

ATTACHMENT 2

EXHIBIT F-PRELIMINARY PROJECT BUDGET

	A	B	C	D	E	W
1						
2						
3		**LTACH**				
4		**Southtown**				
5		**12/5/2007**				
6		**Square Feet**	56,345			
7						
8						
9		**Description/Month**				**Amount**
10		**Land (6 acres at $4.00 psf)**				$ 1,045,440
11		**Loan Fee**				$ 37,800
12		**Reimbursement of RHB**				$ 168,404
13		**Legal, Title, Closing & Misc.**				$ 150,000
14		**Development Overhead**				$ 250,000
15		**RCC Contingency**				$ -
16		**A/E**				$ 1,200,000
17		**Brick Exterior – Modular**				$ -
18		**AT&T Cable Relocation**				$ 60,000
19		**Pad Prep**				$ -
20		**Utilities, Including San Sewr Relo**				$ -
21		**Paving/Landcaping**				$ -
22		**Building Shell**				$ -
23		**RCC 50% Drawings Submittal**				$ 13,655,000
24		**Owner Contingency**				$ 1,250,000
25			**Totals**			$ 17,816,644
26						100.00%
27						
28		**Interest**				$ 881,036
29		**And Additional Carrying Costs**				$ 146,250
30						
31		**Cumulative Debt Bal**				
32		**Equity/Mezz**				
33						$ 18,843,930
34						
35						
36		**Rent Calculation**				10%
37		Annual Rent				$ 1,884,393
38		Annual Rent PSF 1 - 5				$ 33.44
39		Years 6 - 10				$ 36.79
40		Years 11 - 15				$ 40.47
41		Option 16 - 20				$ 44.51
42		Option 21 - 25				$ 48.97
43		Option 26 - 30				$ 53.86
44		Option 31 - 35				$ 59.25
45						

EXHIBIT G

BUILDING STANDARDS

Because an accurate and complete set of Building Standards relating to the Leased Improvements, Fixtures and Personal Property cannot be completed until the completion of the design process and preparation of the final Construction Drawings and Specifications, Landlord and Tenant agree that after the completion of the final Construction Drawings and Specifications, they shall amend this Lease to attach a new Exhibit G, Building Standards. Such Building Standards shall be subject to the approval of Landlord and Tenant. The form of the Buildings Standards will be similar to that which is noted below:

Project Architect:
NAME
ADDRESS.
CITY, STATE ZIP

Plans and Specifications for:

TENANT
Project #

Issued for Construction Drawings and Specifications Dated _____ and other such future addendums and modifications as approved by Landlord from time to time prior to and after commencement of construction.

Fixed Equipment or Personal Property to be provided by Landlord:

[list items]

EXHIBIT H

PROJECT SCHEDULE

Because an accurate Project Schedule relating to achieving various completion of various portions of the construction and installation, Leased Improvements and Fixtures cannot be completed until the completion of the design process and preparation of the final Construction Drawings and Specifications, Landlord and Tenant agree that after the completion of the final Construction Drawings and Specifications, they shall amend this Lease to attach a new Exhibit H, Project Schedule to be provided by Landlord. The form of the Project Schedule will be similar to that which is noted below:

	Description / Item	Time Frame to Complete Item
1.	Contractor Notice to Proceed	___ Business Days following closing on Project Financing
2.	Civil Work	____ Business Days following Notice to Proceed
3.	Structural Steel	___ Business Days following completion of Civil Work
4.	Exterior Finishes	____ Business Days following completion of Structural Steel
5.	Interior Finishes	____ Business Days following completion of Exterior Finish
6.	Project Close-Out	____ Business Days following completion of Interior Finishes

The Project Schedule is an estimated time to complete various segments of the Project Improvements and does not constitute a guarantee that the entire Project, or any particular portion of the Project will in fact be complete within the Time Frame to Complete an Item set forth above.

EXHIBIT I

GUARANTY

The undersigned, being THE METHODIST MEDICAL CENTER OF ILLINOIS, , an Illinois not for profit corporation, and REHABCARE GROUP, INC., a Delaware corporation ("Guarantors"), for themselves and their legal representatives and assigns, hereby guarantee to Landlord and Landlord's successors and assigns the prompt performance by GREATER PEORIA SPECIALTY HOSPTIAL, LLC, a Delaware limited liability company ("Tenant") of all terms, covenants and obligations to be performed by Tenant under the foregoing lease agreement dated the 21st day of December, 2007 ("Lease"), as between Tenant and CULLINAN MEDICAL 1, LLC, an Illinois limited liability company ("Landlord") for the construction and lease of certain facilities and other site improvements located upon that real property described on Schedule A hereto, agreeing as follows:

1. **Coverage of Guaranty.** This Guaranty extends to any and all liability which the Tenant or any successor Tenant has or may have to the Landlord by reason of any obligation set forth under the Lease, whether arising before the signing of the Lease or the commencement of the term of the Lease or during the term of the Lease;

2. **Performance.** In the event that the Tenant or any of its successors or assigns, and, without limitation, this includes such as shall become Tenant by operation of law, fails to perform, satisfy or observe the terms and conditions of the Lease and any rules and regulations promulgated under the terms of the Lease required to be performed, satisfied or observed by the Tenant, the Guarantors will promptly and fully perform, satisfy and observe the obligation or obligations in place of the Tenant. The Guarantors shall pay, reimburse and indemnify the Landlord for any and all damages, costs, expenses, reasonable attorneys' fees, losses and other liabilities arising or resulting from the failure of the Tenant to perform, satisfy or observe any of the terms and conditions of the Lease or any rules and regulations promulgated under the terms of the Lease.

3. **Unconditional Obligations.** Guarantors represent and warrant to Landlord that the Tenant's initial members are RehabCare Hospital Holdings, LLC ("RehabCare Hospital Holdings"), a Delaware limited liability company, owning a 51% membership interest in Tenant, and The Methodist Medical Center of Illinois ("Methodist"), an Illinois not for profit corporation owning a 49% membership in Tenant. Methodist and RehabCare Group, Inc ("RehabCare Group"), a Delaware corporation (a related entity to RehabCare Hospital Holdings) shall each guaranty the following: (i) Methodist shall guaranty 49% of all Tenant monetary obligations arising under the terms, covenants and obligations of the Lease, and (ii) RehabCare Group shall guaranty 51% of all Tenant monetary obligations arising under the terms, covenants and obligations of the Lease. The liability of the Guarantors is direct, immediate, absolute, unconditional, and continuing. The Landlord shall not be required to pursue any remedies it may have against the Tenant or other Guarantors as a condition to enforcement of this Guaranty, nor shall the Guarantors be discharged or released by reason of the terms and conditions of any agreement or document the Landlord is required to execute under the terms of the Lease, or by reason of the discharge or release of the Tenant for any reason (other than a written mutual release as between Landlord and Guarantors, or either Guarantor), including a discharge in bankruptcy, receivership, foreclosure or other proceedings, a disaffirmation or rejection of the Lease by a trustee, custodian or other representative in bankruptcy, a stay or other enforcement

restriction, or any other reduction, modification, impairment or limitations of the liability of the Tenant or any remedy of the Landlord.

4. **Binding Effect.** This Guaranty is binding upon the Guarantors, their legal representatives and assigns, and shall inure to the benefit of the Landlord, its successors and assigns. No assignment or delegation by the Guarantors shall release the Guarantors of their obligations under this Guaranty. The term "Tenant" used in this Guaranty includes also the first and any successive assignee or sublessee of the Tenant.

5. **Modification or Amendment of Lease.** Tenant or Tenant's successors and assigns may agree to the modification, amendment, or extension of or to the terms of the Lease, without the written consent of the Guarantors being first obtained.

IN WITNESS WHEREOF, the Guarantors have duly signed this Guaranty as of the date provided above.

The Methodist Medical Center of Illinois, an Illinois not-for-profit corporation

By: Calvin Mackey
Name: Calvin Mackey
Title: Sr VP & CFO

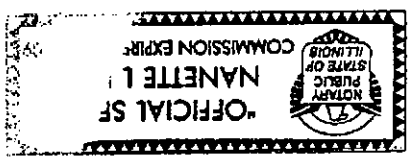
STATE OF Illinois

COUNTY OF Peoria

This instrument was acknowledged before me on the 21 day of December, 2007, by Calvin Mackey as the Senior VP & CFO of The Methodist Medical Center of Illinois, an Illinois not-for-profit corporation, on behalf of said corporation.

Nanette L Hall
Notary Public, State of Ill

(SEAL)



RehabCare Group, Inc., a Delaware corporation

By: _____
Name: DONALD A. ADAM
Title: SVP & CDO

STATE OF Missouri)
)
COUNTY OF St. Louis)

This instrument was acknowledged before me on the 21st day of December, 2007, by Donald A. Adam, the Sr Vice President of RehabCare Group, Inc. a Delaware corporation, on behalf of said corporation.

_____
Notary Public, State of Missouri

(SEAL)

Notary Public Notary Seal State of Missouri

BETTY D. CAMMARATA
St. Louis County
My Commission Expires:
February 23, 2008

confidential
Gregory Miller
Kindred Healthcare
Dec 02, 2010 13:17

ATTACHMENT 2

File Number 0174560-3

To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that

GREATER PEORIA SPECIALTY HOSPITAL, L.L.C, A DELAWARE LIMITED LIABILITY COMPANY HAVING OBTAINED ADMISSION TO TRANSACT BUSINESS IN ILLINOIS ON JANUARY 26, 2006, APPEARS TO HAVE COMPLIED WITH ALL PROVISIONS OF THE LIMITED LIABILITY COMPANY ACT OF THIS STATE, AND AS OF THIS DATE IS IN GOOD STANDING AS A FOREIGN LIMITED LIABILITY COMPANY ADMITTED TO TRANSACT BUSINESS IN THE STATE OF ILLINOIS.

Authentication #: 1034761716

Authenticate at: http://www.cyberdriveillinois.com

In Testimony Whereof, *I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this* 13TH *day of* DECEMBER *A.D.* 2010 .

Jesse White

SECRETARY OF STATE

ATTACHMENT 3

ORGANIZATIONAL STRUCTURE OF KINDRED HEALTHCARE, INC. UPON CLOSE OF PROJECT BASEBALL

KINDRED HEALTHCARE, INC.

100%

REHABCARE GROUP, INC.

100%

REHABCARE GROUP EAST, INC.

100%

REHABCARE HOSPITAL HOLDINGS, LLC

51%

GREATER PEORIA SPECIALTY HOSPITAL, LLC

ATTACHMENT 4

NOTE ON ORGANIZATIONAL CHART

The organizational chart on the previous page identifies the relationship between each of the three applicants, following the closing of the proposed acquisition transaction.

Methodist Medical Center owns a 49% interest in Greater Peoria Specialty Hospital, L.L.C., but does not meet any of the thresholds for being named an applicant.

ATATCHMENT 4

PROJECT COSTS

Acquisition ($11,981,000)

The acquisition cost represents an apportionment of the acquisition cost associated with Kindred Health System, Inc.'s stock purchase of RehabCare Group, Inc. The apportionment resulting in the identified acquisition cost associated with the 51% ownership interest in Greater Peoria Specialty Hospital is based on the EBITDA of that facility as a component of all of the facilities being acquired.

Consulting and Other Fees ($1,665,000)

The consulting and other fees identified in the Application for Permit consist primarily of two categories: CON application development and review-associated fees, and transaction-related fees, including legal fees. The identified amount includes an apportionment of the transaction-related costs associated with the entire acquisition described above, and apportioned as described above.

Kindred Healthcare

January 31, 2011

Illinois Health Facilities and
Services Review Board
Springfield, Illinois 62761

To Whom It May Concern:

In accordance with Review Criterion 1110.230.b, Background of the Applicant, we are submitting this letter assuring the Illinois Health Facilities and Services Review Board (IHFSRB) that:

1. Neither Kindred Healthcare, Inc. nor any wholly-affiliated corporation that owns or operates a facility subject to the IHFSRB's jurisdiction has had any adverse actions (as defined in Section 1130.140) taken against any facility during the three (3) year period prior to the filing of this application, and
2. Kindred Healthcare, Inc. authorizes the State Board and State Agency access to information to verify documentation or information submitted in response to the requirements of Review Criterion 1110.230.b or to obtain any documentation or information which the State Board or State Agency finds pertinent to this application.

If we can in any way provide assistance to your staff regarding these assurances or any other issue relative to this application, please do not hesitate to call me at 502-596-7329.

Sincerely,

Douglas L. Curnutte
Vice President of Facilities and Real Estate Development

Notarization:

Subscribed and sworn to before me
this 31 day of JANUARY 2011

Signature of Notary

Seal Comm. exp. 10/07/2012

680 South Fourth Street Louisville, Kentucky 40202
502.596.7300 KY TDD/TTY# 800.648.6057

ATTACHMENT 11

RehabCare
delivering the post-acute continuum

February 2, 2011

Patricia S. Williams
Senior Vice President and General Counsel

Illinois Health Facilities
and Services Review Board
525 West Jefferson
Springfield, IL 62761

To Whom It May Concern:

In accordance with Review Criterion 1110.230.b, Background of the Applicant, we are submitting this letter assuring the Illinois Health Facilities and Services Review Board (IHFSRB) that:

1. Neither RehabCare Hospital Holdings, L.L.C.. nor any wholly-affiliated corporation that owns or operates a facility subject to the IHFSRB's jurisdiction has had any adverse actions (as defined in Section 1130.140) taken against any facility during the three (3) year period prior to the filing of this application, and
2. RehabCare Hospital Holdings, L.L.C. authorizes the State Board and State Agency access to information to verify documentation or information submitted in response to the requirements of Review Criterion 1110.230.b or to obtain any documentation or information which the State Board or State Agency finds pertinent to this application.

If we can in any way provide assistance to your staff regarding these assurances or any other issue relative to this application, please do not hesitate to call me.

Sincerely,

Patricia S. Williams

Subscribed before me this 31st day of January, 2011.

Kristina L. Ripper, Notary

Notarized:

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

KRISTINA L. RIPPER
My Commission Expires
August 16, 2012
Franklin County
Commission #08491059

7733 Forsyth Boulevard, Suite 2300 St. Louis, MO 63105 800.677.1238 314.659.2123 Fax 866.812.2573 pwilliams@rehabcare.com

ATTACHMENT 11

RehabCare
delivering the post-acute continuum

February 2, 2011

Patricia S. Williams
Senior Vice President and General Counsel

Illinois Health Facilities
and Services Review Board
525 West Jefferson
Springfield, IL 62761

To Whom It May Concern:

In accordance with Review Criterion 1110.230.b, Background of the Applicant, we are submitting this letter assuring the Illinois Health Facilities and Services Review Board (IHFSRB) that:

1. Neither Greater Peoria Specialty Hospital, L.L.C.. nor any wholly-affiliated corporation that owns or operates a facility subject to the IHFSRB's jurisdiction has had any adverse actions (as defined in Section 1130.140) taken against any facility during the three (3) year period prior to the filing of this application, and
2. Greater Peoria Specialty Hospital, L.L.C. authorizes the State Board and State Agency access to information to verify documentation or information submitted in response to the requirements of Review Criterion 1110.230.b or to obtain any documentation or information which the State Board or State Agency finds pertinent to this application.

If we can in any way provide assistance to your staff regarding these assurances or any other issue relative to this application, please do not hesitate to call me.

Sincerely,

Patricia S. Williams

Subscribed before me this 31st day of January, 2011.

Kristina L. Ripper, Notary

Notarized:

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

KRISTINA L. RIPPER
My Commission Expires
August 16, 2012
Franklin County
Commission #08491089

7733 Forsyth Boulevard, Suite 2300 St. Louis, MO 63105 800.677.1200 / 314.659.2123 Fax 866.812.2573 patricia.williams@rehabcare.com

ATTACHMENT 11

Kindred Healthcare, Inc. LTACs

Medicare ID	Hospital Name	Address	City	State	Zip
322002	Kindred Albuquerque	700 High St NE	Albuquerque	NM	87102
112004	Kindred Atlanta	705 Juniper St NE	Atlanta	GA	30308
052045	Kindred Baldwin Park	14148 Francisquito Ave	Baldwin Park	CA	91706
	Kindred Bay Area St Petersburg	3030 Sixth Street S	Saint Petersburg	FL	33705
102009	Kindred Bay Area Tampa	4555 S Manhattan Ave	Tampa	FL	33611
222045	Kindred Boston	1515 Commonwealth Ave	Brighton	MA	02135
222044	Kindred Boston North Shore	15 King St	Peabody	MA	01960
052039	Kindred Brea	875 N Brea Blvd	Brea	CA	92821
102013	Kindred Central Tampa	4801 N Howard Ave	Tampa	FL	33603
422005	Kindred Charleston	326 Calhoun St	Charleston	SC	29401
442007	Kindred Chattanooga	709 Walnut St	Chattanooga	TN	37402
142009	Kindred Chicago Central	4058 W Melrose St	Chicago	IL	60641
	Kindred Chicago Lakeshore	6130 N Sheridan Rd	Chicago	IL	60660
	Kindred Chicago North	2544 W Montrose Ave	Chicago	IL	60618
142008	Kindred Chicago Northlake	365 E North Ave	Northlake	IL	60164
	Kindred Cleveland Fairhill	11900 Fairhill Rd	Cleveland	OH	44120
362026	Kindred Cleveland Gateway	2351 E 22nd St	Cleveland	OH	44115
452092	Kindred Corpus Christi	6226 Saratoga Blvd	Corpus Christi	TX	78414
452015	Kindred Dallas	9525 Greenville Ave	Dallas	TX	75243
362033	Kindred Dayton	One Elizabeth Place	Dayton	OH	45408
392032	Kindred Delaware County	1500 Lansdowne Ave	Darby	PA	19023
062009	Kindred Denver	1920 High St	Denver	CO	80218
452088	Kindred Fort Worth	815 8th Ave	Fort Worth	TX	76104
342012	Kindred Greensboro	2401 Southside Blvd	Greensboro	NC	27406
392043	Kindred Heritage Valley	1000 Dutch Ridge Rd	Beaver	PA	15009
452023	Kindred Houston	6441 Main St	Houston	TX	77030
	Kindred Houston Bay Area	4801 E Sam Houston Pkwy S	Pasadena	TX	77505
452039	Kindred Houston Northwest	11297 Fallbrook Dr	Houston	TX	77065
152007	Kindred Indianapolis	1700 W 10th St	Indianapolis	IN	46222
152008	Kindred Indianapolis South	607 Greenwood Springs Dr	Greenwood	IN	46143
262011	Kindred Kansas City	8701 Troost Ave	Kansas City	MO	64131
052038	Kindred La Mirada	14900 Imperial Hwy	La Mirada	CA	90638
	Kindred Las Vegas Desert Springs	2075 E Flamingo Rd	Las Vegas	NV	89119
	Kindred Las Vegas Flamingo	2250 E Flamingo Rd	Las Vegas	NV	89119
292002	Kindred Las Vegas Sahara	5110 W Sahara Ave	Las Vegas	NV	89146
052032	Kindred Los Angeles	5525 W Slauson Ave	Los Angeles	CA	90056
182001	Kindred Louisville	1313 Saint Anthony Pl	Louisville	KY	40204
	Kindred Louisville Jewish	200 Abraham Flexner Way	Louisville	KY	40202
452019	Kindred Mansfield	1802 Highway 157 N	Mansfield	TX	76063
102027	Kindred Melbourne	765 W NASA Blvd	Melbourne	FL	32901
522004	Kindred Milwaukee	5017 S 110th St	Milwaukee	WI	53228
442006	Kindred Nashville	1414 County Hospital Rd	Nashville	TN	37218
192009	Kindred New Orleans	3601 Coliseum St	New Orleans	LA	70115

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Kindred Healthcare, Inc. LTACs

Medicare ID	Hospital Name	Address	City	State	Zip
312020	Kindred NJ Morris County	400 W Blackwell St	Dover	NJ	07801
	Kindred NJ Rahway	865 Stone St	Rahway	NJ	07065
	Kindred NJ Wayne	224 Hamburg Turnpike	Wayne	NJ	07470
102015	Kindred North Florida	801 Oak St	Green Cove Springs	FL	32043
	Kindred Northeast Natick	67 Union St	Natick	MA	01760
222002	Kindred Northeast Stoughton	909 Sumner St	Stoughton	MA	02072
	Kindred Northeast Waltham	9 Hope Ave	Waltham	MA	02453
102019	Kindred Ocala	1500 SW 1st Ave	Ocala	FL	34474
372004	Kindred Oklahoma City	1407 N Robinson Ave	Oklahoma City	OK	73103
	Kindred Oklahoma City South	2129 SW 59th St	Oklahoma City	OK	73119
052037	Kindred Ontario	550 N Monterey Ave	Ontario	CA	91764
102025	Kindred Palm Beaches	5555 W Blue Heron Blvd	Riviera Beach	FL	33410
	Kindred Park View Central Mass	111 Huntoon Memorial Pkwy	Rochdale	MA	01542
222046	Kindred Park View Springfield	1400 State St	Springfield	MA	01109
392027	Kindred Philadelphia	6129 Palmetto St	Philadelphia	PA	19111
	Kindred Philadelphia Havertown	2010 West Chester Pike	Havertown	PA	19083
032000	Kindred Phoenix	40 E Indianola Ave	Phoenix	AZ	85012
	Kindred Phoenix Northwest	13216 N Plaza Del Rio Blvd	Peoria	AZ	85381
	Kindred Phoenix Scottsdale	11250 N 92nd St	Scottsdale	AZ	85260
392028	Kindred Pittsburgh	7777 Steubenville Pike	Oakdale	PA	15071
392049	Kindred Pittsburgh North Shore	1004 Arch St	Pittsburgh	PA	15212
052049	Kindred Rancho Specialty	10841 White Oak Ave	Rancho Cucamonga	CA	91730
492009	Kindred Richmond	2220 Edward Holland Dr	Richmond	VA	23230
052052	Kindred Riverside	2224 Medical Center Dr	Perris	CA	92571
052033	Kindred Sacramento	330 Montrose Dr	Folsom	CA	95630
452016	Kindred San Antonio	3636 Medical Dr	San Antonio	TX	78229
052036	Kindred San Diego	1940 El Cajon Blvd	San Diego	CA	92104
052034	Kindred San Francisco Bay	2800 Benedict Dr	San Leandro	CA	94577
	Kindred San Gabriel Valley	845 N Lark Ellen Ave	West Covina	CA	91791
	Kindred Santa Ana	1901 N College Ave	Santa Ana	CA	92706
502002	Kindred Seattle Northgate	10560 5th Ave NE	Seattle	WA	98125
052050	Kindred South Bay	1246 W 155th St	Gardena	CA	90247
	Kindred South Bay Tri-City	21530 Pioneer Blvd	Hawaiian Gardens	CA	90716
	Kindred South FL Coral Gables	5190 SW Eighth St	Coral Gables	FL	33134
102010	Kindred South FL Fort Lauderdale	1516 E Las Olas Blvd	Fort Lauderdale	FL	33301
	Kindred South FL Hollywood	1859 Van Buren St	Hollywood	FL	33020
	Kindred Springfield	701 N Walnut St	Springfield	IL	62702
262010	Kindred St Louis	4930 Lindell Blvd	Saint Louis	MO	63108
	Kindred St Louis St Anthony	10018 Kennerly Rd	Saint Louis	MO	63128
142006	Kindred Sycamore	225 Edward St	Sycamore	IL	60178
452028	Kindred Tarrant County Arlington	1000 N Cooper St	Arlington	TX	76011
	Kindred Tarrant County Southwest	7800 Oakmont Blvd	Fort Worth	TX	76132
032002	Kindred Tucson	355 N Wilmot Rd	Tucson	AZ	85711

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ATTACHMENT 11

Kindred Healthcare, Inc. LTACs

Medicare ID	Hospital Name	Address	City	State	Zip
052035	Kindred Westminster	200 Hospital Circle	Westminster	CA	92683
452071	Kindred White Rock	9440 Poppy Dr	Dallas	TX	75218
392042	Kindred Wyoming Valley	575 N River St	Wilkes-Barre	PA	18764

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ATTACHMENT 11

Kindred Healthcare, Inc. Skilled Nursing Facilities

Medicare ID	SNF Name	Address	City	State	Zip
075185	Andrew House Healthcare	66 Clinic Dr	New Britain	CT	06051
155670	Angel River Health & Rehab	5233 Rosebud Ln	Newburgh	IN	47630
505214	Arden Rehab & Healthcare Center	16357 Aurora Ave N	Shoreline	WA	98133
135093	Aspen Park Healthcare	420 Rowe St	Moscow	ID	83843
205077	Augusta Rehab Center	187 Eastern Ave	Augusta	ME	04330
065001	Aurora Care Center	10201 E 3rd Ave	Aurora	CO	80010
225674	Avery Manor	100 West St	Needham Heights	MA	02494
185196	Bashford East Health Care	3535 Bardstown Rd	Louisville	KY	40218
495086	Bay Pointe Medical & Rehab Center	1148 First Colonial Rd	Virginia Beach	VA	23454
056348	Bay View Nursing & Rehab	516 Willow St	Alameda	CA	94501
056260	Bayberry Care Center	1800 Adobe St	Concord	CA	94520
505223	Bellingham Health Care & Rehab	1200 Birchwood Ave	Bellingham	WA	98225
015111	Big Springs Specialty Care Center	500 Saint Clair Ave SW	Huntsville	AL	35801
475003	Birchwood Terrace Healthcare	43 Starr Farm Rd	Burlington	VT	05408
225444	Blue Hills Alzheimers Care Center	1044 Park St	Stoughton	MA	02072
225133	Blueberry Hill Skilled Nursing & Rehab	75 Brimbal Ave	Beverly	MA	01915
135077	Boise Health & Rehab	1001 S Hilton St	Boise	ID	83705
225326	Bolton Manor Nursing & Rehab	400 Bolton St	Marlborough	MA	01752
225445	Braintree Manor Rehab & Nursing	1102 Washington St	Braintree	MA	02184
155474	Bremen Health Care Center	316 Woodies Ln	Bremen	IN	46506
205079	Brentwood Rehab & Nursing	370 Portland St	Yarmouth	ME	04096
205062	Brewer Rehab & Living Center	74 Parkway S	Brewer	ME	04412
225549	Brigham Manor Nursing & Rehab	77 High St	Newburyport	MA	01950
065240	Brighton Care Center	2025 E Egbert St	Brighton	CO	80601
135014	Caldwell Care Center	210 Cleveland Blvd	Caldwell	ID	83605
365770	Cambridge Health & Rehab Center	1471 Wills Creek Valley Dr	Cambridge	OH	43725
135051	Canyon West Health & Rehab Center	2814 S Indiana Ave	Caldwell	ID	83605
555356	Canyonwood Nursing Center	2120 Benton Dr	Redding	CA	96003
056327	Care Center of Rossmoor	1224 Rossmoor Pkwy	Walnut Creek	CA	94595
345225	Chapel Hill Rehab & Healthcare	1602 E Franklin St	Chapel Hill	NC	27514
065077	Cherry Hills Health Care Center	3575 S Washington St	Englewood	CO	80113
415007	Chestnut Terrace Nursing & Rehab Center	100 Wampanoag Trl	Riverside	RI	02915
365694	Chillicothe Nursing & Rehab Center	60 Marietta Rd	Chillicothe	OH	45601
225528	Clark House Nursing Center at Fox Hill	30 Longwood Dr	Westwood	MA	02090
525405	Colonial Manor Medical Rehab Center	1010 E Wausau Ave	Wausau	WI	54403
225435	Colony House Nursing & Rehab Center	277 Washington St	Abington	MA	02351
525407	Colony Oaks Care Center	601 N Briarcliff Dr	Appleton	WI	54915
155133	Columbus Health & Rehab Center	2100 Midway St	Columbus	IN	47201
365329	Community Healthcare Center	175 Community Dr	Marion	OH	43302
365880	Coshocton Health & Rehab Center	100 S Whitewoman St	Coshocton	OH	43812
225642	Country Estates of Agawam	1200 Suffield St	Agawam	MA	01001
225185	Country Gardens Skilled Nursing & Rehab Center	2045 G A R Hwy	Swansea	MA	02777
225332	Country Rehab & Nursing Center	180 Low St	Newburyport	MA	01950

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Kindred Healthcare, Inc. Skilled Nursing Facilities

Medicare ID	SNF Name	Address	City	State	Zip
225453	Crawford Skilled Nursing & Rehab Center	273 Oak Grove Ave	Fall River	MA	02723
465110	Crosslands Rehab & Healthcare	575 E 11000 S	Sandy	UT	84070
345002	Cypress Pointe Rehabilitation	2006 S 16th St	Wilmington	NC	28401
185127	Danville Centre for Health & Rehab	642 N 3rd St	Danville	KY	40422
225456	Den Mar Rehab & Nursing Center	44 South St	Rockport	MA	01966
035070	Desert Life Rehab & Care Center	1919 W Medical St	Tucson	AZ	85704
305018	Dover Rehab & Living Center	307 Plaza Dr	Dover	NH	03820
155664	Eagle Creek Health & Rehab Center	4102 Shore Dr	Indianapolis	IN	46254
225320	Eagle Pond Rehab & Living Center	1 Love Ln	South Dennis	MA	02660
205106	Eastside Rehab & Living Center	516 Mount Hope Ave	Bangor	ME	04401
525410	Eastview Medical Rehab Center	729 Park St	Antigo	WI	54409
445286	Fairpark Healthcare Center	307 N 5th St	Maryville	TN	37804
465055	Federal Heights Rehab & Nursing	41 S 900 E	Salt Lake City	UT	84102
055331	Fifth Avenue Health Care Center	1601 5th Ave	San Rafael	CA	94901
555416	Foothill Nursing & Rehab Center	401 W Ada Ave	Glendora	CA	91741
225512	Forestview Nursing Home of Wareham	50 Indian Neck Rd	Wareham	MA	02571
185146	Fountain Circle Health & Rehab	200 Glenway Rd	Winchester	KY	40391
225461	Franklin Skilled Nursing & Rehab	130 Chestnut St	Franklin	MA	02038
365673	Franklin Woods Nursing & Rehab	2770 Clime Rd	Columbus	OH	43223
225701	Goddard Rehab & Nursing Center	909 Sumner St	Stoughton	MA	02072
056176	Golden Gate Healthcare	2707 Pine St	San Francisco	CA	94115
225230	Great Barrington Rehab & Nursing	148 Maple Ave	Great Barrington	MA	01230
055093	Greenbrae Care Center	1220 S Eliseo Dr	Greenbrae	CA	94904
305005	Greenbriar Terrace Healthcare	55 Harris St	Nashua	NH	03060
366114	Greens Nursing & Rehab Center	1575 Brainard Road	Cleveland	OH	44124
345359	Guardian Care of Ahoskie	604 Stokes St E	Ahoskie	NC	27910
345184	Guardian Care of Elizabeth City	901 Halstead Blvd	Elizabeth City	NC	27909
345344	Guardian Care of Henderson	280 S Beckford Dr	Henderson	NC	27536
345336	Guardian Care of Roanoke Rapids	305 E 14th St	Roanoke Rapids	NC	27870
345260	Guardian Care of Rocky Mount	160 N Winstead Ave	Rocky Mount	NC	27804
345375	Guardian Care of Scotland Neck	920 Jr High School Rd	Scotland Neck	NC	27874
345104	Guardian Care of Zebulon	509 W Gannon Ave	Zebulon	NC	27597
055212	Hacienda Care Center	76 Fenton St	Livermore	CA	94550
035086	Hacienda Rehab & Care Center	660 S Coronado Dr	Sierra Vista	AZ	85635
225465	Hallmark Nursing & Rehab Center	1123 Rockdale Ave	New Bedford	MA	02740
225370	Hammersmith House Nursing Care Center	73 Chestnut St	Saugus	MA	01906
305020	Hanover Terrace Healthcare	53 Lyme Rd	Hanover	NH	03755
225737	Harborlights Rehab & Nursing Center	804 E 7th St	Boston	MA	02127
495068	Harbour Pointe Medical & Rehab Center	1005 Hampton Blvd	Norfolk	VA	23507
225536	Harrington House Nursing & Rehab Center	160 Main St	Walpole	MA	02081
155657	Harrison Health & Rehab Centre	150 Beechmont Dr NE	Corydon	IN	47112
185287	Harrodsburg Health Care Center	853 Lexington Rd	Harrodsburg	KY	40330
185142	Heritage Manor Health Care Center	401 Indiana Ave	Mayfield	KY	42066

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Kindred Healthcare, Inc. Skilled Nursing Facilities

Medicare ID	SNF Name	Address	City	State	Zip
225719	Highgate Manor Health & Rehab	10 Carematrix Dr	Dedham	MA	02026
225723	Highlander Rehab & Nursing Center	1748 Highland Ave	Fall River	MA	02720
185120	Hillcrest Health Care Center	3740 Old Hartford Rd	Owensboro	KY	42303
225227	Hillcrest Nursing & Rehab Center	94 Summer St	Fitchburg	MA	01420
155312	Indian Creek Health & Rehab Center	240 Beechmont Dr NE	Corydon	IN	47112
035094	Kachina Point Health Care & Rehab	505 Jacks Canyon Rd	Sedona	AZ	86351
205095	Kennebunk Nursing & Rehab	158 Ross Rd	Kennebunk	ME	04043
525420	Kennedy Park Medical Rehab	6001 Alderson St	Schofield	WI	54476
295087	KH Las Vegas Flamingo SAU	2250 E Flamingo Rd	Las Vegas	NV	89119
366337	Kindred Hosp Cleveland SAU	11900 Fairhill Rd	Cleveland	OH	44120
345273	Kindred Hosp Greensboro SAU	PO BOX 16167	Greensboro	NC	27416
185361	Kindred Hosp Louisville SAU	1313 Saint Anthony Pl	Louisville	KY	40204
225758	Kindred Hosp Park View Springfield SAU	1400 State St	Springfield	MA	01109
396110	Kindred Hosp Pittsburgh North Shore SAU	1004 Arch St Fl 3	Allegheny	PA	15212
555859	Kindred Hospital Brea TCU	875 N Brea Blvd	Brea	CA	92821
345365	Kinston Rehab & Healthcare Center	907 Cunningham Rd	Kinston	NC	28501
115360	Lafayette Nursing & Rehab Center	110 Brandywine Blvd	Fayetteville	GA	30214
505347	Lakewood Healthcare Center	11411 Bridgeport Way SW	Tacoma	WA	98499
295006	Las Vegas Healthcare & Rehab	2832 S Maryland Pkwy	Las Vegas	NV	89109
225749	Laurel Lake Center for Health & Rehab	620 Laurel St	Lee	MA	01238
225469	Laurel Ridge Rehab & Nursing Center	174 Forest Hills St	Boston	MA	02130
055175	Lawton Healthcare Center	1575 7th Ave	San Francisco	CA	94122
365920	Lebanon Country Manor	700 Monroe Rd	Lebanon	OH	45036
225309	Ledgewood Rehab & Nursing Center	87 Herrick St	Beverly	MA	01915
135021	Lewiston Rehab & Care Center	3315 8th St	Lewiston	ID	83501
185408	Liberty Care Center	616 S Wallace Wilkinson Blvd	Liberty	KY	42539
345159	Lincoln Nursing Center	1410 E Gaston St	Lincolnton	NC	28092
365435	Logan Health Care Center	300 Arlington Ave	Logan	OH	43138
676104	Lone Star Comprehensive Adult Care	1005 Ira E Woods Ave	Grapevine	TX	76051
445253	Loudon Health Care Center	1520 Grove St # 190	Loudon	TN	37774
445075	Madison Healthcare	431 Larkin Springs Rd	Madison	TN	37115
065196	Malley Healthcare & Rehab Center	401 Malley Dr	Northglenn	CO	80233
185294	Maple Manor Health Care Center	515 Greene Dr	Greenville	KY	42345
445245	Maryville Healthcare & Rehab	1012 Jamestown Way	Maryville	TN	37803
445136	Masters Health Care Center	278 Dry Valley Rd	Cookeville	TN	38506
225668	Meadows Rehab & Nursing Center	111 Huntoon Memorial Hwy	Rochdale	MA	01542
155501	Meadowvale Health & Rehab Center	1529 Lancaster St	Bluffton	IN	46714
385024	Medford Rehab & Healthcare	625 Stevens St	Medford	OR	97504
555254	Medical Hill Rehab Center	475 29th St	Oakland	CA	94609
525330	Middleton Village Nursing & Rehab	6201 Elmwood Ave	Middleton	WI	53562
365806	Minerva Park Nursing & Rehab Center	5460 Cleveland Ave	Columbus	OH	43231
525482	Mount Carmel Burlington Medical & Rehab	677 E State St	Burlington	WI	53105
525344	Mount Carmel Milwaukee Health & Rehab	5700 W Layton Ave	Milwaukee	WI	53220

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Kindred Healthcare, Inc. Skilled Nursing Facilities

Medicare ID	SNF Name	Address	City	State	Zip
535013	Mountain Towers Healthcare & Rehab	3128 Boxelder Dr	Cheyenne	WY	82001
135065	Mountain Valley Care & Rehab Center	601 W Cameron Ave	Kellogg	ID	83837
155242	Muncie Health & Rehab Center	4301 N Walnut St	Muncie	IN	47303
135019	Nampa Care Center	404 N Horton St	Nampa	ID	83651
495247	Nansemond Pointe Rehab & Health	200 W Constance Rd	Suffolk	VA	23434
365425	Newark Healthcare Centre	75 McMillen Dr	Newark	OH	43055
225222	Newton and Wellesley Alzheimer	694 Worcester St	Wellesley	MA	02482
055963	Nineteenth Avenue Healthcare Center	2043 19th Ave	San Francisco	CA	94116
525389	North Ridge Medical Rehab Center	1445 N 7th St	Manitowoc	WI	54220
185179	Northfield Centre for Health & Rehab	6000 Hunting Rd	Louisville	KY	40222
445297	Northhaven Health Care Center	3300 N Broadway St	Knoxville	TN	37917
505294	Northwest Continuum Care Center	128 Beacon Hill Dr	Longview	WA	98632
205097	Norway Rehab & Living Center	24 Marion Ave	Norway	ME	04268
415027	Oak Hill Nursing & Rehab Center	544 Pleasant St	Pawtucket	RI	02860
185195	Oakview Nursing & Rehab Center	10456 Us Highway 62	Calvert City	KY	42029
225483	Oakwood Rehab & Nursing Center	11 Pontiac Ave	Webster	MA	01570
555090	Pacific Coast Care Center	720 E Romie Ln	Salinas	CA	93901
275030	Park Place Health Care Center	1500 32nd St S	Great Falls	MT	59405
275124	Parkview Acres Care & Rehab Center	200 N Oregon St	Dillon	MT	59725
075195	Parkway Pavilion Health Care	1157 Enfield St	Enfield	CT	06082
155378	Parkwood Health Care Center	1001 N Grant St	Lebanon	IN	46052
345053	Pettigrew Rehab & Healthcare	1515 W Pettigrew St	Durham	NC	27705
365636	Pickerington Nursing & Rehab Center	1300 Hill Rd N	Pickerington	OH	43147
225486	Presentation Nursing & Rehab Center	10 Bellamy St	Boston	MA	02135
445140	Primacy Healthcare & Rehab	6025 Primacy Parkway	Memphis	TN	38119
505204	Queen Anne Healthcare	2717 Dexter Ave N	Seattle	WA	98109
225263	Quincy Rehab & Nursing Center	11 Mayor Thomas J McGrath Hwy	Quincy	MA	02169
505304	Rainier Vista Care Center	920 12th Ave SE	Puyallup	WA	98372
345049	Raleigh Rehab & Healthcare	616 Wade Ave	Raleigh	NC	27605
155272	Regency Place of Castleton	5226 E 82nd St	Indianapolis	IN	46250
155218	Regency Place of Dyer	2300 Great Lakes Dr	Dyer	IN	46311
155249	Regency Place of Fort Wayne	6006 Brandy Chase Cv	Fort Wayne	IN	46815
155188	Regency Place of Greenfield	200 W Green Meadows Dr	Greenfield	IN	46140
155193	Regency Place of Greenwood	377 Westridge Blvd	Greenwood	IN	46142
155243	Regency Place of Lafayette	300 Windy Hill Dr	Lafayette	IN	47905
155219	Regency Place of South Bend	52654 Ironwood Rd	South Bend	IN	46635
345162	Rehab & Health Center of Gastonia	416 N Highland St	Gastonia	NC	28052
345254	Rehab & Nursing Center of Monroe	1212 E Sunset Dr	Monroe	NC	28112
495241	River Pointe Rahab & Healthcare	4142 Bonney Rd	Virginia Beach	VA	23452
225210	River Terrace Healthcare	1675 Main St	Lancaster	MA	01523
185209	Riverside Manor Health Care Center	1 State Route 136 W	Calhoun	KY	42327
155488	Rolling Hills Health Care Center	3625 Saint Joseph Rd	New Albany	IN	47150
345081	Rose Manor Healthcare Center	4230 N Roxboro St	Durham	NC	27704

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Kindred Healthcare, Inc. Skilled Nursing Facilities

Medicare ID	SNF Name	Address	City	State	Zip
185089	Rosewood Health Care Center	550 High St	Bowling Green	KY	42101
155426	Royal Oaks Health Care & Rehab Center	3500 Maple Ave	Terre Haute	IN	47804
225322	Sachem Skilled Nursing & Rehab Center	66 Central St	East Bridgewater	MA	02333
535037	Sage View Care Center	1325 Sage St	Rock Springs	WY	82901
525427	San Luis Medical Rehab Center	2305 San Luis Pl	Green Bay	WI	54304
056065	Santa Cruz Healthcare Center	1115 Capitola Rd	Santa Cruz	CA	95062
115120	Savannah Rehab & Nursing Center	815 E 63rd St	Savannah	GA	31405
115132	Savannah Specialty Care Center	11800 Abercorn St	Savannah	GA	31419
225567	Seacoast Nursing & Rehab Center	292 Washington St	Gloucester	MA	01930
155659	Sellersburg Health & Rehab Centre	7823 Old Highway # 60	Sellersburg	IN	47172
525318	Sheridan Medical Complex	8400 Sheridan Rd	Kenosha	WI	53143
555744	Siena Care Center	11600 Education St	Auburn	CA	95602
345003	Silas Creek Manor	3350 Silas Creek Pkwy	Winston-Salem	NC	27103
445172	Smith County Health Care Center	112 Health Care Dr	Carthage	TN	37030
555595	Smith Ranch Care Center	1550 Silveira Pkwy	San Rafael	CA	94903
535036	South Central Wyoming Healthcare & Rehab	542 16th St	Rawlins	WY	82301
155484	Southwood Health & Rehab Center	2222 Margaret Ave	Terre Haute	IN	47802
115115	Specialty Care of Marietta	26 Tower Rd NE	Marietta	GA	30060
015151	Specialty Healthcare & Rehab Center	1758 Spring Hill Ave	Mobile	AL	36607
465064	St George Care & Rehabilitation	1032 E 100 S	St George	UT	84770
475030	Starr Farm Nursing Center	98 Starr Farm Rd	Burlington	VT	05408
366225	Stratford Commons	7000 Cochran Rd	Solon	OH	44139
345077	Sunnybrook Healthcare & Rehab	25 Sunnybrook Rd	Raleigh	NC	27610
385189	Sunnyside Care Center	4515 Sunnyside Rd SE	Salem	OR	97302
075196	The Crossings East Campus	78 Viets St	New London	CT	06320
075267	The Crossings West Campus	89 Viets St	New London	CT	06320
225516	The Eliot Healthcare Center	168 W Central St	Natick	MA	01760
365713	The LakeMed Nursing & Rehab	70 Normandy Dr	Painesville	OH	44077
676143	The Plaza at Mansfield	301 N Miller Rd	Mansfield	TX	76063
676101	The Plaza at Ridgmar	6600 Lands End Ct	Fort Worth	TX	76116
345337	The Rehab & Healthcare Center of Alamance	779 Woody Dr	Graham	NC	27253
056203	The Tunnell Center For Rehab & Healthcare	1359 Pine St	San Francisco	CA	94109
225495	Timberlyn Heights Nursing & Rehab Center	320 Maple Ave	Great Barrington	MA	01230
295045	Torrey Pines Care Center	1701 S Torrey Pines Dr	Las Vegas	NV	89146
225587	Tower Hill Center Health & Rehab	1 Meadowbrook Way	Canton	MA	02021
555307	Valley Gardens Healthcare & Rehab	1517 Knickerbocker Dr	Stockton	CA	95210
155496	Valley View Health Care Center	333 W Mishawaka Rd	Elkhart	IN	46517
525481	Vallhaven Care Center	125 Byrd Ave	Neenah	WI	54956
505206	Vancouver Health & Rehab	400 E 33rd St	Vancouver	WA	98663
055848	Victorian Healthcare Center	2121 Pine St	San Francisco	CA	94115
035085	Villa Campana Health Care Center	6651 E Carondelet Dr	Tucson	AZ	85710
555754	Village Square Nursing & Rehab Center	1586 W San Marcos Blvd	San Marcos	CA	92078
225170	Walden Rehab & Nursing	785 Main St	Concord	MA	01742

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ATTACHMENT 11

Kindred Healthcare, Inc. Skilled Nursing Facilities

Medicare ID	SNF Name	Address	City	State	Zip
465009	Wasatch Care Center	3430 Harrison Blvd	Ogden	UT	84403
155265	Wedgewood Healthcare Center	101 Potters Ln	Clarksville	IN	47129
135010	Weiser Rehab & Care Center	331 E Park St	Weiser	ID	83672
225242	Westborough Health Care Center	5 Colonial Dr	Westborough	MA	01581
205105	Westgate Manor	750 Union St	Bangor	ME	04401
015116	Whitesburg Gardens Health Care	105 Teakwood Dr SW	Huntsville	AL	35801
155334	Wildwood Health Care Center	7301 E 16th St	Indianapolis	IN	46219
365644	Winchester Place Nursing & Rehab	36 Lehman Dr	Canal Winchester	OH	43110
535031	Wind River Healthcare & Rehab Center	1002 Forest Dr	Riverton	WY	82501
155222	Windsor Estates Health & Rehab Center	429 W Lincoln Rd	Kokomo	IN	46902
075011	Windsor Rehab & Healthcare Center	581 Poquonock Ave	Windsor	CT	06095
205078	Winship Green Nursing Center	51 Winship St	Bath	ME	04530
185118	Woodland Terrace Health Care	1117 Woodland Dr	Elizabethtown	KY	42701
525281	Woodstock Health & Rehab	3415 Sheridan Rd	Kenosha	WI	53140
395237	Wyomissing Nursing & Rehab	1000 E Wyomissing Blvd	Reading	PA	19611
056399	Ygnacio Valley Care Center	1449 Ygnacio Valley Rd	Walnut Creek	CA	94598

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ATTACHMENT 11

Kindred Healthcare, Inc. Assisted Living Facilities

Facility Name	Address	City	State	Zip Code
Avery Crossings	110 West Street	Needham	MA	02494
Foxhill Village Rehab Center	10 Longwood Drive, 4th Floor	Westwood	MA	02090
Stratford Commons (ALF)	7000 Cochran Road	Glenwillow	OH	44139
Sunnyglen Retirement Apts	4523 Sunny	Salem	OR	97302
Table Rock Residential Village	276 Fountain Lane	Kimberling	MO	65686
The Fountains on the Greens	1575 Brainard Road	Lyndhurst	OH	44124
The Monarch Center of Saco	392 Main Street	Saco	ME	04072
The Village at Laurel Lake	600 Laurel Street	Lee	MA	01238
Village Crossings at Cape Elizabeth	78 Scott Dyer Road	Cape Elizabeth	ME	04107

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ATTACHMENT 11

RehabCare Group, Inc. LTACs

Medicare ID	Hospital Name	Address	City	State	Zip
673027	Central Texas Rehab Hospital	1201 W 38th St	Austin	TX	78705
153039	Howard Regional Specialty	829 N Dixon Rd	Kokomo	IN	46901
263030	St Luke Rehab Hospital	14709 Olive Blvd	Chesterfield	MO	63017
452060	Triumph Amarillo	7501 Wallace Blvd	Amarillo	TX	79124
062013	Triumph Aurora	700 Potomac St	Aurora	CO	80011
	Triumph Baytown	1700 James Bowie Dr	Baytown	TX	77520
352005	Triumph Central Dakotas	1000 18th St NW	Mandan	ND	58554
	Triumph Clear Lake	350 Blossom St	Webster	TX	77598
232027	Triumph Detroit	4777 E Outer Dr	Detroit	MI	48234
392034	Triumph Easton	250 S 21st St	Easton	PA	18042
452079	Triumph El Paso	1740 Curie Dr	El Paso	TX	79902
352004	Triumph Fargo	1720 University Dr S	Fargo	ND	58103
142013	Triumph Greater Peoria Specialty	500 W Romeo B Garrett Ave	Peoria	IL	61605
452108	Triumph Hospital Dallas	8050 Meadow Rd	Dallas	TX	75231
452027	Triumph Houston Central	105 Drew St	Houston	TX	77006
452075	Triumph Houston East	15101 East Fwy	Channelview	TX	77530
	Triumph Houston Heights	1800 W 26th St	Houston	TX	77008
452074	Triumph Houston North	7333 North Freeway	Houston	TX	77076
	Triumph Houston Northwest	250 Hollow Tree Ln	Houston	TX	77090
452080	Triumph Houston Southwest	1550 First Colony Blvd	Sugar Land	TX	77479
	Triumph Houston Town & Country	1120 Business Center Dr	Houston	TX	77043
362020	Triumph Lima	730 W Market St	Lima	OH	45801
192007	Triumph Louisiana Specialty Marrero	1101 Medical Center Blvd	Marrero	LA	70072
	Triumph Louisiana Specialty New Orleans East	14500 Hayne Blvd	New Orleans	LA	70128
362021	Triumph Mansfield	335 Glessner Ave	Mansfield	OH	44903
192033	Triumph Meadowbrook Specialty Lafayette	204 Energy Pkwy	Lafayette	LA	70508
	Triumph Meadowbrook Specialty Our Lady of Lourdes	611 Saint Landry St	Lafayette	LA	70506
372018	Triumph Meadowbrook Specialty Tulsa	3219 S 79th East Ave	Tulsa	OK	74145
262018	Triumph Northland LTAC Hospital	500 NW 68th St	Kansas City	MO	64118
152012	Triumph Northwest Indiana	5454 Hohman Ave	Hammond	IN	46320
152018	Triumph Our Lady of Peace	215 W 4th St	Mishawaka	IN	46544
392046	Triumph Philadelphia	1930 S Broad St	Philadelphia	PA	19145
453096	Triumph Rehab Amarillo	7200 W 9th Ave	Amarillo	TX	79124
453094	Triumph Rehab Arlington	2601 W Randol Mill Rd	Arlington	TX	76012
453052	Triumph Rehab Clear Lake	655 E Medical Center Blvd	Webster	TX	77598
112010	Triumph Specialty of Rome	304 Turner Mccall Blvd	Rome	GA	30162
	Triumph Tomball	505 Graham Dr	Tomball	TX	77375
452056	Triumph Victoria	506 E San Antonio St	Victoria	TX	77901

ATTACHMENT 11

RehabCare Group, Inc. Rehabilitation Hospitals

Medicare ID	Hospital Name	Address	City	State	Zip
153039	Howard Regional Specialty Hosp	829 N Dixon Rd	Kokomo	IN	46901
453052	Clear Lake Rehab Hospital	655 E Medical Center Blvd	Webster	TX	77598
453096	Amarillo RehabCare Hosp	7200 W 9th Ave	Amarillo	TX	79124
453094	Arlington Rehab Hospital	2601 W Randol Mill Rd	Arlington	TX	76012
263030	St Luke Rehab Hospital	14709 Olive Blvd	Chesterfield	MO	63017
673027	Central Texas Rehab Hospital	1201 W 38th St	Austin	TX	78705

ATTACHMENT 11

State of Illinois 1989101
Department of Public Health

LICENSE, PERMIT, CERTIFICATION, REGISTRATION

The person, firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois Statutes and/or rules and regulations and is hereby authorized to engage in the activity as indicated below.

Issued under the authority of
The State of Illinois
Department of Public Health

DAMON T. ARNOLD, M.D.
DIRECTION

EXPIRATION DATE	CATEGORY	I.D. NUMBER
07/27/11	BGSD	0005595

FULL LICENSE

GENERAL HOSPITAL

EFFECTIVE: 07/28/10

BUSINESS ADDRESS

GREATER PEORIA SPECIALTY HOSPITAL, LLC
500 WEST ROMEO B. GARRETT AVENUE
PEORIA IL 61605

The face of this license has a colored background. Printed by Authority of the State of Illinois • 4/97 •

DISPLAY THIS PART IN A CONSPICUOUS PLACE

REMOVE THIS CARD TO CARRY AS AN IDENTIFICATION

State of Illinois 1989101
Department of Public Health

LICENSE, PERMIT, CERTIFICATION, REGISTRATION

GREATER PEORIA SPECIALTY HOSPITAL, LL

EXPIRATION DATE	CATEGORY	I.D. NUMBER
07/27/11	BGSD	0005595

FULL LICENSE

GENERAL HOSPITAL

EFFECTIVE: 07/28/10

06/05/10

GREATER PEORIA SPECIALTY HOSPITAL
500 WEST ROMEO B. GARRETT AVENUE
500 WEST ROMEO B. GARRETT AVENUE
PEORIA IL 61605

FEE RECEIPT NO.

Issued under the authority of the State of Illinois Department of Public Health 07/28/10

State of Illinois 1756962
Department of Public Health

LICENSE, PERMIT, CERTIFICATION, REGISTRATION

The person, firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois Statutes and/or rules and regulations and is hereby authorized to engage in the activity as indicated below.

DANON T. ARNOLD, M.D.
DIRECTOR

Issued under the authority of The State of Illinois, Department of Public Health

EXPIRATION DATE	CATEGORY	I.D. NUMBER
12/09/11	BGBD	0005710

FULL LICENSE
GENERAL HOSPITAL

EFFECTIVE: 12/10/10

BUSINESS ADDRESS
Kindred Hospital Springfield
701 North Walnut Street
Springfield, IL 62702

ATTACHMENT 11

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← DISPLAY THIS PART IN A CONSPICUOUS PLACE

REMOVE THIS CARD TO CARRY AS AN IDENTIFICATION

State of Illinois 1756962
Department of Public Health
LICENSE, PERMIT, CERTIFICATION, REGISTRATION
Kindred Hospital Springfield

EXPIRATION DATE	CATEGORY	I.D. NUMBER
12/09/11	BGBD	0005710

FULL LICENSE
GENERAL HOSPITAL

EFFECTIVE: 12/10/10

Kindred Hospital Springfield
701 North Walnut Street
Springfield, IL 62702

FEE RECEIPT NO.

State of Illinois 1989096
Department of Public Health

LICENSE, PERMIT, CERTIFICATION, REGISTRATION

The person, firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois Statutes and/or rules and regulations and is hereby authorized to engage in the activity as indicated below.

DANG, Ta ARNOLD, M.D.
DIRECTOR

Issued under the authority of
The State of Illinois
Department of Public Health

EXPIRATION DATE	CATEGORY	I.D. NUMBER
07/24/12	PERC	0004944

FULL LICENSE

GENERAL HOSPITAL

EFFECTIVE: 07/25/10

BUSINESS ADDRESS

THC-CHICAGO, INC.
D/B/A KINDRED HOSPITAL - SYCAMORE
225 EDWARD STREET

SYCAMORE IL 60178

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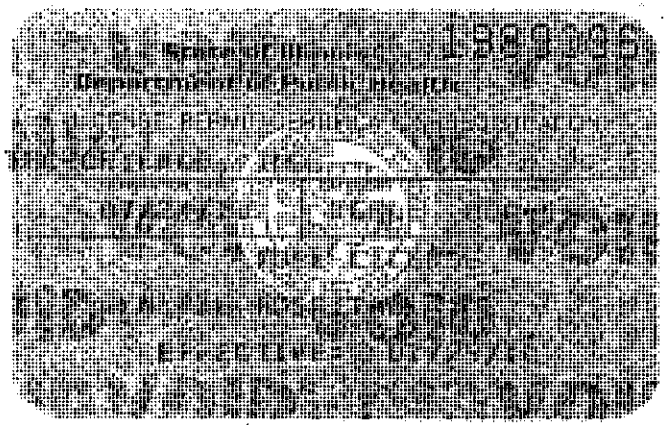


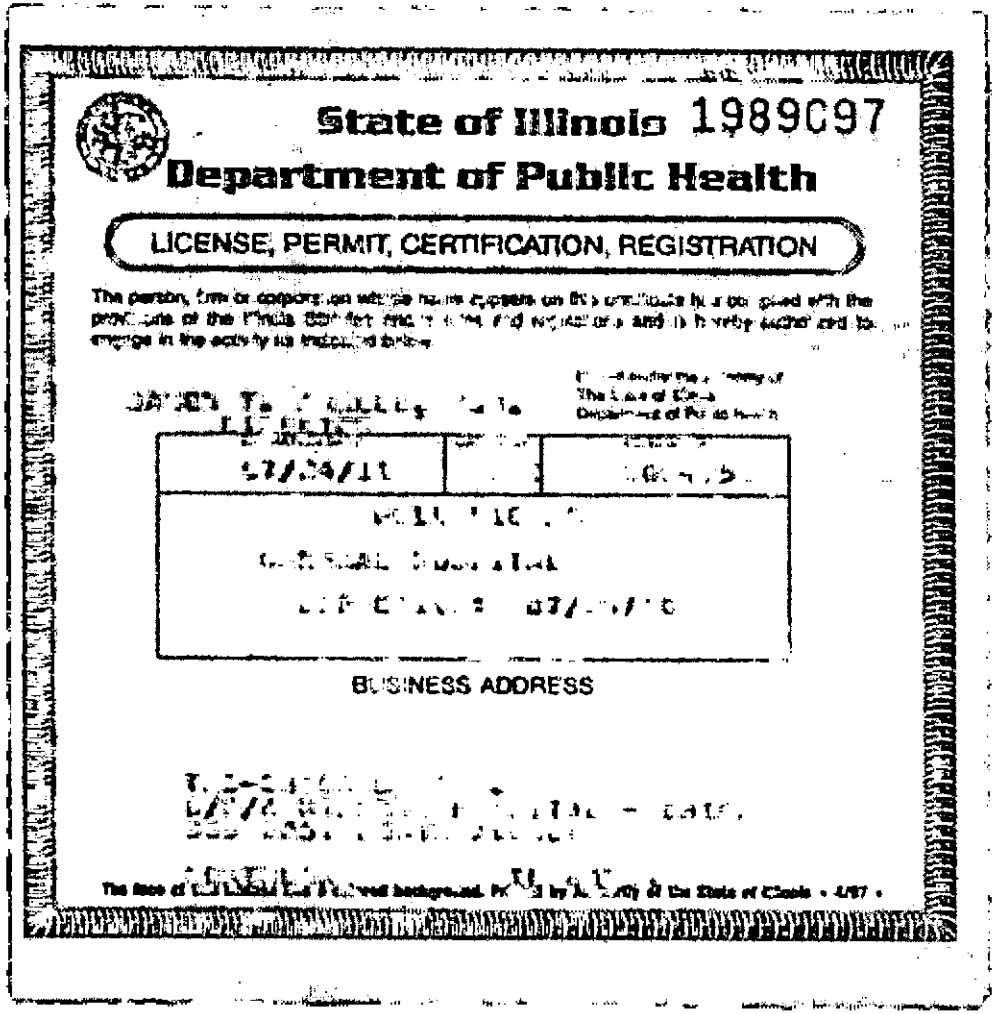
06/05/10

THC-CHICAGO, INC.
D/B/A KINDRED HOSPITAL - SYCAMORE
225 EDWARD STREET
SYCAMORE IL 60178

FEE RECEIPT NO.

ATTACHMENT 11 - 15

ATTACHMENT 11



State of Illinois 1989097

Department of Public Health

LICENSE, PERMIT, CERTIFICATION, REGISTRATION

The person, firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois State law, rules and regulations and is hereby authorized to engage in the activity as indicated below.

BUSINESS ADDRESS

ATTACHMENT 11

157

State of Illinois 1982853

Department of Public Health

LICENSE, PERMIT, CERTIFICATION, REGISTRATION

The person, firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois Statutes and/or rules and regulations and is hereby authorized to engage in the activity as indicated below.

DAMON T. ARNOLD, M.D.
DIRECTOR

Issued under the authority of
The State of Illinois
Department of Public Health

EXPIRATION DATE	CATEGORY	I.D. NUMBER
06/30/11	BGBD	0004564

FULL LICENSE

GENERAL HOSPITAL

EFFECTIVE: 07/01/10

BUSINESS ADDRESS

THC - CHICAGO, INC.
D/B/A KINDRED-CHICAGO - CENTRAL HOSPITAL
4058 WEST MELROSE STREET

CHICAGO IL 60641

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State of Illinois 1982853
Department of Public Health
LICENSE, PERMIT, CERTIFICATION, REGISTRATION

THC - CHICAGO, INC.

EXPIRATION DATE	CATEGORY	I.D. NUMBER
06/30/11	BGBD	0004564

FULL LICENSE

GENERAL HOSPITAL

EFFECTIVE: 07/01/10

05/08/10

THC-CHICAGO, INC.
D/B/A KINDRED - CHICAGO

CHICAGO IL 60641

FEE RECEIPT NO.

State of Illinois 1989095
Department of Public Health

LICENSE, PERMIT, CERTIFICATION, REGISTRATION

The person, firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois Statutes, and/or rules and regulations, and is hereby authorized to engage in the activity as indicated below:

Issued under the authority of
The State of Illinois
Department of Public Health

CAMILLE J. ARNOLD, M.D.
DIRECTOR

EXPIRATION DATE	CATEGORY	I.D. NUMBER
07/24/11	[illegible]	0004937

FULL LICENSE
GENERAL HOSPITAL
EFFECTIVE: 07/25/10

BUSINESS ADDRESS

THC-CHICAGO, INC.
D/B/A KINDRED HOSPITAL - CHICAGO
2544 N. MONTROSE AVENUE
CHICAGO IL 60618

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DISPLAY THIS PART IN A CONSPICUOUS PLACE

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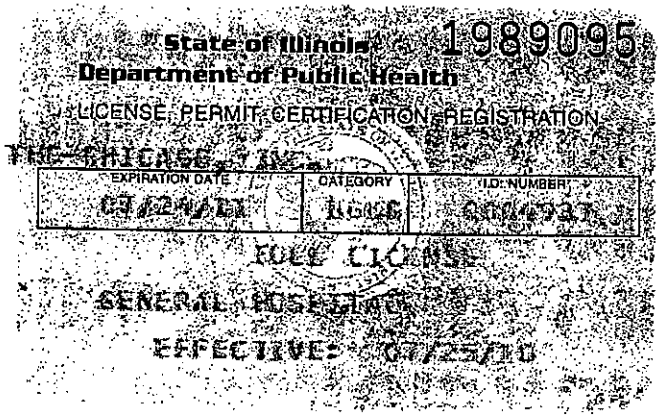

05/05/10

THC-CHICAGO, INC. D/B/A
KINDRED HOSPITAL - CHICAGO
2544 N. MONTROSE AVENUE
CHICAGO IL 60618

FEE RECEIPT NO.

ATTACHMENT 11

The Joint Commission

October 16, 2009

Steven Schultz
CEO
Greater Peoria Specialty Hospital, LLC
500 W. Romeo B. Garrett Avenue
Peoria, IL 61605

Joint Commission ID #: 484161
Program: Hospital Accreditation
Accreditation Activity: Initial Unannounced Full Event
Accreditation Activity Completed: 10/16/2009

Dear Mr. Schultz:

The Joint Commission would like to thank your organization for participating in the accreditation process. This process is designed to help your organization continuously provide safe, high-quality care, treatment, and services by identifying opportunities for improvement in your processes and helping you follow through on and implement these improvements. We encourage you to use the accreditation process as a continuous standards compliance and operational improvement tool.

The Joint Commission is granting your organization an accreditation decision of Accredited for all services surveyed under the applicable manual(s) noted below:

- Comprehensive Accreditation Manual for Hospitals

This accreditation cycle is effective beginning October 17, 2009. The Joint Commission reserves the right to shorten or lengthen the duration of the cycle; however, the certificate and cycle are customarily valid for up to 39 months.

Please visit Quality Check® on The Joint Commission web site for updated information related to your accreditation decision.

We encourage you to share this accreditation decision with your organization's appropriate staff, leadership, and governing body. You may also want to inform the Centers for Medicare and Medicaid Services (CMS), state or regional regulatory services, and the public you serve of your organization's accreditation decision.

Please be assured that The Joint Commission will keep the report confidential, except as required by law. To ensure that The Joint Commission's information about your organization is always accurate and current, our policy requires that you inform us of any changes in the name or ownership of your organization or the health care services you provide.

Sincerely,

Ann Scott Blouin RN, PhD

Ann Scott Blouin, RN, Ph.D.
Executive Vice President
Accreditation and Certification Operations

ATTACHMENT 11

The Joint Commission

Greater Peoria Specialty Hospital, LLC
500 W. Romeo B. Garrett Avenue
Peoria, IL 61605

Organization Identification Number: 484161

Program(s)
Hospital Accreditation

Surveyor(s) and Survey Date(s)
Robert D.Beckmann, CHFM, CHSP - (10/16 - 10/16/2009)
Inez A.Kennemore, RN - (10/14 - 10/16/2009)

Executive Summary

Hospital Accreditation : As a result of the accreditation activity conducted on the above date(s), there were no Requirements for Improvement identified.

If you have any questions, please do not hesitate to contact your Account Representative.

Thank you for collaborating with The Joint Commission to improve the safety and quality of care provided to patients.

ATTACHMENT 11

JLD

Illinois Department of
PUBLIC HEALTH

Pat Quinn, Governor
Damon T. Arnold, M.D., M.P.H., Director

525-535 West Jefferson Street • Springfield, Illinois 62761-0001 • www.idph.state.il.us

October 25, 2010

Diane Otteman, CEO
Kindred Chicago Lakeshore
6130 North Sheridan Road
Chicago, Il 60660

Dear Ms. Otteman:

The Subacute Care Unit, located at 6130 North Sheridan Road, Chicago, Illinois is currently licensed in good standing under the authority of the Alternative Health Care Delivery Act (210 ILCS 3) and the Subacute Care Hospital Demonstration Program Code (77 Ill. Adm. Code 270).

Although the license for Kindred Chicago Lakeshore expires November 1, 2010, a survey has not yet been conducted. This delay is in no way due to any action by Kindred Chicago Lakeshore, its owners, or employees. The Department considers your license in good standing currently and in the future as long as no action has been taken by the Illinois Department of Public Health to revoke your license. No such action is contemplated at this time.

The license has been renewed and applies to 103 beds. The license is not transferable and expires November 1, 2011.

Please contact me with questions at Illinois Department of Public Health, Division of Health Care Facilities and Programs, Central Office Operations Section, 525 West Jefferson Street, 4th Floor, Springfield, IL 62761-0001, or at 217-782-0381.

Sincerely,

Karen Senger

Karen Senger, RN, BSN
Supervisor, Central Office Operations Section
Division of Health Care Facilities and Programs

Illinois Department of
PUBLIC HEALTH

Pat Quinn, Governor
Damon T. Arnold, M.D., M.P.H., Director

525-535 West Jefferson Street • Springfield, Illinois 62761-0001 • www.idph.state.il.us

LICENSE, PERMIT CERTIFICATION, REGISTRATION

The firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois Statutes and/or rules and regulations and is hereby authorized to engage in the activity as indicated below.

Alternative Health Care Delivery Act and the Subacute Care Hospital Demonstration Program Code (77Ill. Adm. Code 270)

Licensed number of Beds	Expiration Date	License Identification
103	11/1//2011	4000014

Kindred Chicago Lakeshore
6130 N Sheridan Road
Chicago, IL 60660

Issued under the authority of The State of Illinois Department of Public Health

The Joint Commission

October 20, 2010

Jack Shapiro
Chief Executive Officer
THC Chicago, Inc and THC North Shore, Inc
365 East North Avenue
Northlake, IL 60164

Joint Commission ID #: 5018
Program: Hospital Accreditation
Accreditation Activity: Measure of Success
Accreditation Activity Completed: 10/20/2010

Dear Mr. Shapiro:

The Joint Commission would like to thank your organization for participating in the accreditation process. This process is designed to help your organization continuously provide safe, high-quality care, treatment, and services by identifying opportunities for improvement in your processes and helping you follow through on and implement these improvements. We encourage you to use the accreditation process as a continuous standards compliance and operational improvement tool.

The Joint Commission is granting your organization an accreditation decision of Accredited for all services surveyed under the applicable manual(s) noted below:

- Comprehensive Accreditation Manual for Hospitals

This accreditation cycle is effective beginning February 07, 2009. The Joint Commission reserves the right to shorten or lengthen the duration of the cycle; however, the certificate and cycle are customarily valid for up to 39 months.

Please visit Quality Check® on The Joint Commission web site for updated information related to your accreditation decision.

We encourage you to share this accreditation decision with your organization's appropriate staff, leadership, and governing body. You may also want to inform the Centers for Medicare and Medicaid Services (CMS), state or regional regulatory services, and the public you serve of your organization's accreditation decision.

Please be assured that The Joint Commission will keep the report confidential, except as required by law. To ensure that The Joint Commission's information about your organization is always accurate and current, our policy requires that you inform us of any changes in the name or ownership of your organization or the health care services you provide.

Sincerely,

Ann Scott Blouin RN, PhD

Ann Scott Blouin, RN, Ph.D.
Executive Vice President
Accreditation and Certification Operations

COVERS:
- CHICAGO - NORTHLAKE
- CHICAGO - NORTH
- CHICAGO - CENTRAL
- CHICAGO LAKESHORE

ATTACHMENT 11

The Joint Commission

THC Chicago, Inc and THC North Shore, Inc
365 East North Avenue
Northlake, IL 60164

Organization Identification Number: 5018

Measure of Success Submitted: 10/7/2010

Program(s)
Hospital Accreditation

Executive Summary

Hospital Accreditation : As a result of the accreditation activity conducted on the above date(s), there were no Requirements for Improvement identified.

If you have any questions, please do not hesitate to contact your Account Executive.

Thank you for collaborating with The Joint Commission to improve the safety and quality of care provided to patients.

ATTACHMENT 11

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The Joint Commission
Summary of Compliance

Program	Standard	Level of Compliance
HAP	MM.01.01.03	Compliant

ATTACHMENT 11

/LC

The Joint Commission

August 28, 2008

Cindy Smith
Chief Executive Officer
Kindred Hospital - Sycamore
225 Edward Street
Sycamore, IL 60178

Joint Commission ID #: 7437
Accreditation Activity: Measure of Success
Accreditation Activity Completed: 8/28/2008

Dear Ms. Smith:

The Joint Commission would like to thank your organization for participating in the accreditation process. This process is designed to help your organization continuously provide safe, high-quality care, treatment, and services by identifying opportunities for improvement in your processes and helping you follow through on and implement these improvements. We encourage you to use the accreditation process as a continuous standards compliance and operational improvement tool.

The Joint Commission is granting your organization an accreditation decision of Accredited for all services surveyed under the applicable manual(s) noted below:

- Comprehensive Accreditation Manual for Hospitals

This accreditation cycle is effective beginning March 08, 2008. The Joint Commission reserves the right to shorten or lengthen the duration of the cycle; however, the certificate and cycle are customarily valid for up to 39 months.

Please visit Quality Check® on the Joint Commission web site for updated information related to your accreditation decision.

We encourage you to share this accreditation decision with your organization's appropriate staff, leadership, and governing body. You may also want to inform the Centers for Medicare and Medicaid Services (CMS), state or regional regulatory services, and the public you serve of your organization's accreditation decision.

Please be assured that the Joint Commission will keep the report confidential, except as required by law. To ensure that the Joint Commission's information about your organization is always accurate and current, our policy requires that you inform us of any changes in the name or ownership of your organization or the health care services you provide.

Sincerely,

Linda S. Murphy-Knoll
Interim Executive Vice President
Division of Accreditation and Certification Operations

ATTACHMENT 11

The Joint Commission

Kindred Hospital - Sycamore
225 Edward Street
Sycamore, IL 60178

Organization Identification Number: 7437

Evidence of Standards Compliance (60 Day) Submitted: 5/28/2009

Program(s)
Laboratory Accreditation

Executive Summary

Laboratory Accreditation : As a result of the accreditation activity conducted on the above date(s), there were no Requirements for Improvement identified.

If you have any questions, please do not hesitate to contact your Account Representative.

Thank you for collaborating with The Joint Commission to improve the safety and quality of care provided to patients.

ATTACHMENT 11

167

The Joint Commission
Summary of Compliance

Program	Standard	Level of Compliance
LAB	NPSG.02.03.01	Compliant
LAB	QC.1.30	Compliant
LAB	QC.1.75	Compliant

ATTACHMENT 11

164

PURPOSE

The project addressed in this application is limited to a change of ownership, and does not propose any change to the services provided, including the number of beds provided at Greater Peoria Specialty Hospital. The facility will continue to provide long term acute care services to residents of Peoria and the surrounding communities.

The table on the following page identifies each ZIP Code/communities that provided more than 2% of the facility's patients, during 2010. The facility's primary patient population resides in Peoria County, with Peoria and East Peoria accounting for approximately one-quarter of GPSH's admissions, with another quarter coming from six other central Illinois communities. The other half of the patients reside in ZIP Code areas contributing less than 2.0% of the hospital's admissions. No change in the patient origin distribution is anticipated as a result of the proposed change of ownership, or for any other reason. Also, GPSH is the only LTACH in Health Planning Area C-01.

Greater Peoria Specialty Hospital
2010 Patient Origin

ZIP Code	Community	%	Cumulative %
61604	Peoria	8.3%	8.3%
61554	Pekin	6.3%	14.5%
61615	Peroia	5.6%	20.1%
61605	Peoria	5.0%	25.1%
61614	Peoria	4.3%	0.3%
61603	Peoria	3.3%	32.7%
61611	East Peoria	3.3%	36.0%
61607	Peoria	3.0%	38.9%
61571	Washington	2.6%	41.6%
61701	Bloomington	2.6%	44.2%
61523	Chilicothe	2.3%	46.5%
61616	Peoria Heights	2.3%	48.8%
61866	Rantoul	2.0%	50.8%
	all others	49.2%	100.0%

The proposed change of ownership will address the health care status of the population that has looked to this facility for care since its establishment, by continuing to provide the LTACH services currently being provided, and with the continued utilization of the facility serving as a measurement of success.

ALTERNATIVES

Section 1110.230(c) requests that an applicant document that the proposed project is the most effective or least costly alternative for meeting the health care needs of the population to be served.

This project is limited to a change of ownership, and more specifically, RehabCare Group, Inc. is being acquired by Kindred Healthcare, Inc., resulting in a combined "system" of approximately 135 long term acute care hospitals, nationwide. Included in the acquisition is RehabCare Group's majority ownership interest in Greater Peoria Specialty Hospital, held by RehabCare Hospital Holdings, L.L.C.

In order to best respond to Section 1110.230(c), given the particular circumstances and limited nature of the project, when developing an *Application for Permit* for a similar project, the applicant's consultants conducted a technical assistance conference with State Agency Staff (July 12, 2010). That technical assistance conference was documented according to the agency's practice. Through the technical assistance process, the applicants were directed by State Agency staff to set forth the factual background in response to Section 1110.230(c): In the Fall of 2010 Kindred initiated discussions with RehabCare Group to acquire RehabCare Group. Upon receipt of the offer, and after a due diligence process undertaken by both Kindred and RehabCare, the

definitive agreement included in this *Application* was negotiated and signed, and this *Application for Permit* was filed for review by the Illinois Health Facilities and Services Review Board shortly thereafter.

MERGERS, CONSOLIDATIONS, and
ACQUISITIONS/CHANGES OF OWNERSHIP

A. Impact Statement

The proposed change of ownership will not have any material impact on the manner in which services are provided at Greater Peoria Specialty Hospital ("GPSH"). The facility will continue to operate its existing approved number of beds, and no expansion or contraction is anticipated, nor are any changes in the clinical services provided by the facility anticipated.

The operating entity will continue to be Greater Peoria Specialty Hospital, an entity that will be indirectly acquired by Kindred Healthcare, Inc.

The change of ownership is a result of Kindred acquiring RehabCare through a stock acquisition, with RehabCare's majority ownership interest in GPSH transferring to Kindred. That interest is currently held by subsidiary entity RehabCare Hospital Holdings, L.L.C.

No changes to the staffing of GPSH, other than those changes normally associated with the ongoing operations of a hospital are anticipated during the first two years following the transaction.

The cost associated with the proposed change of ownership is limited to those costs identified in ATTACHMENT 7; and the primary benefit of the project is the ongoing operation of the facility.

B. Access

The proposed change of ownership will not result in any change in accessibility to LTACH services for residents of the area. Confirmation, as required by review criterion 1110.240(c) is attached.

The admissions and charity care policies under which GPSH currently operates are attached, as are the policies used in Kindred's Illinois hospitals. It is anticipated that the Kindred policies will be adopted within the first three months following the change of ownership.

It should be noted that because of the nature of long term acute care hospitals, the vast majority of admissions are transfers from acute care hospitals. Patients admitted to the acute care hospital, without the financial resources to pay for their care are typically qualified for Medicaid while in the acute care hospital. As a result, patients requiring charity care in the LTACH setting are extraordinarily rare. Depending on location, Kindred's existing Illinois LTACHs had 2009 payor mixes of between 15 and 75% Medicare and 16 and 81% Medicaid.

Consistent with the practice at Kindred Healthcare Inc.'s other Illinois LTACHs, Medicaid recipients will be admitted to GPSH. As noted above, the percentage of admissions covered by Medicaid varies greatly between Kindred's LTACHs, dependent largely on the communities served by the hospital

B. Health Care System

The proposed change of ownership will not have any impact on any other area provider.

Kindred's closest existing LTACH to Peoria is located in Springfield, approximately one hour and 15 minutes away.

Methodist Medical Center is located approximately .7 mile/4 minutes from GPSH. The table below identifies each IDPH category of service provided by Methodist Medical Center, and the 2009 utilization of each of those services.

Service	Beds	ADC
Medical/Surgical beds	168	104.0
Pediatric beds	12	3.2
ICU beds	26	18.8
Obstetrics beds	16	16.3
AMI beds	68	57.2
Rehabilitation beds	39	19.4
open heart surgery procedures:		359
cardiac catheterization procedures:		7,465

Source: IDPH Hospital Profiles

Greater Peoria Specialty Hospital has referral agreements in place with Methodist Medical Center and with HCR Healthcare, LLC, which operates skilled nursing facilities in eleven central Illinois communities. The existing referral agreements will all be retained, following the change of ownership, and it is likely that additional agreements will be entered into during the first six months following the change of ownership. The table below identifies the distance between GPSH and each of the facilities referenced above.

Facility	Distance (miles)	Driving Time (minutes)
Methodist Medical Center	0.7	4
HCR-Riverview	4.8	9
HCR-Peoria	4.7	10
HCR-Canton	31.2	42
HCR-Henry	24.2	48
HCR-Normal	38.4	43
HCR-Galesburg	47.9	52
HCR-Macomb	69.2	92
HCR-Champaign	89.6	91
HCR-Moline	93.5	94
HCR-Paxton	89.7	103
HCR-Decatur	85.1	91

Source: MapQuest

Patient transfers and referrals from GPSH are made by the patient's physician and family, with no requirement that transfers or referrals be made to specific facilities.

Because of the specialty nature of an LTACH, and because the closest LTACH to GPSH is located more than an hour away, a discussion of duplication of services is not applicable.

GPSH is a vital member of the Peoria hospital community, and in addition to providing the only LTACH services in the area, the hospital is an active participant in community activities. This practice, which during the past year included presentations to local Lions, Kiwanis, Rotary and Creve Coeur clubs, the Case Management Association of Central Illinois and the Nursing Home Administrators of Central Illinois, will continue and be expanded to include additional community groups.

Kindred

February 4, 2011

Illinois Health Facilities and
Services Review Board
Springfield, IL 62761

Re: Greater Peoria Specialty Hospital

To Whom It May Concern:

Please be advised that the proposed change of ownership of the Greater Peoria Specialty Hospital will not result in diminished accessibility to services, nor will the admissions policies of those facilities become more restrictive as a result of the proposed change of ownership.

Sincerely,

Jeffrey P. Winter
Executive Vice President and President, Hospital Division

680 South Fourth Street Louisville, Kentucky 40202
502 596 7300 KY TDD/TTY# 800 648 6057

ATTACHMENT 19B

KINDRED HEALTHCARE, INC.

Admissions and Charity Care Policies
For Illinois Hospitals

ATTACHMENT 19B

KINDRED HEALTHCARE CHARITY CARE AND FAIR BILLING POLICY

PURPOSE

This policy establishes guidelines for the development and application of financial assistance and uninsured patient discount programs, by Kindred Healthcare (Kindred) hospitals located in Illinois. Such programs will be designed to assist individuals in financial need and other medically underserved individuals or groups on a non-discriminatory basis to obtain appropriate medical care and advice, and thereby improve the health of those in the communities served by Kindred Hospitals.

PROCESS

1. Definitions

1.1 Federal Poverty Level means the level of household income at or below which individuals within a household are determined to be living in poverty, based on the Federal Poverty Guidelines as annually determined by the U.S. Department of Health and Human Services under authority of 42 U.S.C. 9902(2).

1.2 Financial Assistance/Charity Care means providing a discount to the charges associated with a patient's hospital care based on financial need as described more specifically in this Policy and in compliance with Illinois law.

1.3 Financial Assistance Programs means all programs set forth herein to provide assistance to those in financial need including financial assistance/charity care, uninsured patient discounts, and medical indigence discounts and payment caps.

1.4 Financial need means documented lack of sufficient financial resources to pay the applicable charge for medical care. Financial need may be evidenced by low Family Income and asset levels, or high levels of medical debt in relation to Family Income (medical indigence). Financial need determinations also take into consideration other relevant circumstances, such as employment status or health status of patient or other household members, which may affect a patient's ability to pay. The existence of financial need must be demonstrated by information provided by or on behalf of the patient, and/or other objective data available to the hospital. Kindred Hospitals may use asset or debt information to assist in making a determination regarding financial need, when income data is unavailable or inconclusive, or reported income is not supported by objective data.

1.5 Family Income means the sum of a family annual earnings and cash benefits from all sources before taxes, less payments made for child support.

1.6 Illinois Resident means a person who lives in Illinois and intends to remain living in Illinois indefinitely. Relocation to Illinois for the sole purposes of receiving health care benefits does not satisfy the residency requirement.

1.7 Illinois Fair Patient Billing Act means the hospital fair patient billing act, as passed by the Illinois General Assembly in 2007, effective as of January 1, 2007, and as amended from time to time.

1.8 Illinois Uninsured Patient Discount Act means the hospital uninsured patient discount act, as passed by the Illinois General Assembly in 2008, effective as of April 1, 2009, and as amended from time to time.

1.9 Kindred Hospital means an Illinois hospital that is part of the national health care system known as "Kindred Health Care."

1.10 Medically Necessary Hospital-Services means:

1.10.1 For purposes of this policy "Medically Necessary Hospital Services" means those hospital services required for the treatment or management of a medical injury, illness, disease or symptom as determined by an independent treating physician or other physician consulted by a Kindred Hospital, including but not limited to, pharmaceuticals or supplies provided by a Kindred Hospital to a patient covered by guidelines for Medicare coverage if the patient were a Medicare beneficiary with the same clinical presentation as the Uninsured Patient.

1.10.2 Examples of services that are not Medically Necessary Hospital Services include, but are not limited to: (1) cosmetic health services; including elective cosmetic surgery (exclusive of plastic surgery designed to correct disfigurement caused by injury, illness, or congenital defect or deformity); (2) services that are experimental or part of a clinical research program; (3) elective goods or services that are not necessary to treat an illness or injury; (4) private and/or non-Kindred medical or physician professional fees; (5) services and/or treatments not provided at a Kindred Hospital; (6) pharmaceuticals and supplies that do not meet the definition described in Section 1.10.1 above; (7) non-medical services such as social and vocational services; and (8) procedures or services for which the hospital provides a discounted "flat rate" pricing package.

1.11 Uninsured Patient means an individual who is an Illinois resident and is or was a patient of a Kindred Hospital and at the time of service is or was not (a) covered under a policy of health insurance or (b) not a beneficiary under a public or private health insurance, health benefit, or other health coverage program, including Medicare, Medicaid, TriCare, SCHIP and All-Kids, high deductible health insurance plans, workers' compensation, accident liability insurance, or other third party liability plan.

2. Patient Treatment Standards. All patients of Kindred Hospitals shall be treated with respect and dignity regardless of their ability to pay for medical care, or their need for charitable assistance. Individuals who may seek or are offered Financial Assistance/Charity Care shall be objectively and fairly evaluated for eligibility,

regardless of race, ethnic background, national origin, creed, or personal, political or sexual orientation.

3. Financial Assistance/Charity Care and other Financial Assistance Programs

3.1 Discount for Low-Income Uninsured Patients. Financial Assistance/Charity Care discounts or discounted fee schedules will be available for Medically Necessary Hospital Services provided to Uninsured Patients who are unable to pay all or part of the otherwise applicable charge for their care due to financial need, as documented in accordance with this Policy. Patients demonstrating financial need based on Household Income up to six hundred percent (600%) of the Federal Poverty Level may receive a sliding-scale discount for such hospital care, at the following levels:

3.1.1 Up to one hundred percent (100%) of the Federal Poverty Level: 100% discount;

3.1.2 Between one hundred percent (100%) and two hundred percent (200%) of the Federal Poverty Level: 67% discount;

3.1.3 Between two hundred percent (200%) and four hundred (400%) of the Federal Poverty Level: 33% discount; and

3.1.4 Between four hundred percent (400%) and six hundred (600%) of the Federal Poverty Level: 10% discount.

3.2 Payment Caps Under Illinois Uninsured Patient Discount Act. To the extent required by the Illinois Uninsured Patient Discount Act, and subject to other eligibility standards and exclusions as set forth by such law including standards based on asset level, Uninsured Patients who are Illinois residents having Family Income of up to six hundred percent (600%) of the Federal Poverty Level shall not be required to pay to a Kindred Hospital more than twenty five percent (25%) of such patient's Family Income within a twelve (12) month period. Additionally, Kindred Hospital charges to eligible Uninsured Patients cannot exceed the cost of the Kindred Hospital services plus thirty-five percent (35%). Kindred Hospitals may exclude a patient from the foregoing maximum collection amounts when the patient owns assets exceeding six hundred percent (600%) of the Federal Poverty Level, excluding the following assets: the Uninsured Patient's primary residence, personal property exempt from judgment under Illinois law, or any amounts hold in pension or retirement plan.

3.3 Financial Assistance/Charity Care for Insured Patients. Subject to insurance and governmental program restrictions (which may limit the ability to grant a discount on co-pays or deductibles, versus discounts on co-insurance), insured individuals, federal program beneficiaries and other individuals who are not eligible for Financial Assistance/Charity Care hereunder but who demonstrate medical indigence or other financial need, may receive a Financial Assistance/Charity Care discount in similar or different amounts as are available to Uninsured

Patients under this policy, as determined appropriate under the circumstances by Kindred Patient Financial Services.

4. Eligibility for Financial Assistance Programs

4.1 Eligibility: Notwithstanding anything in this Policy to the contrary and for the avoidance of doubt, all Kindred Hospitals will provide a discount from its charges for all Medically Necessary Hospital Services exceeding $300 in any one patient admission or outpatient encounter to any Uninsured Patient who: a) applies for a discount based on Kindred Hospital application procedures described herein; and b) has a Family Income of not more than six hundred percent (600%) of the Federal Poverty Level. To the extent required by state and federal law, all Kindred Hospitals will provide financial assistance/charity care discounts to eligible patients in connection with hospital emergency department and other medical services necessary to diagnose, treat or stabilize an emergency medical condition.

4.2 Patient Responsibilities. Kindred Hospitals may condition receipt of charitable assistance under any Financial Assistance Program on a patient acting reasonably and in good faith, by providing the hospital, within 30 days after the hospital's request, with all reasonably-requested financial and other relevant information and documentation needed to determine the patient's eligibility for assistance, including cooperating with the hospital's financial counselors in applying for coverage under governmental programs, such as Medicare or Medicaid, accident coverage, crime victims funds, and other public programs that may be available to pay for health care services provided to the patient.

4.3 Conditions of Financial Assistance Program Participation. Kindred Hospitals may, as they determine appropriate, condition the receipt of financial assistance on disclosure by the patient's immediate relatives, host family or sponsoring organization of their financial information, residency and asset ownership sufficient to demonstrate ability or inability to pay or contribute to the costs of care for their relative or hosted guest. The hospital may further condition any discretionary grant of financial assistance on a contribution toward the costs of the patient's care and/or a guarantee of payment by such relatives, hosts or others (as applicable), in the event the patient fails to qualify for coverage through governmental (i.e. Medicare or Medicaid) or private insurance and the patient fails to pay the amounts for which she/he is responsible. Kindred Hospitals may also require a patient to certify that all information provided in an application for Financial Assistance/Charity Care is true and accurate and if any information is false, any discount granted to the patient is forfeited and the patient is responsible for the hospital's full charges.

4.4 Application for Financial Assistance. At the time of admission or registration, or where feasible, prior to any clinical care (excluding emergency circumstances), the patient or responsible party will be presented with an application form for Financial Assistance/Charity Care ("Form"). Patients or responsible parties may

request a Form and guidelines for the Financial Assistance Program at any time (i.e. prior to or at the time of admission/registration, upon receipt of final bill or first statement and at any point during the collection process). Kindred Hospital designated administrative staff may interview the patient or responsible party as well.

5. Hospital Responsibilities for Communicating Availability of Financial Assistance/ Charity Care and Other Charitable Assistance Programs

5.1 Communicating Availability of Financial Assistance/Charity Care Discounts. Each Kindred Hospital will maintain effective methods of communicating the availability of Financial Assistance/Charity Care discounts to all patients, in multiple appropriate media and in multiple appropriate languages based on the surrounding population of the applicable Kindred Hospital. The mechanisms that Kindred Hospital will use to communicate the availability of Financial Assistance/Charity Care will include, but are not limited to the following:

5.1.1 Signage. Signs shall be conspicuously posted in the admission, registration and other appropriate areas of the hospital stating that patients may be eligible for Financial Assistance/Charity Care discounts, and describing how to obtain more information and how to apply for Financial Assistance/Charity Care (See Section 4 above), including identification of appropriate hospital representatives by title. Such signs shall be prepared in English, Spanish, and any other language that is the primary language of at least 5% of the patients served by the hospital annually.

5.1.2 Provision of Financial Assistance Materials to Uninsured Patients. Kindred Hospitals will provide a summary of its Financial Assistance Programs and a Financial Assistance application to all persons receiving hospital care that it identifies as Uninsured Patients at the time of in-person registration, admission, or such later time at which the patient is first identified as an Uninsured Patient. For patients presenting in the Emergency Department, all Kindred Hospitals will provide such Financial Assistance materials at such time and in such manner as is consistent with their obligations under the Emergency Medical Treatment and Active Labor Act, as amended (EMTALA) to assess and stabilize the patient before making inquiry of the patient's ability to pay.

5.1.3 Brochures. Brochures, information sheets and/or similar forms of written communication regarding the hospital's Financial Assistance/Charity Care policy shall be maintained in appropriate areas of the hospital (e.g., the Emergency Department, organized registration areas, and the Business Office) stating in at least English and Spanish, that the hospital offers Financial Assistance/Charity Care discounts, and describing how to obtain more information.

5.1.4 Website. The website for each Kindred Hospital must include: a notice in a prominent place that financial assistance is available at the hospital; a description of the financial assistance application process, and a copy of the Kindred Hospital financial assistance application form.

5.1.5 Billing Notices. Each Kindred Hospital shall include a note on or with the Hospital bill and/or statement regarding the following: the hospital's Financial Assistance/Charity Care program, how the patient may apply for consideration under this program, a hospital contact (i.e. person, address, email and phone number) for billing inquiries, a brief description of services, dates services were provided, amounts owed for services, and notice that a patient may obtain an itemized bill upon request.

5.1.6 Financial Counselors. Each Kindred Hospital shall have one or more financial counselors whose contact information is listed or provided with other information concerning the hospital's Financial Assistance/Charity Care discount program, who are available to discuss eligibility and other questions concerning the program, and to provide assistance with applications.

6. Communication with Patients Regarding Eligibility Determination for Financial Assistance/Charity Care.

6.1 Notification of Determination. When a Kindred Hospital has made a determination that a patient's bill will be discounted or adjusted in whole or in part based on a determination of financial need, the hospital will notify the patient of such eligibility determination within a commercially reasonable time, and that there will be no further collection action taken on the discounted portion of the patient's bill.

6.2 Changes in Patient Financials Circumstances. Adverse changes on the patient's financial circumstances may result in an increase in any Financial Assistance/Charity Care discount provided by the hospital. Under no condition, however, would adverse or other changes in a patient's financial circumstances affect the hospital's continuation of any ongoing treatment during an episode of care. Along with other patient responsibilities described herein, a patient must also communicate to the hospital any material change, within 30 days of such change, in his or her financial situation that: (a) affects the patient's qualification for Financial Assistance/Charity Care; or (b) his or her ability to abide by a reasonable payment plan agreed upon with the hospital.

7. Application of Financial Assistance/Charity Care Determination to Past-Due Bills. When a patient has been granted a discount on his or her bill under the hospital's Financial Assistance/Charity Care program, the hospital may apply a similar discount or adjustment to all other outstanding patient bills. The hospital will advise the patient of such adjustment of prior accounts, and that the hospital will forego any further attempted to collect the amounts written off on such accounts.

8. Updating Prior Financial Need Determinations

8.1 Effective Time of Financial Assistance Qualification Determination. A determination of a patient's Family Income in connection with the patient's qualification for any form of Financial Assistance under this Policy will remain in effect the patient's entire episode of care, provided that if an episode of care continues for more than thirty (30) days, the hospital may request the patient to re-verify or supplement Family Income information or other eligibility information as the hospital reasonably deems appropriate, including cooperating with the hospital financial counselor to re-evaluate the patient's potential eligibility for coverage under Medicaid or other governmental programs and for the hospital's Financial Assistance/Charity Care program.

8.2 Re-Verification Within Six Months. When a patient (or the member of the household of a patient) who has received a determination of financial need under a Kindred Hospital's Financial Assistance/Charity Care program subsequently receives or applies for care from the same or any other Kindred Hospital more than 30 days but less than 6 months later, the hospital shall request appropriate information necessary to update the patient's or prospective patient's Financial Assistance/Charity Care application and re-verify the prior financial need determination. Kindred Hospital Financial Counselors will work with the patient to make the updating process as convenient as possible while assuring accuracy of information. The hospital shall consider the patient's (or prospective patient's) eligibility for Financial Assistance/Charity Care based on current income and assets, and other objective information obtained by the hospital relating to financial need, such as credit reports, new W-2s, tax returns or other data acceptable under Illinois law.

8.3 New Application Requirements. If more than six (6) months has expired since a patient's Financial Assistance eligibility determination, the patient must submit a new Financial Assistance application.

9. Financial Assistance/Charity Care Determinations Required Prior to Non-Emergency Services. Kindred Hospitals will make all reasonable efforts to expedite the evaluation of patients for eligibility for coverage under governmental programs and otherwise for Financial Assistance/Charity Care. Such evaluations must generally be made by a Kindred Hospital prior to provision of non-emergency hospital services. Persons who have come to a Kindred Hospital emergency department seeking care for a potential emergency medical condition will first receive a medical screening exam conducted in compliance with EMTALA and all care needed to stabilize any emergency medical condition, prior to an evaluation for coverage eligibility under governmental programs or Financial Assistance/Charity Care.

10. Collection Activity Pursuant to the Illinois Fair Patient Billing Act

10.1 General. All Kindred Hospitals shall engage in reasonable collection activities for collection of the portions of bills for which patients are responsible after

application of any Financial Assistance/Charity Care discount, uninsured patient discount, insurance allowances and payment and other applicable adjustments. Kindred Hospitals may engage outside third parties to manage Financial Assistance and collection programs and policies so long as such entity or individual is contractually bound to comply with the Illinois Fair Patient Billing Act and other applicable state and federal law.

10.2 Cessation of Collection Efforts on Discounted Amounts. No Kindred Hospital will engage in or direct collections activity with respect to any discounts on health care charges provided as a result of a determination of eligibility under the hospital's Financial Assistance/Charity Care program, unless it is later determined that the patient omitted relevant information relating to actual income or available assets, or provided false information regarding financial need or other eligibility criteria. Balances remaining after financial assistance discounts are applied will be subject to reasonable collection activity, consistent with this Policy.

10.3 Use of Reasonable Legal Processes to Enforce Patient Debt. Reasonable legal process, including the garnishment of wages, may be taken by any Kindred Hospital to collect any patient debt remaining after any adjustment or discount for Financial Assistance/Charity Care, uninsured status or other reason, under the following circumstances and after written approval from an authorized Kindred Hospital employee that such criteria have been satisfied:

10.3.1 For Uninsured Patients:

- The hospital has given the patient the opportunity to assess the accuracy of the hospital's bill;
- The hospital has given the Uninsured Patient the opportunity to apply for Financial Assistance/Charity Care and/or a (a) reasonable payment plan, or (b) discount for which the patient is eligible pursuant to the Illinois Patient Uninsured Discount Act;
- The hospital has given the Uninsured Patient at least 60 days after discharge or receipt of services to apply for Financial Assistance/Charity Care,
- If the patient has indicated, and the hospital is able to verify, that the patient is unable to pay the full amount due in one payment, the hospital has offered the patient a reasonable payment plan;
- If the hospital and patient have entered into a reasonable payment plan, the patient has failed to make payments when due; and
- There is objective evidence that the patient's Family Income and/or assets are sufficient to meet his or her financial obligation to the hospital.

10.3.2 For Insured Patients:

- The hospital has provided the patient the opportunity, for at least 30 days after the date of the initial bill, to request a reasonable payment plan for the portion of the bill for which the patient is responsible;
- If the patient requests a reasonable payment plan, and fails to agree to a plan within 30 days after such request; and
- If the hospital and patient have entered into a reasonable payment plan, the patient has failed to make payments when due.

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GREATER PEORIA SPECIALTY HOSPITAL

Admissions and Charity Care Policies

Title:	Admission Process	Policy #:	PR.001
Effective Date:	January 1, 2008 (reviewed 11-2010)	Page	1 of 2

Policy
To provide standardized guidelines for patient admission.

Procedure

1. All patient referrals are called into the Triumph Hospital's Intake Department. The Intake Department pages the liaison assigned to the patient's location for the pre-admission screening, if the liaison is unavailable or the account is unassigned the Intake Department contacts the Director of Professional Relations for liaison assignment.
2. Intake Department is responsible for monitoring that the Liaison is onsite within 2 hours to conduct the pre-admission screening, unless referral source indicates additional timeframe is necessary. The liaison faxes the completed pre-admission screening tool (Attachment A) to the Intake Department. The screening tool indicates clinical approval, denial or if the patient is pending additional information necessary to make the decision.
3. The Liaison at the time of screening notifies the referring hospital of clinical decision and provides the referring hospital with all information necessary for patient transfer as well as a listing of the medical records which should accompany the patient at time of transfer via the Triumph Transfer Check List (Attachment B).
4. The Intake Department verifies the financial benefits for all referrals and obtains authorization as appropriate. Please see Verification of Insurance Benefits Policy PR.002. The Intake Department obtains and documents financial approval with the Triumph hospital and communicates all final acceptances, e.g. clinical and financial, back to the referring hospital, referral physician and payor.
5. The Intake Department coordinates all transfer arrangements including bed assignment to the referral source. The Intake Department works with the Triumph CEO or their designee to insure that an attending physician has been secured prior to transfer.
6. After receiving confirmation that the patient will admit, the Intake Department provides notice to the Triumph hospital via email, fax, or hard copy of the patient's demographic and pre-admission screening information. The following hospital staff should receive copies of the pre-admission screening and admission notification:

    - Pharmacy
    - Rehab
    - Cardiopulmonary
    - Case Management
    - Administration
    - Nursing/CCO
    - Admitting office
    - Infection Control

- Medical Records

7. Intake Department is responsible for accurate data entry of all demographic and financial information into the referral database as well as the billing system.
8. The Nursing Manager/Nursing Supervisor will deliver the pre admission screen to the nursing
unit. The Unit Secretary or the Charge Nurse on the unit will have the responsibility of filing the tool in the patient's medical record. The pre admission screen is a permanent part of the medical record.

GREATER PEORIA SPECIALTY HOSPITAL, LLC

CHARITY CARE POLICY

I. **Definitions.** Except as otherwise defined herein, capitalized terms as used in this Charity Care Policy (the "**Policy**") shall have the meanings set forth in Section VI.

II. **Persons and Situations Applicable.** This Policy applies to individuals who may seek, or are offered Charity Care by Greater Peoria Specialty Hospital, LLC (the "**Company**").

III. **Disclosure of the Policy.** The Company shall advertise this Policy in different ways, including, but not limited to, in the following ways:

(A) Posters. The Company shall advertise the availability of Charity Care on poster-sized signage located in patient admission and waiting room areas. A toll-free phone number will be included.

(B) Brochures. The Company shall make available brochures outlining the Charity Care program, application process and toll-free telephone number at all patient registration desks and in all waiting room areas.

IV. **Policy Statement.** The policy of the Company is to provide Charity Care on a non-discriminatory basis to persons based on federal poverty guidelines, enhanced by 100%.

V. **Procedure.**

(A) Nondiscrimination. Individuals who may seek, or are offered, Charity Care shall be objectively and fairly evaluated for eligibility, regardless of race, ethnic background, national origin, creed, or personal, political or sexual orientation.

(B) Guidelines for Determining Eligibility.

1. If household income level is below 100% of the current Federal Poverty Guidelines, charity will be applied to the full balance owing on all non-elective Health Care Services provided to the individual.

2. If household income level is equal to 100%, but less than 200%, of the current Federal Poverty Guidelines, charity will be applied to the balance owing on all non-elective Health Care Services provided to the individual as follows:

% of Federal Poverty Guideline	% of Services qualifying for Charity
100%	100%
110%	90%
120%	80%
130%	70%
140%	60%
150%	50%
160%	40%
170%	30%
180%	20%
190%	10%
200%	5%

3. Sections V (B)1 and V (B)2 above are merely guidelines to determine eligibility for Charity Care. The Board of Managers of the Company may waive these guidelines at any time. The Board of Managers of the Company also reserves the right to approve or deny an application for Charity Care based on its reasonable assessment of the applicable facts and circumstances. Non-cooperation of the individual and/or family, filing of false or misleading information or intentional withholding of pertinent information will preclude eligibility for Charity Care. Only citizens of the United States and those with Work Visas will be considered for Charity Care.

(C) Procedure for Determining Eligibility. The Company will follow the procedures set forth below to determine eligibility for Charity Care:

1. At the time of admission or registration, or where feasible, prior to entry into the health care environment, the patient or responsible party will be presented with a Financial Assistance Form.

2. Patient or responsible party may request a Finance Assistance Form and guidelines for Charity Care at any time, i.e. prior to or at

the time of admission/registration, upon receipt of final bill or first statement and at any point during the collection process.

3. The Business Office Manager or his/her designee will interview the patient/responsible party and request the completed Financial Assistance Form to determine the need and eligibility for Charity Care.

4. The Company will determine eligibility for Charity Care:

   (a) Upon completion of all information on the Financial Assistance Form; and

   (b) Upon receipt of information verifying the accuracy of information documented on the Financial Assistance Form, i.e. copies of the current year's tax return, W-2 form or patient's social security summary benefits form.

(D) Delegation of Authority and Responsibility. The Company will delegate authority and responsibility to process and determine eligibility for Charity Care to the individuals within the Company identified below. The individuals to whom responsibility and authority are delegated shall be responsible for complete adherence to this Policy and to the collection and retention of records confirming their obtaining of all required information.

1. $0 to $2,000- Business Office Manager.

2. $2,001 to $20,000- Chief Financial Officer.

3. $20,000+- Chief Executive Officer.

(E) Notification of Determination. Notification of determination will be made to the patient/responsible party within forty-eight (48) hours of determination. Such determination shall be made in writing to the patient or responsible party.

(F) Supplementation and Modification of the Policy. This Policy shall be interpreted and, as necessary amended, by the Members of the Company to protect the interests of the Company and to comply with applicable law.

VI. **Definitions.**

"**Charity Care**" shall mean Health Care Services rendered due to the absence of sufficient financial resources to cover the costs of such Health Care Services without catastrophic affect upon the individual family in the absence of catastrophic health care coverage, and to those without third party insurance which precludes the ability of the individual to pay for such Health Care Services. Charges and services precluded from

consideration for Charity Care include private room, outpatient pharmaceuticals, elective cosmetic surgical procedures and any services not covered under Medicare and/or Medicaid within the State of Illinois, including supplies and equipment for home use as well as dental services.

"Health Care Services" shall mean services provided to the individual within the long-term acute care hospital environment for which global reimbursement is paid under the Medicare long-term acute care hospital prospective payment system or its successor payment system.

This Policy has been reviewed and approved by the Members as of December 20, 2007:

THE METHODIST MEDICAL CENTER OF ILLINOIS

By: W. Michael Bryant

Name: W Michael BryanT

Its: President & CEO

REHABCARE HOSPITAL HOLDINGS, L.L.C.

By: _____

Name: _____

Its: _____

consideration for Charity Care include private room, outpatient pharmaceuticals, elective cosmetic surgical procedures and any services not covered under Medicare and/or Medicaid within the State of Illinois, including supplies and equipment for home use as well as dental services.

"Health Care Services" shall mean services provided to the individual within the long-term acute care hospital environment for which global reimbursement is paid under the Medicare long-term acute care hospital prospective payment system or its successor payment system.

This Policy has been reviewed and approved by the Members as of December 20, 2007:

THE METHODIST MEDICAL CENTER OF ILLINOIS

By: _____

Name: _____

Its: _____

REHABCARE HOSPITAL HOLDINGS, L.L.C.

By: _____

Name: Donald A. Adam

Its: Senior Vice President

Page No

Kindred healthcare

ADMISSION REVIEW

1 of 2

Manual	Section	Policy Number
Management and Leadership	Case Management	H-ML 10-006

Effective Date: 01/2006

Supersedes or Revised Date: 11/2009

PURPOSE

Case Managers will review each admission to ensure that the patient's needs and treatment plan are medical necessity and appropriate for the LTAC setting.

POLICY

Case Managers will complete the initial (admission) review (using adopted decision support criteria) for appropriateness of LTAC admission and initiation of discharge planning.

PROCEDURE

1. Once the Case Manager becomes aware of admission (notificatior or census report), an initial review will be conducted within 2 business days.

2. All of the following components comprise the initial (admission) review

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- Initial assessment of patient's needs and treatment plan.
- Appropriateness of level of care and medical necessity of confinement.
- Anticipated discharge plan.
- Ensure treatment plan is coordinated.

3. Case Managers review the working DRG and expected LOS using GMLOS.
   - Contact attending physician as appropriate with pertinent queries to clarify documentation.
   - Communicate to coder pertinent documentation according to local practice.

4. If a case fails screening criteria, then the following steps will be taken:
   - Contact attending physician for additional information on patient's status and treatment plan.
   - Determine continued stay necessity.
   - Request physician to document above.

Title of Policy	Policy Number	Page No
Admission Review	H-ML 10-006	2 of 2

5. If a case still fails screening criteria, the Case Manager will refer case to Medical Director (Physician Advisor).

- Medical Director will make determination within 12 hours.
- Medical Director will confer with attending or examine patient and records.
- If Medical Director determines medical necessity, then continue review process.
- If Medical Director denies medical necessity and physician concurs, then a discharge order will be obtained.
- If Medical Director denies medical necessity and physician disagrees, then QIO HR (hospital requested) review with HINN process will be initiated.

6. Document the review by taking the following steps:
   - Complete admission review, document according to curren screening criteria guidelines in use (refer to H-ML 10-005 Decision Support Criteria Adoption P&P).
   - Document in the medical record discharge assessment and anticipated discharge plan.

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THE STATE OF IL

COUNTY OF Peoria PATIENT TRANSFER AGREEMENT

This Patient Transfer Agreement (this "Agreement") is made and entered into on this 20 day of July 2009, by and between Methodist Medical Center of Illinois and Greater Peoria Specialty Hospital, each individually referred to herein as "hospital", or "Transferring Hospital" if transferring a patient, or "Receiving Hospital" if receiving a patient, pursuant to the terms and conditions of this Agreement, and collectively as "hospitals".

RECITIALS

Whereas, the parties named above have determined that this agreement will promote good patient care through the expeditious transfer of patients between their hospitals; and

Whereas, the parties desire to fulfill their responsibilities under state and federal law with regard to the transfer of patients between hospitals; and

Whereas, the parties desire to provide a full statement of their agreement in connection with the transfer of patients between their hospitals;

NOW THEREFORE, in consideration of the mutual covenants and agreements of this contract, it is understood and agreed by and between the parties hereto as follows:

ARTICLE I

Purpose and Scope

1.01 The purpose of this Agreement is to facilitate the appropriate transfer of patients with an emergency medical condition and/or patients requiring special services that are unavailable at the Transferring Hospital.

1.02 This agreement does not provide nor is it meant to provide a private or public source of payment or assistance to eligible patients of the Transferring Hospital.

ARTICLE II

Terms Of Agreement

2.01 The agreement shall be for a period of one (1) year, commencing in the first day of the month following the date the agreement is executed by both parties, and shall be automatically renewed each year for additional one (1) year terms unless terminate as otherwise provided in this agreement.

2.02 This agreement may be terminated by either party without cause by giving thirty (30) days written notice to the other party of its intention to withdraw from the agreement. This agreement shall immediately terminate upon the occurrence of any of the following events:

a) Either hospital closes or discontinues operation to such an extent that patient care cannot be carried out adequately.

b) Either hospital loses its license or Medicare certification.

c) Either hospital is in default of any material terms of this agreement and has failed to cure such default within ten (10) days of receipt of written notice from the other party.

2.03 In the event this agreement is terminated for any reason, both parties agree to meet their obligations to any patients who are already involved in the transfer process on the date the agreement is finally terminated.

ARTICLE III

Definitions

3.01 The following definitions are applicable to this agreement:

a) **Capacity** means the ability of the **Receiving Hospital** to accommodate the individual requesting examination or treatment of the transferred individual. Capacity encompasses such things as numbers and availability of qualified staff, beds and equipment and the **Receiving Hospital's** past practices of accommodating additional patients in excess of its occupancy limits.

b) **Comes to the emergency department** means (with respect to an individual requesting examination or treatment) - that the individual is on the hospital property (property includes ambulances owned and operated by the hospital, even if the ambulance is not on the hospital grounds). An individual in a non-hospital owned ambulance on the hospital property is considered to have come to the hospital's emergency department. An individual in a non-hospital owned ambulance off the hospital property is not considered to have come to the hospital's emergency department, even if a member of the ambulance staff contacts the hospital by telephone or telemetry communications and informs the hospital staff that they want to transport the individual to the hospital for examination and treatment. In such situations, the **Receiving Hospital** may deny access if it is in "diversionary status," that is, it does not have the staff or facilities to accept any additional emergency patients. If, however, the ambulance staff disregards the **Receiving Hospital's** instructions and transports the individual on to the **Receiving Hospital** property, the individual is considered to have come to the emergency department.

c) **Emergency medical condition** means:

1. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances and/or symptoms of substance abuse) such that the absence of immediate medical attention could reasonably be expected to result in

   a. Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

   b. Serious impairment to bodily functions; or

   c. Serious dysfunction of any bodily organ or part; or

2. With respect to a pregnant woman who is having contractions
   a) That there is inadequate time to effect a safe transfer to another hospital before delivery, or
   b) That transfer may pose a threat to the health or safety o f the woman or the unborn child.

d) **Labor** means the process of childbirth beginning with the beginning with the latent or early phase of labor and continuing through the delivery of the placenta, a woman experiencing contractions is in true labor unless a physician certifies that, after a reasonable time of observation, the woman is in false labor.

e) **Mandated Provider** means a provider of health care services selected by a county, public hospital, or hospital district that agrees to provide health care services to eligible residents who are eligible for such services by having met income and resource requirements.

f) Stabilized means with respect to an **"Emergency Medical Condition"** as defined in this section under paragraph 1 of that definition, that no material deterioration of the condition is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility or, with respect to an **"emergency medical condition"** as defined in this section under paragraph 2 of that definition, that the woman has delivered the child and the placenta.

g) To stabilize means, with respect to an **"emergency medical condition"** as defined in this section under paragraph 1 of that definition, to provide such medical treatment of the condition necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility or that, with respect to an **"emergency medical condition"** as defined in this section under paragraph 2 of that definition. The woman has delivered the child and the placenta.

h) Transfer means the movement (including the discharge) of an individual outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such a movement of an individual who

1. has been declared dead, or

2. leaves the facility without the permission of any such person.

ARTICLE IV

Standards of Transfer

4.01 The hospitals agree that the transfer of a patient will not be predicated upon arbitrary, capricious, or unreasonable discrimination based upon race, religion, national origin, age, sex, physical condition, or economic status, and the transfer or receipt of patients in need of emergency care shall not be based upon the patient's inability to pay for services rendered by either hospital.

4.02 The hospitals recognize the right of an individual to request transfer into the care of a physician and a hospital of his own choosing; however, if a patient is transferred for economic reasons and the patient's choice is predicated upon or influenced by representations made by the transferring physician or hospital administration regarding the availability of medical care and hospital services at a reduced cost or no cost to the patient, the physician or hospital administration must fully disclose to the patient the eligibility requirements established by the patient's chosen physician or hospital.

4.03 The **Transferring Hospital** shall be responsible for accomplishing the transfer in a medically appropriate manner from physician to physician and from hospital by providing for:

a) Life Support. The use of medically appropriate life support measures which a reasonable and prudent physician in the same or similar locality exercising ordinary care would use to stabilize the patient prior to transfer and to sustain the patient during the transfer;

b) Personnel and Equipment. The provision of appropriate personnel and equipment which a reasonable and prudent physician in the same or similar locality exercising ordinary care would use for the transfer;

c) Records. The transfer of all necessary records (or copies thereof) for continuing patient care related to the emergency condition which the individual has presented that are available at the time of the transfer, including:
   1. a brief description of the patient's medical history and treatment;
   2. records related to the individual's emergency medical condition and physical assessment of the patient's condition, observations of signs or symptoms;
   3. preliminary working diagnosis;

4. results of diagnostic studies and lab tests;
5. pertinent x-ray films and reports;
6. the reason for transfer and the informed written consent to transfer or appropriate certification thereof ; and
7. the name and address of any on-call physician who has refused or failed to appear within a reasonable time to provide necessary stabilizing treatment. Other records (e.g., test results not yet available or historical records not readily available from the **Transferring Hospital's** files) must be sent as soon as practicable after transfer;

d) Availability of facilities, services, and staff. The consideration of the availability of appropriate facilities, services, and staff for providing care to the patient.

4.04 Mandate Providers. The hospitals will recognize and comply with the requirements of the Indigent Health Care and Treatment Act, Health and Safety Code, Chapter 61, relating to the transfer of patients to mandated providers.

ARTICLE V

Responsibilities of Transferring Hospital

5.01 General

a) **Medical Screening**. When an individual comes to the Emergency Center of the **Transferring Hospital**, or to any location on **Transferring Hospital** property, and a request is made on the individual's behalf for a medical examination or treatment, an appropriate medical screening examination, within the capabilities of the emergency department (including ancillary services routinely available to the emergency department), shall be provided by qualified medical personnel to determine whether an emergency medical condition exists, or with respect to a pregnant woman having contractions, whether the woman is in labor.

b) No Delay for Inquiry. A medical screening examination, stabilizing treatment, or appropriate transfer will not be delayed to inquire about the individual's method of payment or insurance status.

c) **Protection Against Retaliation**. A physician or qualified medical person will not be penalized or have adverse actions taken against him based on a refusal to authorize the transfer of an individual with an emergency medical condition that has not been stabilized.

5.02 **Evaluation of Individual Prior to Immediate Transfer.**

a) In the event of a potential need to transfer the individual, the individual shall be (1) evaluated by a physician who is on duty in the emergency department at the time the patient presents or is presented, or (2) evaluated by a physician on call who is physically able to reach the patient within 30 minutes after being informed that an individual who requires immediate medical attention is present at the **Transferring Hospital**. The physician on call must be available within 30 minutes by direct telephone or radio communication with authorized personnel at the **Transferring Hospital** who will assess and report the patient's condition to the physician.

5.03 **Transfer of Individuals Prior to Stabilization.** The **Transferring Hospital** may not transfer a patient with an emergency medical condition, which has not been stabilized unless:

a) **Written Transfer Request**. The patient or a legally responsible person acting on the patient's behalf, after being informed of the **Transferring Hospital's** obligations under this

section and of the risk of transfer, in writing requests transfer into the care of another physician and hospital;

b) **Physician Certification**. A licensed physician has signed a certification, which includes a summary of the risks and benefits, that, based on the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another hospital outweigh the increased risks to the patient (from effecting the transfer), and, in the case of labor, to the unborn child from effecting the transfer; or

c) **Non-physician Certification**. If a licensed physician is not physically present in the emergency department at the time a patient is transferred, a qualified medical person has signed a certification described in subsection 4.03 (b) after a licensed physician, in consultation with the person, has made the determination described in subsection 5.03 (b) and subsequently countersigns the certification within 24 hours.

5.04 **Transfer of Individuals After Stabilization**. The **Transferring Hospital** may transfer individuals after stabilization by appropriate means under the following circumstances:

a) **Specialized Treatment**. The individual requires specialized treatment, including but not limited to, treatment of acute brain, head, back and neck injuries, acute rehabilitative services, pediatric (trauma, neurological, rehabilitative, internal medicine, cardiology), orthopedic, otorhinolaryngologic, urology, or thoracic services not available at the **Transferring Hospital** and the **Receiving Hospital** with specialized facilities has the capacity in the specialized facility.

b) **Individual's Choice**. The individual requests to be transferred to a physician and a hospital of his or her choice.

5.05 **Additional Responsibilities**. The **Transferring Hospital** hereby further agrees to:

a) Recognize the right of a patient to refuse to give consent to treatment or transfer;

b) Notify the **Receiving Hospital's** designated representative prior to transfer to receive confirmation regarding the capacity of the **Receiving Hospital** to provide specialized facilities;

c) Provide, within the capabilities of the **Transferring Hospital**, appropriate personnel, equipment, and services to assist the transferring physician with the coordination and transfer of the patient.

d) Designate a person who has authority to represent the **Transferring Hospital** and coordinate the transfer of the patient from the **Transferring Hospital**;

e) Provide the **Receiving Hospital** any information that is available concerning the patient's coverage or eligibility under a third-party coverage plan, Medicare or Medicaid, or a health care assistance program established by the county, public hospital, or hospital district;

f) Complete, execute, and forward a Memorandum of Transfer form to the **Receiving Hospital** for every patient who is transferred which includes the following information:

(i) the patient's full name, if know;

(ii) the patient's race, religion, national origin, age, sex, physical handicap, if known;

(iii) the patient's address and next of kin, address, and phone number if known;

(iv) the names, telephone numbers and addresses of the transferring and receiving physicians;

(v) the names, addresses, and telephone numbers of the **Transferring** and **Receiving Hospitals;**

(vi) the time and date on which the patient first presented or was presented tot he transferring physician and **Transferring Hospital;**

(vii) the time and date on which the transferring physician secured a receiving physician;

(viii) the name, date, and time a hospital administrator was contacted in the **Receiving Hospital;**

(ix) signature, time and title of the **Transferring Hospital** administrator who contacted the **Receiving Hospital;**

(x) the certification required by Section 5.03 of this Agreement if applicable (the certification may be part of the memorandum of transfer form);

(xi) the time and date on which the receiving physician assumed responsibility for the patient;

(xii) the time and date on which the patient arrived at the **Receiving Hospital** (by Receiving Hospital);

(xiii) signature and date of **Receiving Hospital** administrator (by Receiving Hospital);

(xiv) type of vehicle and company used;

(xv) type of equipment and/or personnel needed in transfers;

(xvi) name and city of the **Receiving Hospital;**

(xvii) diagnosis by transferring physician; and

(xviii) attachments by **Transferring Hospital.**

g) Notify the **Receiving Hospital** of the estimated time of arrival of patient;

h) **Transferring Hospital** agrees to use its best efforts to encourage its patients not to bring their valuables with them when transferred.

i) **Transferring Hospital** agrees to accept the transfer back to the Transferring Hospital of those patients whose level of care becomes such that it is within the Transferring Hospital's capability to provide.

ARTICLE VI

Responsibilities of the Receiving Hospital

6.01 General

a) Provide, as promptly as possible, confirmation to **Transferring Hospital** regarding the availability of bed(s), appropriate facilities, services, and staff necessary to treat the patient and confirmation that the **Receiving Hospital** has agreed to accept transfer of the patient.

b) Provide, within the capabilities of the **Receiving Hospital**, appropriate personnel, equipment, and services to assist the receiving physician with he receipt and treatment of the patient transferred.

c) Designate a person (s) who has authority to represent the **Receiving Hospital** and coordinate the transfer and receipt of the patients into the hospital.

d) Upon request, provide current information concerning its eligibility standards and payment practices to the **Transferring Hospital** and patient.

e) Acknowledge any contractual obligations and comply with any statutory or regulatory obligations that might exist between patient and a designated provider.

f) Complete and execute that portion of the Memorandum of Transfer which pertains to **Receiving Hospital** and return to **Transferring Hospital**.

ARTICLE VII

Payment Provisions

7.01 All charges incurred with respect to any services performed by either hospital for patients received from the other hospital pursuant to this agreement shall be billed and collected by the hospital providing such services directly from the patient, third party coverage, Medicare or Medicaid, or other sources normally billed by the hospital.

ARTICLE VIII

Liability and Indemnification

8.01 Each of the parties hereto shall be responsible only for its own acts and omissions with respect to transfer or receipt of patients pursuant to this agreement.

ARTICLE IX

Insurance

9.01 Each hospital shall secure and maintain, or cause to be secured and maintained, with respect to hospital, during the term of this agreement, comprehensive general liability insurance, worker's compensation insurance, and professional liability insurance, or an equivalent self-insurance program, providing minimum limits of liability as follows:

Professional Liability: $1,000,000.00 per claim/occurrence and $3,000,000 in the annual aggregate.

Worker's Compensation and Employers' Liability Insurance covering its statutory and legal obligations for employee job related injuries or illnesses. Said policy shall provide for statutory benefits and contain minimum limits of liability of $500,000.00 per accident. Such policy shall be supplemented by an excess general liability umbrella policy with a minimum limit of liability of $5,000,000.

General Liability Insurance covering third party claims for bodily injury and property damage arising from the premises and operations of Contractor (including without limitation any clinic, office or other similar facilities independent of Hospital's facilities utilized by Contractor in providing services hereunder). Such policy shall contain minimum limits of liability of $1,000,000 per occurrence and $3,000,000 in the aggregate.

ARTICLE X

Dispute Resolution

10.01 Disputes involving patient care matters may be referred to a joint quality assurance committee, composed of representative of each hospital, for review and resolution of the dispute.

ARTICLE XI

Notice

11.01 Any notices to be given hereunder by either party to the other shall be effected in writing either by personal delivery or delivery by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing in paragraph 11.02 of this Agreement, until and unless such party changes the specified address by written notice to the other.

11.02 Notice shall be given to each of the parties at the following addresses:

The Methodist Medical Center
of Illinois
221 N. E. Glen Oak Avenue
Peoria, Illinois 61636
Attn: President and CEO

With copy to:
REHABCARE GROUP, INC.
7733 Forsyth Blvd., Suite 2300
St. Louis, MO 63105
Attn: General Counsel

ARTICLE XII

Governing Law

12.01 The validity of this Agreement and of any of its terms or provisions as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Missouri.

ARTICLE XIII

Legal Construction

13.01 In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

ARTICLE XIV

Assignment

14.01 This Agreement is not assignable by either party without the prior written consent of the other. Any assignment without such written consent shall be void and have no effect.

ARTICLE XV

Amendment

15.01 No provision of this Agreement shall be deemed waived , amended or modified by either party unless and until such waiver, amendment or modification is in writing and executed subsequent to the date of this Agreement by the party against whom it is sought to be enforced.

ARTICLE XVI

Entire Agreement

16.01 This Agreement supersedes any and all other Agreements either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other Agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

ARTICLE XVII

Execution and Submission For Approval

17.01 Each person signing this Agreement hereby represents that he/she is authorized to enter into this Agreement by the hospital for which he/she signing.

17.02 This Agreement shall be signed by the Chairman and Secretary of each party's governing body. Alternatively, either party may submit, as attachments to this Agreement, a document (e.g., resolution, policy) from the governing body, executed by both the Chairman and Secretary of the entity, delegating to the person whose signature appears below the authority to negotiate and adopt transfer agreements.

17.03 The Parties acknowledge that this Agreement must be approved by the Missouri Department of State Health Services (the "Department"), and agree that if the Department finds the Agreement deficient in any manner, the Parties will amend this Agreement to comply with Department requirements.

[SIGNATURE PAGE TO FOLLOW]

EXECUTED IN DUPLICATE ORIGINALS THE DATE FIRST WRITTEN ABOVE.

METHODIST MEDICAL CENTER OF ILLNIOS

BY: Deborah R Simon

NAME: Deborah R Simon

TITLE: Sr VP COO/CNO

GREATER PEORIA SPECIALTY HOSPITAL

BY: Kurt J. Sch

NAME: Kurt J. Schultz

TITLE: V.P. of Finance

ATTEST: _____

ATTEST: _____

APPROVED:

_____

NAME:
TITLE:

ATTACHMENT 19C

THIS PATIENT TRANSFER AGREEMENT (hereinafter "Agreement"), made and entered into this 1st day of October, 2009, by and between **Greater Peoria Specialty Hospital, LLC** (hereinafter "Hospital" or "Institution"), and HCR Healthcare, LLC (hereinafter "Facility" or "Institution").

WHEREAS, Hospital operates an acute inpatient hospital in the City of Peoria, State of Illinois; and

WHEREAS, Facility is engaged in the business of furnishing long-term health care services; and with Corporate Offices located at 333 North Summit St, Toledo, Ohio 43604 and sites in the following cities- Riverview, Peoria, Canton, Henry, Normal, Galesburg, Macomb, Champaingne, Moline, Paxton, and Decatur.

WHEREAS, Hospital and Facility have determined that it would be in the best interest of patient care to enter into a transfer agreement for transfer of patients between the respective institutions;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Hospital and Facility agree as follows:

1. Term. This Agreement shall commence on the day and year first above written and shall continue for a period of one (1) month, continuing from month to month thereafter unless sooner terminated by either Institution by 30 day written notification.

2. Purpose of Agreement. Subject to the terms of this Agreement, each Institution agrees to transfer to the other Institution and to receive from the other Institution patients in need of the care provided by such Institution for the purpose of providing improved patient care and continuity of patient care.

3. Patient Transfer. The need for transfer of a patient from one Institution to the other shall be determined by the patient's attending physician, and such determination shall be written in the patient's record by the attending physician. When such a determination has been made, the transferring Institution shall immediately notify the receiving Institution of the impending transfer. The receiving Institution agrees to admit the patient as promptly as possible, provided that admission requirements in accordance with federal and state laws and regulations are met, all conditions of eligibility for admission to the Institution are met and bed space and other resources are available to accommodate that patient. Prior to moving the patient, the transferring Institution must receive confirmation from the receiving Institution that it can accept the patient.

4. Provision of Information to Each Institution. Each Institution shall provide the other Institution with the names or classifications of persons authorized to initiate, confirm, and accept the transfer of patients on behalf of the receiving Institution. Each Institution shall state specifically where transferring patients are to be delivered at its premises. The Institutions agree to provide to each other information about the type of resources available to offer services and the type of patients and health conditions that the receiving Institution will accept.

5. Transfer and Referral Forms. The transferring Institution will send with each patient at the time of transfer, or in the case of an emergency, as promptly as possible, the completed transfer and referral forms as mutually agreed upon to provide the administrative information necessary to determine the appropriateness of the placement and to ensure continuity of patient care. The transfer and referral forms shall include such

each institution shall remain the property of the respective institution.

6. Personal Effects. The transferring Institution shall be responsible for the transfer or other appropriate disposition of personal effects, particularly money and valuables, and information related to these items.

7. Transfer Consent. The transferring Institution shall have responsibility for obtaining the patient's consent to the transfer to the other Institution prior to the transfer, if the patient is competent. If the patient is not competent, the transferring Institution shall obtain the consent of the patient's legal guardian or health care surrogate. If a guardian or health care surrogate has not been appointed, the transferring Institution shall obtain the consent of a family member. If such consent is not possible, the consent of the patient's physician shall be obtained by the transferring Institution.

8. Payment for Services. The patient is primarily responsible for payment for care received at either Institution and, prior to transfer, the patient shall be required, if competent, to acknowledge his or her obligation to pay for care received at the receiving Institution. Each Institution shall be responsible only for collecting its own payments for services rendered to a patient transferred pursuant to this Agreement. No clause of this Agreement shall be interpreted to authorize either Institution to look to the other Institution to pay for services rendered to a patient transferred pursuant to this Agreement, except to the extent that such liability would exist separate and apart from this Agreement.

9. Transportation of Patient. The transferring Institution shall have responsibility for arranging transportation of the patient to the other Institution. The transferring Institution shall arrange for appropriate and safe transportation and care of the patient during transfer in accordance with applicable federal and state laws. The receiving Institution's responsibility for the patient's care shall begin when the patient is admitted, either as an inpatient or an outpatient, to that Institution.

10. Services. When Hospital is the receiving Institution, it agrees to provide such radiology, other diagnostic and medical services, including emergency dental care, on an outpatient basis, as ordered by the patient's attending physician, subject to state and federal laws and regulations.

11. Social Work Services. The receiving Institution shall be responsible for the recognition of need for social work services and for prompt reporting to appropriate agencies when required by applicable laws and regulations.

12. Advertising and Public Relations. Neither Institution shall use the name of the other Institution in any promotional or advertising material unless review and approval of the intended advertisement shall first be obtained from the party whose name is to be used. Both Institutions shall deal with each other publicly and privately in an atmosphere of mutual respect and support, and each Institution shall maintain good public and patient relations and efficiently handle complaints and inquiries with respect to transferred or transferring patients.

13. Independent Contractor Status. Both Institutions are independent contractors. Neither Institution is authorized or permitted to act as an agent or employee of the other. Nothing in this Agreement shall in any way alter the freedom enjoyed by either Institution, nor shall it in any way alter the control of the management, assets, and affairs of the respective Institutions. Neither party, by virtue of this Agreement, assumes any liability for any debts or obligations of either a financial or a legal nature incurred by the other

A. Pursuant to subsection 1395x(V)(1)(A) of Title 42 of the United States Code, until the expiration of four (4) years after the termination of this Agreement, each Institution shall make available, upon request of the Comptroller General of the United States General Accounting Office, or any of its duly authorized representatives, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the costs of the services provided by such Institution under this Agreement.

B. Each Institution further agrees that in the event such Institution carries out any of its duties under this Agreement through a subcontract with a value or cost of TEN THOUSAND ($10,000.00) DOLLARS or more over a twelve (12) month period with a related organization, such contract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary of the United States Department of Health and Human Services, or upon request to the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of such subcontract and such books, documents and records of such organization as are necessary to verify the nature and extent of such costs.

15. Insurance. Each Institution shall secure and maintain at all times during the term of this Agreement, at its sole expense, professional liability insurance covering it and its staff in minimum amounts of $1,000,000 per incident and $3,000,000 aggregate per year with a reputable and financially viable insurance carrier, naming the other Institution as an additional insured. Each Institution shall provide the other with a certificate evidencing such insurance coverage within five (5) days after obtaining such coverage. Each Institution agrees to notify the other immediately of any material change in any insurance policy required to be maintained by it hereunder.

16. Liability. Each Institution shall be responsible for its own acts and omissions and shall not be responsible for the acts and omissions of the other Institution. Each Institution agrees to indemnify and hold harmless the other Institution from and against any and all liability, cost, loss and expense (including reasonable attorneys fees) that arise from or relate to any omission, fault, negligence or other misconduct by the indemnifying Institution, or its agents or employees in connection with this Agreement.

17. Confidentiality.

A. Each Institution recognizes and acknowledges that, by virtue of entering into this Agreement and providing services to patients hereunder, it will have access to certain information that is confidential and constitutes valuable, special and unique property of the parties hereto. Each Institution agrees that neither it nor any of its staff will at any time, either during or subsequent to the term of this Agreement, disclose to others, use, copy or permit to be copied, without the other Institution's express prior written consent, except pursuant to its duties hereunder, any confidential or proprietary information of such other Institution, including, but not limited to, information which concerns such other Institution's patients, costs, prices and treatment methods at any time used, developed or made by either Institution, and which is not otherwise available to the public.

B. Except for disclosure to their legal counsel, accountant, or financial advisors, neither of the Institutions nor any of the Institutions' personnel shall disclose the terms of this Agreement to any person who is not a party or signatory to this Agreement, unless disclosure thereof is required by law or otherwise authorized by this Agreement. **C.** Neither the Institutions nor any of the Institutions' personnel shall disclose to any third party, except where permitted or required by law, or where such disclosure is expressly approved by the other party

receiving treatment for alcohol or drug abuse, it is fully bound by the provisions of the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records (42 C.F.R. Part 2, as amended from time to time). In addition, if necessary, each Institution agrees to resist in judicial proceedings any effort to obtain access to such records or information except such access as is expressly permitted by the aforementioned federal regulations.

18. Non-Discrimination. Each Institution agrees to comply with Title VI of the Civil Right Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and all related regulations and other applicable laws, to ensure that it does not discriminate against any recipient of services hereunder on the basis of race, color, sex, creed, national origin, age or handicap, or on the basis that the recipient of services is eligible for Medicaid or Medicare coverage, under any program or activity receiving Federal financial assistance.

19. Effect of Termination. As of the effective date of termination of this Agreement, neither Institution shall have any further right or obligations hereunder except for rights and obligations accruing prior to such effective date of termination, or arising as a result of any breach of this Agreement.

20. Non-Exclusive Agreement. The parties to this Agreement acknowledge that it does not exclude either party from entering into similar arrangements with similarly situated institutions.

21. Nonwaiver. No waiver of any term or condition of this Agreement by either party shall be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of this Agreement.

22. Governing Law. This Agreement is made and entered into in the State of Illinois and shall be governed and construed in accordance with the laws of State of Illinois.

23. Assignment. This Agreement shall not be assigned in whole or in part by either Institution hereto without the express written consent of the other Institution.

24. Invalid Provision. In the event that any portion of this Agreement shall be determined to be invalid or unenforceable, the remainder of this Agreement shall be deemed to continue to be binding upon the parties hereto in the same manner as if the invalid or unenforceable provision were not a part of this Agreement.

25. Amendment. This Agreement may be amended at any time by a written agreement signed by the parties hereto.

26. Notices. Any notice required or allowed to be given hereunder shall be deemed to have been given upon deposit in the United States mail, registered or certified, with return receipt requested and addressed to the party to this Agreement to whom notice is given, at the address indicated at the beginning of this agreement, or to such other address as either party may designate in writing by notice.

27. Entire Agreement. This Agreement constitutes the entire agreement between the parties and contains all of the agreements between them with respect to the subject matter hereof and supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof.

and year first above written.

HOSPITAL: Greater Peoria	FACILITY: HCR Healthcare, LLC
By: [signature]	By: _____
Name: John Portmore	Name: _____
Title: VP Mgd Care	Title: _____

ATTACHMENT 19C

JPMORGAN CHASE BANK, N.A.
J.P. MORGAN SECURITIES LLC
383 Madison Avenue
New York, New York 10179

CITIGROUP GLOBAL MARKETS INC.
390 Greenwich Street
New York, New York 10013

MORGAN STANLEY SENIOR FUNDING, INC.
1585 Broadway
New York, New York 10036

February 7, 2011

Kindred Healthcare, Inc.
680 South Fourth Street
Louisville, Kentucky 40202

Attention: Donald H. Robinson

Project Baseball
$600.0 Million Senior Secured Asset-Based Revolving Facility
$700.0 Million Senior Secured Term Facility
$550.0 Million Senior Unsecured Bridge Facility
Commitment Letter

Ladies and Gentlemen:

You (the "Borrower" or "you") have advised J.P. Morgan Securities LLC ("JPMorgan"), JPMorgan Chase Bank, N.A. ("JPMorgan Chase Bank"), Citigroup Global Markets Inc. ("CGMI" and, together with Citibank, N.A., Citicorp North America, Inc. and/or any of their affiliates as may be appropriate to provide the services contemplated herein, "Citi") and Morgan Stanley Senior Funding, Inc. ("MSSF"; together with JPMorgan, JPMorgan Chase Bank and Citi, the "Commitment Parties," "we" or "us") that you (or one or more of your direct or indirect wholly owned subsidiaries) and RehabCare Group, Inc., a Delaware corporation (the "Target") intend to enter into a merger agreement dated as of the date hereof (the "Transaction Agreement") pursuant to which you (or one or more of your direct or indirect wholly owned subsidiaries) will merge with and into the Target, with you (or one or more of your direct or indirect wholly owned subsidiaries) continuing as the surviving corporation (the "Transaction"). The expected sources and uses of funding for the Transaction are described in the Sources and Uses Table (the "Table") attached hereto as Schedule I.

You have also advised us that you propose to finance the Transaction with Borrower common stock and cash. You have further advised us that you propose to finance up to $1,650.0 million of the cash portion of the Transaction consideration, refinancing of indebtedness of Borrower and Target and the related fees and expenses from the following sources: (a) $600.0 million from a senior secured asset-based revolving facility (the "ABL Facility") of the Borrower, of which no more than $400.0 million plus amounts to fund original issue discount or upfront fees in connection with the flex provisions of the Fee Letter, shall be drawn at closing, (b) $700.0 million from a senior secured term loan facility (the "Term Facility" and together with the ABL Facility, the "Senior Secured Credit Facilities") of the Borrower and (c) $550.0 million in cash proceeds from (A) the issuance by the Borrower of senior unsecured notes (the "Senior Notes" or "Securities") in a public offering or Rule 144A private placement and/or (B) in the event the Borrower does not issue the full amount of the Securities at or prior to the time the

Transaction is consummated, a senior bridge facility (the "Bridge Facility"; together with the Senior Secured Credit Facilities, the "Credit Facilities").

Each of JPMorgan, Citi and MSSF is pleased to advise you that it is willing to act as a joint lead arranger and joint bookrunner for the Credit Facilities, and, subject to the terms and conditions described in this Commitment Letter, each of JPMorgan Chase Bank, Citi and MSSF agree, severally and not jointly, to provide 50%, 25% and 25%, respectively, of the entire principal amount of each of the Credit Facilities. This Commitment Letter, the Summaries of Terms and Conditions attached as Exhibits A, B and C hereto (the "Term Sheets") and Exhibit D set forth the principal terms and conditions on and subject to which we are willing to make available the Credit Facilities.

It is agreed that JPMorgan, Citi and MSSF will act as the joint lead arrangers and joint bookrunners in respect of the Credit Facilities (in such capacities, the "Joint Lead Arrangers"; together with the Commitment Parties, the "Agents"), and that JPMorgan Chase Bank will act as the sole administrative agent in respect of the Credit Facilities. It is agreed that JPMorgan will have "left" placement, and Citi and MSSF will be listed in alphabetical order in any marketing materials or other documentation used in connection with the Credit Facilities. You agree that, as a condition to the commitments and agreements hereunder, no other agents, co-agents or arrangers will be appointed, no other titles will be awarded and no compensation (other than that expressly contemplated by the Term Sheets and the Fee Letter referred to below) will be paid in connection with the Credit Facilities unless you and we shall so agree.

We intend to syndicate the Credit Facilities to a group of lenders (together with JPMorgan Chase Bank, Citi and MSSF, the "Lenders") identified by us in consultation with you, it being understood that we will not syndicate to those persons identified by you in writing to the Joint Lead Arrangers (or to their affiliates) prior to the date hereof (or, if after the date hereof, only if the addition of such persons is reasonably acceptable to the Administrative Agent) (such persons, collectively (including their affiliates), the "Disqualified Institutions"). Notwithstanding any other provision of this Commitment Letter to the contrary, unless you and we so agree (a) no Commitment Party shall be relieved or novated from its obligations hereunder in connection with any syndication or assignment until after the Closing Date, (b) no such assignment or novation shall become effective with respect to any portion of any Commitment Party's commitment in respect of the Credit Facilities until the initial funding of the Credit Facilities on the Closing Date, and (c) unless the Borrower agrees in writing, each Commitment Party shall retain exclusive control over all rights and obligations with respect to its commitments, including all rights with respect to consents, modifications and amendments, until the Closing Date has occurred.

We intend to commence syndication efforts promptly, and you agree, from the date of this Commitment Letter to the earlier of 90 days after the Closing Date and a Successful Syndication actively to assist us in completing a syndication reasonably satisfactory to us. Such assistance shall include (a) your using commercially reasonable efforts to ensure that the syndication efforts benefit materially from your existing banking relationships and those of the Target (b) direct contact between senior management of the Borrower and the proposed Lenders (and your using commercially reasonable efforts to ensure such contact between senior management and non-legal advisors of the Target and the proposed Lenders, (c) as set forth in the next paragraph, assistance from the Borrower and its subsidiaries (and your commercially reasonable efforts to cause Target and its subsidiaries to assist) in the preparation of materials to be used in connection with the syndication (collectively, with the Term Sheets, the "Information Materials"), and (d) the hosting, with us and senior management of the Borrower and the use of commercially reasonable efforts to arrange the hosting, with us and senior management of the Target, of one or more meetings of prospective Lenders. Notwithstanding anything to the contrary contained in this Commitment Letter or the Fee Letter, neither the commencement nor completion of the syndication of the Credit Facilities shall constitute a condition precedent to the Closing Date.

You will assist us in preparing Information Materials, including Confidential Information Memoranda, for distribution to prospective Lenders by posting on IntraLinks or another similar electronic system (the "Platform") (with JPMorgan's name appearing on the left hand side of any Information Materials and other documentation used in connection with the Credit Facilities and JPMorgan holding the leading role and responsibilities associated with such left placement including maintaining physical books in respect of the Credit Facilities). You also will assist us in preparing an additional version of the Information Materials (the "Public-Side Version") to be used by prospective Lenders' public-side employees and representatives ("Public-Siders") who do not wish to receive material non-public information (within the meaning of United States federal securities laws) with respect to the Borrower, the Target, the Borrower's affiliates and any of their respective securities ("MNPI") and who may be engaged in investment and other market related activities with respect to any such entity's securities or loans. Before distribution of any Information Materials, you agree to execute and deliver to us (i) a letter in which you authorize distribution of the Information Materials to a prospective Lender's employees willing to receive MNPI ("Private-Siders") and (ii) a separate letter in which you authorize distribution of the Public-Side Version to Public-Siders and represent that no MNPI is contained therein. Each Confidential Information Memorandum shall exculpate us with respect to any liability related to the use of the content of such Confidential Information Memorandum or any related marketing material by the recipients thereof. You also acknowledge that Public-Siders employed by the Joint Lead Arrangers or their respective affiliates, consisting of publishing debt analysts, may participate in any public side meetings or telephone conference calls held pursuant to clause (d) of the immediately previous paragraph; provided that such analysts shall not publish any information obtained from such meetings or calls until the syndication of the Credit Facilities has been completed upon making of allocations by the Joint Lead Arrangers and the Joint Lead Arrangers freeing the Credit Facilities to trade.

The Borrower agrees that the following documents may be distributed to both Private-Siders and Public-Siders, including through a Platform designated "Public-Siders", unless the Borrower advises the Joint Lead Arrangers in writing (including by email) within a reasonable time prior to their intended distribution that such materials should only be distributed to Private-Siders: (a) administrative materials prepared by the Agents for prospective Lenders (such as a lender meeting invitation, lender allocation, if any, and funding and closing memoranda), (b) notification of changes in the terms of the Credit Facilities and (c) other materials intended for prospective Lenders after the initial distribution of Information Materials. If you advise us that any of the foregoing should be distributed only to Private-Siders, then Public-Siders will not receive such materials without further discussions with you.

The Borrower hereby authorizes the Commitment Parties to distribute drafts of definitive documentation with respect to the Credit Facilities to Private-Siders and Public-Siders.

The Joint Lead Arrangers, will manage, in consultation with you, all aspects of the syndication, including decisions as to the selection of institutions to be approached and when they will be approached, when their commitments will be accepted, which institutions will participate, the allocation of the commitments among the Lenders and the amount and distribution of fees among the Lenders. The Joint Lead Arrangers will have no responsibility other than to arrange the syndication as set forth herein and in no event shall be subject to any fiduciary or other implied duties. Additionally, the Borrower acknowledges and agrees that none of the Joint Lead Arrangers is advising the Borrower as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. In addition, you acknowledge that Morgan Stanley & Co. Incorporated, an affiliate of MSSF, has been retained by you as financial advisor in connection with the Acquisition. The Borrower shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Joint Lead Arrangers shall not have any responsibility or liability to the Borrower with respect thereto.

To assist us in our syndication efforts, you agree promptly to prepare and provide to us (and use commercially reasonable efforts to cause the Target to provide to us) all information with respect to the Borrower and its subsidiaries, the Target, the Transaction and the other transactions contemplated hereby, including all financial information and projections (the "Projections"), as we may reasonably request in connection with the arrangement and syndication of the Credit Facilities. You hereby represent and covenant that (a) all written information concerning the Borrower and its subsidiaries and, to your knowledge, the Target and its subsidiaries (including the Information Materials), other than the Projections and other forward looking information and information of a general economic or industry-specific nature, that will be made available by you or any of your representatives pursuant to the immediately preceding sentence (the "Information") is or will be, when furnished, taken as a whole, complete and correct in all material respects and does not or will not, when furnished, taken as a whole, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made and (b) the Projections that have been or will be made available to us by you or any of your representatives have been or will be prepared in good faith based upon assumptions you believed to be reasonable at the time made; it being recognized by the Lenders that such Projections are as to future events and are not to be viewed as facts and are subject to significant uncertainties and contingencies many of which are beyond your control, and that actual results during the period or periods covered by any such Projections may differ significantly from the projected results and such differences may be material. You agree that if prior to the earlier of (x) 90 days after the Closing Date and (y) a Successful Syndication (as defined in the Fee Letter) you become aware that any of the representations and warranties in the preceding sentence would be incorrect if the Information and the Projections were then being furnished, and such representations were then being made, then you will promptly supplement the Information and the Projections such that (with respect to the Information relating to the Borrower and its subsidiaries and, to the best of your knowledge, the Target and its subsidiaries) such representations and warranties are correct under those circumstances. You understand that in arranging and syndicating the Credit Facilities we may use and rely on the Information and Projections without independent verification thereof.

As consideration for the commitments and agreements of the Commitment Parties hereunder, you agree to cause to be paid, on the terms and subject to the conditions set forth therein, the nonrefundable fees described in that certain Fee Letter between you and the Commitment Parties, dated as of the date hereof and delivered herewith (the "Fee Letter").

Each Commitment Party's commitments and agreements hereunder are subject to the conditions set forth Exhibit D. The conditions to availability of the commitments and other obligations hereunder and of the Credit Facilities are limited to those set forth herein, in the Term Sheets and Exhibit D. Those matters that are not covered by the provisions hereof and of the Term Sheets are subject to the approval and agreement of the Commitment Parties and the Borrower.

Notwithstanding anything in this Commitment Letter (including each of the exhibits attached hereto), the Fee Letter, the definitive documentation with respect to the Credit Facilities (the "Credit Documentation") or any other letter agreement or other undertaking concerning the financing of the Transaction to the contrary, (i) the only representations relating to the Borrower, the Target, its and their respective subsidiaries and its and their respective businesses the accuracy of which shall be a condition to the availability of the Credit Facilities on the Closing Date shall be (A) such of the representations made by the Target in the Transaction Agreement as are material to the interests of the Lenders, but only to the extent that the Borrower or one of its subsidiaries has the right to terminate its obligations under the Transaction Agreement as a result of a breach of such representations in the Transaction Agreement (to such extent, the "Specified Transaction Agreement Representations") and (B) the Specified Representations (as defined below) made by the Borrower and the Guarantors (as defined in the Term Sheets) in the

Credit Documentation, and (ii) the terms of the Credit Documentation shall be in a form such that they do not impair the availability of the Credit Facilities on the Closing Date if the conditions set forth in this Commitment Letter and in the Term Sheets and Exhibit D are satisfied (it being understood that, to the extent any security interest in any Collateral (as defined in the Term Sheets) is not or cannot be provided and/or perfected on the Closing Date (as defined in the Term Sheets) (other than the pledge and perfection of the security interests (1) in the equity securities of any subsidiaries of the Borrower (to the extent required by the Term Sheets) and (2) in other assets with respect to which a lien may be perfected by the filing of a financing statement under the Uniform Commercial Code) after your use of commercially reasonable efforts to do so, then the provision and/or perfection of a security interest in such Collateral shall not constitute a condition precedent to the availability of the Credit Facilities on the Closing Date, but instead shall be required to be delivered after the Closing Date pursuant to arrangements and timing to be mutually agreed by the Administrative Agent (as defined in the Term Sheets) and the Borrower acting reasonably (and in any event within 90 days after the Closing Date or such longer period as may be reasonably agreed by the Administrative Agent). For purposes hereof, "Specified Representations" means the representations and warranties of the Borrower and the Guarantors set forth in the Credit Documentation relating to requisite power and authority, due authorization, execution, delivery and enforceability, in each case, related to, the entering into and performance of the Credit Documentation; solvency as of the Closing Date (after giving effect to the Transaction) of the Borrower and its subsidiaries on a consolidated basis; that the entering into and performance of the Credit Facilities will not conflict with organizational documents or laws; Federal Reserve margin regulations; the Investment Company Act; PATRIOT Act; subject to the parenthetical in the immediately preceding sentence, creation, validity and perfection of security interests in the Collateral; and the status of the ABL Facility and Term Facility and the guarantees thereof as senior debt. This paragraph, and the provisions herein, shall be referred to as the "Closing Date Conditions Provisions".

You agree (a) to indemnify and hold harmless each Commitment Party, its affiliates, directors, employees, advisors, and agents (each, an "indemnified person") from and against any and all losses, claims, damages and liabilities to which any such indemnified person may become subject arising out of or in connection with this Commitment Letter, the Credit Facilities, the use of the proceeds thereof, the Transaction or any related transaction or any claim, litigation, investigation or proceeding relating to any of the foregoing, regardless of whether any indemnified person is a party thereto, and to reimburse each indemnified person upon demand for any legal or other expenses incurred in connection with investigating or defending any of the foregoing; provided that the foregoing indemnity will not, as to any indemnified person, apply to losses, claims, damages, liabilities or related expenses to the extent they are found by a final, non-appealable judgment of a court to arise from the willful misconduct, bad faith or gross negligence of such indemnified person, and (b) whether or not the Transactions are consummated, to reimburse each Commitment Party and its affiliates on demand for all reasonable and invoiced out-of-pocket expenses (including due diligence expenses, syndication expenses, consultant's fees and expenses, travel expenses, and reasonable fees, charges and disbursements of counsel) incurred in connection with the Credit Facilities and any related documentation (including this Commitment Letter and the definitive financing documentation) or the administration, amendment, modification or waiver thereof. You acknowledge that information and documents relating to the Credit Facilities may be transmitted through SyndTrak, Intralinks, the internet, e-mail, or similar electronic transmission systems, and, notwithstanding anything herein to the contrary, no indemnified person shall be liable for any damages arising from the use by others of Information or other materials obtained through electronic, telecommunications or other information transmission systems (except to the extent arising from the gross negligence of such indemnified person) or for any special, indirect, consequential or punitive damages in connection with the Credit Facilities.

Each Commitment Party shall use all non-public information provided to it by or on behalf of you hereunder or in connection with the transactions contemplated hereunder solely for the purpose of providing the services that are the subject of this Commitment Letter and shall treat confidentially all such information, except in each case for information that was or becomes publicly available other than by reason of disclosure by such Commitment Party in violation of this Commitment Letter or was or becomes available to such Commitment Party or its affiliates from a source which is not known by such Commitment Party to be subject to a confidentiality obligation to the Borrower, provided that nothing herein shall prevent such Commitment Party from disclosing any such information (i) to rating agencies, (ii) to any Lenders, assignees or participants or prospective lenders, assignees or participants (other than, in the case of assignees or prospective assignees, Disqualified Institutions), (iii) pursuant to the order of any court or administrative agency or in any pending legal or administrative proceeding (in which case such Commitment Party agrees to promptly notify you to the extent lawfully permitted to do so), (iv) upon the request or demand of any regulatory authority having jurisdiction over such Commitment Party or any of its affiliates, (v) to such Commitment Party's employees, legal counsel, independent auditors and other experts or agents who need to know such information and are informed of the confidential nature of such information, (vi) to any of its affiliates (with such Commitment Party being responsible for such affiliate's compliance with this paragraph), (vii) to any other Commitment Party and (viii) for purposes of establishing a "due diligence" defense. This undertaking by each Commitment Party shall automatically terminate on the earlier of (x) one year following the Closing Date or the termination of such Commitment Party's commitments hereunder or (y) two years from the date hereof. The provisions contained in this paragraph shall remain in full force and effect notwithstanding the termination of this Commitment Letter.

You acknowledge that each Commitment Party and its affiliates (the term "Commitment Party" as used below in this paragraph being understood to include such affiliates) may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which you may have conflicting interests regarding the transactions described herein and otherwise. No Commitment Party will use confidential information obtained from you by virtue of the transactions contemplated hereby or its other relationships with you in connection with the performance by such Commitment Party of services for other companies, and no Commitment Party will furnish any such information to other companies. You also acknowledge that no Commitment Party has any obligation to use in connection with the transactions contemplated hereby, or to furnish to you, confidential information obtained from other companies. You further acknowledge that each Commitment Party is a full service securities firm and may from time to time effect transactions, for its own or its affiliates' account or the account of customers, and hold positions in loans, securities or options on loans or securities of the Borrower and its affiliates and of other companies that may be the subject of the transactions contemplated by this Commitment Letter. You further acknowledge and agree that (a) no fiduciary, advisory or agency relationship between you and the Agents is intended to be or has been created in respect of any of the transactions contemplated by this Commitment Letter, irrespective of whether any Agent has advised or is advising you on other matters, (b) the Agents on the one hand, and you, on the other hand, have an arm's-length business relationship that does not directly or indirectly give rise to, nor do you rely on, any fiduciary duty on the part of the Agents, (c) you are capable of evaluating and understanding, and you understand and accept, the terms, risks and conditions of the transactions contemplated by this Commitment Letter and (d) you have been advised that the Agents are engaged in a broad range of transactions that may involve interests that differ from your interests and that no Agent has an obligation to disclose such interests and transactions to you by virtue of any fiduciary, advisory or agency relationship.

Each Agent may employ the services of its affiliates in providing certain services hereunder and, in connection with the provision of such services, may exchange with such affiliates information concerning you and the other companies that may be the subject of the transactions contemplated by

this Commitment Letter, and, to the extent so employed, such affiliates shall be entitled to the benefits afforded such Agent hereunder. You also agree that each Agent may at any time and from time to time assign all or any portion of its commitments hereunder to one or more of its affiliates; *provided* that such Agent will not be relieved of all or any portion of their commitments hereunder prior to the initial funding of the Credit Facilities.

This Commitment Letter shall not be assignable by you without the prior written consent of each Agent (and any purported assignment without such consent shall be null and void), is intended to be solely for the benefit of the parties hereto and is not intended to confer any benefits upon, or create any rights in favor of, any person other than the parties hereto and the indemnified persons. This Commitment Letter may not be amended or waived except by an instrument in writing signed by you and each Agent. This Commitment Letter may be executed in any number of counterparts, each of which shall be an original, and all of which, when taken together, shall constitute one agreement. Delivery of an executed signature page of this Commitment Letter by facsimile transmission or electronic ".pdf" file shall be effective as delivery of a manually executed counterpart hereof. This Commitment Letter and the Fee Letter are the only agreements that have been entered into among us with respect to the Credit Facilities and set forth the entire understanding of the parties with respect thereto.

This Commitment Letter shall be governed by, and construed and interpreted in accordance with, the laws of the State of New York. Each party hereto consents to the exclusive jurisdiction and venue of the state or federal courts located in the Borough of Manhattan in the City of New York with respect to any action, suit or proceeding in connection with this Commitment Letter and the Fee Letter, and agrees not to bring or support any such action, suit or proceeding in any other court. Each party hereto irrevocably waives, to the fullest extent permitted by applicable law, (a) any objection that it may now or hereafter have to the laying of venue of any such legal proceeding in the state or federal courts located in the City of New York and (b) any right it may have to a trial by jury in any suit, action, proceeding, claim or counterclaim brought by or on behalf of any party related to or arising out of this Commitment Letter, the Term Sheets, the transactions contemplated hereby or the performance of services hereunder.

This Commitment Letter is delivered to you on the understanding that neither this Commitment Letter, the Term Sheets or the Fee Letter nor any of their terms or substance shall be disclosed, directly or indirectly, to any other person (including, without limitation, other potential providers or arrangers of financing) except (a) to your officers, directors, agents, attorneys and advisors and, on a confidential basis, those of the Target, who are directly involved in the consideration of this matter (except that the Fee Letter may be disclosed to the Target; provided that any disclosure of the Fee Letter or its terms or substance to the Target shall be redacted in respect of (i) the amounts, percentages and basis points of fees set forth in numbered paragraphs 1 through 4 thereof and (ii) the "flex" provisions set forth in paragraph 5 thereof relating to pricing of the Credit Facilities, and paragraph 6 and the related "Total Cap" paragraph thereof, in each case in a manner reasonably satisfactory to the Commitment Parties); (b) as may be compelled in a judicial or administrative proceeding or as otherwise required by law (in which case you agree to inform us promptly thereof, to the extent permitted by law), (c) this Commitment Letter and the Term Sheets may be disclosed in any proxy or other public filing relating to the Transaction and in any prospectus or offering memorandum relating to the Securities, (d) the fees contained in the Fee Letter may be disclosed as part of a generic disclosure of aggregate sources and uses related to fee amounts to the extent required in marketing materials, any proxy or other public filing or any prospectus or other offering memorandum and (e) this Commitment Letter and the Term Sheets may be disclosed to rating agencies in connection with obtaining ratings for the Borrower and the Credit Facilities.

The compensation, reimbursement, indemnification and confidentiality provisions contained herein and in the Fee Letter and any other provision herein or therein which by its terms expressly survives the termination of this Commitment Letter shall remain in full force and effect regardless of whether definitive financing documentation shall be executed and delivered and notwithstanding the termination of this Commitment Letter or the commitments hereunder; provided, however, that the indemnification provisions contained in the Credit Documentation shall supersede your indemnification obligations hereunder.

We hereby notify you that pursuant to the requirements of the U.S.A. Patriot Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001) (the "Patriot Act"), we are and each other Lender is required to obtain, verify and record information that identifies the Borrower, which information includes the name, address, tax identification number and other information regarding the Borrower that will allow any of us or such Lender to identify the Borrower in accordance with the Patriot Act. This notice is given in accordance with the requirements of the Patriot Act and is effective as to us and each Lender.

If the foregoing correctly sets forth our agreement, please indicate your acceptance of the terms hereof and of the Term Sheets and the Fee Letter by returning to us executed counterparts hereof and of the Fee Letter not later than 11:59 p.m., New York City time, on February 7, 2011. This offer will automatically expire at such time if we have not received such executed counterparts in accordance with the preceding sentence. In the event that the borrowing in respect of the Term Facility and/or ABL Facility does not occur on or before the earlier of (i) September 30, 2011 (the "End Date"), and (ii) the time at which the Transaction Agreement has been irrevocably terminated, then this Commitment Letter and the commitments and undertakings of each of the Agents hereunder shall automatically terminate unless each of them shall, in their discretion, agree to an extension. In addition, the commitments with respect to the Bridge Facility shall be reduced by the amount of cash proceeds of Securities or other Takeout Securities (as defined in the Fee Letter) that are issued after the date hereof.

We are pleased to have been given the opportunity to assist you in connection with this important financing.

Very truly yours,

J.P. MORGAN SECURITIES LLC

By: _____
Name: Andreas Petrou-Sakkos
Title: Vice President

JPMORGAN CHASE BANK, N.A.

By: _____
Name: **Dawn LeeLum**
Title: **Executive Director**

CITIGROUP GLOBAL MARKETS INC.

By: _____

Name: Tom Cole
Title: Managing Director

MORGAN STANLEY SENIOR FUNDING, INC.

By: _____

Name: Christy Silvester

Title: Executive Director

Accepted and agreed to as of
the date first above written:

KINDRED HEALTHCARE, INC.

By: Donald H. Robinson

Name: Donald H. Robinson
Title: Senior Vice President, Tax and Treasurer

SOURCES AND USES TABLE

Sources:	
Borrower equity issued to Target shareholders	$ 227,600,000[1]
Term Loans	700,000,000
Loans under the ABL Facility	350,000,000[2]
Securities or Bridge Loans	550,000,000
Total Sources	**$1,827,600,000**

Uses:	
Purchase Target	$ 885,000,000[3]
Buyout of Target NCI	$ 20,900,000[4]
Refinance Borrower and Target debt	798,700,000[5]
Payment of financing fees and expenses	123,000,000
Total Uses	**$1,827,600,000[6]**

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1 Dollar amount based on an issuance of a fixed number of shares at a price determined at market close on February 1, 2011 and subject to change on the date the Transaction is consummated.

2 Maximum draw at closing is $400.0 million, plus additional amounts to cover OID flex on Term Facility.

3 Dollar amount based on an issuance of a fixed number of shares at a price determined at market close on February 1, 2011 and subject to change on the date the Transaction is consummated.

4 May be disbursed after the Closing Date subject to the terms of the Transaction Agreement.

5 Represents the maximum amount to be repaid (subject to footnote 6 below).

6 Amounts drawn under the ABL Facility on the Closing Date in excess of $350.0 million, subject to footnote 2 above, will be used to refinance current indebtedness and/or pay financing fees, and any such additional draw may increase the total uses.

EXHIBIT A

TERM FACILITY
Summary of Terms and Conditions[7]

Set forth below is a statement of the terms and conditions for the Term Facility to be used to finance a portion of the Transaction:

Borrower:	Kindred Healthcare, Inc. (the "Borrower").
Guarantors:	The Borrower's direct and indirect, existing and future, wholly-owned domestic subsidiaries, other than (i) domestic subsidiaries of foreign subsidiaries to the extent a guarantee by any such restricted subsidiary is not permitted by law or would result in material and adverse tax consequences, (ii) unrestricted subsidiaries, and (iii) Cornerstone Insurance Company (collectively, the "Term Guarantors"; the Borrower and the Term Guarantors, collectively, the "Term Loan Parties"). Any guarantees to be issued in respect of the ABL Facility or the Senior Notes shall be pari passu in right of payment with the obligations under the guarantees of the Term Guarantors.
Joint Lead Arrangers and Joint Bookrunners:	JPMorgan, Citi and MSSF (in such capacity, the "Term Arrangers").
Co-Syndication Agents:	Citi and MSSF will act as co-syndication agents for the Term Facility.
Administrative Agent:	JPMorgan Chase Bank (in such capacity, the "Term Administrative Agent").
Lenders:	A syndicate of banks, financial institutions and other entities, including JPMorgan Chase Bank, Citi and MSSF, arranged by the Term Arrangers (collectively, the "Term Lenders").

[7] All capitalized terms used but not defined in the Exhibits to the Commitment Letter have the meanings given to them in the Commitment Letter to which they are attached, including the Exhibits thereto and the Annexes to the Fee Letter referenced in the Exhibits. In the event any such capitalized term is subject to multiple and differing definitions, the appropriate meaning thereof in an Exhibit shall be determined by reference to the context in which it is used.

Term Facility

Type and Amount:	A seven-year term loan facility (the "Term Facility") in the amount of up to $700.0 million (the loans thereunder, the "Term Loans"). The Term Loans shall be repayable in equal quarterly installments of 1.00% of the original principal amount per year with the balance thereof payable on the date that is the seventh anniversary of the Closing Date (the "Maturity Date").
Availability:	The Term Loans shall be made in a single drawing on the Closing Date (as defined below).
Documentation Considerations:	The Term Facility Documentation (as defined below) shall contain the terms set forth in this Term Sheet and other terms customary for facilities of this type, subject to materiality thresholds, baskets and exceptions to be agreed (giving due regard to then prevailing market conditions and the operational requirements of the Borrower and its subsidiaries in light of their size, industry and practices and the Projections and model dated as of January 2011(the "Model") provided by the Borrower to the Joint Lead Arrangers (the "Documentation Considerations")).
Purpose:	The proceeds of the Term Loans shall be used to finance the Transaction, repay the debt of Target and the Borrower, and to pay fees and expenses related thereto.
Incremental Term Facility	The Term Facility will permit the Borrower to add one or more incremental term loan facilities to the Term Facility (each, an "Incremental Term Facility") in an aggregate amount, together with the aggregate amount of outstanding loans and/or commitments under all Incremental ABL Facilities (as defined in Exhibit B), not to exceed $150.0 million; provided that (i) no existing Term Lender will be required to participate in any such Incremental Term Facility without its consent, (ii) no event of default under the Term Facility would exist after giving effect thereto, (iii) the representations and warranties in the Term Facility Documentation (as defined below) shall be accurate in all material respects, (iv) on a pro forma basis after giving effect to the incurrence of any such Incremental Term Facility (and after giving effect to any acquisition consummated simultaneously therewith and all other appropriate pro forma adjustment events), (a) the Borrower is in pro forma compliance under the Term Facility Documentation with the financial covenants and (b) the ratio of senior secured indebtedness to EBITDA of the Borrower (in each case defined in a manner to be agreed) does not exceed 2.5x, in each case, recomputed as of the last day of the most recently ended

fiscal quarter of the Borrower for which financial statements are available, (v) the maturity date of any such Incremental Term Facility shall be no earlier than the Maturity Date and the weighted average life of such Incremental Term Facility shall be no shorter than the then remaining weighted average life of the Term Facility, (vi) the interest rate margins and (subject to clause (v)) amortization schedule applicable to any Incremental Term Facility shall be determined by the Borrower and the lenders thereunder; provided that to the extent the yield (to be defined to include all upfront fees (other than fees exclusively paid to the lead arrangers of the Term Facility or any Incremental Term Facility) and OID based on a 4-year weighted average life) on such Incremental Term Facility exceeds the yield (defined in the same manner) on the Term Facility by more than 0.50%, then the interest margins for the Term Facility shall be increased to the extent required so that the yield on such Incremental Term Facility shall not exceed the yield on the Term Facility by more than 0.50%, (vii) any LIBOR/ABR floors applicable to any Incremental Term Facility shall be no higher than the LIBOR/ABR floors applicable to the Term Facility and (viii) any Incremental Term Facility shall be on terms and pursuant to documentation to be determined; provided that, to the extent such terms and documentation are not consistent with the Term Facility (except to the extent permitted by clauses (v) and (vi) above), they shall be reasonably satisfactory to the Term Administrative Agent.

The Borrower may seek commitments in respect of the Incremental Facilities from existing Term Lenders (each of which shall be entitled to agree or decline to participate in its sole discretion) and additional banks, financial institutions and other institutional lenders or investors who will become Term Lenders in connection therewith ("Additional Lenders"); provided that the Term Administrative Agent shall have consent rights (not to be unreasonably withheld) with respect to such Additional Lender, if such consent would be required under the heading "Assignments and Participations" for an assignment of Term Loans to such Additional Lender.

Fees and Interest Rates: As set forth on Annex I to the Fee Letter.

Optional Prepayments and Commitment Reductions: Term Loans may be prepaid by the Borrower in minimum amounts to be agreed upon without premium or penalty. Optional prepayments of the Term Loans shall be applied

as specified by the Borrower. Optional prepayments of the Term Loans may not be reborrowed.

Mandatory Prepayments: The following amounts shall be applied to prepay the Term Loans:

(a) 100% of the net cash proceeds from any issuance of preferred stock or incurrence of indebtedness after the Closing Date by the Borrower or any of its restricted subsidiaries, except for proceeds of Takeout Securities to the extent applied to repay the Bridge Facility and subject to an exception for permitted debt; provided that the net cash proceeds of any such issuance of preferred stock or incurrence of indebtedness will be applied first to repay any outstanding obligations of the Borrower in respect of the Bridge Facility.

(b) 100% of the net cash proceeds of any sale or other disposition (including as a result of casualty or condemnation) by the Borrower or any of its restricted subsidiaries of any assets, other than net cash proceeds of any sale or other disposition reinvested (or contractually committed to reinvest) in assets to be used in the business of the Borrower and its subsidiaries within 360 days of such sale or disposition (provided that any such contractually committed reinvestment shall be consummated no later than the 450th day following such sale or disposition), and subject to certain other customary exceptions to be agreed upon.

(c) 50% of Excess Cash Flow (to be defined in a manner to be agreed) for each fiscal year of the Borrower (commencing with the 2011 fiscal year) subject to stepdowns to 25% and 0% of Excess Cash Flow when the Borrower's total adjusted leverage ratio (defined in a manner to be agreed, but generally defined as set forth under "Financial Covenants") is at levels to be agreed.

Mandatory prepayments of the Term Loans shall be applied first to scheduled installments thereof occurring within the next 12 months in direct order of maturity and second ratably to the remaining respective installments thereof. Mandatory prepayments of the Term Loans may not be reborrowed.

Security The obligations of each Term Loan Party in respect of the Term Facility shall be secured by (i) a perfected first priority security interest in all of the Loan Parties' tangible and intangible assets (including, without limitation, intellectual property, owned real property and all of the capital stock of the Borrower and each of its direct and indirect subsidi-

aries (limited, in the case of foreign subsidiaries, to 66% of the capital stock of first tier foreign subsidiaries to the extent a pledge of a greater percentage could reasonably be expected to result in material adverse tax consequences and except to the extent non-US law documentation would be required, and excluding Cornerstone and equity interests in partnerships and joint ventures to the extent a pledge of interests therein is not permitted by contract applicable to such partnership or joint venture) except for (i) the ABL Facility Collateral (as defined in Exhibit B), (ii) any leasehold interests and (iii) those assets as to which the Term Administrative Agent shall determine in its reasonable discretion that the cost of obtaining such a security interest are excessive in relation to the value of the security to be afforded thereby (such collateral, the "Term Facility Collateral"), and (b) a perfected second priority security interest in the ABL Facility Collateral.

A customary intercreditor agreement will be entered into by the Term Administrative Agent and the ABL Administrative Agent (as defined in Exhibit B). The ABL Administrative Agent shall have a second priority lien on the Term Facility Collateral. For the avoidance of doubt, the collateral structure will not require assets to be moved within the organizational structure of the Borrower.

Certain Conditions

The availability of the Term Facility shall be conditioned solely upon the conditions set forth in Exhibit D (the date upon which all such conditions precedent shall be satisfied, the "Closing Date").

Documentation

The Term Facility Documentation shall contain representations, warranties, covenants and events of default (in each case, applicable to the Borrower and its restricted subsidiaries) customary for financings of this type, consistent with the Documentation Considerations, including, without limitation:

Representations and Warranties:

Financial statements (including pro forma financial statements); absence of undisclosed liabilities; no material adverse change; corporate existence; compliance with law and regulations; corporate power and authority; enforceability of Term Facility Documentation; no conflict with law, regulations or contractual obligations; no material litigation; no default; ownership of property; liens; intellectual property; taxes; Federal Reserve regulations; labor matters; ERISA; Investment Company Act and other regulations; subsidiaries; use of proceeds; environmental matters; accuracy of disclosure; creation and perfection of security inter-

ests; solvency; status of Term Facility as senior debt; Patriot Act compliance; and delivery of certain documents. Certain representations and warranties will contain customary materiality qualifiers and scheduled exceptions to be agreed.

Affirmative Covenants:

Delivery of financial statements, reports, accountants' letters, projections, officers' certificates and other information requested by the Term Lenders; payment of taxes and other obligations; continuation of business and maintenance of existence and material rights and privileges; compliance with laws, regulations and material contractual obligations; maintenance of property and insurance (including, without limitation, operating licenses); maintenance of books and records; right of the Term Lenders to inspect property and books and records; notices of defaults, litigation and other material events; compliance with environmental laws; further assurances (including, without limitation, with respect to security interests in after-acquired property and future guarantees); and agreement to obtain interest rate and currency protection in an amount and manner reasonably satisfactory to the Term Administrative Agent.

Financial Covenants:

Financial covenants to be:

- Maintenance of a maximum total adjusted leverage ratio (to be defined in a manner to be agreed, but generally defined as total debt plus six times consolidated rental expense, over EBITDAR, each component to be defined) with levels to be agreed.

- Maintenance of a minimum fixed charge coverage ratio (to be defined in a manner to be agreed, but generally defined as EBITDAR over interest expense plus consolidated rental expense) with levels to be agreed.

- Maximum capital expenditures in amounts to be agreed with one year carryover on terms to be agreed.

Covenant levels for the total adjusted leverage ratio and fixed charge coverage ratio shall provide a 25-30% cushion (calculated on a static basis) in EBITDAR above the EBITDAR levels set forth in the Model.

Generally accepted accounting principles ("GAAP") in effect on the Closing Date shall apply to the interpretation of any accounting terms (including computations of any financial ratio) under the Term Facility Documentation; provided that, at any time any change in GAAP would affect any such interpretation or computation, the Borrower

	shall promptly notify the Term Administrative Agent and negotiate in good faith to amend the affected provision or provisions to preserve the original intent thereof in light of such change in GAAP; provided, further, that until such amendment is consummated, the Borrower shall provide to the Term Administrative Agent a written reconciliation, satisfactory to the Term Administrative Agent, between calculations of any financial ratio made before and after giving effect to such change in GAAP.
Negative Covenants:	Usual and customary for transactions of this type (subject to thresholds and/or exceptions to be agreed), including, but not limited to: indebtedness (including guarantee obligations, and preferred stock, foreign currency exchange and hedging agreements); liens; mergers, consolidations, liquidations and dissolutions; sales of assets; issuance and sale of capital stock of subsidiaries; investments and acquisitions, loans, guarantees and advances; restricted payments; payments and modifications of junior debt instruments; transactions with affiliates; sale-leasebacks; changes in fiscal year; hedging arrangements; negative pledge clauses and clauses restricting subsidiary distributions; and changes in lines of business.
Unrestricted Subsidiaries:	Subject to customary limitations and conditions (including, without limitation, pro forma covenant compliance and compliance with the limitations in the investment covenant), the Borrower may designate any subsidiary as an "unrestricted subsidiary" and subsequently redesignate any such unrestricted subsidiary as a restricted subsidiary. Unrestricted subsidiaries will not be subject to the representations and warranties, covenants, events of default or other provisions of the Term Facility Documentation, and the results of operations and indebtedness of unrestricted subsidiaries will not be taken into account for purposes of calculating any financial metric contained in the Term Facility Documentation on terms consistent with those in the Second Amended and Restated Credit Agreement, dated as of July 18, 2007 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Existing Credit Agreement"), among the Borrower, the lenders party thereto, JPMorgan Chase Bank, as administrative agent and collateral agent, and the other parties thereto.
Events of Default:	Nonpayment of principal when due; nonpayment of interest, fees or other amounts after a grace period to be agreed upon; material inaccuracy of representations and warranties; violation of covenants (subject, in the case of certain

affirmative covenants, to a grace period to be agreed upon); cross-default to material indebtedness (including, without limitation, the ABL Facility); bankruptcy events; certain ERISA events; material judgments; actual or asserted invalidity of any guarantee, security document or subordination provisions; and a change of control (the definition of which is to be agreed upon).

Voting:

Amendments and waivers with respect to the Term Facility Documentation shall require the approval of Term Lenders holding more than 50% of the aggregate amount of the Term Loans, except that (a) the consent of each Term Lender directly affected thereby shall be required with respect to (i) reductions in the amount or extensions of the scheduled date of amortization or maturity of any Term Loan, (ii) reductions in the rate of interest or any fee or extensions of any due date thereof and (iii) increases in the amount or extensions of the expiry date of any Term Lender's commitment and (b) the consent of 100% of the Term Lenders shall be required with respect to (i) reductions of any of the voting percentages, (ii) releases of all or substantially all the collateral and (iii) releases of all or substantially all of the Term Guarantors.

Assignments and Participations:

The Term Lenders shall be permitted to assign all or a portion of their Term Loans with the consent, not to be unreasonably withheld, of (a) the Borrower, unless (i) the assignee is a Term Lender, an affiliate of a Term Lender or an approved fund, or (ii) an event of default has occurred and is continuing, and (b) the Term Administrative Agent, unless a Term Loan is being assigned to a Term Lender, an affiliate of a Term Lender or an approved fund; provided that no assignments shall be made to Disqualified Institutions. In the case of partial assignments (other than to another Term Lender, an affiliate of a Term Lender or an approved fund), the minimum assignment amount shall be $1,000,000 unless otherwise agreed by the Borrower and the Term Administrative Agent. Assignments will be by novation. The Term Administrative Agent shall receive a processing and recordation fee of $3,500 in connection with all assignments. The Term Lenders shall also be permitted to sell participations in their Term Loans. Participants shall have the same benefits as the Term Lenders with respect to yield protection and increased cost provisions subject to customary limitations. Voting rights of participants shall be limited to those matters set forth in clause (a) under "Voting" with respect to which the affirmative vote of the Term Lender from which it purchased its participation would be required. Pledges of Term Loans

	in accordance with applicable law shall be permitted without restriction.
Yield Protection:	The Term Facility Documentation shall contain provisions (a) protecting the Term Lenders against increased costs or loss of yield resulting from changes after the Closing Date in reserve, tax, capital adequacy and other requirements of law and from the imposition of or changes in withholding or other taxes and (b) indemnifying the Term Lenders for "breakage costs" incurred in connection with, among other things, any prepayment of a Eurodollar Loan (as defined in Annex I to the Fee Letter) on a day other than the last day of an interest period with respect thereto.
Expenses and Indemnification:	The Term Facility Documentation shall provide that the Borrower shall pay (a) all invoiced reasonable out-of-pocket expenses of the Term Administrative Agent and the Term Arrangers associated with the syndication of the Term Facility and the preparation, execution, delivery and administration of the Term Facility Documentation and any amendment or waiver with respect thereto (including the reasonable fees, disbursements and other charges of counsel) and (b) all out-of-pocket expenses of the Term Administrative Agent and the Term Lenders (including the fees, disbursements and other charges of counsel) in connection with the enforcement of the Term Facility Documentation. The Term Administrative Agent, the Term Arrangers and the Term Lenders (and their affiliates and their respective officers, directors, employees, advisors and agents) will have no liability for, and will be indemnified and held harmless against, any losses, claims, damages, liabilities and reasonable and invoiced out-of-pocket expenses (including the reasonable fees, disbursements and other charges of counsel) incurred in respect of the financing contemplated hereby or the use or the proposed use of proceeds thereof, except to the extent they are found by a final, non-appealable judgment of a court to arise from the gross negligence or willful misconduct of the relevant indemnified person.
Governing Law and Forum:	State of New York.
Counsel to the Term Administrative Agent and the Term Arrangers:	Cahill Gordon & Reindel LLP.

EXHIBIT B

ABL FACILITY
Summary of Terms and Conditions

Set forth below is a statement of the terms and conditions for the ABL Facility to be used to finance a portion of the Transaction:

Borrower:	Kindred Healthcare, Inc. (the "Borrower").
Guarantors:	The Borrower's direct and indirect, existing and future, wholly-owned domestic subsidiaries, other than (i) domestic subsidiaries of foreign subsidiaries to the extent a guarantee by any such restricted subsidiary is not permitted by law or would result in material and adverse tax consequences, (ii) unrestricted subsidiaries, and (iii) Cornerstone Insurance Company (collectively, the "ABL Guarantors"; the Borrower and the ABL Guarantors, collectively, the "ABL Loan Parties" and, together with the Term Loan Parties, the "Loan Parties"). Any guarantees to be issued in respect of the Term Facility or the Senior Notes shall be pari passu in right of payment with the obligations under the guarantees of the ABL Guarantors.
Joint Lead Arrangers and Joint Bookrunners:	JPMorgan, Citi and MSSF (in such capacity, the "ABL Arrangers").
Co-Syndication Agents:	Citi and MSSF will act as co-syndication agents for the ABL Facility.
Administrative Agent:	JPMorgan Chase Bank (in such capacity, the "ABL Administrative Agent").
Lenders:	A syndicate of banks, financial institutions and other entities, including JPMorgan Chase Bank, Citi and MSSF, arranged by the ABL Arrangers (the "ABL Lenders").
Documentation Considerations:	The ABL Facility Documentation (as defined below) shall contain the terms set forth in this Term Sheet and other terms customary for facilities of this type, subject to materiality thresholds, baskets and exceptions to be agreed, consistent with the Documentation Considerations.
ABL Facility:	A senior secured asset-based revolving credit facility (the "ABL Facility") in an aggregate principal amount of $600.0 million (the loans thereunder, the "ABL Loans"), of which

up to an amount to be agreed will be available in the form of letters of credit.

Swingline Facility:

In connection with the ABL Facility, the ABL Administrative Agent (in such capacity, the "ABL Swingline Lender") will make available to the Borrower a swingline facility under which the Borrower may make short-term borrowings in an aggregate amount not to exceed $30.0 million at any time outstanding; provided that the ABL Swingline Lender shall not be required to make available loans under the swingline facility for so long as the ABL Swingline Lender reasonably believes there is a "defaulting" ABL Lender. Except for purposes of calculating the Commitment Fee described below, any such swingline borrowings will reduce availability under the ABL Facility on a dollar-for-dollar basis.

Each ABL Lender under the ABL Facility shall, promptly upon request by the ABL Swingline Lender, fund to the ABL Swingline Lender its pro rata share of any swingline borrowings.

If any ABL Lender becomes a Defaulting ABL Lender (to be defined in a customary manner to be agreed) then the swingline exposure of such Defaulting ABL Lender will automatically be reallocated among the non-Defaulting ABL Lenders pro rata in accordance with their commitments under the ABL Facility up to an amount such that the revolving credit exposure of such non-Defaulting ABL Lender does not exceed its commitments. In the event such reallocation does not fully cover the exposure of such Defaulting ABL Lender, the ABL Swingline Lender may require the Borrower to repay such "uncovered" exposure in respect of the swingline loans and will have no obligation to make new swingline loans to the extent such swingline loans would exceed the commitments of the non-Defaulting ABL Lenders. The ABL Facility shall contain provisions permitting the Borrower to replace any Defaulting Lender on customary terms.

Incremental ABL Facilities:

The ABL Facility Documentation will permit the Borrower to increase commitments under the ABL Facility (any such increase, an "Incremental ABL Facility") in an aggregate amount, together with the aggregate amount of outstanding loans and/or commitments under all Incremental Term Facilities, not to exceed $150.0 million; provided that (i) no default or event of default exists or would exist after giving effect thereto, (ii) any Incremental ABL Facility shall be on terms and pursuant to documentation applicable to the ABL Facility, except with respect to any commitment, arrangement, upfront or similar fees that may agreed to among the

Borrower and the lenders providing such additional commitments (iii) on a pro forma basis after giving effect to the incurrence of any such Incremental ABL Facility (assuming such Incremental ABL Facility is fully borrowed) (and after giving effect to any acquisition consummated simultaneously therewith and all other appropriate pro forma adjustment events), the Borrower is in pro forma compliance under the ABL Facility Documentation with the financial covenants; and (iv) the representations and warranties in the ABL Facility Documentation shall be accurate in all material respects. The Borrower may seek commitments in respect of the Incremental ABL Facility from existing ABL Lenders (each of which shall be entitled to agree or decline to participate in its sole discretion) and additional banks, financial institutions and other institutional lenders who will become ABL Lenders in connection therewith, ("Additional ABL Lenders"); provided that the ABL Administrative Agent shall have consent rights (not to be unreasonably withheld) with respect to such Additional ABL Lender, if such consent would be required under the heading "Assignments and Participations" for an assignment of ABL Loans to such Additional ABL Lender.

Purpose: The letters of credit and proceeds of ABL Loans (except as set forth below) will be used by the Borrower and its subsidiaries for working capital and general corporate purposes (including permitted acquisitions).

Availability: Subject to the Borrowing Base (as defined below), ABL Loans shall be made available on the Closing Date (i) to fund original issue discount or upfront fees in connection with the flex provisions in the Fee Letter, and (ii) to fund up to $400.0 million in the aggregate to pay for the acquisition of Target, to refinance existing indebtedness of the Target, the Borrower and their respective subsidiaries (including accrued and unpaid interest and applicable premiums) and to pay costs and expenses related to the Transaction.

ABL Loans will be available, subject to the then-applicable Borrowing Base, at any time prior to the final maturity of the ABL Facility, in minimum principal amounts to be agreed. Amounts repaid under the ABL Facility may be reborrowed, subject to the then-applicable Borrowing Base.

In addition, letters of credit may be issued on or after the Closing Date to backstop or replace letters of credit outstanding on the Closing Date (including by "grandfathering" such existing letters of credit in the ABL Facility) or for other general corporate purposes.

Borrowing Base:	The borrowing base (the "Borrowing Base") at any time shall equal the sum of 85% of eligible accounts receivable of the Borrower and the ABL Guarantors (of which no more than $30.0 million may be comprised of aged accounts receivables) minus reserves. Eligibility criteria for eligible accounts receivable included in the Borrowing Base shall be set forth in the ABL Facility Documentation in a manner consistent with the Existing Credit Agreement. The Borrowing Base will be computed by the Borrower monthly and any time if requested by the ABL Administrative Agent if it reasonably believes that the Borrowing Base is materially inaccurate, and a certificate (the "Borrowing Base Certificate") presenting the Borrower's computation of the Borrowing Base will be delivered to the ABL Administrative Agent promptly, but in no event later than the thirtieth day following the end of each calendar month. The ABL Administrative Agent will have the right to establish and modify reserves in its Permitted Discretion, with prior written notice to the Borrower. For purposes of the foregoing, "Permitted Discretion" means a determination made in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment. "Excess Availability" shall mean, at any time, the remainder of (a) the lesser of (i) the aggregate commitments under the ABL Facility at such time and (ii) the Borrowing Base as then in effect minus (b) the sum of (i) aggregate principal amount of all ABL Loans then outstanding and (ii) all amounts outstanding under letters of credit (including issued and undrawn letters of credit) at such time.
Interest Rates and Fees:	As set forth on Annex II to the Fee Letter.
Default Rate:	Any principal payable under or in respect of the ABL Facility not paid when due shall bear interest at the applicable interest rate plus 2% per annum. Other overdue amounts (including overdue interest) shall bear interest at the interest rate applicable to ABR loans plus 2% per annum.
Letters of Credit:	Letters of credit under the ABL Facility will be issued by the ABL Administrative Agent and/or another ABL Lender reasonably acceptable to the Borrower and the ABL Administrative Agent (each, an "ABL Issuing Bank") in an aggregate face amount not to exceed $100.0 million at any time outstanding. Each letter of credit shall expire not later than the earlier of (a) 12 months after its date of issuance and (b) unless arrangements reasonably satisfactory to the ABL Issuing Bank have been entered into, the fifth business

day prior to the final maturity of the ABL Facility; provided that any letter of credit may provide for renewal thereof for additional periods of up to 12 months (which in no event shall extend beyond the date referred to in clause (b) above).

Drawings under any letter of credit shall be reimbursed by the Borrower on the same business day or, if notice is given later than a customary time to be agreed, within one business day. To the extent that the Borrower does not reimburse the ABL Issuing Bank when required, the ABL Lenders under the ABL Facility shall be irrevocably obligated to reimburse the ABL Issuing Bank pro rata based upon their respective ABL Facility commitments.

If any ABL Lender becomes a Defaulting ABL Lender, then the letter of credit exposure of such Defaulting ABL Lender will automatically be reallocated among the non-Defaulting ABL Lenders pro rata in accordance with their commitments under the ABL Facility up to an amount such that the revolving credit exposure of such non-Defaulting ABL Lender does not exceed its commitments. In the event that such reallocation does not fully cover the letter of credit exposure of such Defaulting ABL Lender, the applicable ABL Issuing Bank may require the Borrower to cash collateralize such "uncovered" exposure in respect of each outstanding letter of credit and will have no obligation to issue new letters of credit, or to extend, renew or amend existing letters of credit to the extent letter of credit exposure would exceed the commitments of the non-Defaulting ABL Lenders, unless such "uncovered" exposure is cash collateralized to the ABL Issuing Bank's reasonable satisfaction.

Final Maturity: The ABL Facility will mature on the date that is five years after the Closing Date and all outstanding amounts shall be due and payable on such date.

Security The obligations of each ABL Loan Party in respect of the ABL Facility and any swap agreements and, at the Borrower's option, cash management arrangements, in either case provided by any ABL Lender (or any affiliate of an ABL Lender), shall be secured by (i) a perfected first priority security interest in all of its accounts receivable, cash, deposit accounts, securities accounts, books and records related to and proceeds of the foregoing (such collateral, the "ABL Facility Collateral" and, together with the Term Facility Collateral, the "Collateral"), and (ii) a perfected second priority security interest in the Term Facility Collateral.

	Subject to a customary intercreditor agreement to be entered into by the ABL Administrative Agent and the Term Administrative Agent, the ABL Administrative Agent shall have the benefit of customary intercreditor provisions relating to access and use of non-ABL Facility Collateral. Subject to the terms of such intercreditor agreement, the Term Administrative Agent shall have a second priority lien on the ABL Facility Collateral. For the avoidance of doubt, the collateral structure will not require assets to be moved within the organizational structure of the Borrower.
Cash Management/Cash Dominion:	Concentration account and account control agreement structure (including, without limitation, use of cash to repay ABL Loans) consistent with the Existing Credit Agreement shall be maintained (with appropriate provisions for post-closing integration of Target cash management systems and implementation of control agreements to be agreed).
Mandatory Prepayments:	If at any time, the aggregate amount of outstanding ABL Loans, unreimbursed letter of credit drawings and undrawn letters of credit under the ABL Facility exceeds the Maximum Borrowing Amount, then the Borrower will immediately repay outstanding ABL Loans and/or cash collateralize outstanding letters of credit in an aggregate amount equal to such excess, with no reduction of the ABL Facility commitments.
Voluntary Prepayments and Reductions in Commitments	Voluntary reductions of the unutilized portion of the ABL Facility commitments and prepayments of borrowings will be permitted at any time (subject to customary notice requirements), in minimum principal amounts to be agreed, without premium or penalty, subject to reimbursement of the ABL Lenders' redeployment costs in the case of a prepayment of Eurodollar Rate borrowings prior to the last day of the relevant interest period. All voluntary prepayments will be applied as directed by the Borrower.
Certain Conditions on the Closing Date	The availability of the ABL Facility on the Closing Date shall be conditioned solely upon the conditions set forth in Exhibit D (the date upon which all such conditions precedent shall be satisfied, the "Closing Date").
Conditions to All Borrowings After the Closing Date	Delivery of notice of borrowing, accuracy of representations and warranties in all material respects; provided that any representation and warranty that is qualified as to "materiality", "material adverse effect" or similar language shall be true and correct in all respects (after giving effect to any such qualification therein); absence of defaults.

Documentation	The documentation for the ABL Facility (the "ABL Facility Documentation") shall contain representations, warranties, covenants and events of default (in each case, applicable to the Borrower and its restricted subsidiaries) customary for financings of this type, consistent with the Documentation Considerations, including, without limitation:
Representations and Warranties:	Financial statements (including pro forma financial statements); absence of undisclosed liabilities; no material adverse change; corporate existence; compliance with law and regulations; corporate power and authority; enforceability of ABL Facility Documentation; no conflict with law, regulations or contractual obligations; no material litigation; no default; ownership of property; liens; intellectual property; taxes; Federal Reserve regulations; labor matters; ERISA; Investment Company Act and other regulations; subsidiaries; use of proceeds; environmental matters; accuracy of disclosure; creation and perfection of security interests; solvency; status of ABL Facility as senior debt; Patriot Act compliance; and delivery of certain documents. Certain representations and warranties will contain customary materiality qualifiers and scheduled exceptions to be agreed.
Affirmative Covenants:	Delivery of financial statements and Borrowing Base Certificate, reports, accountants' letters, projections, officers' certificates and other information requested by the ABL Lenders; payment of taxes and other obligations; continuation of business and maintenance of existence and material rights and privileges; compliance with laws, regulations and material contractual obligations; maintenance of property and insurance (including, without limitation, operating licenses); maintenance of books and records; right of the ABL Lenders to inspect property and books and records; notices of defaults, litigation and other material events; compliance with environmental laws; further assurances (including, without limitation, with respect to security interests in after-acquired property and future guarantees); and annual field audits at Borrower's expense (*provided* that if at any time the average usage of the ABL Facility over the prior 90 days is greater than 75% of the lesser of (i) the Borrowing Base in effect at such time and (ii) the aggregate commitments under the ABL Facility at such time, one additional field audit will be permitted in such calendar year, except that, during an event of default, additional field audits shall be required at the ABL Administrative Agent's request, in each case, at the Borrower's expense) and periodic updates of the appraisal conducted in connection with the establishment of the ABL Facility.
Financial Covenants:	Financial covenants to be:

- Maintenance of a minimum fixed charge coverage ratio (to be defined in a manner to be agreed, but generally defined as EBITDAR over interest expense plus consolidated rental expense) with levels to be agreed.

- Maximum capital expenditures in amounts to be agreed with one year carryover on terms to be agreed.

Covenant levels for the fixed charge coverage ratio shall provide a 25-30% cushion (calculated on a static basis) in EBITDAR above the EBITDAR levels set forth in the Model.

Negative Covenants:

Usual and customary for transactions of this type (subject to thresholds and/or exceptions to be agreed), including, but not limited to: indebtedness (including guarantee obligations, and preferred stock, foreign currency exchange and hedging agreements); liens; mergers, consolidations, liquidations and dissolutions; sales of assets; issuance and sale of capital stock of subsidiaries; investments and acquisitions, loans, guarantees and advances; restricted payments; payments and modifications of junior debt instruments; transactions with affiliates; sale-leasebacks; changes in fiscal year; hedging arrangements; negative pledge clauses and clauses restricting subsidiary distributions; and changes in lines of business.

Unrestricted Subsidiaries:

Subject to customary limitations and conditions (including, without limitation, pro forma covenant compliance and compliance with the limitations in the investment covenant), the Borrower may designate any subsidiary as an "unrestricted subsidiary" and subsequently redesignate any such unrestricted subsidiary as a restricted subsidiary. Unrestricted subsidiaries will not be subject to the representations and warranties, covenants, events of default or other provisions of the ABL Facility Documentation, and the results of operations and indebtedness of unrestricted subsidiaries will not be taken into account for purposes of calculating any financial metric contained in the ABL Facility Documentation on terms consistent with those in the Existing Credit Agreement.

Events of Default:

Nonpayment of principal when due; nonpayment of interest, fees or other amounts after a grace period to be agreed upon; material inaccuracy of representations and warranties; violation of covenants (subject, in the case of certain affirmative covenants, to a grace period to be agreed upon); cross-default to material indebtedness (including, without limitation, the Term Facility); bankruptcy events; certain ERISA events; material judgments; actual or asserted invalidity of any guarantee, security document or subordination

provisions; and a change of control (the definition of which is to be agreed upon).

Voting:

Amendments and waivers with respect to the ABL Facility Documentation will require the approval of ABL Lenders holding more than 50% of the aggregate principal amount of ABL Loans and commitments under the ABL Facility (the "Required ABL Lenders"), except that (i) the consent of each ABL Lender directly adversely affected thereby shall be required with respect to (a) increases in the commitment of such ABL Lender, (b) reductions of principal, interest or fees, and (c) extensions of final maturity or the due date of any interest or fee payment, (ii) the consent of a supermajority (66.7%) of the ABL Lenders shall be required for any changes to the Borrowing Base definition or the component definitions thereof which result in increased borrowing availability or advance rates; provided that the foregoing shall not impair the ability of the ABL Administrative Agent to add, remove, reduce or increase reserves in its Permitted Discretion, and (iii) the consent of all ABL Lenders shall be required with respect to (a) releases of all or substantially all ABL Guarantors or all or substantially all of the Collateral and (b) changes in voting rights.

The ABL Facility Documentation shall contain provisions to be agreed relating to "defaulting" ABL Lenders and agents (including for insolvency), including provisions relating to providing cash collateral to support swingline loans or letters of credit, the suspension of voting rights, rights to receive certain fees, and termination or assignment of commitments or ABL Loans of such ABL Lenders.

Assignments and Participations:	The ABL Lenders will be permitted to assign loans and commitments under the ABL Facility to financial institutions in the business of making regular extensions of credit with the consent of the Borrower, the ABL Swingline Lender and the ABL Issuing Bank (in each case, not to be unreasonably withheld, delayed or conditioned); provided that no consent of the Borrower shall be required after the occurrence and during the continuance of an event of default; provided, further, that no assignments shall be made to Disqualified Institutions. All assignments will require the consent of the ABL Administrative Agent, not to be unreasonably withheld or delayed. Each assignment will be in an amount of an integral multiple of $5,000,000 or, in each case, if less, all of such ABL Lender's remaining loans and commitments of the applicable class. Assignments will be by novation. An assignment fee in the amount of $3,500 shall be paid by the respective assignor or assignee to the ABL Administrative Agent. The ABL Lenders will be permitted to sell participations in loans and commitments without consent being required (other than to the Borrower and its affiliates or any natural person), subject to customary limitations. Voting rights of participants shall be limited to matters in respect of (a) increases in commitments participated to such participants, (b) reductions of principal, interest or fees, (c) extensions of final maturity or the due date of any amortization, interest or fee payment, (d) releases of the guarantees of all or substantially all ABL Guarantors or all or substantially all of the Collateral and (e) changes in voting rights.
Yield Protection:	The ABL Facility Documentation shall contain customary provisions (a) protecting the ABL Lenders against increased costs or loss of yield resulting from changes in reserve, tax, capital adequacy and other requirements of law and from the imposition of or changes in withholding or other taxes and (b) indemnifying the ABL Lenders for "breakage costs" incurred in connection with, among other things, any prepayment of a Eurodollar Loan (as defined in Annex II to the Fee Letter) on a day other than the last day of an interest period with respect thereto.
Expenses and Indemnification:	The ABL Facility Documentation shall provide that the Borrower shall pay (a) all invoiced reasonable out-of-pocket expenses of the ABL Administrative Agent and the ABL Arrangers associated with the syndication of the ABL Facility (including field examinations) and the preparation, execution, delivery and administration of the ABL Facility Documentation and any amendment or waiver with respect thereto (including the reasonable fees, disbursements and other charges of counsel) and (b) all out-of-pocket expenses

	of the ABL Administrative Agent and the ABL Lenders (including the fees, disbursements and other charges of counsel) in connection with the enforcement of the Term Facility Documentation. The ABL Administrative Agent, the ABL Arrangers and the ABL Lenders (and their affiliates and their respective officers, directors, employees, advisors and agents) will have no liability for, and will be indemnified and held harmless against, any losses, claims, damages, liabilities or reasonable and invoiced out-of-pocket expenses (including the reasonable fees, disbursements and other charges of counsel) incurred in respect of the financing contemplated hereby or the use or the proposed use of proceeds thereof, except to the extent they are found by a final, non-appealable judgment of a court to arise from the gross negligence or willful misconduct of the relevant indemnified person.
Governing Law and Forum:	State of New York.
Counsel to the ABL Administrative Agent and the ABL Arrangers:	Cahill Gordon & Reindel LLP.

EXHIBIT C

BRIDGE FACILITY
Summary of Terms and Conditions

Set forth below is a statement of the terms and conditions for the Bridge Facility to be used to finance a portion of the Transaction:

Initial Loans:	The Bridge Lenders (as defined below) will make senior unsecured loans (the "Initial Loans" or "Bridge Loans") to the Borrower on the Closing Date (as defined below) in an aggregate principal amount not to exceed $550.0 million.
Borrower:	Kindred Healthcare, Inc. (the "Borrower").
Guarantors:	The Bridge Facility Debt (as defined below) shall be jointly and severally consummated by all guarantors of the Term Facility on a senior basis (the "Bridge Guarantors" and, together with the Term Guarantors and ABL Guarantors, the "Guarantors").
Administrative Agent:	JPMorgan Chase Bank (in such capacity, the "Bridge Administrative Agent" and, together with the Term Administrative Agent and ABL Administrative Agent, the "Administrative Agents") will act as administrative agent for the Bridge Lenders holding the Initial Loans from time to time.
Joint Lead Arrangers and Joint Bookrunners:	JPMorgan, Citi and MSSF (in such capacities, the "Bridge Arrangers" and, together with the Term Arrangers and ABL Arrangers, the "Joint Lead Arrangers").
Lenders:	JPMorgan Chase Bank, Citi, MSSF, and any other holder of any portion of the Initial Loans or of any commitment to make the Initial Loans are collectively referred to as the "Bridge Lenders" (and, such Bridge Lenders, the Term Lenders and the ABL Lenders, the "Lenders").
Use of Proceeds:	The proceeds of the Initial Loans will be used to provide funds to finance the Transaction and to pay fees and expenses related thereto.
Funding:	The Bridge Lenders will make the Initial Loans simultaneously with (a) the consummation of the Transaction and (b) the initial funding under the Term Facility. The date on which such Initial Loans are made and the Transaction is consummated is herein called the "Closing Date."
Maturity/Exchange:	The Initial Loans will initially mature on the date that is 12 months following the Closing Date (the "Initial Loan Matur-

	ity Date"), which shall be extended as provided below. If any Initial Loan has not been previously repaid in full on or prior to the Initial Loan Maturity Date, the Bridge Lender in respect of such Initial Loan will have the option at any time or from time to time on or after the Initial Loan Maturity Date to receive exchange notes in exchange for such Initial Loan having the terms set forth in the term sheet attached hereto as Annex I (the "Exchange Notes"; together with the Initial Loans, the "Bridge Facility Debt"). Subject only to the absence of a nonpayment or bankruptcy default, the maturity of any Initial Loans that are not exchanged for Exchange Notes on the Initial Loan Maturity Date shall automatically be extended to the eighth anniversary of the Closing Date. The Initial Loans and the Exchange Notes shall be pari passu for all purposes.
Interest Rates:	As set forth on Annex III to the Fee Letter.
Mandatory Redemption:	The Borrower will be required to prepay Initial Loans (and, if issued, redeem Exchange Notes, to the extent required by the terms of such Exchange Notes) on a pro rata basis, at par plus accrued and unpaid interest from the net cash proceeds of debt incurrences, issuances of equity and, after deduction of, among other things, amounts required, if any, to repay the Term Facility, the sale of any assets outside the ordinary course of business, subject to exceptions and baskets to be agreed. In addition, upon the occurrence of a change of control, the Borrower will be required to redeem the Exchange Notes at 101% of the principal amount of such Initial Loans or Exchange Notes, as applicable, plus accrued and unpaid interest.
Optional Prepayment:	The Initial Loans may be prepaid, in whole or in part, at the option of the Borrower, at any time upon two business days' prior notice, at par plus accrued and unpaid interest and, if applicable, breakage costs.
Documentation Considerations:	The documentation for the Bridge Facility (the "Bridge Facility Documentation") shall contain the terms set forth in this Term Sheet and other terms customary for facilities and transactions of this type, as may be reasonably agreed by the Bridge Arrangers, the Bridge Lenders and the Borrower, subject to materiality thresholds, baskets and exceptions to be agreed, consistent with the Documentation Considerations.
Conditions Precedent:	The availability of the Bridge Facility shall be conditioned solely upon the conditions set forth in the next sentence, the twelfth and thirteenth paragraph of the Commitment Letter and in Exhibit D. The making of the Initial Loans shall also be conditioned upon the accuracy of the Specified Transaction Agreement Representations and Specified Representations.

Representations and Warranties:	Substantially similar to the representations and warranties set forth in the Term Facility Documentation and their accuracy in all material respects on the Closing Date will be a condition to the making of the Initial Loans.
Covenants:	Substantially similar to the covenants set forth in the Term Facility Documentation and ABL Facility Documentation, subject to certain adjustments (including, without limitation, incurrence-based negative covenants and no financial maintenance covenants) customary for facilities of this type (consistent with the Documentation Considerations) to be agreed (including, without limitation, a covenant to refinance Initial Loans, including in connection with any Securities Demand). Prior to the Initial Loan Maturity Date, the covenants will be more restrictive than those in the Exchange Notes. Following the Initial Loan Maturity Date, the covenants relevant to the Initial Loans will automatically be modified so as to be consistent with the Exchange Notes.
Events of Default:	Substantially similar to the events of default set forth in the Term Facility Documentation and ABL Facility Documentation, subject to certain adjustments (including, without limitation, a cross-acceleration but no cross-default event of default) customary for facilities of this type (consistent with the Documentation Considerations) to be agreed and others as may be reasonably required by the Bridge Arrangers (with customary notice and grace periods to be agreed). Following the Initial Loan Maturity Date, the events of default relevant to the Initial Loans will automatically be modified so as to be consistent with the Exchange Notes.
Cost and Yield Protection:	Substantially the same as the cost and yield protection provisions of the Term Facility Documentation.
Assignment and Participation:	Subject to the prior approval of the Bridge Administrative Agent (such approval not to be unreasonably withheld), the Bridge Lenders will have the right to assign Initial Loans (other than to Disqualified Institutions) without the consent of the Borrower; provided, that, unless an event of default has occurred prior to the Initial Loan Maturity Date and is at such time continuing, the Bridge Lenders may not assign more than 50% of the principal amount the Initial Loans without the consent of the Borrower (such consent not to be unreasonably withheld or delayed) (it being understood that Bridge Lenders may participate their Initial Loans as provided in the next paragraph) prior to the Initial Loan Maturity Date. Assignments will be by novation. Subject to the prior approval of the Bridge Administrative Agent (such approval not to be unreasonably withheld), the Bridge Lenders will have the right to participate their Initial Loans to

other financial institutions without restriction, other than customary voting limitations. Participants will have the same benefits as the selling Bridge Lenders would have (and will be limited to the amount of such benefits) with regard to yield protection and increased costs, subject to customary limitations and restrictions.

Voting:

Amendments and waivers of the Bridge Facility Documentation will require the approval of Bridge Lenders holding more than 50% of the outstanding Initial Loans, except that (i) the consent of each adversely affected Bridge Lender will be required for (a) reductions of principal, interest rates or spread, (b) except as provided under "Maturity/Exchange" above, extensions of the Initial Loan Maturity Date, (c) additional restrictions on the right to exchange Initial Loans for Exchange Notes or any amendment of the rate of such exchange and (d) any amendment to the Exchange Notes that requires (or would, if any Exchange Notes were outstanding, require) the approval of all holders of Exchange Notes and (ii) the consent of 100% of the Bridge Lenders shall be required with respect to (a) reductions to any of the voting percentages and pro rata provisions, (b) modifications to the redemption provisions of the Exchange Notes, (c) releases of all or substantially all of the Bridge Guarantors and (d) change the ranking.

Expenses and Indemnification:

The Bridge Facility Documentation shall provide that the Borrower shall pay (a) all invoiced reasonable out-of-pocket expenses of the Bridge Administrative Agent and the Bridge Arrangers associated with the syndication of the Bridge Facility and the preparation, execution, delivery and administration of the Bridge Facility Documentation and any amendment, waiver or modification with respect thereto (including the reasonable fees, disbursements and other charges of counsel) and (b) all out-of-pocket expenses of the Bridge Administrative Agent and the Bridge Lenders (including the fees, disbursements and other charges of counsel) in connection with the enforcement of the Bridge Facility Documentation.

The Bridge Administrative Agent, the Bridge Arrangers and the Bridge Lenders (and their affiliates and their respective officers, directors, employees, advisors and agents) will have no liability for, and will be indemnified and held harmless against, any losses, claims, damages, liabilities and reasonable and invoiced out-of-pocket expenses (including the reasonable fees, disbursements and other charges of counsel) incurred in respect of the financing contemplated hereby or the use or the proposed use of proceeds thereof, except to the extent they are found by a final, non-appealable judgment of a court to arise from the gross negligence or willful misconduct of the relevant indemnified person.

Governing Law and Forum:	New York.
Counsel to the Bridge Administrative Agent and the Bridge Arrangers:	Cahill Gordon & Reindel LLP.

Summary of Terms and Conditions
of Exchange Notes

Capitalized terms used but not defined herein have the meanings given in the Summary of Terms and Conditions of the Bridge Facility to which this Annex I is attached.

Issuer:	The Borrower will issue senior unsecured Exchange Notes under an indenture that complies with the Trust Indenture Act (the "Indenture"). The Borrower in its capacity as issuer of the Exchange Notes is referred to as the "Issuer."
Guarantors:	Same as the Initial Loans.
Principal Amount:	The Exchange Notes will be available only in exchange for the Initial Loans on or after the Initial Loan Maturity Date. The principal amount of any Exchange Note will equal 100% of the aggregate principal amount (including any accrued interest not required to be paid in cash) of the Initial Loan for which it is exchanged. In the case of the initial exchange by Bridge Lenders, the minimum amount of Initial Loans to be exchanged for Exchange Notes shall equal $50.0 million.
Maturity:	The Exchange Notes will mature on the eighth anniversary of the Closing Date.
Interest Rate:	The Exchange Notes will bear interest at the Total Cap (as defined in the Fee Letter). Interest will be payable in arrears at the end of each semi-annual fiscal period.
Mandatory Redemption:	The Issuer will be required to make an offer to redeem the Exchange Notes (and, if outstanding, prepay the Initial Loans) on a pro rata basis, at par plus accrued and unpaid interest plus any applicable premiums), from the net cash proceeds (in each case, after deduction of, among other things, amounts required, if any, to repay the Term Facility) of the sale of any assets outside the ordinary course of business (in each case, subject to exceptions and baskets to be agreed, including, but not limited to, exceptions and baskets comparable to those applicable to the Term Facility). In addition, the Issuer will be required to offer to redeem the Exchange Notes upon the occurrence of a change of control (which offer shall be at 101% of the principal amount of such Exchange Notes, plus accrued and unpaid interest).
Optional Redemption:	The Exchange Notes will be (a) non-callable for the first four years from the Initial Loan Maturity Date and (b) thereafter, callable at par plus accrued interest plus a premium equal to 50%

of the coupon in effect on such Exchange Note, which premium shall decline ratably on each yearly anniversary of the date of such sale to zero 2 years prior to the maturity of the Exchange Notes; provided that if any Exchange Notes are held by any Commitment Party or its affiliates (other than an asset management affiliate of a Commitment Party purchasing debt securities in the ordinary course of their business as part of a regular distribution of such debt securities) shall be callable at any time at par plus accrued interest (for as long as such Exchange Notes are so held).

Notwithstanding the above, (i) prior to the fourth anniversary of the Initial Loan Maturity Date, the Borrower may redeem the Exchange Notes at a make-whole price based on the yield to maturity of U.S. Treasury notes with a maturity closest to the third anniversary of the Initial Loan Maturity Date plus 50 basis points and (ii) prior to the third anniversary of the Closing Date, the Borrower may redeem up to 35% of the Exchange Notes with proceeds from certain of the Borrower's equity offerings at a price equal to par plus a premium equal to the coupon on such Exchange Notes.

Registration Rights:

The Issuer will file as soon as practicable after the Initial Loan Maturity Date, and will use its commercially reasonable efforts to cause to become effective as soon thereafter as practicable, a shelf registration statement with respect to the Exchange Notes (a "Shelf Registration Statement") and/or a registration statement relating to a Registered Exchange Offer (as described below). If a Shelf Registration Statement is filed, the Issuer will keep such registration statement effective and available (subject to customary exceptions) until it is no longer needed to permit unrestricted resales of Exchange Notes but in no event longer than two years from the Initial Loan Maturity Date. If within 270 days from the Initial Loan Maturity Date, a Shelf Registration Statement for the Exchange Notes has not been declared effective or the Issuer has not effected an exchange offer (a "Registered Exchange Offer") whereby the Issuer has offered registered notes having terms identical to the Exchange Notes (the "Substitute Notes") in exchange for all outstanding Exchange Notes and Initial Loans (it being understood that a Shelf Registration Statement is required to be made available in respect of Exchange Notes the holders of which could not receive Substitute Notes through the Registered Exchange Offer that, in the opinion of counsel, would be freely saleable by such holders without registration or requirement for delivery of a current prospectus under the Securities Act of 1933, as amended (other than a prospectus delivery requirement imposed on a broker-dealer who is exchanging Exchange Notes acquired for its own account as a result of a market making or other trading activities)), then the Issuer will pay additional interest of 0.25% per annum on the principal amount of the Ex-

	change Notes to holders thereof who are, or would be, unable freely to transfer Exchange Notes from and including the 271st day after the date of the first issuance of Exchange Notes (which rate of additional interest shall increase to 0.50% per annum 90 days thereafter) to but excluding the earlier of the effective date of such Shelf Registration Statement or the date of consummation of such Registered Exchange Offer. The Issuer will also pay such additional interest for any period of time (subject to customary exceptions) following the effectiveness of a Shelf Registration Statement that such Shelf Registration Statement is not available for resales thereunder. In addition, unless and until the Issuer has consummated the Registered Exchange Offer and, if required, caused the Shelf Registration Statement to become effective, the holders of the Exchange Notes will have the right to "piggy-back" the Exchange Notes in the registration of any debt securities (subject to customary scale-back provisions) that are registered by the Issuer (other than on a Form S-4) unless all the Exchange Notes and Initial Loans will be redeemed or repaid from the proceeds of such securities.
Right to Transfer Exchange Notes:	The holders of the Exchange Notes shall have the absolute and unconditional right to transfer such Exchange Notes in compliance with applicable law to any third parties.
Covenants:	Similar to those in an indenture governing a high-yield senior note issue, but modified to include additional restrictions customary in interim facilities (consistent with the Documentation Considerations).
Events of Default:	Similar to those in an indenture governing a high-yield senior note issue, but modified to include additional events of default customary in interim facilities (consistent with the Documentation Considerations).
Governing Law and Forum:	New York.

EXHIBIT D

The availability of each of the Credit Facilities on the Closing Date shall be subject to the satisfaction of the following conditions. Capitalized terms used but not defined herein have the meanings given in the Commitment Letter (including the Exhibits thereto).

(a) Since December 31, 2009, there shall have been no changes, effects, developments or events that, individually or in the aggregate, have had or would be reasonably be expected to have a Material Adverse Effect on the Target. For purposes hereof, "Material Adverse Effect" means with respect to any Person (as defined in the Transaction Agreement), any change, effect, development or event that has had or would reasonably be expected to have a material adverse effect on the financial condition, business, assets, liabilities, or results of operations of such Person and its Subsidiaries (as defined in the Transaction Agreement), taken as a whole; provided, however, that no change, effect, development or event (by itself or when aggregated or taken together with any and all other changes, effects, developments or events) to the extent resulting from, arising out of, or attributable to, any of the following shall be deemed to constitute or be taken into account when determining whether a "Material Adverse Effect" has occurred or may, would or could occur: (A) any changes, effects, developments or events in the economy or the financial, credit or securities markets in general (including changes in interest or exchange rates), (B) any changes, effects, developments or events in the industries in which such Person and its Subsidiaries operate, (C) any changes, effects, developments or events resulting from the announcement or pendency of the transactions contemplated by the Transaction Agreement, the identity of the Borrower or the performance or compliance with the terms of the Transaction Agreement (including, in each case, any loss of customers, suppliers or employees or any disruption in business relationships resulting therefrom, but excluding the effects of compliance with Section 5.01of the Transaction Agreement), (D) any changes, effects, developments or events resulting from the failure of such Person to meet internal forecasts, budgets or financial projections or fluctuations in the trading price or volume of such Person's common stock (but not, in each case, the underlying cause of such failure or fluctuations, unless such underlying cause would otherwise be excepted from this definition), (E) acts of God, natural disasters, calamities, national or international political or social conditions, including the engagement by any country in hostility (whether commenced before, on or after the date hereof, and whether or not pursuant to the declaration of a national emergency or war), or the occurrence of a military or terrorist attack, or (F) any changes in Applicable Law or GAAP (each as defined in the Transaction Agreement) (or any interpretation thereof), except to the extent such changes, effects, developments or events resulting from or arising out of the matters described in clauses (A), (B), (E) and (F) disproportionately affect such Person and its Subsidiaries as compared to other companies operating in the industries in which such Person and its Subsidiaries operate.

(b) Prior to and during the syndication of the Credit Facilities there shall be no competing offering, placement or arrangement of any debt securities (including convertible debt securities) (other than the Securities) or bank financing by or on behalf of the Borrower, the Target or any of their respective affiliates.

(c) The closing of the Credit Facilities on or before the End Date (as defined in the Commitment Letter).

(d) Receipt by the Borrower and the Target of all governmental and third-party consents referenced in Section 8.02(d) of the Transaction Agreement required to be obtained in connection with the closing of the Transaction.

(e) Each Loan Party shall have executed and delivered definitive Term Facility Documentation and ABL Facility Documentation reflecting the terms and conditions hereof and otherwise in a form reasonably satisfactory to the Joint Lead Arrangers.

(f) In the event the full amount of the Securities are not issued, the Loan Parties shall have executed and delivered definitive Bridge Facility Documentation reflecting the terms and conditions hereof and otherwise in a form reasonably satisfactory to the Joint Lead Arrangers.

(g) The Transaction shall have been consummated in accordance with applicable law. The respective amounts of the sources and uses for the Transaction shall be consistent with the Table set forth in Schedule I in all material respects. The Transaction shall be consummated in accordance with the Transaction Agreement as in effect on the date hereof without giving effect to any waivers, amendments, supplements or modifications that are in any respect materially adverse to the Lenders or the Joint Lead Arrangers without approval of the Joint Lead Arrangers (not to be unreasonably withheld or delayed). The existing funded indebtedness and commitments therefor of the Borrower and its subsidiaries and Target and its subsidiaries shall have been repaid and/or terminated, other than (i) capitalized leases not to exceed $50.0 million, (ii) other indebtedness not to exceed $10.0 million and (iii) intercompany indebtedness, which, in each case, will remain outstanding after the Closing Date.

(h) The Lenders, the Administrative Agents and the Joint Lead Arrangers shall have received all fees required to be paid, and all out-of-pocket expenses required to be paid for which invoices have been presented, at least one business day before the Closing Date, and the Borrower shall have complied with all of its other obligations under the Fee Letter.

(i) The Lenders shall have received (i) audited financial statements of the Borrower and the Target for the three most recent fiscal years and (ii) unaudited interim consolidated financial statements of the Borrower and the Target for each quarterly period ended after the latest fiscal year referred to in clause (i) above and ended at least 45 days prior to the Closing Date.

(j) The Lenders shall have received a pro forma consolidated balance sheet of the Borrower and its subsidiaries as at the date of the most recent consolidated balance sheet delivered pursuant to the preceding paragraph and a pro forma statement of income for the four fiscal quarters most recently ended for which financial statements were delivered to the Lenders pursuant to paragraph (i) above, in each case adjusted to give effect to the consummation of the Transaction and the financings contemplated hereby as if such transactions, with respect to the pro forma balance sheet, had occurred on such date or with respect to the pro forma statements of income, had occurred on the first day of the most recently completed fiscal year, prepared in accordance with Regulation S-X of the Securities Act of 1933, as amended ("Regulation S-X) (subject to exceptions customary for an offering under Rule 144A, unless the Securities are proposed to be offered and sold in a registered offering).

(k) The Administrative Agents shall have received the results of a recent lien search in each relevant jurisdiction with respect to the Borrower and its subsidiaries, and such search shall reveal no liens on any of the assets of the Borrower and its subsidiaries except for liens permitted under the Credit Facilities or liens to be discharged on or prior to the Closing Date pursuant to documentation reasonably satisfactory to the Administrative Agents.

(l) Subject to the Closing Date Conditions Provisions, all documents and instruments required to perfect each Administrative Agent's security interest in the collateral under the Credit Facilities shall have been executed and be in proper form for filing.

(m) The Administrative Agents shall have received a customary solvency certificate from the chief financial officer of the Borrower that shall document the solvency of the Borrower and its subsidiaries (on a consolidated basis) after giving effect to the Transaction and the other transactions contemplated hereby.

(n) The Administrative Agents shall have received (i) such legal opinions (including opinions (a) from counsel to the Borrower and its subsidiaries, and (b) from such special and local counsel as may be reasonably required by the Administrative Agents), documents and other instruments as are customary for transactions of this type or as they may reasonably request, in customary form for transactions of this type, and (ii) the result of the Borrowing Base audits and field exams, which shall have been completed prior to the Closing Date.

(o) As a condition to the availability of the Credit Facilities, (a) the Joint Lead Arrangers shall have received, not later than 30 consecutive days prior to the Closing Date, a confidential information memorandum (which shall include forecasts of the financial performance of the Borrower and its subsidiaries (x) on an annual basis through 2016 and (y) on a quarterly basis through 2012) for use in the syndication of the Credit Facilities, and (b) the Joint Lead Arrangers shall have been afforded a period of at least 30 consecutive days; provided that such 30 consecutive day period shall end prior to August 22, 2011 or commence after September 5, 2011; provided further that, if such 30 consecutive day period either (i) begins prior to May 28, 2011 and ends after May 30, 2011 or (ii) begins prior to July 2, 2011 and ends after July 5, 2011, such 30 consecutive day period shall be extended by 3 calendar days) upon receipt of the confidential information memorandum described in clause (a) to syndicate the Credit Facilities.

(p) (a) The Borrower shall have delivered (i) preliminary offering memoranda or preliminary prospectuses and other marketing materials relating to the Securities usable in a customary road show for the applicable Security (which in the case of preliminary offering memoranda or preliminary prospectuses shall include, without limitation, financial statements, pro forma financial statements, business and other financial data that would be required in a registered offering and other data that would be necessary for the investment bank (the "Investment Bank") to receive customary "comfort" (including negative assurance comfort) from auditors of the Target and the Borrower, and shall comply with the rules and regulations (including Regulation S-X, other than Rule 3-10 and 3-16 of Regulation S-X) of the Securities Act, as amended) (subject to exceptions customary for a Rule 144A offering unless the Securities are proposed to be offered and sold in a registered offering) and (ii) drafts of customary comfort letters by auditors of the Target and the Borrower which such auditors are prepared to issue upon completion of customary procedures, each in form and substance customary for high yield debt securities offerings (the "Required Offering Information"), and (b)(i) the Investment Bank shall have been afforded a reasonable period, which shall not be less than 30 consecutive days (provided that such 30 consecutive day period shall end prior to August 22, 2011 or commence after September 5, 2011; provided further that, if such 30 consecutive day period either (i) begins prior to May 28, 2011 and ends after May 30, 2011 or (ii) begins prior to July 2, 2011 and ends after July 5, 2011, such 30 consecutive day period shall be extended by 3 calendar days), following the receipt of such documentation to attempt to place the Securities with qualified purchasers thereof (it being understood that, if any of the Required Offering Information becomes "stale" under the applicable provisions of Regulation S-X during any such 30 consecutive day period, then such period shall be deemed not to have occurred and a new 30 consecutive day period shall only commence upon delivery of Required Offering Information that complies with the applicable provisions of Regulation S-X for each day of such period) and (ii) the Borrower shall have caused its, and shall have used commercially reasonable efforts to cause the Target's, senior management and other repre-

sentatives to (A) provide the Investment Bank customary access in connection with business, financial, accounting and legal diligence investigation of the Borrower and the Target and (B) participate in any "roadshow" in connection with the placement of the Securities during the period set forth in clause (b)(i) above.

(q) The Administrative Agents shall have received, at least 5 days prior to the Closing Date, all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act, to the extent reasonably requested by the Lenders at least 7 days prior to the Closing Date.

(r) The Borrower shall have used commercially reasonable efforts to obtain, at its expense, corporate credit or family ratings of the Borrower after giving effect to the Transactions and monitored public ratings of the Term Loan Facility and the Securities from Moody's Investors Service ("Moody's") and Standard & Poor's Ratings Group ("S&P") at least 30 days prior to the Closing Date. The Borrower shall participate actively in the process of securing such ratings, including having senior management of the Borrower, and using commercially reasonable efforts to have senior management of the Target, meet with such rating agencies.

(t) The Specified Transaction Agreement Representations and Specified Representations shall be accurate.

Viability Ratio Calculations

($ in 000's)

	Kindred Healthcare, Inc.[1]			Kindred Healthcare, Inc.[4]
	2009[2]	2008[2]	2007[2][3]	2012
Current Ratio				
Current Assets	$843,651	$1,029,187	$1,013,647	
Current Liabilities	$602,619	$625,270	$629,942	
Current Ratio	**1.4**	**1.6**	**1.6**	1.3
Net Margin Percentage				
Net Income from Continuing Operations	$62,612	$60,460	$43,133	
Net Operating Revenue	$4,270,007	$4,093,864	$4,128,649	
Net Margin %	**1.5%**	**1.5%**	**1.0%**	**1.8%**
Percentage debt to capital				
Debt	$147,733	$349,514	$276,398	
Equity	966,594	914,975	862,124	
Total Capital	$1,114,327	$1,264,489	$1,138,522	
Debt to Total Capital %	**13%**	**28%**	**24%**	**50%**
Projected Debt service Coverage Ratio				
Net Income from Continuing Operations	$62,612	$60,460	$43,133	
Depreciation	125,730	120,022	118,574	
Interest	7,880	15,373	17,044	
	$196,222	$195,855	$178,751	
Projected Maximum Debt Service Year 2013	$7,880	$15,373	$17,044	
	24.9	**12.7**	**10.5**	**3.7**
Days Cash on Hand				
Cash and Investments	$22,123	$145,899	$38,237	
Current Investments	106,834	123,535	231,693	
Long-term Investments	100,223	122,058	49,166	
	$229,180	$391,492	$319,096	
Operating Expense	$3,702,347	$3,545,695	$3,599,368	
Depreciation	125,730	120,022	118,574	
Cash Expenses	$3,576,617	$3,425,673	$3,480,794	
1 Day's cash need	$9,799	$9,385	$9,536	
Days Cash on Hand	**23.4**	**41.7**	**33.5**	**14.5**
Cushion Ratio				
Cash and Investments	$22,123	$145,899	$38,237	
Current Investments	106,834	123,535	231,693	
Long-term Investments	100,223	122,058	49,166	
	$229,180	$391,492	$319,096	
Projected Maximum Debt Service Year 2013	$7,880	$15,373	$17,044	
Cushion Ratio	**29.1**	**25.5**	**18.7**	**1.7**

(1) The ratios above are based on the audited financial statements of Kindred Healthcare, Inc., a publicly-traded company These corporate financial ratios are not comparable to the standards set forth in Part 1120, Appendix A.

(2) source: Kindred Healthcare, Inc. 2009 10K

(3) source: Kindred Healthcare, Inc. 2008 10K

(4) Kindred Healthcare, Inc. is a publicly-traded company, and, as such, it is inappropriate to provide projected financial information. However these estimates are being provided to the Illinois Health Facilities Planning Board solely for purposes of complying with Illinois regulations in connection with Applicants' proposal for a change of ownership of Greater Peoria Specialty Hospital and may not be used for any other purposes, including, without limitation, the purchase or sale of the securities of Applicant or its affiliates. This information contains forward-looking statements and inherently involves risks, uncertainties and other factors.

ATTACHMENT 41

Kindred Healthcare

January 31, 2011

Illinois Health Facilities and
Services Review Board
Springfield, Illinois 62761

To Whom It May Concern:

Kindred Healthcare, Inc. ("Kindred") will, as part of its anticipated acquisition of RehabCare Group, Inc., acquire a controlling interest in Greater Peoria Specialty Hospital. The acquisition will be funded, in part, through the re-financing of current debt. The use of debt will allow Kindred to preserve its liquid assets, and Kindred believes the proposed financing will result in the lowest net cost to Kindred.

Sincerely,

Douglas L. Curnutte
Vice President of Facilities and Real Estate Development

Notarization:

Subscribed and sworn to before me
this 31 day of January, 2011

Signature of Notary

Seal comm. exp. 10/07/2012

680 South Fourth Street Louisville, Kentucky 40202
502.596.7300 KY TDD/TTY# 800.648.6057

ATTACHMENT 42A&B

OPERATING EXPENSES AND CAPITAL EXPENSES
per ADJUSTED PATIENT DAY

Greater Peoria Specialty Hospital
2012 projections, assuming 85% occupancy
(no outpatient activity)

Projected Patient Days:		15,512
Projected Operating Expenses		
Salaries:	$8,076,500	
Benefits:	$1,498,100	
Supplies:	$1,482,100	
Total	$11,056,700	
PROJECTED OPERATING EXPENSE PER PATIENT DAY:		$712.78
Projected Capital Expenses		
Interest, Depreciation and Amortization:	$434,600	
PROJECTED CAPITAL EXPENSE PER PATIENT DAY:		$28.02

ATTACHMENT 42D & E

EXECUTION COPY

AGREEMENT AND PLAN OF MERGER

dated as of

February 7, 2011

among

KINDRED HEALTHCARE, INC.,

KINDRED HEALTHCARE DEVELOPMENT, INC.

and

REHABCARE GROUP, INC.

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AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (this "**Agreement**") dated as of February 7, 2011 among Kindred Healthcare, Inc., a Delaware corporation ("**Parent**"), Kindred Healthcare Development, Inc., a Delaware corporation and a wholly-owned Subsidiary of Parent ("**Merger Subsidiary**"), and RehabCare Group, Inc., a Delaware corporation (the "**Company**").

WHEREAS, on the terms and subject to the conditions set forth in this Agreement, the Company shall merge with and into Parent with Parent surviving the Merger, pursuant to which each outstanding share of Company Common Stock shall be canceled and converted into the right to receive the Merger Consideration, except for shares of Company Common Stock to be canceled pursuant to Section 1.02(b), except for Dissenting Shares, and except for certain Company Restricted Shares pursuant to the last sentence of Section 1.05(d);

WHEREAS, the Company Board has authorized and adopted this Agreement and resolved that this Agreement and the Merger, upon the terms and subject to the conditions set forth in this Agreement and in accordance with the relevant provisions of Delaware Law, are advisable, fair to and in the best interests of the Company and the holders of Company Common Stock;

WHEREAS, the Parent Board has authorized and adopted this Agreement and resolved that this Agreement and the Merger, upon the terms and subject to the conditions set forth in this Agreement and in accordance with the relevant provisions of Delaware Law, are advisable and in the best interests of Parent and the holders of Parent Common Stock;

WHEREAS, the board of directors of Merger Subsidiary has authorized and adopted this Agreement;

WHEREAS, the Company Board, as of the date hereof, has resolved to recommend that the holders of Company Common Stock vote to approve the Merger and this Agreement upon the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, the Parent Board, as of the date hereof, has resolved to recommend that the holders of Parent Common Stock vote to approve the Merger and this Agreement upon the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1

THE MERGER

Section 1.01. *The Merger.*

(a) Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time, the Company shall be merged (the "**Merger**") with and into Parent in accordance with Delaware Law, whereupon the separate existence of the Company shall cease, and Parent shall be the surviving corporation (the "**Surviving Corporation**"). Notwithstanding the foregoing, either of Parent or the Company may (i) at any time prior to the Effective Time with the consent of the other party, which consent shall not be unreasonably withheld or delayed, or (ii) immediately prior to the Effective Time, by written notice to (but without requiring the consent of) the other party, elect to change the method of effecting the transaction by providing for a merger of Merger Subsidiary with and into the Company (a "**Subsidiary Merger Election**"), in which case (A) all references in this Agreement to the Merger shall be deemed references to the merger of Merger Subsidiary with and into the Company and (B) the Company shall be the Surviving Corporation.

(b) Subject to the provisions of Article 8, the closing of the Merger (the "**Closing**") shall take place at the offices of Cleary Gottlieb Steen and Hamilton LLP, One Liberty Plaza, New York, New York, as soon as possible, but in any event no later than three Business Days after the date the conditions set forth in Article 8 (other than conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent permissible, waiver of those conditions at the Closing) have been satisfied or, to the extent permissible, waived by the party or parties entitled to the benefit of such conditions, or at such other place, at such other time or on such other date as Parent and the Company may mutually agree (the "**Closing Date**").

(c) Upon the Closing, the Company and Parent (or Merger Subsidiary, in the event of a Subsidiary Merger Election) shall cause the Merger to be consummated by filing a certificate of merger (the "**Certificate of Merger**") with the Secretary of State of the State of Delaware, in such form as is required by, and executed in accordance with, the relevant provisions of Delaware Law. The Merger shall become effective at such time (the "**Effective Time**") as the Certificate of Merger is duly filed with the Secretary of State of the State of Delaware (or at such later time as permitted by Delaware Law as Parent and the Company shall agree and shall be specified in the Certificate of Merger).

(d) The effects of the Merger shall be as provided in this Agreement and in the applicable provisions of Delaware Law. Without limiting the generality of the foregoing and subject thereto, at the Effective Time, the Surviving Corporation shall possess all the properties, rights, powers, privileges and franchises and be subject to all of the obligations, liabilities, restrictions and

disabilities of the Company and Parent (or Merger Subsidiary, in the event of a Subsidiary Merger Election), all as provided under Delaware Law.

Section 1.02. *Conversion of Shares*. At the Effective Time, by virtue of the Merger and without any action on the part of Parent, Merger Subsidiary or the holders of any shares of Company Common Stock or any shares of capital stock of Parent or Merger Subsidiary:

(a) except as otherwise provided in Section 1.02(b), Section 1.04 or Section 1.05(d), each share of Company Common Stock (including each Company Restricted Share that vests in accordance with Section 1.05(d) hereof) outstanding immediately prior to the Effective Time shall be converted into the right to receive a combination of (i) 0.471 of a validly issued, fully paid and nonassessable share of Parent Common Stock (such per share amount, the "**Stock Consideration**") and (ii) $26.00 in cash, without interest (such per share amount, the "**Cash Consideration**" and, together with the Stock Consideration and any cash in lieu of fractional shares of Parent Common Stock to be paid pursuant to Section 1.06(b), the "**Merger Consideration**"). As of the Effective Time, all such shares of Company Common Stock shall no longer be outstanding and shall automatically be canceled and shall cease to exist, and each certificate which immediately prior to the Effective Time represented any such shares of Company Common Stock (each, a "**Certificate**") and each uncertificated share of Company Common Stock (an "**Uncertificated Share**") which immediately prior to the Effective Time was registered to a holder on the stock transfer books of the Company, shall thereafter represent only the right to receive the Merger Consideration;

(b) each share of Company Common Stock held by the Company or any of its wholly-owned Subsidiaries or owned by Parent or any of its wholly-owned Subsidiaries immediately prior to the Effective Time shall be canceled, and no payment shall be made with respect thereto;

(c) each share of capital stock of Parent outstanding immediately prior to the Effective Time shall remain outstanding and shall not be affected by the Merger; and

(d) in the event of a Subsidiary Merger Election, each share of common stock of Merger Subsidiary outstanding immediately prior to the Effective Time shall be converted into and become one share of common stock of the Surviving Corporation with the same rights, powers and privileges as the shares so converted and shall constitute the only outstanding shares of capital stock of the Surviving Corporation.

Section 1.03. *Surrender and Payment.*

(a) Prior to the Effective Time, Parent shall appoint a commercial bank or trust company that is reasonably satisfactory to the Company (the

"**Exchange Agent**") for the purpose of paying the Merger Consideration to the holders of Company Common Stock and shall enter into an Exchange Agent Agreement with the Exchange Agent. At or prior to the Effective Time, Parent shall deposit, or cause to be deposited, with the Exchange Agent, for the benefit (from and after the Effective Time) of the holders of shares of Company Common Stock, for payment and exchange in accordance with this Section 1.03 through the Exchange Agent, (i) book-entry shares (which, to the extent subsequently requested, shall be exchanged for certificates) representing the total number of shares of Parent Common Stock issuable as Stock Consideration and (ii) cash sufficient to pay the aggregate Cash Consideration. In addition, Parent shall deposit, or cause to be deposited, with the Exchange Agent, from time to time as needed, cash sufficient to make payments in lieu of fractional shares payable pursuant to Section 1.06(b) and to pay any dividends or other distributions payable pursuant to Section 1.03(f). All book-entry shares and cash deposited with the Exchange Agent pursuant to this Section 1.03(a) shall herewith be referred to as the "**Exchange Fund**". Promptly after the Effective Time (and in any event within two Business Days following the Closing Date), Parent shall send, or shall cause the Exchange Agent to send, to each Person who was, immediately prior to the Effective Time, a holder of record of shares of Company Common Stock entitled to receive payment of the Merger Consideration pursuant to Section 1.02(a) a letter of transmittal and instructions (which shall specify that the delivery shall be effected, and risk of loss and title shall pass, only upon proper delivery of the Certificates or transfer of the Uncertificated Shares to the Exchange Agent) for use in such payment.

(b) Each holder of shares of Company Common Stock that have been converted into the right to receive the Merger Consideration shall be entitled to receive, upon (i) surrender to the Exchange Agent of a Certificate, together with a properly completed letter of transmittal, or (ii) receipt of an "agent's message" by the Exchange Agent (or such other evidence, if any, of transfer as the Exchange Agent may reasonably request) in the case of a book-entry transfer of Uncertificated Shares, the Merger Consideration in respect of the Company Common Stock represented by a Certificate or Uncertificated Share. Until so surrendered or transferred, as the case may be, each such Certificate or Uncertificated Share shall represent after the Effective Time for all purposes only the right to receive such Merger Consideration.

(c) If any portion of the Merger Consideration is to be paid to a Person other than the Person in whose name the surrendered Certificate or the transferred Uncertificated Share is registered, it shall be a condition to such payment that (i) either such Certificate shall be properly endorsed or shall otherwise be in proper form for transfer or such Uncertificated Share shall be properly transferred and (ii) the Person requesting such payment shall pay to the Exchange Agent any transfer or other taxes required as a result of such payment to a Person other than the registered holder of such Certificate or Uncertificated Share or establish to the satisfaction of the Exchange Agent that such tax has been paid or is not payable.

(d) The stock transfer books of the Company shall be closed immediately upon the Effective Time and there shall be no further registration of transfers of shares of Company Common Stock thereafter on the records of the Company. If, after the Effective Time, Certificates or Uncertificated Shares are presented to Parent, the Surviving Corporation or the Exchange Agent for any reason, they shall be canceled and converted into the right to receive only the Merger Consideration to the extent provided for, and in accordance with and subject to the procedures set forth, in this Article 1.

(e) Any portion of the Merger Consideration made available to the Exchange Agent pursuant to Section 1.03(a) that remains unclaimed by the holders of shares of Company Common Stock six months after the Effective Time shall be delivered to Parent or otherwise on the instruction of Parent, and any such holder who has not exchanged shares of Company Common Stock for the Merger Consideration in accordance with this Section 1.03 prior to that time shall thereafter look only to Parent for payment of the Merger Consideration, in respect of such shares without any interest thereon. Notwithstanding the foregoing, Parent shall not be liable to any holder of shares of Company Common Stock for any amounts paid to a public official pursuant to applicable abandoned property, escheat or similar laws. Any amounts remaining unclaimed by holders of shares of Company Common Stock immediately prior to such time when the amounts would otherwise escheat to or become property of any Governmental Authority shall become, to the extent permitted by Applicable Law, the property of Parent free and clear of any claims or interest of any Person previously entitled thereto.

(f) No dividends or other distributions declared or made with respect to Parent Common Stock with a record date after the Effective Time, and no payment in lieu of fractional shares pursuant to Section 1.06(b), will be paid to the holders of any unsurrendered Certificates or Uncertificated Shares with respect to the shares of Parent Common Stock issuable upon surrender thereof until the holder of such Certificates or Uncertificated Shares shall surrender such Certificates or Uncertificated Shares in accordance with the terms of this Section 1.03. Subject to Applicable Law, promptly following the surrender of any such Certificates or Uncertificated Shares, the Exchange Agent shall deliver to the holders thereof, without interest, any dividends or other distributions with a record date after the Effective Time and theretofore paid with respect to such whole shares of Parent Common Stock and, at the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time but prior to such surrender and a payment date subsequent to such surrender payable with respect to such whole shares of Parent Common Stock.

Section 1.04. *Dissenting Shares.* Notwithstanding any provision in this Agreement to the contrary, shares of Company Common Stock outstanding immediately prior to the Effective Time and held by a holder who has not voted in favor of the Merger or consented thereto in writing and who has properly demanded appraisal for such shares in accordance with Section 262 of Delaware Law (collectively, the "**Dissenting Shares**") shall not be converted into the right

to receive the Merger Consideration. From and after the Effective Time, a holder of Dissenting Shares shall not have, and shall not be entitled to exercise, any of the voting rights or other rights of a holder of shares of the Surviving Corporation. If, after the Effective Time, such holder fails to perfect, withdraws or loses the right to appraisal under Section 262 of Delaware Law, such shares shall be treated as if they had been converted as of the Effective Time into the right to receive the Merger Consideration. The Company shall give Parent prompt notice of any demands received by the Company for appraisal of shares, and Parent shall have the right to direct all negotiations and proceedings with respect to such demands. Except with the prior written consent of Parent, the Company shall not make any payment with respect to, or offer to settle or settle, any such demands.

Section 1.05. *Stock Options and Other Equity Awards.*

(a) Stock Plans. At or prior to the Effective Time, the Company shall take all reasonable actions (including obtaining any necessary determinations and/or resolutions of the board of directors of the Company (the "**Company Board**") or a committee thereof and amending any Stock Plan) to terminate each Stock Plan without any further liability on the part of the Company, the Surviving Corporation, Parent or any of their respective Subsidiaries, except as expressly set forth in this Section 1.05.

(b) Options. At the Effective Time, other than with respect to any option to purchase shares of Company Common Stock granted pursuant to the ESPP, the treatment of which is addressed separately in Section 1.05(c) below, each outstanding Company Stock Option, whether or not then exercisable or vested, shall become fully vested and be cancelled in exchange for the right to receive, as soon as reasonably practicable after the Effective Time (but in any event no later than the earliest of: (i) three Business Days after the Effective Time, (ii) the end of the year in which the Effective Time occurs, or (iii) the expiration of the original term of such Company Stock Option outstanding as of the Effective Time), an amount in cash equal to the product of (A) the total number of shares of Company Common Stock subject to such Company Stock Option immediately prior to the Effective Time, multiplied by (B) the excess, if any, of (x) the sum of the product of the Stock Consideration multiplied by the volume-weighted average price, rounded to the nearest one-tenth of a cent, of Parent Common Stock as reported by the NYSE for the five trading days immediately preceding the Closing Date plus the Cash Consideration over (y) the exercise price per share of Company Common Stock subject to such Company Stock Option, without interest and less any applicable taxes required to be withheld with respect to such payment. As used herein, the term "**Company Stock Option**" shall mean any outstanding option to purchase shares of Company Common Stock granted under any Stock Plan or otherwise. As of the Effective Time, each Company Stock Option for which the exercise price per share of Company Common Stock exceeds the Merger Consideration (based on a valuation of the Stock Consideration as set forth in clause (x) of Section 1.05(b)) shall be canceled and have no further effect, with no right to receive any

consideration therefor. As of the Effective Time, all other Company Stock Options shall no longer be outstanding and shall automatically cease to exist and shall become only the right to receive the option consideration described in this Section 1.05(b), and, without limiting the foregoing, the Company Board or the appropriate committee thereof shall take all necessary action to effect such cancellation.

(c) Employee Stock Purchase Plan. As soon as practicable following the date of this Agreement, the Company Board or the appropriate committee of the Company Board shall take all reasonable actions, including adopting any necessary resolution, to (i) terminate the Company's Employee Stock Purchase Plan (the "**ESPP**") as of immediately prior to the Closing Date, (ii) ensure that no offering period shall be commenced on or after the date of this Agreement, (iii) if the Closing shall occur prior to the end of the offering period in existence under the ESPP on the date of this Agreement, cause a new exercise date to be set under the ESPP, which date shall be the business day immediately prior to the anticipated Closing Date, (iv) prohibit participants in the ESPP from altering their payroll deductions from those in effect on the date of this Agreement (other than to discontinue their participation in the ESPP in accordance with the terms and conditions of the ESPP), and (v) provide that the amount of the accumulated contributions of each participant under the ESPP as of immediately prior to the Effective Time shall, to the extent not used to purchase shares of Company Common Stock in accordance with the terms and conditions of the ESPP (as amended pursuant to this Section 1.05(c)), be refunded to such participant as promptly as practicable following the Effective Time (without interest).

(d) At or immediately prior to the Effective Time, (i) each outstanding Company Restricted Share subject solely to time-based vesting conditions shall vest and become free of other lapsing restrictions, and (ii) with respect to outstanding Company Restricted Shares subject to performance-based vesting conditions, as indicated in Section 3.05 of the Company Disclosure Schedule, the number of Company Restricted Shares which would vest upon the attainment of target performance, as set out in the applicable award agreement, shall vest and become free of other lapsing restrictions. As of the Effective Time, all Company Restricted Shares which vest in accordance with this Section 1.05(d) shall be canceled and converted into the right to receive the Merger Consideration in accordance with Section 1.02(a). All Company Restricted Shares that remain unvested as a result of the applicable performance targets as described above shall be canceled without consideration therefor and the Company Board or the appropriate committee thereof shall take all necessary action to effect such cancellation.

Section 1.06. *Adjustments; Fractional Shares.*

(a) If, during the period between the date of this Agreement and the Effective Time (i) any change in the outstanding shares of Company Common Stock shall occur, as a result of any reclassification, recapitalization, stock split

(including reverse stock split), merger, combination, exchange or readjustment of shares, subdivision or other similar transaction, or any stock dividend thereon with a record date during such period, the Merger Consideration and any other amounts payable pursuant to this Agreement shall be appropriately adjusted to eliminate the effect of such event on the Merger Consideration or any such other amounts payable pursuant to this Agreement or (ii) any change in the outstanding shares of Parent Common Stock shall occur as a result of any reclassification, recapitalization, stock split (including reverse stock split), merger, combination, exchange or readjustment of shares, subdivision or other similar transaction, or any stock dividend thereon with a record date during such period, the Stock Consideration pursuant to this Agreement shall be appropriately adjusted to eliminate the effect of such event on the Stock Consideration payable pursuant to this Agreement. Nothing in this Section 1.06(a) shall be construed to limit any restrictions that may arise under other provisions of this Agreement on actions of the Company, Parent or any of their respective Subsidiaries that would cause such an adjustment.

(b) No certificates or scrip representing fractional shares of Parent Common Stock or book-entry credit of same will be issued upon the surrender for exchange of shares of Company Common Stock, but in lieu thereof each holder of Company Common Stock who would otherwise be entitled to a fraction of a share of Parent Common Stock upon surrender for exchange of Company Common Stock (after aggregating all fractional shares of Parent Common Stock to be received by such holder) shall receive an amount of cash (rounded up to the nearest whole cent), without interest, equal to the product of such fraction multiplied by the volume-weighted average price, rounded to the nearest one-tenth of a cent, of Parent Common Stock as reported by the NYSE for the five trading days immediately preceding the Closing Date. Payment shall occur as soon as practicable after the determination of the amount of cash, if any, to be paid to each former holder of Company Common Stock with respect to any fractional shares and following compliance with the surrender and payment procedures set forth in Section 1.03 and in the letter of transmittal. No dividend or distribution with respect to Parent Common Stock shall be payable on or with respect to any fractional shares and such fractional share interest shall not entitle the owner thereof to any rights of a shareholder of Parent.

Section 1.07. *Withholding Rights*. Each of the Exchange Agent, Parent and the Surviving Corporation shall be entitled to deduct and withhold from the consideration otherwise payable to any Person pursuant to this Agreement such amounts as it is required to deduct and withhold with respect to the making of such payment under any provision of any Applicable Law, including federal, state, local or foreign Tax law, and if any such amounts are deducted and withheld, Parent shall, or shall cause the Surviving Corporation to, as the case may be, timely pay such amounts to the appropriate Government Authority. If the Exchange Agent, Parent or the Surviving Corporation, as the case may be, so withholds amounts, such amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the shares of Company Common

Stock in respect of which the Exchange Agent, Parent or the Surviving Corporation, as the case may be, made such deduction and withholding.

Section 1.08. *Lost Certificates*. If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Certificate to be lost, stolen or destroyed and, if required by the Surviving Corporation, the posting by such Person of a bond, in such reasonable amount as the Surviving Corporation may direct (or in such amount as the Exchange Agent may direct in accordance with its standard procedures), as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent will issue, in exchange for such lost, stolen or destroyed Certificate, the Merger Consideration to be paid in respect of the shares of Company Common Stock represented by such Certificate, as contemplated by this Article 1.

ARTICLE 2

THE SURVIVING CORPORATION

Section 2.01. *Articles of Incorporation*. The certificate of incorporation of Parent in effect at the Effective Time (or, in the event of a Subsidiary Merger Election, the certificate of incorporation of the Company shall be amended in its entirety as set forth on Annex I and, as amended) shall be the certificate of incorporation of the Surviving Corporation until amended in accordance with Applicable Law.

Section 2.02. *Bylaws*. The bylaws of Parent (or, in the event of a Subsidiary Merger Election, of Merger Subsidiary) in effect at the Effective Time shall be the bylaws of the Surviving Corporation until amended in accordance with Applicable Law.

Section 2.03. *Directors and Officers*. From and after the Effective Time, until successors are duly elected or appointed and qualified in accordance with Applicable Law, (i) subject to Section 6.07, the directors of Parent (or, in the event of a Subsidiary Merger Election, the directors of Merger Subsidiary) at the Effective Time shall be the directors of the Surviving Corporation and (ii) the officers of Parent (or, in the event of a Subsidiary Merger Election, the officers of Merger Subsidiary) at the Effective Time shall be the officers of the Surviving Corporation.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except (i) as disclosed in the Company SEC Documents filed with or furnished to the SEC by the Company on or after March 8, 2010 and publicly available prior to the date of this Agreement (but excluding any risk factor

section, any disclosures in any section relating to forward looking statements and any other disclosures included therein to the extent they are predictive or forward-looking in nature) or (ii) as set forth in the Company Disclosure Schedule, the Company represents and warrants to Parent that:

Section 3.01. *Corporate Existence and Power.* The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has all corporate powers required to carry on its business as conducted as of the date hereof. The Company is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company. Prior to the date of this Agreement, the Company has made available to Parent in the Company Data Room true and complete copies of the Organizational Documents of the Company as in effect on the date of this Agreement.

Section 3.02. *Corporate Authorization.*

(a) The Company has all requisite corporate power and authority to execute and deliver this Agreement and, subject to receipt of the affirmative vote of the holders of a majority of the outstanding shares of Company Common Stock in connection with the consummation of the Merger (the "**Company Shareholder Approval**"), to perform its obligations under this Agreement and to consummate the Merger and the other transactions contemplated hereby. This Agreement constitutes a valid and binding agreement of the Company enforceable against the Company in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity).

(b) The Company Shareholder Approval is the only vote of the holders of any of the Company's capital stock necessary in connection with the consummation of the Merger.

(c) At a meeting duly called and held, the Company Board has unanimously (i) determined that this Agreement and the transactions contemplated hereby are advisable, fair to and in the best interests of the Company and the Company's stockholders, (ii) approved, adopted and declared advisable this Agreement and the transactions contemplated hereby, and (iii) directed that this Agreement be submitted to the Company's stockholders and resolved to recommend approval and adoption of this Agreement by the Company's stockholders (such recommendation, the "**Company Board Recommendation**").

Section 3.03. *Governmental Authorization.* The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the transactions contemplated hereby require no action by or in

respect of, filing with, or notice to, any Governmental Authority other than (a) as disclosed in Section 3.03(a) of the Company Disclosure Schedule, (b) the filing of the Certificate of Merger with the Delaware Secretary of State and appropriate documents with the relevant authorities of other states in which the Company is qualified to do business, (c) compliance with any applicable requirements of the HSR Act and under any comparable merger control laws of foreign jurisdictions, if applicable (the consents, approvals orders, authorizations, registrations, declarations and filings required under or in connection with any of the foregoing clauses (a), (b) and (c) above, the "**Required Governmental Authorizations**"), (d) compliance with any applicable requirements of the 1933 Act, the 1934 Act, and any other applicable U.S. state or federal securities laws, (e) compliance with any requirements of the NYSE, and (f) any actions, filings or notices the absence of which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company or materially delay or impair the ability of the Company to perform its obligations or consummate the transactions contemplated by this Agreement.

Section 3.04. *Non-contravention.* The execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby do not and will not (a) contravene, conflict with, or result in any violation or breach of any provision of the Organizational Documents of the Company or any of its Subsidiaries, (b) assuming compliance with the matters referred to in Section 3.03(a) through Section 3.03(e), contravene, conflict with or result in a violation or breach of any provision of any Applicable Law, (c) assuming compliance with the matters referred to in Section 3.03(a) through Section 3.03(e), require any consent or other action by any Person under, constitute a default, or an event that, with or without notice or lapse of time or both, would constitute a default, under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which the Company or any of its Subsidiaries is entitled under any provision of any agreement or other instrument binding upon the Company or any of its Subsidiaries or any license, franchise, permit, certificate, approval or other similar authorization affecting, or relating in any way to, the assets or business of the Company and its Subsidiaries or (d) result in the creation or imposition of any Lien (other than Permitted Liens) on any asset of the Company or any of its Subsidiaries, except for such contraventions, conflicts and violations referred to in clause (b), such failures to obtain any such consent or other action referred to in clause (c), and such defaults, terminations, cancellations, accelerations, changes, losses or Liens referred to in clauses (c) and (d), that would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect on the Company or materially delay or impair the ability of the Company to perform its obligations or consummate the transactions contemplated by this Agreement.

Section 3.05. *Capitalization.*

(a) The authorized capital stock of the Company consists of (i) 60,000,000 shares of Company Common Stock and (ii) 10,000,000 shares of

Preferred Stock, par value $0.10 per share ("**Company Preferred Stock**" and together with the Company Common Stock, the "**Company Capital Stock**"). Other than the Company Capital Stock, there are no shares of capital stock authorized, issued or outstanding. As of February 4, 2011, there were outstanding (i) 28,934,685 shares of Company Common Stock (of which of an aggregate of 608,321 shares are Company Restricted Shares and 4,002,898 are shares held in treasury), (ii) no shares of Company Preferred Stock and (iii) Company Stock Options to purchase an aggregate of 585,285 shares of Company Common Stock (of which Company Stock Options to purchase an aggregate of 585,285 shares of Company Common Stock were exercisable). As of February 4, 2011, other than 585,285 shares of Company Common Stock reserved for issuance pursuant to outstanding Company Stock Options under the Company's Directors Stock Plan and 1996 Stock Plan, the Company has no Shares reserved for issuance. All outstanding shares of Company Capital Stock have been, and all shares of Company Capital Stock that may be issued pursuant to any Stock Plan or other compensation plan or arrangement will be, when issued in accordance with the respective terms thereof, duly authorized and validly issued and are fully paid and nonassessable. No Subsidiary of the Company owns any shares of capital stock of the Company. Section 3.05(a) of the Company Disclosure Schedule contains a complete and correct list of (i) each outstanding Company Stock Option, including with respect to each such option the holder, date of grant, exercise price, vesting schedule and number of shares of Company Common Stock subject thereto and (ii) all outstanding Company Restricted Shares, including with respect to each such share the holder, date of grant, vesting schedule and type of vesting schedule.

(b) There are outstanding no bonds, debentures, notes or other indebtedness of the Company having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which shareholders of the Company may vote. Except as set forth in Section 3.05(a) and for changes since February 4, 2011 resulting from the exercise of Company Stock Options or the vesting of Company Restricted Shares outstanding on such date, there are no issued, reserved for issuance or outstanding: (i) shares of capital stock or other voting securities of or other ownership interest in the Company, (ii) securities of the Company convertible into or exchangeable for shares of capital stock or other voting securities of or other ownership interest in the Company, (iii) warrants, calls, options or other rights to acquire from the Company, or other obligations of the Company to issue, any capital stock, other voting securities or securities convertible into or exchangeable for capital stock or other voting securities of or other ownership interest in the Company or (iv) restricted shares, stock appreciation rights, performance units, restricted stock units, contingent value rights, "phantom" stock or similar securities or rights that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock of, or other voting securities of or ownership interests in, the Company (the items in clauses (i) though (iv) being referred to collectively as the "**Company Securities**"). There are no outstanding obligations of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any of the

Company Securities. Neither the Company nor any of its Subsidiaries is a party to any voting agreement with respect to the voting of any Company Securities.

(c) Each Company Stock Option (i) was granted in material compliance with all Applicable Law and all of the terms and conditions of the Stock Plan and related grant agreement pursuant to which it was granted, (ii) has an exercise price per share of Company Common Stock equal to or greater than the fair market value of a share of Company Common Stock on the date of such grant and (iii) has a grant date which was approved by the Company Board or a committee thereof no later than the grant date.

Section 3.06. *Subsidiaries.*

(a) Section 3.06(a) of the Company Disclosure Schedule sets forth a true and complete list of the name, jurisdiction of organization and equity owner(s) of each direct or indirect Subsidiary of the Company. Each Subsidiary of the Company is a business entity of the type indicated in Section 3.06(a) of the Company Disclosure Schedule, duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization and has all corporate or other organizational powers, as applicable, required to carry on its business as conducted as of the date hereof. Each such Subsidiary is duly licensed or qualified to do business as a foreign corporation or other entity, as applicable, and is in good standing in each jurisdiction in which the nature of the business transacted by it or the character of the properties owned or leased by it requires such licensing or qualification, except where the failures to be so licensed or qualified, individually or in the aggregate, have not resulted in, and would not reasonably be expected to result in, a Material Adverse Effect on the Company.

(b) Except as set forth in Section 3.06(a) of the Company Disclosure Schedule, all of the outstanding capital stock of, or other voting securities or ownership interests in, each Subsidiary of the Company, is owned by the Company or a wholly-owned Subsidiary of the Company, if applicable, directly or indirectly, free and clear of any Lien and free of any other limitation or restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other voting securities or ownership interests). There are no issued, reserved for issuance or outstanding (i) Company Securities or securities of any of its Subsidiaries convertible into or exchangeable for shares of capital stock or other voting securities of or ownership interests in any Subsidiary of the Company, (ii) warrants, calls, options or other rights to acquire from the Company or any of its Subsidiaries, or other obligations of the Company or any of its Subsidiaries to issue, any capital stock or other voting securities of or ownership interests in, or any securities convertible into or exchangeable for any capital stock or other voting securities of or ownership interests in, any Subsidiary of the Company or (iii) restricted shares, stock appreciation rights, performance units, restricted stock units, contingent value rights, "phantom" stock or similar securities or rights that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock of, or other voting

securities of or ownership interests in, any Subsidiary of the Company (the items in clauses (i) through (iii) being referred to collectively as the "**Company Subsidiary Securities**"). There are no outstanding obligations of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any of the Company Subsidiary Securities. Neither the Company nor any of its Subsidiaries is a party to any voting agreement with respect to the voting of any Company Subsidiary Securities.

Section 3.07. *SEC Filings and the Sarbanes-Oxley Act.*

(a) The Company has timely filed with or furnished to the SEC all reports, schedules, forms, statements, prospectuses, registration statements and other documents required to be filed or furnished by the Company since January 1, 2008 (all reports, schedules, forms, statements, prospectuses, registration statements and other documents filed or furnished by the Company since January 1, 2008, including those filed or furnished subsequent to the date of this Agreement , collectively, together with any exhibits and schedules thereto and other information incorporated therein, the "**Company SEC Documents**").

(b) As of its filing date (or, if amended or superseded by a filing prior to the date of this Agreement, on the date of such subsequent filing), each Company SEC Document complied as to form in all material respects with the applicable requirements of the 1933 Act, the 1934 Act and the Sarbanes-Oxley Act and the rules and regulations promulgated thereunder, as the case may be.

(c) As of its respective filing date (or, if amended or superseded by a filing prior to the date of this Agreement, on the date of such filing), each Company SEC Document filed pursuant to the 1934 Act did not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(d) Each Company SEC Document that is a registration statement, as amended or supplemented, if applicable, filed pursuant to the 1933 Act, as of the date such registration statement or amendment became effective, did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

(e) The Company is in compliance with, and have complied since January 1, 2008, in all material respects with the applicable listing and corporate governance rules and regulations of the NYSE.

(f) The Company has established and maintains disclosure controls and procedures (as defined in Rule 13a-15 under the 1934 Act). Such disclosure controls and procedures are reasonably designed to ensure that all material information required to be disclosed by the Company in the reports it files or submits under the 1934 Act is recorded, processed, summarized and reported

within the time periods specified in the rules and forms of the SEC and all such material information is made known to the Company's principal executive officer and principal financial officer.

(g) The Company and its Subsidiaries have established and maintained a system of internal control over financial reporting (as defined in Rule 13a-15 under the 1934 Act) ("**internal controls**"), including policies and procedures that (i) require the maintenance of records that in reasonable detail accurately and fairly reflect the material transactions and dispositions of the assets of the Company and its Subsidiaries, (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of the Company and its Subsidiaries are being made only in accordance with appropriate authorizations of management and the Company Board and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the assets of the Company and its Subsidiaries that could have a material effect on the financial statements. Section 3.07(g) of the Company Disclosure Schedule sets forth, based on the Company's most recent evaluation of internal controls prior to the date of this Agreement, to the Company's auditors and audit committee (x) any "significant deficiencies" and "material weaknesses" (as such terms are defined by the Public Company Accounting Oversight Board) in the design or operation of internal controls which would be reasonably expected to adversely affect in any material respect the Company's ability to record, process, summarize and report financial information and (y) any fraud, whether or not material, known to management, that involves management or other employees who have a significant role in internal controls.

(h) Since January 1, 2008, each of the principal executive officer and principal financial officer of the Company (or each former principal executive officer and principal financial officer of the Company, as applicable) has made all certifications required by Rule 13a-14 and 15d-14 under the 1934 Act and Sections 302 and 906 of the Sarbanes-Oxley Act and any related rules and regulations promulgated by the SEC and the NYSE, and the statements contained in any such certifications were when made complete and correct. For purposes of this Agreement, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in the Sarbanes-Oxley Act.

(i) Since January 1, 2008, to the knowledge of the Company, no executive officer or director of the Company has received or otherwise had or obtained knowledge of, and to the knowledge of the Company, no auditor, accountant, or representative of the Company has provided written notice to the Company or any executive officer or director of, any substantive complaint or allegation that the Company or any of its Subsidiaries has engaged in improper accounting practices. Since January 1, 2008, to the knowledge of the Company, no attorney representing the Company or any of its Subsidiaries has reported to the current Company Board or any committee thereof or to any current director or executive officer of the Company evidence of a material violation of United

States or other securities laws or breach of fiduciary duty by the Company or any of its executive officers or directors.

(j) Since December 31, 2009, there has been no transaction, or series of similar transactions, agreements, arrangements or understandings, nor are there any proposed transactions as of the date of this Agreement, or series of similar transactions, agreements, arrangements or understandings to which the Company or any of its Subsidiaries was or is to be a party, that would be required to be disclosed under Item 404 of Regulation S-K promulgated under the 1933 Act.

Section 3.08. *Financial Statements*. The audited consolidated financial statements and unaudited consolidated interim financial statements of the Company included or incorporated by reference in the Company SEC Documents fairly present in all material respects, in conformity with GAAP (except as may be indicated in the notes thereto), the consolidated financial position of the Company and its consolidated Subsidiaries as of the dates thereof and their consolidated results of operations and cash flows for the periods then ended (subject to normal and recurring year-end audit adjustments in the case of any unaudited interim financial statements).

Section 3.09. *Disclosure Documents*. The information supplied by the Company or through its counsel specifically for inclusion or incorporation by reference in (a) the Form S-4 will, at the time the Form S-4 is filed with the SEC, at any time it is amended or supplemented, and at the time it becomes effective under the 1933 Act, not contain any untrue statement of material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading or (b) the Joint Proxy Statement at the time the Joint Proxy Statement (and any amendment or supplement thereto) is first sent or given to the holders of Company Common Stock and Parent Common Stock and at the time of the Company Shareholder Meeting and Parent Shareholder Meeting, not contain any untrue statement of material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading. The Joint Proxy Statement (and any amendment or supplement thereto), will, when filed with the SEC and distributed or disseminated, as applicable, comply as to form in all material respects with the applicable requirements of the 1934 Act. No representation or warranty is made by the Company with respect to statements made based on information supplied by Parent or Merger Subsidiary or through their counsel specifically for inclusion or incorporation by reference in the Form S-4 or the Joint Proxy Statement.

Section 3.10. *Absence of Certain Changes*. (a) Since September 30, 2010 through the date of this Agreement, except as expressly contemplated by this Agreement, the business of the Company and its Subsidiaries has, in all material respects, been conducted in the ordinary course consistent with past practices, and there has not been any action taken by the Company or any of its

Subsidiaries that, if taken during the period from the date of this Agreement through the Effective Time, without Parent's consent, would constitute a material breach of Section 5.01.

(b) Since December 31, 2009, there have been no changes, effects, developments or events that, individually or in the aggregate, have had or would reasonably be expected to have a Material Adverse Effect on the Company.

Section 3.11. *No Undisclosed Material Liabilities; Intercompany Loans.*

(a) There are no liabilities of the Company or any of its Subsidiaries of any nature (whether absolute, accrued, known, unknown, contingent or otherwise) other than (i) liabilities disclosed and provided for in the Company Balance Sheet, (ii) liabilities incurred in connection with the negotiation, execution, delivery or performance of this Agreement or consummation of the transactions contemplated hereby, and (iii) liabilities or obligations that have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company.

(b) Section 3.11(b) of the Company Disclosure Schedule sets forth, as of December 31, 2010, (i) a true and complete schedule of all intercompany loans or borrowings between the Company and any non-wholly owned Subsidiary of the Company and (ii) a true and complete schedule of all intercompany loans or borrowings between Subsidiaries of the Company, other than loans or borrowings between wholly-owned Subsidiaries of the Company.

Section 3.12. *Litigation.* As of the date of this Agreement, there is no action, claim, suit, investigation, audit or proceeding (collectively, "**Proceedings**") pending against or, to the knowledge of the Company, threatened against the Company or any of its Subsidiaries that challenges or seeks to enjoin the transactions contemplated by this Agreement. There are no Proceedings pending against or, to the knowledge of the Company, threatened against the Company or any of its Subsidiaries, or to the knowledge of the Company, any present or former Employee of the Company or any of its Subsidiaries in his or her capacity as such that, individually or in the aggregate, have or would reasonably be expected to have a Material Adverse Effect on the Company. There are no judgments, decrees, injunctions, rules or orders of any arbitrator or Governmental Authority outstanding against the Company nor, to the knowledge of the Company, any investigations by any Governmental Authority (each, an "**Order**") involving the Company or any of its Subsidiaries or, to the knowledge of the Company, any present or former Employee of the Company or any of its Subsidiaries in his or her capacity as such, that, individually or in the aggregate, have or would reasonably be expected to have a Material Adverse Effect on the Company, or are or would reasonably be expected to prevent, enjoin, materially alter or materially delay any of the transactions contemplated by this Agreement. Section 3.12 of the Company Disclosure Schedule includes a description of all material Proceedings and Orders involving or relating to the Company or any of

its Subsidiaries, and, to the knowledge of the Company, any of their respective Employees in connection with the business of the Company or any of its Subsidiaries since January 1, 2008, except for such Proceedings and Orders for which the Company and its Subsidiaries have no further liability (contingent or otherwise).

Section 3.13. *Compliance with Applicable Law; Permits.*

(a) Except for failures to comply or violations that (i) would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company or (ii) have been cured and for which the Company and its Subsidiaries have no further liability (contingent or otherwise), the Company and each of its Subsidiaries is and, since January 1, 2008, has been and, to the knowledge of the Company, none of their respective Employees or Representatives acting on their behalf is now or, since January 1, 2008, has failed to be, in compliance with, and, since January 1, 2008, neither the Company nor any of its Subsidiaries has received any written (or to the knowledge of the Company, oral) communication from any Governmental Authority that alleges any violation of, Applicable Laws, including (collectively, "**Health Care Regulatory Laws**"):

(i) any applicable self-referral law, including 42 U.S.C. § 1395nn, as amended (the "**Stark Act**") or any applicable state self-referral law, and any implementing regulations thereunder;

(ii) any false claim or fraud law, including 31 U.S.C. § 3729, as amended, or any other applicable federal or state false claim or fraud law;

(iii) any anti-bribery or anti-kickback law, including but not limited to 42 U.S.C. § 1320a-7b(b), as amended (the "**Federal Anti-Kickback Statute**"), 41 U.S.C. § 51 et seq. and any implementing regulations thereunder, similar state or local laws, federal or state commercial bribery statutes, or any similar state or local statutes or regulations governing financial relationships among health care patients, providers, suppliers, distributors, or manufacturers;

(iv) the applicable privacy, security, transaction standards, breach notification, and other provisions and requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-99 ("**HIPAA**"), including the HIPAA regulations governing electronic transactions (45 C.F.R. Parts 160 and 162, Subparts I through R) and unique identifiers (45 Parts 160 and 162, Subparts D and F), and any comparable state Applicable Law; and

(v) 42 U.S.C. § 1320a-7, 42 U.S.C. § 1320a-7a, 42 U.S.C. § 1320a-7b or implementing regulations thereunder, or Title II-E of HIPAA, Pub. L. 104-191;

(b) Except as has had not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company, since January 1, 2008, none of the Company, any of its Subsidiaries, nor, to the knowledge of the Company, any of their respective Employees or Representatives acting on their behalf:

(i) has committed an act or failed to undertake any act, or been charged with or investigated for any act, which act or failure to act would subject the Company or any of its Subsidiaries to liability for criminal or civil money penalties, mandatory exclusion, permissive exclusion, or other administrative sanctions under any Health Care Regulatory Law,

(ii) has been excluded from participation in any federal or state health care program;

(iii) has been debarred or suspended from participating in federal or state government Contracts;

(iv) has been debarred under Section 306 of the Federal Food, Drug & Cosmetic Act, or otherwise subject to restriction or removal from clinical research activities under such act;

(v) has received any notice of any proposed exclusion, debarment, suspension, removal or restriction; or

(vi) has made, paid or received any unlawful bribes, kickbacks or other similar payments to or from any Person (including any customer or supplier) or Governmental Authority or made or paid any improper payment to a foreign government official (as defined in the U.S. Foreign Corrupt Practices Act).

(c) Set forth in Section 3.13(c)(i) of the Company Disclosure Schedule is a list of each hospital or other healthcare facility owned, operated or managed by the Company or any of its Subsidiaries (each, a "**Company Facility**"). The Company and each of its Subsidiaries hold all material governmental licenses, authorizations, permits, consents, approvals, certificates of need, registrations, variances, exemptions and orders necessary for the operation of each of the Company Facilities and the other businesses of the Company and its Subsidiaries (the "**Company Permits**"). Section 3.13(c)(ii) of the Company Disclosure Schedule contains a true and complete list of the hospital licenses for each LTCH and IRF of the Company or any of its Subsidiaries. The Company and each of its Subsidiaries is in compliance with the terms of the Company Permits, except for failures to comply or violations that have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company, each Company Permit is valid and in full force and effect. Since January 1, 2008, the Company

has not received any written (or to the knowledge of the Company, oral) notice from any Governmental Authority of (x) any actual or suspected material violation of any Company Permit or any failure to comply with any term or requirement of any Company Permit or (y) any revocation, withdrawal, suspension, cancellation, termination or modification of any Company Permit, other than notices related to any such matters that have been cured and for which the Company and its Subsidiaries have no further liability (contingent or otherwise). Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company, since January 1, 2008, no Company Permit has been revoked, withdrawn, suspended, cancelled, terminated, modified, terminated or been subject to a refusal to renew such Company Permit.

(d) To the knowledge of the Company, (i) no physician who owns, or whose immediate family member owns, any direct or indirect ownership or investment interest in any Company Facility (each, a "**Company Physician-Investor**") is prohibited from referring to such Company Facility under the Stark Act and each such Company Physician-Investor's ownership or investment interest is in material compliance with the Stark Act; and (ii) no direct or indirect ownership or investment interest in any Company Facility by any Company Physician-Investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for such Company Facility, is or results in any illegal remuneration to such Company Physician-Investor under the Federal Anti-Kickback Statute or any applicable state anti-kickback law. Section 3.13(d) of the Company Disclosure Schedule sets forth the percent of the value of any investment interests in each class of investments held as of the date hereof by investors who are in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for, each Company Facility in which any Company Physician-Investor has a direct or indirect ownership or investment interest.

(e) The LTCH doing business as "Triumph Hospital The Heights" is, and at all times has been operated as a "remote" location of "Triumph Hospital of North Houston" based upon compliance with 42 CFR §413.65 and is not a "satellite facility" as defined in 42 CFR §§412.22(h)(1) and 412.25(e)(1). Neither the Company nor any Subsidiary has received any written notice from any Governmental Authority or any fiscal intermediary regarding any actual or alleged violation of or failure by the Company or any Subsidiary to comply with any requirement of 42 CFR §413.65, except where the failures to comply, individually or in the aggregate, have not had and would not reasonably be expected to have a Material Adverse Effect on the Company.

(f) Neither the Company nor any of its Subsidiaries is currently, nor, since January 1, 2008, has been a party or subject to the terms of a corporate integrity agreement required by the Office of Inspector General of the Department of Health and Human Services or similar agreement or consent order of any other Governmental Authority.

Section 3.14. *Material Contracts.*

(a) For purposes of this Agreement, a "**Company Material Contract**" shall mean each of the following Contracts, whether written or oral, to which the Company or any of its Subsidiaries is a party or by which it is bound:

(i) Each "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K promulgated under the 1933 Act);

(ii) Contracts with respect to a joint venture, partnership, limited liability or other similar agreement or arrangement, related to the formation, creation, operation, management or control of any partnership or joint venture that is material to the business of the Company and the Subsidiaries, taken as a whole, or in which the Company owns more than a five percent voting or economic interest, or with respect to which the Company has obligations, including contingent obligations, of more than $500,000 individually or in the aggregate;

(iii) Contracts that relate to indebtedness for borrowed money, the deferred purchase price of property or service, any credit agreement, note, bond, mortgage, debenture or other similar instrument, any letter of credit or similar facilities, any agreement evidencing financial hedging or similar trading activities any obligation to purchase, redeem, retire, defease or otherwise acquire for value any capital stock or any warrants, rights or options to acquire such capital stock, or any guarantee with respect to an obligation of any other Person, that are in effect on the date hereof and could reasonably be expected to result in payments in excess of $500,000 individually or in the aggregate;

(iv) Contracts that relate to an acquisition, divestiture, merger or similar transaction that contains representations, covenants, indemnities or other obligations (including payment, indemnification, "earn-out" or other contingent obligations), that are in effect on the date hereof and could reasonably be expected to result in payments in excess of $500,000 individually or in the aggregate;

(v) Contracts that, other than an acquisition subject to Section 3.14(a)(iv), obligate the Company to make any capital commitment or expenditure (including pursuant to any joint venture) in excess of $1,000,000 individually or in the aggregate and that are not terminable by the Company or its Subsidiaries upon ninety days notice or less without material liability to the Company;

(vi) Contracts that prohibit the payment of dividends or distributions in respect of the Company Securities or Company Subsidiary Securities, prohibits the pledging of the Company Securities or Company

Subsidiary Securities or prohibits the issuance of guarantees by any Subsidiary of the Company;

(vii) Contracts containing any covenant limiting or prohibiting the right of the Company or any of its Subsidiaries (or, after the Closing Date, Parent or the Surviving Corporation or any of their respective Subsidiaries) to engage in any line of business, to distribute or offer any products or services, or to compete or engage with any Person in any line of business or levying a fine, charge or other payment for doing any of the foregoing;

(viii) Contracts which grant any exclusive rights, right of first refusal, right of first offer or similar right with respect to any material assets, rights or properties of the Company or any of its Subsidiaries;

(ix) Contracts that would be required to be disclosed under Section 3.17(b);

(x) Contracts that would reasonably be expected to involve payments by the Company and its Subsidiaries in excess of $1,000,000 during the twelve month period after the date of this Agreement that are not terminable by the Company or its Subsidiaries upon ninety days notice or less without material liability to the Company;

(xi) Contracts pursuant to which the Company or any of its Subsidiaries has granted "most favored nation" pricing provisions;

(xii) Contracts that the other party to which is a Governmental Authority, including the secretary, administrator, or other official thereof, or is any program operated by a Governmental Authority;

(xiii) Contracts with Third Party payers, including Medicaid provider agreements, management agreements, managed care agreements or other agreements with customers to the extent that such agreements would reasonably be expected to involve payments, to the Company and its Subsidiaries in excess of $1,000,000 individually or in the aggregate during the twelve month period after the date of this Agreement;

(xiv) Contracts, including the Stock Plans or any stock purchase plan, any of the benefits of which will be increased, or the vesting of benefits of which will be accelerated, by the consummation of the transactions contemplated hereby or the value of any of the benefits of which will be calculated on the basis of any of the transactions contemplated by this Agreement;

(xv) Contracts relating to the settlement of a Proceeding, other than settlement agreements providing for the payment of cash only (which

have not been paid or is reserved for on the Company Balance Sheet) not exceeding $500,000; and

(xvi) any other Contract that provides for payment obligations by the Company or any of its Subsidiaries of $2,000,000 individually or in the aggregate that is not terminable by the Company or its Subsidiaries upon ninety days notice or less without material liability to the Company or any of its Subsidiaries and is not required to be disclosed pursuant to Section 3.14(a)(i) to Section 3.14(a)(xv).

(b) Section 3.14(a) of the Company Disclosure Schedule lists each Company Material Contract as of the date of this Agreement, and, prior to the date of this Agreement, the Company has made available to Parent in the Company Data Room true and complete copies of Contracts listed in Section 3.14(a) of the Company Disclosure Schedule. Each Company Material Contract is valid, binding and enforceable on the Company or one of its Subsidiaries, as applicable, and to the knowledge of the Company, each other party thereto and in full force and effect in accordance with its terms (except those which are cancelled, rescinded or terminated after the date of this Agreement in accordance with their terms (and not as a result of a default by the Company) and subject to applicable bankruptcy, insolvency, fraudulent transfers, reorganization, moratorium and other laws, affecting creditors' rights generally and general principles of equity), except where the failures to be in full force and effect have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company. The Company has not received any written or, to the knowledge of the Company, oral, notice to terminate, in whole or part, any of the Company Material Contracts. None of the Company or any of its Subsidiaries is in breach under any Company Material Contract and to the knowledge of the Company, no other party to any Company Material Contract is in breach thereunder, except where such breach has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company.

Section 3.15. *Taxes*.

(a) All material Tax Returns required by Applicable Law to be filed with any Taxing Authority by, or on behalf of, the Company or any of its Subsidiaries have been filed on a timely basis in accordance with all Applicable Law, and all such Tax Returns are true and complete in all material respects.

(b) The Company and each of its Subsidiaries has paid (or caused to be paid) or has withheld and remitted to the appropriate Taxing Authority all Taxes due and payable, or, where payment is not yet due, has established in accordance with GAAP an adequate accrual for all material Taxes through the date of this Agreement.

(c) There is no claim, audit, action, suit, proceeding or investigation now pending or, to the knowledge of the Company, threatened in writing against or with respect to the Company or its Subsidiaries in respect of any material Tax.

(d) Neither the Company nor any of its Subsidiaries has granted (or is subject to) any waiver or extension that is currently in effect, of the statute of limitations for the assessment or payment of any Tax or the filing of any Tax Return.

(e) During the five-year period ending on the date of this Agreement, neither the Company nor any of its Subsidiaries was a distributing corporation or a controlled corporation in a transaction intended to be governed by Section 355 of the Code.

(f) Neither the Company nor any of its Subsidiaries is liable for Taxes of any Person (other than the Company and its Subsidiaries) as a result of being (i) a transferee or successor of such Person, (ii) a member of an affiliated, consolidated, combined or unitary group that includes such Person as a member or (iii) a party to a Tax sharing or Tax allocation agreement or any other express or implied agreement to indemnify such Person (other than (A) such agreements with customers, vendors, lessors or the like entered into in the ordinary course of business; (B) employment agreements; and (C) standard Tax indemnity provisions entered into in connection with purchase or sale agreements entered into in the ordinary course of business).

(g) Neither the Company nor any of its Subsidiaries participate or have "participated" in any "listed transaction" or "transaction of interest" within the meaning of Treasury Regulation Section 1.6011-4(b).

(h) Neither the Company nor any of its Subsidiaries will be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any:

(i) "Closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or non-U.S. income Tax law) executed on or prior to the Closing Date; or

(ii) Installment sale or open transaction disposition made on or prior to the Closing Date.

(i) "**Taxes**" means all taxes, charges, fees, levies, or other like assessments, including without limitation, all federal, possession, state, city, county and non-U.S. (or governmental unit, agency, or political subdivision of any of the foregoing) income, profits, employment (including Social Security, unemployment insurance and employee income Tax withholding), franchise, gross receipts, sales, use, transfer, stamp, occupation, property, capital, severance, premium, windfall profits, customs, duties, ad valorem, value added and excise

taxes, PBGC premiums and any other Governmental Authority (a "**Taxing Authority**") charges of the same or similar nature; including any interest, penalty, or addition thereto, whether disputed or not and including any obligations to assume or succeed to the Tax liability of any other Person by operation of law, and solely with respect to Section 3.15(f)(iii) and Section 4.13(f)(iii), any obligations to indemnify the Tax liability of any other Person. Any one of the foregoing shall be referred to sometimes as a "**Tax**".

(j) "**Tax Return**" means any report, return, document, declaration or other information or filing required to be supplied to any Taxing Authority with respect to Taxes, including information returns, any documents with respect to or accompanying payments of estimated Taxes, or with respect to or accompanying requests for the extension of time in which to file any such report, return, document, declaration or other information.

Section 3.16. *Employees and Employee Benefit Plans.*

(a) Section 3.16(a) of the Company Disclosure Schedule contains a correct and complete list identifying each "employee pension benefit plan" (as defined in Section 3(2) of ERISA) (whether or not subject to ERISA), each "employee welfare benefit plan" (as defined in Section 3(1) of ERISA) (whether or not subject to ERISA) and any other plan, program, agreement, arrangement, policy, practice, Contract, fund or commitment providing for pension, severance or retention benefits, profit-sharing, fees, bonuses, retention, stock ownership, stock options, stock appreciation, stock purchase or other stock-related benefits, incentive or deferred compensation, vacation benefits, life or other insurance (including any self-insured arrangements), health or medical benefits, dental benefits, employee assistance programs, salary continuation, unemployment benefits, disability or sick leave benefits, workers' compensation benefits, relocation or post-employment or retirement benefits (including compensation, pension, health, medical and life insurance benefits) or other form of benefits which is or has been maintained, administered, participated in or contributed to by the Company or any ERISA Affiliate of the Company and covers any employee or former employee of the Company or any of its Subsidiaries, or with respect to which the Company or any of its Subsidiaries has any material liability (collectively, the "**Employee Plans**").

(b) The Company has delivered to Parent true and complete copies of (i) each Employee Plan document (or, if appropriate, a form thereof), including any amendment thereto and in the case of unwritten Employee Plans, written descriptions thereof, (ii) the most recent annual report (Form 5500 series including, if applicable, Schedule B thereto) and tax return (Form 990) required to be filed with the IRS with respect to each Employee Plan (if any such report or return was required) and the most recent actuarial valuations or similar reports with respect to each Employee Plan for which such report is available, (iii) the most recent IRS determination or opinion letter received with respect to each Employee Plan, to the extent applicable, (iv) the most recent summary plan

description for each Employee Plan for which such summary plan description is required, (v) each insurance or group annuity Contract or other trust or funding vehicle relating to any Employee Plan and (vi) copies of the most recent version of any 280G calculation prepared (whether or not final) with respect to any employee, director or independent contractor of the Company in connection with the transactions contemplated by this Agreement (together with the underlying documentation on which such calculation is based).

(c) Neither the Company nor any ERISA Affiliate of the Company nor any predecessor thereof sponsors, maintains, participates in, contributes to or has any material liability with respect to, or has in the past sponsored, maintained, participated in, contributed to or had any material liability with respect to, any plan subject to Title IV of ERISA or Code Section 412, including, without limitation, any "single employer" defined benefit plan or any "multiemployer plan" each as defined in Section 4001 of ERISA.

(d) Each Employee Plan which is intended to be qualified under Section 401(a) of the Code (i) has received a favorable determination letter that it is so qualified, and nothing has occurred since the date of such letter that has or is likely to adversely affect such qualification, or (ii) has pending or has time remaining in which to file, an application for such determination from the Internal Revenue Service, and to the knowledge of the Company, there are no existing circumstances or any events that have occurred that could reasonably be expected to affect materially and adversely the qualified status of any Employee Plan. Each Employee Plan has been, in all material respects, maintained and administered in compliance with its terms and with the requirements prescribed by any and all laws, statutes, orders, rules and regulations, including ERISA and the Code, which are applicable to such Employee Plan. To the knowledge of the Company, neither the Company nor its Subsidiaries is or reasonably could be subject to a material liability pursuant to Section 502 of ERISA. No events have occurred with respect to any Employee Plan that could result in material payment or assessment by or against the Company or any of its Subsidiaries of any excise taxes under Sections 4972, 4975, 4976, 4977, 4979, 4980B, 4980D, 4980E or 5000 of the Code. There are no pending, or to the knowledge of the Company, threatened or anticipated claims (other than routine claims for benefits) by, on behalf of or against any Employee Plan or any trust related thereto which could reasonably be expected to result in any material liability to the Company or any of its Subsidiaries and no audit or other proceeding by a Governmental Authority is pending, or the knowledge of the Company, threatened or anticipated with respect to such Employee Plan.

(e) No Employee Plan is maintained primarily for the benefit of employees or other service providers who are primarily located outside of the United States.

(f) Except as set forth in Section 3.16(f) of the Company Disclosure Schedule and except as otherwise specifically so contemplated in this Agreement,

with respect to each current or former employee, director or independent contractor of the Company or any of its Subsidiaries, the consummation of the transactions contemplated by this Agreement will not, either alone or together with any other event: (i) entitle any such Person to severance pay, bonus amounts, incentive plan payments, retirement benefits, job security benefits or similar benefits, (ii) trigger or accelerate the time of payment or funding (through a grantor trust or otherwise) of any compensation or benefits payable to any such Person, (iii) accelerate the vesting of any compensation or benefits of any such Person (including any stock options or other equity-based awards, any incentive compensation or any deferred compensation entitlement), (iv) trigger any other material obligation to any such Person, (v) result in the forgiveness of any indebtedness of any such Person, (vi) otherwise give rise to any material liability under any Employee Plan or (vii) limit or restrict the right to amend, terminate or transfer the asset of any Employee Plan on or following the Effective Time. Except as set forth in Section 3.16(f) of the Company Disclosure Schedule, there is no Contract or plan (written or otherwise) covering any employee or former employee of the Company or any of its Subsidiaries that, individually or collectively, could give rise to the payment of any amount that would not be deductible pursuant to the terms of Section 280G or 162(m) of the Code. Section 3.16(f) of the Company Disclosure Schedule (v) lists all the agreements, arrangements and other instruments which give rise to an obligation to make or set aside amounts payable to or on behalf of the officers of the Company and its Subsidiaries as a result of the transactions contemplated by this Agreement and/or any subsequent employment termination (whether by the Company or the officer), true and complete copies of which have been provided to Parent prior to the date of this Agreement, with respect to officers of the Company who have termination compensation agreements providing payments upon a change of control of the Company, lists the maximum aggregate amounts so payable to each such individual as a result of the transactions contemplated by this Agreement and/or any subsequent employment termination (whether by the Company or the officer), lists the "base amount" (as defined in Section 280G(b)(3) of the Code) for each such officer, based on the Company's reasonable, good faith interpretation, and includes any underlying documentation related to the Company's calculations of any potential "parachute payments" (as defined in Section 280G of the Code) to such officers.

(g) Except as set forth in Section 3.16(g) of the Company Disclosure Schedule, no Employee Plan provides for, and neither the Company nor any of its Subsidiaries has any material liability in respect of, post-retirement or post-termination of employment health, medical or life insurance benefits for retired, former or current employees of the Company or its Subsidiaries, and there has been no communication (whether written or oral) to any Person that would reasonably be expected to promise or guarantee any such post-retirement or post-termination of employment medical, health or life insurance or other retiree welfare benefits, except in each case as may be required by the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("**COBRA**"). Each of the Employee Plans is in material compliance with, and the operation of each such

Employee Plan and as of the date of this Agreement will not result in the incurrence of any material penalty to any of the Company or its Subsidiaries under a good faith and reasonable interpretation of, the Patient Protection and Affordable Care Act and its companion bill, the Health Care and Education Reconciliation Act of 2010, to the extent applicable.

(h) Each Employee Plan that is a "nonqualified deferred compensation plan" within the meaning of Section 409A(d)(1) of the Code and any award thereunder, in each case that is subject to Section 409A of the Code, has been operated in material compliance with a good faith interpretation of Section 409A of the Code and the regulations thereunder for the period January 1, 2005 through December 31, 2008 and in material compliance with the final regulations issued under Section 409A of the Code for the period on and after January 1, 2009. Neither the Company nor any of its Subsidiaries has the contractual obligation to indemnify, hold harmless or gross-up any individual with respect to any tax, penalty or interest under Section 409A of the Code.

(i) There has been no amendment to, written interpretation or announcement (whether or not written) by the Company or any of its Affiliates relating to, or change in employee participation or coverage under, any Employee Plan which would increase materially the expense of maintaining such Employee Plan above the level of the expense incurred in respect thereof for the fiscal year ended December 31, 2010. No condition exists that would prevent the Company from amending or terminating any Employee Plan without material liability, other than the obligation for ordinary benefits accrued prior to the termination of such plan.

(j) Except as set forth in Section 3.16(j) of the Company Disclosure Schedule, neither the Company nor any of its Subsidiaries has been a party to or subject to, or is currently negotiating in connection with entering into, any collective bargaining agreement or other labor agreement with any union or labor organization, and there has not been any activity or proceeding of any labor organization or employee group to organize any such employees. In addition, (i) there are no unfair labor practice charges or complaints against Company or any of its Subsidiaries pending before the National Labor Relations Board; (ii) there are no labor strikes, slowdowns or stoppages actually pending or threatened against or affecting the Company or any of its Subsidiaries; (iii) there are no representation claims or petitions pending before the National Labor Relations Board and there are no questions concerning representation with respect to the employees of the Company or its Subsidiaries; and (iv) there are no grievance or pending arbitration proceedings against the Company or any of its Subsidiaries that arose out of or under any collective bargaining agreement.

(k) In the eighteen months prior to the date hereof, neither the Company nor any of its Subsidiaries has effectuated (i) a "plant closing" (as defined in the WARN Act) affecting any site of employment or one or more facilities or operating units within any site of employment or facility of the

Company or any of its Subsidiaries; (ii) a "mass layoff" (as defined in the WARN Act); or (iii) such other transaction, layoff, reduction in force or employment terminations sufficient in number to trigger application of any similar state or local law.

(l) The Company and its Subsidiaries are in compliance, in all material respects, with all Applicable Laws, collective bargaining agreements and arrangements, works councils, judgments or arbitration awards of any court, arbitrator or any Governmental Authority, extension orders and binding customs respecting labor and employment, including laws relating to employment practices, terms and conditions of employment, discrimination, disability, fair labor standards, workers compensation, wrongful discharge, immigration, occupational safety and health, family and medical leave, wages and hours, and employee terminations, and in each case, with respect to any current or former employee, consultant, independent contractor or director of the Company, any of its Subsidiaries (each, an "**Employee**"): (i) has withheld and reported all material amounts required by law or by agreement to be withheld and reported with respect to wages, salaries and other payments to Employees, (ii) is not liable for any arrears of wages, severance pay or any material Taxes or any penalty for failure to comply with any of the foregoing, and (iii) is not liable for any payment to any trust or other fund governed by or maintained by or on behalf of any Governmental Authority, with respect to unemployment 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). There are no material actions pending, threatened or reasonably anticipated against the Company, any of its Subsidiaries or any of their Employees relating to any Employee or Employee Plan. There are no pending or threatened or reasonably anticipated material claims or actions against the Company, any of its Subsidiaries or any Company trustee under any worker's compensation policy or long-term disability policy. Neither the Company nor any of its Subsidiaries has direct or indirect material liability as a result of any misclassification of any Person as an independent contractor rather than as an "employee."

Section 3.17. *Intellectual Property.*

(a) Section 3.17(a) of the Company Disclosure Schedule contains a complete and correct list of all registrations and applications for registration of material Company Owned Intellectual Property and material unregistered Company Owned Intellectual Property, in each case listing, as applicable (i) the name of the current owner of record, (ii) the jurisdiction where the application/registration is located and (iii) the application or registration number.

(b) Section 3.17(b) of the Company Disclosure Schedule contains a complete and correct list of all Contracts granting the Company or any of its Subsidiaries any right in or to material Intellectual Property of a Third Party

(excluding any commercially available "off the shelf," "shrink-wrap" software license at a cost less than $100,000 per year) or any material IT Assets.

(c) Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company:

(i) with respect to all Company Owned Intellectual Property, the Company or its Subsidiaries, as the case may be, exclusively own all right, title and interest in and to such Company Owned Intellectual Property (in each case, free and clear of any Liens except Permitted Liens);

(ii) other than as disclosed in Section 3.17(b) of the Company Disclosure Schedule and generally commercially available "off the shelf," "shrink-wrap" software licensed at a cost less than $100,000 per year, the Company Owned Intellectual Property constitute all the Intellectual Property used by or necessary for the Company and its Subsidiaries in the conduct of their business;

(iii) the Company and its Subsidiaries have not granted licenses to Third Parties under Company Owned Intellectual Property;

(iv) the use and exploitation of Company Owned Intellectual Property, and the conduct of the business of the Company and its Subsidiaries, have not, and are not infringing, misappropriating, or otherwise violating the Intellectual Property of any Person;

(v) the consummation of the transactions contemplated by this Agreement will not (A) alter, encumber, impair, make subject to a Lien (other than Permitted Liens) or extinguish any Company Owned Intellectual Property right or IT Assets; (B) impair the right of Surviving Corporation to use, sell, license or dispose of any Company Owned Intellectual Property; or (C) result in the Company, any of its Subsidiaries or, pursuant to a Contract to which Company or any of its Subsidiaries is a party, Parent, granting to any Third Party any rights or licenses to any Intellectual Property or being bound by or subject to any non-compete or other restriction on the operation or scope of their respective businesses;

(vi) the Company and its Subsidiaries have exercised reasonable care to maintain the confidentiality of all Trade Secrets that are Company Owned Intellectual Property or of a Third Party where the Company or any Subsidiaries is under an obligation to keep such Trade Secrets confidential and, to the knowledge of the Company, during the past twelve months, no such Trade Secrets have been disclosed other than to employees, representatives and agents of the Company or any of its Subsidiaries all of whom are bound by written confidentiality agreements, or to Third Parties under an obligation of confidentiality;

(vii) the IT Assets operate and perform in a manner that permits the Company and its Subsidiaries to conduct their respective businesses as currently conducted and, to the knowledge of the Company, no person has gained unauthorized access to the IT Assets; and

(viii) the Company and its Subsidiaries have implemented reasonable backup and disaster recovery technology consistent with industry practices.

Section 3.18. *Properties.*

(a) Section 3.18(a) of the Company Disclosure Schedule contains a complete and correct list of all real property owned by the Company or its Subsidiaries (the "**Owned Real Property**") and sets forth the street address, city and state of the Owned Real Property.

(b) Section 3.18(b) of the Company Disclosure Schedule contains a complete and correct list of the all real property leased, subleased, licensed, or otherwise occupied by the Company or its Subsidiaries (the "**Leased Real Property**" and together with the Owned Real Property, the "**Real Property**") and sets forth, with respect to each Leased Real Property, the street address and city and state, the current rent amounts payable by the Company or its Subsidiaries with respect thereto, the expiration date of the lease, sublease or license for each Leased Real Property and the scope of any renewal options thereunder.

(c) Section 3.18(c) of the Company Disclosure Schedule contains a complete and correct list of all Owned Real Property with respect to which any Person other than the Company or its Subsidiaries has any right (whether by lease, sublease, license or otherwise) to use or occupy and sets forth, with respect to each such property, the street address and city and state, the current rent amounts payable by such third Person with respect thereto, the expiration date of the lease, sublease or license for each such property and the scope of any renewal options thereunder.

(d) Except in any such case as has not had and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the use, market value or marketability of the subject Owned Real Property: (i) the Company or one of its Subsidiaries, as applicable, has good and marketable fee simple title to the Owned Real Property, free and clear of any Lien (other than Permitted Liens); (ii) there are no existing, pending or threatened condemnation proceedings or similar actions relating to any part of the Owned Real Property; (iii) all buildings, structures, fixtures and improvements included within the Owned Real Property (the "**Improvements**") are in good repair and operating condition, subject only to ordinary wear and tear, and are adequate and suitable for the purposes for which they are presently being used or held for use, and to the knowledge of the Company, there are no facts or conditions affecting any of the Improvements that, in the aggregate, would reasonably be expected to interfere

with the current use, occupancy or operation thereof; (iv) to the knowledge of the Company, (A) there are no violations of any zoning ordinances, building codes or other governmental or regulatory laws affecting the Owned Real Property or, to the knowledge of the Company, planned material changes in any zoning ordinance or building codes or other governmental or regulatory laws that would affect the Owned Real Property and (B) there are no commenced or, to the knowledge of the Company, planned public improvements related to the Owned Real Property that may result in special assessments against any part of the Owned Real Property.

(e) Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company: (i) the lease, sublease or license for each Leased Real Property is in full force and effect, valid, and binding on the Company or its Subsidiaries, as applicable, and to the knowledge of the Company, each other party thereto; (ii) none of the Company or any of its Subsidiaries, nor to the knowledge of the Company, any other party thereto, is in breach of or default under such lease, sublease or license, and no event has occurred which, with notice, lapse of time or both, would constitute a breach or default by any of the Company or its Subsidiaries or permit termination, modification or acceleration by any Third Party thereunder; and (iii) true and complete copies of all leases, subleases, licenses, and other occupancy agreements (including all modifications, amendments, supplements, waivers and side letters thereto) to which the Company or any of its Subsidiaries is a party have been made available to Parent.

Section 3.19. *Environmental Matters*. Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company: (a) no notice, notification, demand, request for information, citation, summons or order has been received, no complaint or decree has been filed, no penalty has been assessed, and as of the date of this Agreement, no Proceeding or review (or any basis therefor) is pending or, to the knowledge of the Company, is threatened by any Governmental Authority or other Person relating to the Company or any Subsidiary and relating to or arising out of any Environmental Law; (b) the Company and its Subsidiaries are and have been in compliance, in all material respects, with all Environmental Laws and all Environmental Permits; and (c) the Company and its Subsidiaries are not aware of any presence or release of or exposure to Hazardous Substances or other condition reasonably expected to give rise to a requirement for investigation or remediation, violation of, or liability pursuant to any Environmental Laws, (d) there are no currently accrued liabilities of the Company or any of its Subsidiaries arising under or relating to any violation of any Environmental Law or any Hazardous Substance; and (e) the Company has made available to Parent copies in the Company Data Room of all written environmental, health or safety assessments, audits and similar documents in its possession, including any "Phase I" and "Phase II" reports.

Section 3.20. *Antitakeover Statutes; Standstill Waivers.* (a) Assuming the accuracy of Section 4.20, the Company has taken all action necessary to exempt or exclude the Merger, this Agreement and the transactions contemplated hereby from any takeover statute, and, accordingly, none of the restrictions in such takeover statutes or any other antitakeover or similar statute or regulation applies to any such transactions.

(b) All waivers of standstills that the Company has granted, on or before the date hereof, to any Person that signed such standstill in connection with consideration of a possible Acquisition Proposal have expired or been revoked.

Section 3.21. *Opinion of Financial Advisor.* The Company has received the opinion of Citigroup Global Markets, Inc., financial advisor to the Company, and RBC Capital Markets, LLC, to the effect that, as of the date of this Agreement, the Merger Consideration is fair to the Company's shareholders from a financial point of view.

Section 3.22. *Finders' Fees.* Except for Citigroup Global Markets, Inc. and RBC Capital Markets, LLC, copies of whose engagement agreements (including all amendments) have been provided to Parent prior to the date of this Agreement, there is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of the Company or any of its Subsidiaries who might be entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

Section 3.23. *Third Party Reimbursements.*

(a) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company, the Company and its Subsidiaries have obtained and maintained all provider agreements, certifications, and authorizations required from any Governmental Authority and nongovernmental payor, or any entity acting on behalf of such Governmental Authority or nongovernmental payor, private insurer, health maintenance organization, preferred provider organization, other prepaid plan, health care service plan or other Third Party payor, under any Applicable Law (collectively, "**Payors**") and have obtained and maintained eligibility and good standing for reimbursement from such Payor. There is no Proceeding pending or, to the knowledge of the Company, threatened by any Governmental Authority or nongovernmental Payor that, individually or in the aggregate, are or would reasonably be expected to have a Material Adverse Effect on the Company, with respect to (i) any alleged violation by the Company or any of its Subsidiaries of any Applicable Law, Order, policy or guideline of any Governmental Authority or nongovernmental Payor involving or relating to participation in any such Payor's reimbursement program or eligibility to receive payment; or (ii) any revocation, cancellation, rescission, modification, or refusal to renew any agreements, certifications, or authorization of any Payor. Since December 31, 2008, no material Payor agreement has been revoked, cancelled, terminated, rescinded,

modified or been subject to a refusal to renew. The Company and its Subsidiaries have paid or made provision to pay any overpayment received from any Payor and any similar obligation with respect to reimbursement programs in which the Company or any of its Subsidiaries participates (each of which is reflected in the Company Balance Sheet).

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company, each long-term acute care hospital ("**LTCH**") owned or operated by the Company or its Subsidiaries meets the requirements for exclusion from the Medicare prospective payment system specified in 42 CFR § 412.1(a)(1) by complying with the requirements set forth at 42 CFR §412.23(e). Neither the Company nor any of its Subsidiaries has received written notice from a Governmental Authority of any pending or threatened Proceedings or surveys (other than surveys conducted in the ordinary course of business) specifically with respect to any LTCH's status as a long-term care hospital under 42 CFR §412.23(e). To the knowledge of the Company, no investigation or inquiry respecting the Medicare enrollment or certification status of any LTCH is pending, threatened or imminent (other than surveys conducted in the ordinary course of business). Neither the Company nor any of its Subsidiaries has reason to believe that each LTCH will not continue to meet all existing requirements necessary to be met in order for such LTCH to qualify as a long-term acute care hospital under 42 CFR §412.23(e). No LTCH is subject to the special payment provisions for long-term care hospitals specified in 42 CFR §§ 412.534 and 412.536.

(c) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company, each inpatient rehabilitation facility ("**IRF**") owned or operated by the Company or its Subsidiaries meets the requirements for exclusion from the Medicare prospective payment system specified in 42 CFR § 412.1(a)(1) by complying with the requirements set forth at 42 CFR §412.23(b). Neither the Company nor any of its Subsidiaries has received written notice from a Governmental Authority of any pending or threatened Proceedings or surveys (other than surveys conducted in the ordinary course of business) specifically with respect to any IRF's status as a inpatient rehabilitation facility under 42 CFR §412.23(b). To the knowledge of the Company, no investigation or inquiry respecting the Medicare enrollment or certification status of any IRF is pending, threatened or imminent (other than surveys conducted in the ordinary course of business). Neither the Company nor any of its Subsidiaries has reason to believe that each IRF will not continue to meet all existing requirements necessary to be met in order for such IRF to qualify as a inpatient rehabilitation facility under 42 CFR §412.23(b).

(d) Section 3.23(d) of the Company Disclosure Schedule lists the Medicare and Medicaid cost reports duly filed by the Company and each of its Subsidiaries covering all open cost reporting periods prior to the Closing Date and which of such cost reports has been (i) audited but not fully settled and (ii) neither audited nor settled, and a brief description of any and all notices of program

reimbursement, proposed or pending audit adjustments, disallowances, appeals of disallowances, and any and all other unresolved claims or disputes in respect of such cost reports.

Section 3.24. *Privacy and Security.* Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company, the Company and its Subsidiaries have adequate policies, procedures and systems in place to prevent improper use or disclosure of, or access to, all business, proprietary, individually identifiable, personal, medical and any other private information.

Section 3.25. *No Other Representations or Warranties.* Except for the representations and warranties contained in this Agreement, the Company expressly disclaims any other representations or warranties of any kind or nature, express or implied, as to liabilities, operations of the facilities, the title, condition, value or quality of the Company. No exhibit to this Agreement, nor any other material or information provided by or communications made by the Company or any of its Affiliates, or by any advisor thereof, whether in the Company Data Room, or in any information memorandum or otherwise, or by any broker or investment banker, will cause or create any warranty, express or implied, as to the title, condition, value or quality of the Company.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF PARENT

Except (i) as disclosed in Parent SEC Documents filed with or furnished to the SEC by Parent on or after February 26, 2010 and publicly available prior to the date of this Agreement (but excluding any risk factor section, any disclosures in any section relating to forward looking statements and any other disclosures included therein to the extent they are predictive or forward-looking in nature) or (ii) as set forth in Parent Disclosure Schedule, Parent represents and warrants to the Company that:

Section 4.01. *Corporate Existence and Power.* Each of Parent and Merger Subsidiary is a corporation duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation and has all corporate powers required to carry on its business as conducted as of the date hereof. Parent has, prior to the date of this Agreement, made available in the Parent Data Room to the Company true and complete copies of the Organizational Documents of each of Parent and Merger Subsidiary as in effect on the date of this Agreement. Since the date of its incorporation, Merger Subsidiary has not engaged in any activities other than in connection with or as contemplated by this Agreement.

Section 4.02. *Corporate Authorization.* (a) Subject to receipt of the affirmative vote of the holders of a majority of the outstanding shares of Parent Common Stock in connection with the consummation of the Merger, including

without limitation the authorization of the Parent Share Issuance (the "**Parent Shareholder Approval**"), the execution, delivery and performance by Parent and Merger Subsidiary of this Agreement and the consummation by Parent and Merger Subsidiary of the transactions contemplated hereby are within the corporate powers of Parent and Merger Subsidiary and have been duly authorized by all necessary corporate action on the part of Parent and Merger Subsidiary. This Agreement constitutes a valid and binding agreement of each of Parent and Merger Subsidiary, enforceable against each of Parent and Merger Subsidiary in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity).

(b) The Parent Shareholder Approval is the only vote of the holders of any of Parent's capital stock necessary in connection with the consummation of the Merger.

(c) At a meeting duly called and held, the board of directors of Parent (the "**Parent Board**") has unanimously (i) determined that this Agreement and the transactions contemplated hereby are advisable, fair to and in the best interests of Parent and Parent's stockholders, (ii) approved, adopted and declared advisable this Agreement and the transactions contemplated hereby, and (iii) directed that this Agreement be submitted to Parent's stockholders and resolved to recommend approval and adoption of this Agreement (including approval of the issuance of the shares of Parent Common Stock required to be issued in the Merger (the **"Parent Share Issuance"**)) by Parent's stockholders (such recommendation, the "**Parent Board Recommendation**").

Section 4.03. *Governmental Authorization.* The execution, delivery and performance by Parent and Merger Subsidiary of this Agreement and the consummation by Parent and Merger Subsidiary of the transactions contemplated hereby require no action by or in respect of, filing with, or notice to any Governmental Authority other than (a) Required Governmental Authorizations, (b) compliance with any applicable requirements of the 1933 Act, the 1934 Act, and any other applicable U.S. state or federal securities laws, (c) compliance with any requirements of the NYSE, and (d) any actions, filings or notices the absence of which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent or materially delay or impair the ability of Parent or Merger Subsidiary to perform its obligations or consummate the transactions contemplated by this Agreement.

Section 4.04. *Non-contravention.* The execution, delivery and performance by Parent and Merger Subsidiary of this Agreement and the consummation by Parent and Merger Subsidiary of the transactions contemplated hereby do not and will not (a) contravene, conflict with, or result in any violation or breach of any provision of the Organizational Documents of Parent or Merger Subsidiary, (b) assuming compliance with the matters referred to in Section 4.03(a) through Section 4.03(c), contravene, conflict with or result in a violation

or breach of any provision of any Applicable Law, (c) assuming compliance with the matters referred to in Section 4.03(a) through Section 4.03(c), require any consent or other action by any Person under, constitute a default, or an event that, with or without notice or lapse of time or both, would constitute a default, under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which Parent or any of its Subsidiaries is entitled under any provision of any agreement or other instrument binding upon Parent or any of its Subsidiaries or any license, franchise, permit, certificate, approval or other similar authorization affecting, or relating in any way to, the assets or business of Parent and its Subsidiaries or (d) result in the creation or imposition of any Lien (other than Permitted Liens) on any asset of Parent or any of its Subsidiaries, except for such contraventions, conflicts and violations referred to in clause (b), such failures to obtain any such consent or other action referred to in clause (c), and such defaults, terminations, cancellations, accelerations, changes, losses or Liens referred to in clauses (c) and (d), that would not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect on Parent or materially delay or impair the ability of Parent (or, in the event of a Subsidiary Merger Election, of each of Parent and Merger Subsidiary) to perform its obligations or consummate the transactions contemplated by this Agreement.

Section 4.05. *Capitalization.*

(a) The authorized capital stock of Parent consists of (i) 175,000,000 shares of Parent Common Stock and (ii) 1,000,000 shares of Preferred Stock, par value $0.25 per share ("**Parent Preferred Stock**" and together with Parent Common Stock, the "**Parent Capital Stock**"). Other than Parent Capital Stock, there are no shares of capital stock authorized, issued or outstanding. As of February 4, 2011, there were outstanding (i) 39,495,320 shares of Parent Common Stock, (ii) no shares of Parent Preferred Stock and (iii) Parent Stock Options to purchase an aggregate of 3,365,424 shares of Parent Common Stock (of which Parent Stock Options to purchase an aggregate of 3,055,961 shares of Parent Common Stock were exercisable). As of February 4, 2011, other than 1,049,230 shares of Parent Common Stock reserved for issuance under Parent's 2001 Stock Incentive Plan, Amended and Restated and the 2001 Equity Plan for Non-Employee Directors (Amended and Restated) pursuant to outstanding Parent's Stock Options and upon the vesting of Parent Performance Units, Parent has no Shares reserved for issuance. All outstanding shares of Parent Capital Stock have been, and all shares of Parent Capital Stock that may be issued pursuant to any stock plan of Parent or other compensation plan or arrangement will be, when issued in accordance with the respective terms thereof, duly authorized and validly issued and are fully paid and nonassessable. No Subsidiary of Parent owns any Parent Capital Stock.

(b) There are outstanding no bonds, debentures, notes or other indebtedness of Parent having the right to vote (or convertible into, or

exchangeable for, securities having the right to vote) on any matters on which shareholders of Parent may vote.

Section 4.06. *Disclosure Documents.* The information supplied by Parent and Merger Subsidiary, or through their counsel, specifically for inclusion or incorporation by reference in (a) the Form S-4 will, at the time the Form S-4 is filed with the SEC, at any time it is amended or supplement, and at the time it becomes effective under the 1933 Act, not contain any untrue statement of material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading or (b) the Joint Proxy Statement, at the time the Joint Proxy Statement (and any amendment or supplemented thereto) is first sent or given to the holders of Company Common Stock and Parent Common Stock and at the time of the Company Shareholder Meeting and Parent Shareholder Meeting, not contain any untrue statement of material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading. The Form S-4 and Joint Proxy Statement (and any amendment or supplement thereto), will, when filed with the SEC and distributed or disseminated, as applicable, comply as to form in all material respects with the applicable requirements of the 1933 Act and 1934 Act, as applicable. No representation or warranty is made by Parent with respect to the statements made based on information supplied by the Company or through their counsel specifically for inclusion or incorporation by reference in the Form S-4 or the Joint Proxy Statement.

Section 4.07. *SEC Filings and the Sarbanes-Oxley Act.*

(a) Parent has timely filed with or furnished to the SEC all reports, schedules, forms, statements, prospectuses, registration statements and other documents required to be filed or furnished by Parent since January 1, 2008 (all reports, schedules, forms, statements, prospectuses, registration statements and other documents filed or furnished by Parent since January 1, 2008, including those filed or furnished subsequent to the date of this Agreement, collectively, together with any exhibits and schedules thereto and other information incorporated therein, the "**Parent SEC Documents**").

(b) As of its filing date (or, if amended or superseded by a filing prior to the date of this Agreement, on the date of such subsequent filing), each Parent SEC Document complied as to form in all material respects with the applicable requirements of the 1933 Act, the 1934 Act and the Sarbanes-Oxley Act and the rules and regulations promulgated thereunder, as the case may be.

(c) As of its respective filing date (or, if amended or superseded by a filing prior to the date of this Agreement, on the date of such filing), each Parent SEC Document filed pursuant to the 1934 Act did not contain any untrue statement of a material fact or omit to state any material fact necessary in order to

make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(d) Parent is in compliance with, and have complied since January 1, 2008, in all material respects with the applicable listing and corporate governance rules and regulations of the NYSE.

(e) Each Parent SEC Document that is a registration statement, as amended or supplemented, if applicable, filed pursuant to the 1933 Act, as of the date such registration statement or amendment became effective, did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

(f) Parent has established and maintains disclosure controls and procedures (as defined in Rule 13a-15 under the 1934 Act). Such disclosure controls and procedures are reasonably designed to ensure that all material information required to be disclosed by Parent in the reports it files or submits under the 1934 Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC and all such material information is made known to Parent's principal executive officer and principal financial officer.

(g) Parent has established and maintained a system of internal controls, including policies and procedures that (i) require the maintenance of records that in reasonable detail accurately and fairly reflect the material transactions and dispositions of the assets of Parent and its Subsidiaries, (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of Parent and its Subsidiaries are being made only in accordance with appropriate authorizations of management and the Parent Board and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the assets of Parent and its Subsidiaries that could have a material effect on the financial statements. Parent has disclosed, based on its most recent evaluation of internal controls prior to the date of this Agreement, to Parent's auditors and audit committee (x) any "significant deficiencies" and "material weaknesses" (as such terms are defined by the Public Company Accounting Oversight Board) in the design or operation of internal controls which are reasonably likely to adversely affect in any material respect Parent's ability to record, process, summarize and report financial information and (y) any fraud, whether or not material, known to management, that involves management or other employees who have a significant role in Parent's internal controls.

(h) Since January 1, 2008, each of the principal executive officer and principal financial officer of Parent (or each former principal executive officer and principal financial officer of the Company, as applicable) have made all certifications required by Rule 13a-14 and 15d-14 under the 1934 Act and

Sections 302 and 906 of the Sarbanes-Oxley Act and any related rules and regulations promulgated by the SEC and the NYSE, and the statements contained in any such certifications were when made complete and correct.

(i) Since January 1, 2008, to the knowledge of Parent, no executive officer or director of Parent has received or otherwise had or obtained knowledge of, and to the knowledge of Parent, no auditor, accountant, or representative of Parent has provided written notice to Parent or any executive officer or director of, any substantive complaint or allegation that Parent or any of its Subsidiaries has engaged in improper accounting practices. Since January 1, 2008, to the knowledge of Parent, no attorney representing Parent or any of its Subsidiaries has reported to the current Parent Board or any committee thereof or to any current director or executive officer of Parent evidence of a material violation of United States or other securities laws or breach of fiduciary duty by Parent or any of its executive officers or directors.

Section 4.08. *Financial Statements*. The audited consolidated financial statements and unaudited consolidated interim financial statements of Parent included or incorporated by reference in Parent SEC Documents fairly present in all material respects, in conformity with GAAP (except as may be indicated in the notes thereto), the consolidated financial position of Parent and its consolidated Subsidiaries as of the dates thereof and their consolidated results of operations and cash flows for the periods then ended (subject to normal and recurring year-end audit adjustments in the case of any unaudited interim financial statements).

Section 4.09. *Absence of Certain Changes.*

(a) Since September 30, 2010 through the date of this Agreement, except as expressly contemplated by this Agreement, the business of Parent and its Subsidiaries has, in all material respects, been conducted in the ordinary course consistent with past practices, and there has not been any action taken by Parent or any of its Subsidiaries that, if taken during the period from the date of this Agreement through the Effective Time, without Company's consent would constitute a material breach of Section 6.01.

(b) Since December 31, 2009, there have been no changes, effects developments or events that, individually or in the aggregate, have had or would reasonably be expected to have a Material Adverse Effect on the Parent.

Section 4.10. *No Undisclosed Material Liabilities.* There are no liabilities of Parent or any of its Subsidiaries of any nature (whether absolute, accrued, known, unknown, contingent or otherwise) other than (a) liabilities disclosed and provided for in the Parent Balance Sheet, (b) liabilities incurred in connection with the negotiation, execution, delivery or performance of this Agreement or consummation of the transactions contemplated hereby or the financing of such transactions, and (c) liabilities or obligations that have not had

and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent.

Section 4.11. *Compliance with Applicable Law; Permits.* Except for failures to comply or violations that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent: (a) Parent and each of its Subsidiaries is and, since January 1, 2008, has been and, to the knowledge of Parent, none of their respective Employees or Representatives acting on their behalf is not or, since January 1, 2008, has failed to be, in compliance with, and neither Parent nor any of its Subsidiaries has received any written (or to the knowledge of Parent, oral) communication from any Governmental Authority that alleges any violation of, Applicable Laws, including Health Care Regulatory Laws; and (b) Parent and each of its Subsidiaries hold all material governmental licenses, authorizations, permits, consents, approvals, certificates of need, registrations, variances, exemptions and orders necessary for the operation of each hospital or other healthcare facility owned, operated or managed by Parent or any of its Subsidiaries (each, a "**Parent Facility**") and the other business of Parent and its Subsidiaries (the "**Parent Permits**"). Parent and each of its Subsidiaries is in compliance with the terms of the Parent Permits, except for failures to comply or violations that have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent, each Parent Permit is valid and in full force and effect.

Section 4.12. *Material Contracts.* For purposes of this Agreement, "**Parent Material Contract**" means (a) each "material contract" as such term is defined in Item 601(b)(10) of Regulation S-K promulgated under the 1933 Act and (b) any Contract which is material to the business of Parent. Each Parent Material Contract is valid, binding and enforceable on Parent or one of its Subsidiaries, as applicable, and to the knowledge of Parent, each other party thereto and in full force and effect in accordance with its terms (except those which are cancelled, rescinded or terminated after the date of this Agreement in accordance with their terms (and not as a result of a default by Parent) and subject to applicable bankruptcy, insolvency, fraudulent transfers, reorganization, moratorium and other laws, affecting creditors' rights generally and general principles of equity), except where the failures to be in full force and effect have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent. None of Parent or any of its Subsidiaries is in breach under any Parent Material Contract and to the knowledge of Parent, no other party to any Parent Material Contract is in breach thereunder, except where such breach has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent.

Section 4.13. *Taxes.*

(a) All material Tax Returns required by Applicable Law to be filed with any Taxing Authority by, or on behalf of, Parent or any of its Subsidiaries have been filed on a timely basis in accordance with all Applicable Law, and all such Tax Returns are true and complete in all material respects.

(b) Parent and each of its Subsidiaries has paid (or caused to be paid) or has withheld and remitted to the appropriate Taxing Authority all Taxes due and payable, or, where payment is not yet due, has established in accordance with GAAP an adequate accrual for all material Taxes through the date of this Agreement.

(c) There is no claim, audit, action, suit, proceeding or investigation now pending or, to the knowledge of Parent, threatened in writing against or with respect to Parent or its Subsidiaries in respect of any material Tax.

(d) Neither Parent nor any of its Subsidiaries has granted (or is subject to) any waiver or extension that is currently in effect, of the statute of limitations for the assessment or payment of any Tax or the filing of any Tax Return.

(e) During the five-year period ending on the date of this Agreement, neither Parent nor any of its Subsidiaries was a distributing corporation or a controlled corporation in a transaction intended to be governed by Section 355 of the Code.

(f) Neither Parent nor any of its Subsidiaries is liable for Taxes of any Person (other than Parent and its Subsidiaries) as a result of being (i) a transferee or successor of such Person, (ii) a member of an affiliated, consolidated, combined or unitary group that includes such Person as a member or (iii) a party to a Tax sharing or Tax allocation agreement or any other express or implied agreement to indemnify such Person (other than (A) such agreements with customers, vendors, lessors or the like entered into in the ordinary course of business; (B) employment agreements; and (C) standard Tax indemnity provisions entered into in connection with purchase or sale agreements entered into in the ordinary course of business).

(g) Neither Parent nor any of its Subsidiaries have "participated" in any "listed transaction" or "transaction of interest" within the meaning of Treasury Regulation Section 1.6011-4(b).

(h) Neither Parent nor any of its Subsidiaries will be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any:

(i) "Closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or non-U.S. income Tax law) executed on or prior to the Closing Date; or

(ii) Installment sale or open transaction disposition made on or prior to the Closing Date.

Section 4.14. *Employees and Employee Benefit Plans.*

(a) For purposes of this Agreement, "**Parent Employee Plans**" means each "employee pension benefit plan" (as defined in Section 3(2) of ERISA) (whether or not subject to ERISA), each "employee welfare benefit plan" (as defined in Section 3(1) of ERISA) (whether or not subject to ERISA) and any other plan, program, agreement, arrangement, policy, practice, Contract, fund or commitment providing for pension, severance or retention benefits, profit-sharing, fees, bonuses, retention, stock ownership, stock options, stock appreciation, stock purchase or other stock-related benefits, incentive or deferred compensation, vacation benefits, life or other insurance (including any self-insured arrangements), health or medical benefits, dental benefits, employee assistance programs, salary continuation, unemployment benefits, disability or sick leave benefits, workers' compensation benefits, relocation or post-employment or retirement benefits (including compensation, pension, health, medical and life insurance benefits) or other form of benefits which is or has been maintained, administered, participated in or contributed to by Parent or any ERISA Affiliate of Parent and covers any employee or former employee of Parent or any of its Subsidiaries, or with respect to which Parent or any of its Subsidiaries has any material liability.

(b) Each Parent Employee Plan has been, in all material respects, maintained and administered in compliance with its terms and with the requirements prescribed by any and all laws, statutes, orders, rules and regulations, including ERISA and the Code, which are applicable to such Parent Employee Plan. To the knowledge of Parent, neither Parent nor its Subsidiaries is or reasonably could be subject to a material liability pursuant to Section 502 of ERISA. No events have occurred with respect to any Employee Plan that could result in material payment or assessment by or against the Parent or any of its Subsidiaries of any excise taxes under Sections 4972, 4975, 4976, 4977, 4979, 4980B, 4980D, 4980E or 5000 of the Code. There are no pending, or to the knowledge of the Parent, threatened or anticipated claims (other than routine claims for benefits) by, on behalf of or against any Parent Employee Plan or any trust related thereto which could reasonably be expected to result in any material liability to Parent or any of its Subsidiaries and no audit or other proceeding by a Governmental Authority is pending, or the knowledge of Parent, threatened or anticipated with respect to such Parent Employee Plan.

Section 4.15. *Intellectual Property*. Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent, the consummation of the transactions contemplated by this Agreement will not (a) alter, encumber, impair, make subject to a Lien (other than Permitted Liens) or extinguish any Intellectual Property right of Parent; or

(b) impair the right of Surviving Corporation to use, sell, license or dispose of any Parent Owned Intellectual Property.

Section 4.16. *Financing.* Parent has delivered to the Company a true and complete fully executed copy of the commitment letter, dated as of February 7, 2011 between Parent and J.P. Morgan Securities LLC, JPMorgan Chase Bank, N.A., Citigroup Global Markets Inc. and Morgan Stanley Senior Funding, Inc., including all exhibits, schedules, annexes and amendments to such letter in effect as of the date of this Agreement, and the fee letter associated therewith (with only fee amounts and economic terms (none of which would adversely affect the amount or availability of financing) redacted) regarding the terms and conditions of the financing to be provided thereby (such commitment letter, including all exhibits, schedules, annexes and amendments thereto and such fee letter, collectively, the "**Commitment Letter**"), pursuant to which and subject to the terms and conditions contained therein the lenders party thereto have agreed to lend the amounts set forth therein (the provision of such funds as set forth therein, the "**Financing**") for the purposes set forth in such Commitment Letter. The Commitment Letter has not been amended, restated or otherwise modified or waived prior to the date of this Agreement, and the respective commitments contained in the Commitment Letter have not been withdrawn, modified or rescinded in any respect prior to the date of this Agreement. As of the date of this Agreement, the Commitment Letter is in full force and effect and constitutes a legal, valid and binding obligation of each of Parent and, to the knowledge of Parent, the parties thereto (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity). Other than as expressly set forth in the Commitment Letter, there are (a) no conditions precedent or contingencies related to the funding of the full net proceeds of the Financing (including pursuant to any "flex" provisions in connection therewith) and (b) as of the date of this Agreement, there are no agreements, side letters, arrangements or understandings between Parent and any of the parties to the Commitment Letter that would, or would reasonably be expected to (i) affect the availability of the Financing, (ii) reduce the aggregate amount of the Financing, (iii) delay or prevent the Closing or (iv) modify the terms of the Financing in any manner materially adverse to Parent or the Company. The proceeds of the Financing, together with other financial resources of Parent including cash on hand and marketable securities of Parent, the Company and their respective Subsidiaries on the Closing Date, will, in the aggregate, be sufficient on the Closing Date for the satisfaction of all of Parent's (and, in the event of a Subsidiary Merger Election, Merger Subsidiary's) obligations under this Agreement, including the payment of all amounts required to be paid pursuant to Article 1, and the payment of any debt required to be repaid, redeemed, retired, cancelled, terminated or otherwise satisfied in connection with the Merger (including, without limitation, the Company Credit Facility) and of all fees and expenses reasonably expected to be incurred in connection with consummating the Merger and the Financing, subject to the proviso to the penultimate sentence of this Section 4.16. As of the date of this Agreement, Parent is not in breach of any of the terms or conditions set forth

in the Commitment Letter and, to the knowledge of Parent, no event has occurred which, with or without notice or lapse of time, would reasonably be expected to constitute a failure to satisfy a condition precedent set forth therein. Parent has no reason to believe that any of the conditions to the Financing contemplated by the Commitment Letter will not be satisfied; *provided* that Parent is not making any representation or warranty regarding the effect of any inaccuracy of the representations and warranties of the Company in this Agreement or the failure of the Company to comply with any of its covenants in this Agreement. Parent has fully paid all commitment fees or other fees required pursuant to the Commitment Letter to the extent required thereunder to be paid prior to the date of this Agreement.

Section 4.17. *Finders' Fees*. Except for Morgan Stanley & Co. Incorporated whose fees will be paid by Parent, there is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of Parent who might be entitled to any fee or commission from the Company or any of its Affiliates upon consummation of the transactions contemplated by this Agreement.

Section 4.18. *Opinion of Financial Advisor*. Parent has received the opinion of Morgan Stanley & Co. Incorporated, financial advisor to Parent, to the effect that, as of the date of this Agreement, the Merger Consideration is fair to Parent from a financial point of view.

Section 4.19. *Litigation*. As of the date of this Agreement, there is no Proceeding pending against, or, to the knowledge of Parent, threatened against Parent or Merger Subsidiary, that challenges or seeks to enjoin the transactions contemplated by this Agreement. There are no Proceedings pending against, or to the knowledge of Parent, threatened against Parent or any of its Subsidiaries, or to the knowledge of Parent, any present or former Employee of Parent or any of its Subsidiaries in his or her capacity as such that, individually or in the aggregate, have or would reasonably be expected to have a Material Adverse Effect on Parent. There are no Orders involving Parent or any of its Subsidiaries or, to the knowledge of the Parent, any present or former Employee of Parent or any of its Subsidiaries in his or her capacity as such, that, individually or in the aggregate, are or would reasonably be expected to have a Material Adverse Effect on Parent, or would reasonably be expected to prevent, enjoin, materially alter or materially delay any of the transactions contemplated by this Agreement.

Section 4.20. *Ownership of Company Common Stock*. Other than pursuant to this Agreement, for the three years prior to the date hereof, neither Parent nor Merger Subsidiary has "beneficially owned" (within the meaning of Section 13 of the 1934 Act and the rules and regulations promulgated thereunder) or "owned" (as defined in Section 203 of Delaware Law) any shares of Company Capital Stock or has been an "interested stockholder" (as defined in Section 203 of Delaware Law), or is a party to any Contract, arrangement or understanding for

the purpose of acquiring, holding, voting or disposing of any shares of Company Capital Stock.

Section 4.21. *Third Party Reimbursements.*

(a) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent, Parent and its Subsidiaries have obtained and maintained all provider agreements, certifications, and authorizations required from any Payor, under any law and have obtained and maintained eligibility and good standing for reimbursement from such Payor.

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent, each LTCH owned or operated by Parent or its Subsidiaries meets the requirements for exclusion from the Medicare prospective payment system specified in 42 CFR § 412.1(a)(1) by complying with the requirements set forth at 42 CFR §412.23(e). To the knowledge of Parent, no investigation or inquiry respecting the Medicare enrollment or certification status of any LTCH is pending, threatened or imminent (other than surveys conducted in the ordinary course of business). No LTCH is subject to the special payment provisions for long-term care hospitals specified in 42 CFR §§ 412.534 and 412.536.

Section 4.22. *No Other Representations or Warranties.* Except for the representations and warranties contained in this Agreement, Parent expressly disclaims any other representations or warranties of any kind or nature, express or implied, as to liabilities, operations of the facilities, the title, condition, value or quality of Parent. No exhibit to this Agreement, nor any other material or information provided by or communications made by Parent or any of its Affiliates, or by any advisor thereof, whether in the Parent Data Room, or in any information memorandum or otherwise, or by any broker or investment banker, will cause or create any warranty, express or implied, as to the title, condition, value or quality of the Parent.

ARTICLE 5

COVENANTS OF THE COMPANY

The Company agrees that:

Section 5.01. *Conduct of the Company.* From the date of this Agreement until the Effective Time, the Company shall, and shall cause each of its Subsidiaries to, conduct its business in the ordinary course consistent with past practice and in compliance with all material Applicable Laws and all material authorizations from Governmental Authorities, and use its reasonable best efforts to preserve intact its present business organization, maintain in effect all material Company Permits, keep available the services of its directors, officers and employees and maintain satisfactory relationships with its customers, lenders,

suppliers and others having material business relationships with it. Without limiting the generality of the foregoing and to the fullest extent permitted by Applicable Law, from the date of this Agreement until the Effective Time, except as set forth in Section 5.01 of the Company Disclosure Schedule, or with Parent's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed) or to the extent permitted or required by another Section of this Agreement, the Company shall not, and shall not permit any of its Subsidiaries to:

(a) amend its Organizational Documents (whether by merger, consolidation or otherwise);

(b) (i) split, combine or reclassify any shares of its capital stock, (ii) declare, set aside or pay any dividend or make any other distribution (whether in cash, stock, property or any combination thereof) in respect of any shares of its capital stock or other securities (other than dividends or distributions by any of its wholly-owned Subsidiaries), or (iii) redeem, repurchase, cancel or otherwise acquire or offer to redeem, repurchase, or otherwise acquire, any of its securities or any securities of any of its Subsidiaries, other than the cancellation of Company Stock Options in connection with the exercise thereof;

(c) (i) issue, deliver or sell, or authorize the issuance, delivery or sale of, any shares of any Company Securities or Company Subsidiary Securities, other than the issuance of any shares of the Company Common Stock upon the exercise of Company Stock Options that are outstanding on the date of this Agreement in accordance with the terms of those options on the date of this Agreement or (ii) amend any term of any Company Security or any Company Subsidiary Security (in each case, whether by merger, consolidation or otherwise);

(d) (i) acquire (including by merger, consolidation, or acquisition of stock or assets) any equity interest or any material assets of any corporation, partnership, other business organization or any division thereof from any other Person, (ii) merge or consolidate with any other Person or (iii) adopt a plan of complete or partial liquidation, dissolution, recapitalization or restructuring;

(e) sell, lease, license or otherwise dispose of any Subsidiary or any material assets, securities or property;

(f) create or incur any Lien on any asset other than Permitted Liens or any immaterial Lien incurred in the ordinary course of business consistent with past practices;

(g) make any loan, advance or investment either by purchase of stock or securities, contributions to capital, property transfers, or purchase of any property or assets of any Person other than loans or advances to, or investments in, its wholly-owned Subsidiaries;

(h) create, incur, assume, suffer to exist or otherwise be liable with respect to any indebtedness for borrowed money or guarantees thereof other than indebtedness incurred by the Company or any of its wholly-owned Subsidiaries under existing credit facilities in the ordinary course of business consistent with past practices;

(i) amend or change the Company Credit Facility;

(j) (i) enter into any Contract that would have been a Company Material Contract were the Company or any of its Subsidiaries a party or subject thereto on the date of this Agreement other than in the ordinary course consistent with past practices or (ii) terminate or amend in any material respect any Company Material Contract or waive any material right thereunder other than in the ordinary course of business consistent with past practice;

(k) terminate, suspend, abrogate, amend or modify in any material respect any material Company Permit;

(l) abandon, cancel or allow to lapse or fail to maintain or protect any material registered Company Owned Intellectual Property;

(m) except as required by Applicable Law or existing Employee Plans (i) grant or increase any severance or termination pay to (or amend any existing arrangement with) any of their respective directors, officers or employees; (ii) increase benefits payable under any severance or termination pay policies or employment agreements existing as of the date of this Agreement; (iii) enter into any plan, program, policy, Contract, arrangement or agreement that would be an Employee Plan if in existence on the date hereof or otherwise amend, modify or terminate any Employee Plan (except as expressly required by Section 1.05); (iv) establish, adopt or amend (except as required by Applicable Law) any collective bargaining arrangement; (v) increase the compensation, bonus or other benefits payable to any of their respective directors or executives; or (vi) hire any employee with an annual base salary in excess of $150,000;

(n) make any material change in any method of accounting or accounting principles or practice, except for any such change required by reason of a concurrent change in GAAP or Regulation S-X under the 1933 Act, as approved by its independent public accountants;

(o) make, change, or rescind any election relating to material Taxes, settle or compromise any material claim relating to Taxes, or, except as required by Applicable Law, amend any material Tax Return;

(p) settle, or offer or propose to settle, any litigation, investigation, arbitration, proceeding or other claim involving or against the Company or any of its Subsidiaries involving a payment by the Company or its Subsidiaries in excess of $250,000;

(q) fail to use reasonable best efforts to maintain existing material insurance policies or comparable replacement policies to the extent available for a similar reasonable cost;

(r) enter into any new lease, sublease or license in respect of any Real Property or terminate or surrender any such existing lease, sublease or license, other than extensions of existing leases, subleases or licenses in the ordinary course of business consistent with past practice;

(s) acquire any material real property or dispose of, by sale or otherwise, any material Owned Real Property;

(t) amend, modify or extend any lease, sublease or license in respect of any Real Property in any material respect or in any manner which would impose on the Company or any of its Subsidiaries a material financial obligation thereunder that does not currently exist, or fail to deliver any notice, by the date required under such agreement, exercising the option of a tenant to extend such agreement;

(u) except as provided in Section 7.01(b), convene any regular (except to the extent required by Applicable Law or Order) or special meeting (or any adjournment thereof) of the stockholders of the Company;

(v) intentionally take any action that is intended, to the knowledge of the Company at the time the action is taken, to result in any of the conditions set forth in Article 8 not being satisfied; or

(w) agree, resolve or commit to do any of the foregoing.

Nothing contained in this Agreement shall be deemed to give, directly or indirectly, Parent the right to control or direct the Company's or any of its Subsidiaries' operations prior to the Closing. Prior to the Closing, the Company shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and its Subsidiaries' respective operations.

Section 5.02. *No Solicitation; Other Offers.*

(a) Subject to Section 5.02(b) and Section 5.02(d), from and after the date hereof until the earlier to occur of the Effective Time or the termination of this Agreement pursuant to Section 9.01:

(i) the Company shall not, and shall cause its Subsidiaries and its and their respective officers, directors, employees, investment bankers, attorneys, accountants, consultants and other authorized agents, advisors or representatives (collectively, "**Representatives**") not to, directly or indirectly, (A) solicit, initiate or take any action to knowingly facilitate or encourage the submission of any Acquisition Proposal, (B) enter into or

participate in any discussions or negotiations with, furnish any information relating to the Company or any of its Subsidiaries or afford access to the business, properties, assets, books or records of the Company or any of its Subsidiaries to, any Third Party that, to the knowledge of the Company, is seeking to make, or has made, an Acquisition Proposal, (C) withhold, withdraw or modify in a manner adverse to Parent or publicly propose to withhold, withdraw or modify in a manner adverse to Parent the Company Board Recommendation, recommend, adopt or approve or publicly propose to recommend, adopt or approve an Acquisition Proposal or resolve, agree or publicly propose to take any such actions (any of the foregoing in this clause (C), a "**Company Adverse Recommendation Change**") or (D) enter into any agreement in principle, letter of intent, term sheet, merger agreement, acquisition agreement, or other similar instrument (whether or not binding) constituting or relating to an Acquisition Proposal; and

(ii) the Company shall, and shall cause its Subsidiaries and its and their respective Representatives to, cease immediately and terminate immediately any and all existing activities, discussions or negotiations, if any, with any Third Party with respect to any Acquisition Proposal and shall immediately instruct any Third Party (or its agents or advisors) in possession of confidential information about the Company that was furnished by or on behalf of the Company in connection with any actual or potential Acquisition Proposal to return or destroy all such information.

(b) Notwithstanding the foregoing, at any time on or after the date hereof and prior to receipt of the Company Shareholder Approval, the Company or the Company Board, directly or indirectly through its Representatives, may (i) engage in negotiations or discussions (including, as a part thereof, making any counterproposal or counter offer to) with any Third Party that has made a bona fide unsolicited Acquisition Proposal after the date hereof that did not arise in connection with any failure to comply with Section 5.02(a) and that the Company Board believes in good faith (after consultation with a financial advisor of nationally recognized reputation and outside legal counsel) constitutes or would reasonably be expected to lead to a Superior Proposal and (ii) thereafter furnish to such Third Party nonpublic information relating to the Company or any of its Subsidiaries pursuant to a confidentiality agreement with terms no less favorable to the Company than those contained in the Confidentiality Agreement, except that such confidentiality agreement (x) shall contain additional provisions that expressly permit the Company to comply with its obligations under this Agreement and (y) need not contain the "standstill" provisions set forth in Section 7 of the Confidentiality Agreement ("**Acceptable Confidentiality Agreement**"); *provided* that all such information (to the extent that such information has not been previously provided or made available to Parent) is provided or made available to Parent, as the case may be, promptly (and, in any event, within twenty-four hours) following the time it is provided or made available to such Third Party, but in each case referred to in the foregoing clauses (i) through (ii)

only if (A) the Company Board determines in good faith, after consultation with outside legal counsel to the Company, that failure to take such action could reasonably be expected to be inconsistent with its fiduciary duties under Applicable Law and (B) the Company gives Parent not less than twenty-four hours prior written notice of the identity of such Third Party and the material terms of such Acquisition Proposal (unless such Acquisition Proposal is in written form, in which case the Company shall give Parent a copy thereof) and of the Company's intention to participate or engage in discussions or negotiations with, or furnish non-public information to, such Third Party.

(c) Nothing contained herein shall prevent the Company Board from complying with requirements of Rule 14e-2(a) under the 1934 Act or complying with the requirements of Rule 14d-9 under the 1934 Act with regard to an Acquisition Proposal, so long as any action taken or statement made to so comply is consistent with Section 5.02(a). For the avoidance of doubt, a "stop, look and listen" or similar communication of the type contemplated by Rule 14d-9(f) under the 1934 Act, an express rejection of any applicable Acquisition Proposal or an express reaffirmation of its recommendation to the shareholders of the Company in favor of the Merger shall not be deemed to be a Company Adverse Recommendation Change (including for purposes of Section 9.01(c)(i)).

(d) Notwithstanding the foregoing, if prior to receipt of the Company Shareholder Approval, the Company Board receives a Superior Proposal or there occurs an event, fact, circumstance or development, that occurs after the date hereof that was not known or foreseen by the Company Board as of the date hereof (and not related to any Acquisition Proposal), that becomes known prior to receipt of the Company Shareholder Approval (a "**Company Intervening Event**"), the Company Board shall be entitled to effect a Company Adverse Recommendation Change *provided* that (i) the Company Board determines in good faith, after consultation with outside legal counsel to the Company, that failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties under Applicable Law, and in the case of a Superior Proposal, the Company Board approves or recommends such Superior Proposal; (ii) the Company has notified Parent in writing that it intends to effect a Company Adverse Recommendation Change, describing in reasonable detail the reasons for such Company Adverse Recommendation Change, including the material terms and conditions of any such Superior Proposal and a copy of the final form of any related agreements or a description in reasonable detail of such Company Intervening Event, as the case may be; (iii) a three-Business Day period commencing with the first Business Day after the delivery of the notice and other materials under Section 5.02(d)(ii) shall have expired and, if requested by Parent, the Company shall have made its Representatives available to discuss and negotiate in good faith with Parent's Representatives any proposed modifications to the terms and conditions of this Agreement during this three-Business Day period following delivery by the Company to Parent of such notice; and (iv) if Parent shall have delivered a binding proposal capable of being accepted by the Company to amend the terms of this Agreement during such three-Business Day

period, the Company Board shall have determined in good faith, after consultation with outside legal counsel, that failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties under Applicable Law. Any material amendment or modification to any Superior Proposal, or any change to the amount or form of consideration in a Superior Proposal, made following delivery of the notice and other materials under Section 5.02(d)(ii) will be deemed to be a new Superior Proposal for purposes of this Section 5.02 and shall require delivery of new notice and other materials under Section 5.02(d)(ii) and a new three-Business Day period under Section 5.02(d)(iii). Notwithstanding the foregoing, the obligation of the Company to deliver a new notice and other materials under Section 5.02(d)(ii) and to provide a new three-Business Day period under Section 5.02(d)(iii) shall apply only twice with respect to a particular Superior Proposal regardless of any subsequent amendment, modification or change to such Superior Proposal, and following the expiration of such final three-Business Day period, the Company shall have no further obligation pursuant to the last sentence of Section 5.02(e) with respect to such Superior Proposal.

(e) The Company shall notify Parent promptly (but in no event later than twenty-four hours) after receipt by the Company (or any of its Representatives) of any Acquisition Proposal, any inquiry that would be reasonably expected to lead to an Acquisition Proposal or of any request for information relating to the Company or any of its Subsidiaries or for access to the business, properties, assets, books or records of the Company or any of its Subsidiaries by any Third Party that to the knowledge of the Company may be considering making, or has made, an Acquisition Proposal, which notice shall be provided in writing and shall identify the person making, and the material terms and conditions of, any such Acquisition Proposal, inquiry or request (including any material changes thereto and copies of any written materials received from such Third Party or its Representatives in connection therewith). The Company shall keep Parent reasonably informed of any material change to any Acquisition Proposal, inquiry or request for information.

"**Superior Proposal**" means any bona fide, written Acquisition Proposal, not solicited or initiated in violation of Section 5.02, for at least a majority of the outstanding shares of Company Common Stock or all or substantially all of the assets of the Company and its Subsidiaries on terms that the Company Board determines in good faith, after consultation with a financial advisor of nationally recognized reputation and outside legal counsel and taking into account all the terms and conditions of the Acquisition Proposal would result in a transaction (i) that if consummated, is more favorable to Company's shareholders from a financial point of view than the Merger or, if applicable, any binding proposal by Parent capable of being accepted by the Company, to amend the terms of this Agreement taking into account all the terms and conditions of this Agreement and such binding proposal (including the expected timing and likelihood of consummation) and taking into account any governmental and other approval requirements, (ii) that is reasonably capable of being completed on the terms proposed, taking into account the identity of the person making the

proposal, any approval requirements and all other financial, legal and other aspects of such proposal and (iii) for which financing, if a cash transaction (whether in whole or in part), is then fully committed or reasonably determined to be available by the Company Board.

Section 5.03. *Access to Information; Confidentiality.*

(a) From the date of this Agreement until the Effective Time and subject to Applicable Law, the Company shall, and shall cause its Subsidiaries to, upon reasonable notice and request, (i) give to Parent and its Representatives and the Financing Parties reasonable access during normal business hours to its offices, properties, books and records, (ii) furnish to Parent and its Representatives and the Financing Parties, such financial and operating data and other information as such Persons may reasonably request and (iii) instruct its Representatives to cooperate with Parent and its Representatives and the Financing Parties in its investigation, provided that prior to the disclosure of any such information or granting of any such access to a Financing Party, either such Financing Party shall have entered into a reasonably acceptable confidentiality agreement with the Company or Parent shall have entered into a written agreement, whereby it agrees to be fully responsible for the disclosure of any such information by any such Financing Party in breach of the Confidentiality Agreement. Any investigation pursuant to this Section 5.03 shall be conducted in such manner as not to interfere unreasonably with the conduct of the business of the Company and its Subsidiaries. Nothing contained in this Section 5.03 shall, prior to the Effective Time, require the Company to take any action that would, in the good faith judgment of the Company, constitute a waiver of the attorney-client or similar privilege or trade secret protection held by the Company or any of its Subsidiaries or violate confidentiality obligations owing to Third Parties; *provided, however*, that the Company shall make a good faith effort to accommodate any request from Parent and its Representatives for access or information pursuant to this Section 5.03 in a manner that does not result in such a waiver or violation (including by entering into joint defense or similar agreements with respect thereto).

(b) From the date of this Agreement until the Effective Time and subject to Applicable Law, Parent shall, and shall cause its Subsidiaries to, upon reasonable notice and request, (i) give the Company and its Representatives reasonable access during normal business hours to its offices, properties, books and records, (ii) furnish to the Company and its Representatives, such financial and operating data and other information as such Persons may reasonably request and (iii) instruct its Representatives to cooperate with the Company and its Representatives in its investigation. Any investigation pursuant to this Section 5.03 shall be conducted in such manner as not to interfere unreasonably with the conduct of the business of Parent. Nothing contained in this Section 5.03 shall, prior to the Effective Time, require Parent to take any action that would, in the good faith judgment of Parent, constitute a waiver of the attorney-client or similar privilege or trade secret protection held by Parent or any of its Subsidiaries or

violate confidentiality obligations owing to Third Parties; *provided, however*, that Parent shall make a good faith effort to accommodate any request from the Company and its Representatives for access or information pursuant to this Section 5.03 in a manner that does not result in such a waiver or violation (including by entering into joint defense or similar agreements with respect thereto).

(c) All information furnished pursuant to this Section 5.03 shall be subject to the confidentiality agreement, dated as of November 30, 2010, between Parent and the Company (the "**Confidentiality Agreement**"). The parties acknowledge and agree that nothing in the Confidentiality Agreement shall be deemed to restrict Parent from engaging in discussions and negotiations or making proposals as contemplated by Section 5.02(d).

Section 5.04. *Stockholder Litigation.* The Company shall not settle any stockholder litigation against the Company and/or its directors relating to this Agreement and the transactions contemplated hereunder without Parent's prior written consent (such consent not to be unreasonably withheld, delayed or conditioned), and the Company shall use its reasonable best efforts to keep Parent reasonably informed with respect to status of, and any material developments in, any such litigation.

Section 5.05. *Real Estate Matters.* Parent, at its sole discretion and expense, may order preliminary title reports from one or more nationally recognized title companies (the "**Title Companies**") with respect to any of the Real Property (the Real Property covered by such reports being referred to herein as the "**Titled Property**"). The Company shall use reasonable best efforts in cooperating with Parent and the Title Companies in connection with the compilation, review and examination of title to the Titled Property and in connection with Parent's efforts to obtain title insurance policies pursuant thereto on behalf of itself and/or the Financing Parties, including, by providing customary affidavits and indemnities as are required by the Title Companies for the deletion of any standard or printed exceptions, in any title insurance policies issued pursuant thereto, that are customarily deleted by virtue of a seller delivering such instruments in commercial real estate transactions in the state or province in which the Titled Property is located. Such cooperation shall include providing Parent and the Title Companies copies of, with respect to Titled Property, reasonably requested existing surveys, maps, GIS reports (including GIS-based compartment maps), aerial photographs, existing title reports and title insurance policies and true and complete copies of the encumbrance documents identified therein, to the extent the same are in the possession of the Companies or its Subsidiaries and to the extent the same are not publicly available.

ARTICLE 6

COVENANTS OF PARENT

Section 6.01. *Conduct of Parent.* From the date of this Agreement until the Effective Time, Parent shall not, except with the Company's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed):

(a) amend its Organizational Documents in a manner adverse to holders of Company Common Stock in any material respect;

(b) split, combine or reclassify any shares of its capital stock;

(c) (i) declare, set aside or pay any dividend or make any other distribution (whether in cash, stock, property or any combination thereof) in respect of any shares of its capital stock or other securities (other than dividends or distributions by any of its wholly-owned Subsidiaries) or (ii) redeem or repurchase any share of its capital stock or other securities at a price materially above market price;

(d) acquire from any other Person (including by merger, consolidation, or acquisition of stock or assets) any equity interest or any material assets of any corporation, partnership, other business organization or any division thereof having a fair market value in excess of $125,000,000 in the aggregate;

(e) adopt or enter into a plan of complete or partial liquidation or dissolution;

(f) intentionally take any action that is intended, to the knowledge of Parent at the time the action is taken, to result in any of the conditions set forth in Article 8 not being satisfied; or

(g) agree, resolve or commit to do any of the foregoing.

Nothing contained in this Agreement shall be deemed to give, directly or indirectly, the right to control or direct Parent's or any of its Subsidiaries' operations prior to the Closing. Prior to the Closing, Parent shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and its Subsidiaries' respective operations.

Section 6.02. *Obligations of Merger Subsidiary.* Parent shall take all action necessary to cause Merger Subsidiary to perform its obligations under this Agreement.

Section 6.03. *Voting of Shares.* Parent shall vote (or cause to be voted) all shares of Company Common Stock beneficially owned by it or any of its

Subsidiaries in favor of adoption of this Agreement at the Company Shareholder Meeting.

Section 6.04. *Director and Officer Liability.* Parent shall, or, in the event of a Subsidiary Merger Election, shall cause the Surviving Corporation, and the Surviving Corporation hereby agrees, to do the following:

(a) For six years after the Effective Time, Parent shall, or, in the event of a Subsidiary Merger Election, shall cause the Surviving Corporation to, indemnify and hold harmless each current and former officer and director of the Company and its Subsidiaries and each Person who served as a fiduciary under or with respect to any employee benefit plan (within the meaning of Section 3(3) of ERISA) of the Company and its Subsidiaries (each, together with such Person's heirs, executors or administrators, an "**Indemnified Person**") against any costs or expenses (including advancing reasonable attorneys' fees and expenses in advance of the final disposition of any claim, suit, proceeding or investigation to each Indemnified Person to the fullest extent permitted by Applicable Law; *provided, however,* that such advance shall be conditioned upon the Surviving Company's receipt of an undertaking by or on behalf of the Indemnified Person to repay such amount if it shall be ultimately determined by final judgment of a court of competent jurisdiction that the Indemnified Person is not entitled to be indemnified pursuant to this Section 6.04(a)), judgments, fines, losses, claims, damages, liabilities and amounts paid in settlement in connection with any actual or threatened claim, action, suit, arbitration, proceeding or investigation in respect of or arising out of acts or omissions occurring or alleged to have occurred at or prior to the Effective Time, in connection with such Indemnified Person's service as an officer or director of the Company or its Subsidiaries or as a fiduciary of such plan, to the fullest extent permitted by Delaware Law or any other Applicable Law or provided under the Company's Organizational Documents in effect on the date hereof; *provided* that such indemnification shall be subject to any limitation imposed from time to time under Applicable Law. In the event of any such action, Parent and the Surviving Corporation shall cooperate with the Indemnified Person in the defense of any such action.

(b) All rights in existence under the Company's and its Subsidiaries' Organizational Documents in effect on the date of this Agreement regarding elimination of liability of directors, indemnification and exculpation of officers, directors and employees and advancement of expenses to them shall survive the Merger and shall continue in full force and effect in accordance with their terms, and shall not be modified or amended, in a manner adverse to any Indemnified Person, for a period of six years from the Effective Time, it being understood that nothing in this sentence shall require any amendment to the Organizational Documents of the Surviving Corporation.

(c) For six years after the Effective Time, Parent shall, and in the event of a Subsidiary Merger Election, shall cause the Surviving Corporation to maintain officers' and directors' liability, fiduciary liability and similar insurance

(collectively, "**D&O Insurance**") in respect of acts or omissions occurring prior to the Effective Time covering each Indemnified Person covered as of the date of this Agreement by the Company's D&O Insurance policies on terms with respect to coverage and amount no less favorable than those of such policy in effect on the date of this Agreement, as well as covering claims brought against each Indemnified Person under ERISA (or a six-year prepaid "tail policy" on terms and conditions reasonably acceptable to Parent providing coverage benefits and terms no less favorable to the Indemnified Persons than the Company's current such policy as well as covering claims brought against each Indemnified Person under ERISA; for the avoidance of doubt, the Company may purchase such "tail policy" at its option prior to the Effective Time and pay the premium due thereon when due; *provided* that, in satisfying its obligation under this Section 6.04(c), the Surviving Corporation shall not be obligated to pay annual premiums in the aggregate in excess of 300% of the amount per annum the Company paid in its last full fiscal year, which amount the Company has disclosed to Parent prior to the date of this Agreement and *provided, further*, that, if the aggregate annual premiums of such insurance coverage exceed such amount, the Surviving Corporation shall be obligated to obtain a policy with the greatest coverage available, with respect to matters occurring prior to the Effective Time, for a cost not exceeding such amount.

(d) If Parent, the Surviving Corporation or any of its successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or the Surviving Corporation or entity of such consolidation or merger, or (ii) transfers or conveys all or substantially all of its properties and assets to any Person, then, and in each such case, to the extent necessary, proper provision shall be made so that the successors and assigns of Parent or the Surviving Corporation, as the case may be, shall assume the obligations set forth in this Section 6.04.

(e) The rights of each Indemnified Person under this Section 6.04 shall be in addition to any rights such Person may have under the Organizational Documents of the Company or any of its Subsidiaries, or under Delaware Law or any other Applicable Law or under any agreement of any Indemnified Person with the Company or any of its Subsidiaries. These rights shall survive consummation of the Merger and are intended to benefit, and shall be enforceable by, each Indemnified Person.

Section 6.05. *Employee Matters*.

(a) Parent agrees that, during the period commencing at the Effective Time and ending on December 31, 2011, each active employee of the Company and its Subsidiaries as of the Effective Time who remains an active employee of the Surviving Corporation or any of its Subsidiaries following the Effective Time (the "**Current Employees**") will be provided with annual base salary, target annual cash bonus opportunities and employee benefits (excluding equity and equity-based compensation) which are no less favorable in the aggregate than the

aggregate base salary, target annual cash bonus opportunities and employee benefits pursuant to an Employee Plan (excluding equity and equity-based compensation) provided by the Company and its Subsidiaries to such employee immediately prior to the Effective Time. With respect to any employee benefit plan in which any Current Employee first becomes eligible to participate, on or after the Effective Time (the "**New Company Plans**"), Parent shall: (A) to the extent permitted by Applicable Law, waive all pre-existing conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to such Current Employee under any health and welfare New Company Plans in which such Current Employee may be eligible to participate after the Effective Time and (B) credit, for purposes of eligibility to participate in and vesting (but not for purposes of benefit accrual) under any New Company Plan in which such Current Employee may be eligible to participate following the Effective Time, the service of each such Current Employee with the Company and its Subsidiaries and their respective predecessors before the Effective Time, to the same extent as such Current Employee was entitled, before the Effective Time, to credit for such service under any similar Employee Plan in which such Current Employee participates or was eligible to participate immediately prior to the Effective Time; *provided, however,* that in no event shall any credit be given to the extent it would result in the duplication of benefits for the same period of service. Notwithstanding anything in this Agreement to the contrary, as of the Effective Time Parent shall have the ability to (i) terminate the practice of granting cash loans to participants under any tax-qualified deferred compensation plan, and (ii) amend the terms and conditions of any Employee Plan to comply with Applicable Law.

(b) No later than twenty calendar days following the date of this Agreement, Section 3.16(f) of the Company Disclosure Schedule shall be updated to include any other "disqualified individual" of the Company (as defined in Section 280G(c) of the Code) and the information set forth in Section 3.16(f) for each such disqualified individual; provided that, such updates to Section 3.16(f) of the Company Disclosure Schedule are not required for a "disqualified individual" if the Company reasonably determines in good faith that such "disqualified individual" is not entitled to any payment which would be nondeductible pursuant to the terms of Section 280G of the Code and the Company delivers to Parent evidence reasonably supporting such determination. The schedules and underlying documentation required by Section 3.16(f) and this Section 6.05(b) shall be updated and delivered to Parent not later than twenty Business Days prior to the anticipated Closing Date.

(c) Parent agrees to comply, or to cause the Surviving Corporation to comply, with the terms of the Company's 2009-2011, 2010-2012 and 2011-2013 Corporate Long Term Cash Incentive Plans.

(d) The parties hereto acknowledge and agree that all provisions contained in this Section 6.05 are included for the sole benefit of the respective parties hereto and shall not create any right (i) in any other Person, including

without limitation, any employees (including any Current Employee), former employees, any participant or any beneficiary thereof in any Employee Plan or employee benefit plan sponsored or maintained by Parent, or (ii) to continued employment with the Company, any of its Subsidiaries, Parent or the Surviving Corporation. After the Effective Time, nothing contained in this Section 6.05 is intended to be or shall be considered to be an amendment of any plan, program, agreement, arrangement or policy of the Company, any of its Subsidiaries, Parent or the Surviving Corporation, nor shall it interfere with Parent's, the Surviving Corporation's or any of its Subsidiaries' right to amend, modify or terminate any Employee Plan or any other plan, program or arrangement or to terminate the employment of any employee of the Company or its Subsidiaries for any reason.

Section 6.06. *Parent Board Recommendation.*

(a) Subject to Section 6.06(b), from and after the date hereof until the earlier to occur of the Parent Shareholder Approval and the termination of this Agreement pursuant to Section 9.01, the Parent Board shall not withhold, withdraw or modify in a manner adverse to the Company or publicly propose to withhold, withdraw or modify in a manner adverse to the Company the Parent Board Recommendation (a "**Parent Adverse Recommendation Change**").

(b) Notwithstanding the foregoing, if prior to receipt of the Parent Shareholder Approval, there occurs an event, fact, circumstance or development, that occurs after the date hereof that was not known or foreseen by the Parent Board as of the date hereof that becomes known prior to receipt of the Parent Shareholder Approval (a "**Parent Intervening Event**"), the Parent Board shall be entitled to effect a Parent Adverse Recommendation Change *provided* that (i) the Parent Board determines in good faith, after consultation with outside legal counsel to Parent, that failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties under Applicable Law; (ii) Parent has notified the Company in writing that it intends to effect a Parent Adverse Recommendation Change, describing in reasonable detail the reasons for such Parent Adverse Recommendation Change, including a description in reasonable detail of such Parent Intervening Event; (iii) a three-Business Day period, commencing with the first Business Day after the delivery of the notice under Section 6.06(b)(ii) shall have expired and, if requested by the Company, Parent shall have made its Representatives available to discuss and negotiate in good faith with the Company's Representatives any proposed modifications to the terms and conditions of this Agreement during this three-Business Day period following delivery by Parent to the Company of such notice; and (iv) if the Company shall have delivered a binding proposal capable of being accepted by Parent to amend the terms of this Agreement during such three-Business Day period, the Parent Board shall have determined in good faith, after consultation with outside legal counsel, that failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties under Applicable Law. Parent shall keep strictly confidential any proposals made by the Company to revise the terms of this Agreement, other than in the event of any amendment to

this Agreement and to the extent required to be disclosed in any Parent SEC Documents.

Section 6.07. *Board of Directors*. On or prior to the Effective Time, Parent shall appoint two current members of the Company Board to serve as members of the Parent Board, such service to be effective as of immediately following the Effective Time and such service to be governed by Parent's standard policies regarding its board of directors, including its standard director compensation policy.

ARTICLE 7

COVENANTS OF PARENT AND THE COMPANY

Section 7.01. *Form S-4 and Proxy Statement; Stockholders Meetings*.

(a) Form S-4 and Proxy Statement. As soon as practicable following the date of this Agreement, (i) the Company and Parent shall jointly prepare and file with the SEC a joint proxy statement/prospectus (as amended or supplemented from time to time, the "**Joint Proxy Statement**") to be sent to the holders of Parent Common Stock relating to the meeting of such holders (the "**Parent Shareholder Meeting**") to be held to consider adoption of this Agreement (including in any event, the Parent Share Issuance) and to the holders of Company Common Stock relating to the meeting of such holders (the "**Company Shareholder Meeting**") to be held to consider adoption of this Agreement and (ii) Parent shall prepare and file with the SEC a registration statement on Form S-4 (as amended or supplemented from time to time, the "**Form S-4**"), in which the Joint Proxy Statement will be included as a prospectus, in connection with the registration under the 1933 Act of Parent Common Stock to be issued in the Merger. Each of the Company and Parent shall use reasonable best efforts to have the Form S-4 declared effective under the 1933 Act as promptly as practicable after such filing, keep the Form S-4 effective for so long as necessary to complete the Merger or, if earlier, until this Agreement is terminated and to ensure that it complies in all material respects with the applicable provisions of the 1933 Act and the 1934 Act. The Company shall use its reasonable best efforts to cause the Joint Proxy Statement to be mailed to the Company's stockholders, and Parent shall use its reasonable best efforts to cause the Joint Proxy Statement to be mailed to Parent's stockholders, in each case as promptly as practicable after the Form S-4 is declared effective under the 1933 Act. Parent shall also take any action (other than qualifying to do business in any jurisdiction in which it is not now so qualified or to file a general consent to service of process) required to be taken under any applicable Blue Sky Laws in connection with the issuance of Parent Common Stock pursuant to this Agreement and the Company shall furnish all information concerning the Company and the holders of Company Common Stock as may be reasonably requested in connection with any such action. No filing of, or amendment or supplement to, the Form S-4 will be made by Parent, and no filing of, or

amendment or supplement to the Joint Proxy Statement will be made by the Company or Parent, in each case, without providing the other party and its respective counsel the reasonable opportunity to review and comment thereon. The parties shall notify each other promptly of the receipt of any comments from the SEC or its staff and of any request by the SEC or its staff for amendments or supplements to the Joint Proxy Statement or the Form S-4 or for additional information and shall supply each other with copies of all correspondence between such party or any of its Representatives, on the one hand, and the SEC or its staff, on the other hand, with respect to the Joint Proxy Statement, the Form S-4 or the Merger. Parent will advise the Company, promptly after it receives notice thereof, of the time when the Form S-4 has become effective, the issuance of any stop order or the suspension of the qualification of Parent Common Stock issuable in connection with the Merger for offering or sale in any jurisdiction. If at any time prior to the Effective Time any information relating to the Company or Parent, or any of their respective Affiliates, officers or directors, should be discovered by the Company or Parent which should be set forth in an amendment or supplement to the Form S-4 or the Joint Proxy Statement, so that any of such documents would not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the party which discovers such information shall promptly notify the other parties hereto and the parties shall cooperate in the prompt filing with the SEC of an appropriate amendment or supplement describing such information and, to the extent required by Applicable Law, in the disseminating the information contained in such amendment or supplement to the stockholders of each of the Company and Parent.

(b) Company Shareholder Meeting. The Company shall, as soon as practicable following the date of this Agreement, duly call, give notice of, convene and hold the Company Shareholder Meeting in accordance with Applicable Law and the Organizational Documents of the Company for the purpose of obtaining the Company Shareholders Approval, which meeting shall be held no more than forty days after the mailing of the Joint Proxy Statement (unless Parent shall consent to a different date). Subject to the right of the Company Board to make a Company Adverse Recommendation Change in accordance with Section 5.02(d), the Company shall use its reasonable best efforts (including postponing or adjourning the Company Shareholder Meeting to obtain a quorum or to solicit additional proxies, but for no other reason without the prior consent of Parent, such consent not to be unreasonably withheld) to obtain the Company Shareholders Approval. Subject to Section 5.02(d), the Company Board shall include the Company Board Recommendation in the Joint Proxy Statement. The Company agrees that it shall not submit to the vote of the stockholders of the Company at the Company Shareholder Meeting any matters other than the adoption of this Agreement and such other matters as may be required under Applicable Law to be considered at such meeting or otherwise reasonably approved by Parent.

(c) Parent Shareholder Meeting. Parent shall, as soon as practicable following the date of this Agreement, duly call, give notice of, convene and hold Parent Shareholder Meeting in accordance with Applicable Law and the Organizational Documents of Parent for the purpose of obtaining Parent Shareholders Approval, which meeting shall be held no more than forty days after the mailing of the Joint Proxy Statement (unless the Company shall consent to a different date). Subject to the right of the Parent Board to make a Parent Adverse Recommendation Change in accordance with Section 6.06, Parent shall use its reasonable best efforts (including postponing or adjourning Parent Shareholder Meeting to obtain a quorum or to solicit additional proxies, but for no other reason without the prior consent of the Company, such consent not to be unreasonably withheld) to obtain Parent Shareholders Approval. Subject to Section 6.06(b), the Parent Board shall include Parent Board Recommendation in the Joint Proxy Statement. At the Parent Shareholder Meeting, holders of Parent Common Stock may also be asked to approve, at the option of Parent, (i) the election of directors of Parent, (ii) a new stock or equity incentive plan, and (iii) such other matters as may be required under Applicable Law to be considered at such meeting or otherwise reasonably approved by the Company.

(d) Concurrent Meetings. The parties shall use their reasonable best efforts to hold the Company Shareholder Meeting and Parent Shareholder Meeting on the same day at the same time.

Section 7.02. *Reasonable Best Efforts.*

(a) Subject to the terms and conditions of this Agreement, the Company and Parent shall use their reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under Applicable Law to consummate in the most expeditious manner possible the transactions contemplated by this Agreement, including (i) preparing and filing as promptly as practicable with any Governmental Authority or other Third Party all documentation to effect all necessary filings, notices, petitions, statements, registrations, submissions of information, applications and other documents, (ii) taking all appropriate actions, and doing, or causing to be done, all things necessary, proper or advisable under Applicable Laws to consummate and make effective the transactions contemplated by this Agreement, including using its reasonable best efforts to obtain and maintain all approvals, consents, registrations, permits, licenses, certificates, variances, exemptions, orders, franchises, authorizations and other confirmations of all Governmental Authorities or other Third Parties that are necessary, proper or advisable to consummate the transactions contemplated by this Agreement and to fulfill the conditions to the transactions contemplated by this Agreement, (iii) defending any actions, suits, claims, investigations or proceedings threatened or commenced by any Governmental Authority relating to the transactions contemplated by this Agreement, including seeking to have any stay, temporary restraining order or preliminary injunction entered by any Governmental Authority vacated or

reversed, and (iv) cooperating to the extent reasonable with the other parties hereto in their efforts to comply with their obligations under this Agreement.

(b) In furtherance and not in limitation of the foregoing, each of Parent and the Company shall make an appropriate filing of a Notification and Report Form pursuant to the HSR Act with respect to the transactions contemplated hereby as promptly as practicable and in any event within ten Business Days after the date of this Agreement and all other filings required (i) under any applicable non-US antitrust or competition laws (together with the Notifications and Report Forms pursuant to the HSR Act, the "**Antitrust Filings**") and (ii) under any other applicable competition, merger control, antitrust or similar law that the Company and Parent deem advisable or appropriate with respect to the transactions contemplated hereby as promptly as practicable and to supply as promptly as practicable any additional information and documentary material that may be requested pursuant to the HSR Act and to use their reasonable best efforts to take all other actions necessary to cause the expiration or termination of the applicable waiting periods under the HSR Act as soon as practicable.

(c) In addition, each of Parent and the Company shall use its reasonable best efforts to take or cause to be taken all actions necessary, proper or advisable to obtain any consent, waiver, approval or authorizations relating to the HSR Act or similar non-US laws that are required for the consummation of the transactions contemplated by this Agreement, which efforts shall include taking all such reasonable actions and doing all such things reasonably necessary to (i) resolve any objections, if any, as any Governmental Authority may assert under Section 7 of the Clayton Act or similar non-US laws with respect to the transactions contemplated by this Agreement and (ii) avoid or eliminate each and every impediment under the HSR Act or similar non-US laws that may be asserted by any Governmental Authority so as to enable the transactions contemplated by this Agreement to be consummated as soon as possible after the date hereof, including for purposes of the preceding clauses (i) and (ii), such reasonable undertakings and commitments as may be reasonably requested by any Governmental Authority, in sufficient time to allow the conditions to the Merger to be satisfied on or before the End Date. Notwithstanding anything to the contrary in this Agreement, in connection with any filing or submission required or action to be taken by either Parent or the Company to consummate the Merger or in connection with Section 7.02, in no event shall (A) Parent or any of its Subsidiaries be obligated to propose or agree to accept any undertaking or condition, enter into any consent order, make any divestiture or accept any operational restriction, or take or commit to take any action (1) the effectiveness or consummation of which is not conditional on the consummation of the Merger, (2) that is not necessary at such time to permit the Effective Time to occur by the last Business Day before the End Date, or (3) that individually or in the aggregate is or would reasonably be expected to be material to (x) the Company and its Subsidiaries taken as a whole or to Parent and its Subsidiaries taken as a whole or (y) Parent's ownership or operation of the business or assets of the Company and its Subsidiaries, taken as a whole or (B) the Company or any of its Subsidiaries,

without the prior written consent of Parent, propose or agree to accept any undertaking or condition, enter into any consent decree or make any divestiture or accept any operational restriction. The Company shall agree, if requested by Parent in writing, to commit to take any of the forgoing actions with respect to the assets or business of the Company; *provided, however*, that any such action shall be conditioned upon the consummation of the Merger.

Section 7.03. *Certain Filings.*

(a) The Company and Parent shall cooperate with one another (i) in connection with the preparation of the Form S-4 and the Joint Proxy Statement and applications and notices for the consents required that are listed in Section 3.03(a) of the Company Disclosure Schedule, (ii) in determining whether any action by or in respect of, or filing with, any Governmental Authority is required, or any actions, consents, approvals or waivers are required to be obtained from parties to any material Contracts, in connection with the consummation of the transactions contemplated by this Agreement and (iii) in taking such actions or making any such filings, furnishing information required in connection therewith or with the Joint Proxy Statement and seeking timely to obtain any such actions, consents, approvals or waivers.

(b) Each of Parent and the Company shall promptly notify the other party of any material notice or other material communication it or any of its Subsidiaries receives from any Governmental Authority or any Third Party relating to the matters that are the subject of this Agreement and permit the other party to review in advance any proposed communication by such party to any Governmental Authority or Third Party and shall provide each other with copies of all correspondence, filings or communications between them or any of their Representatives and any Governmental Authority or Third Party. Neither Parent nor the Company shall agree to participate in any meeting with any Governmental Authority or Third Party in respect of any such filings, investigation or other inquiry unless it consults with the other party in advance and, to the extent permitted by such Governmental Authority, gives the other party the opportunity to attend and participate at such meeting.

(c) Subject to Section 7.02, Section 7.03(a) and Section 7.03(b), Parent shall take the lead in directing strategy, subject to reasonable consultation with the Company, in connection with all matters relating to obtaining clearances and approvals from Governmental Authorities and the expiration of waiting periods.

Section 7.04. *Public Announcements.* Except with respect to the announcement of any Company Adverse Recommendation Change or Parent Adverse Recommendation Change, Parent and the Company shall consult with each other before issuing any press release, making any other public statement or scheduling any press conference or conference call with investors or analysts with respect to this Agreement or the transactions contemplated hereby and, except as

may be required by Applicable Law or any listing agreement with or rule of any national securities exchange or association, shall not issue any such press release, make any such other public statement or schedule any such press conference or conference call before such consultation.

Section 7.05. *Stock Exchange De-listing*. Prior to the Closing Date, the Company shall cooperate with Parent and use its reasonable best efforts to take, or cause to be taken, all actions, and do or cause to be done all things, reasonably necessary, proper or advisable on its part under Applicable Laws and rules and policies of the NYSE to enable the de-listing by the Surviving Corporation of the Company Common Stock from NYSE and the deregistration of the Company Common Stock under the 1934 Act as promptly as practicable after the Effective Time, and in any event no more than ten days after the Closing Date.

Section 7.06. *Financing*.

(a) Parent shall use its reasonable best efforts to obtain the Financing on the terms and conditions described in the Commitment Letter, including (i) using its reasonable best efforts to negotiate and enter into definitive agreements with respect thereto on terms and conditions contemplated in the Commitment Letter provided to the Company pursuant to Section 4.16, (ii) fully paying any and all commitment fees or other fees required by the Commitment Letter when due pursuant to the provisions thereof, (iii) using its reasonable best efforts to satisfy all conditions applicable to Parent in the Commitment Letter and such definitive agreements, (iv) using its reasonable best efforts to comply with its obligations under the Commitment Letter and (v) enforcing its rights under the Commitment Letter. Parent shall keep the Company reasonably informed and in reasonable detail (including providing the Company with copies of all definitive documents related to the Financing) with respect to all material developments concerning the Financing. Without limiting the generality of the foregoing, Parent shall give the Company prompt notice (x) of any material breach or default by any party to any of the Commitment Letter or definitive agreements related to the Financing of which Parent becomes aware, (y) of the receipt of any written notice from any Financing Party with respect to any (1) actual or potential material breach, default, termination or repudiation by any party to any of the Commitment Letter or definitive agreements related to the Financing of any provisions of the Commitment Letter or definitive agreements related to the Financing or (2) dispute or disagreement between or among any parties to any of the Commitment Letter or definitive agreements related to the Financing with respect to the obligation to fund the Financing or the amount of the Financing to be funded at Closing, and (z) if at any time management of Parent believes it will not be able to obtain all or any portion of the Financing on the terms and conditions, in the manner or from the sources contemplated by the Commitment Letter or definitive agreements related to the Financing. As soon as reasonably practicable, Parent shall provide any information reasonably requested by the Company relating to any circumstance referred to in clause (x), (y) or (z) of the immediately preceding sentence; *provided*, that they need not provide any information believed to be

privileged or that is requested for purposes of litigation. Parent shall have the right from time to time to amend, replace, supplement or otherwise modify, or waive any of its rights under, the Commitment Letter or definitive financing agreements, and/or substitute other debt or equity financing for all or any portion of the Financing from the same and/or alternative financing sources, *provided that* Parent shall not permit any such amendment or modification to be made to, or any waiver of any material provision or remedy under, the Commitment Letter or replace all or a portion of the Financing with alternate financing arrangements that, in each case, would reduce the aggregate amount of the Financing (other than immaterial reductions), amend the conditions to the drawdown of the Financing in a manner adverse to the interests of the Company in any material respect, or which would otherwise in any other respect reasonably be expected to impair, materially delay or prevent the consummation of the transactions contemplated by this Agreement without the prior written consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed). Parent shall promptly deliver to the Company copies of any such amendment, modification or replacement. References to "Financing" shall include the financing contemplated under the Commitment Letter as permitted by this Section 7.06 to be amended, modified, supplemented or replaced (including, for the avoidance of doubt, any alternate financing transactions permitted hereunder), and references to "Commitment Letter" shall include such documents as permitted by this Section 7.06 to be amended, modified or replaced, in each case from and after such amendment, modification or replacement.

(b) The Company shall provide, and shall cause its Subsidiaries to, and shall use its reasonable best efforts to cause each of its and their respective Representatives, including legal, tax, regulatory and accounting representatives and advisors, to provide, all cooperation reasonably requested by Parent and/or the Financing Parties in connection with the Financing, including: (i) as promptly as practicable, providing to Parent and the lenders and other financial institutions and investors that are or may become parties to the Financing (the "**Financing Parties**") following Parent's request, financial statements and other information related to the Company or its Subsidiaries required by Regulation S-X and Regulation S-K under the 1933 Act, including (x) within the time periods the Company would be required to file with the SEC under the 1934 Act, audited consolidated financial statements for the most recently ended fiscal year and unaudited interim consolidated financial statements for each quarterly period ended thereafter, in each case, of the Company and its Subsidiaries and (y) information related to the Company or its Subsidiaries reasonably necessary for Parent to produce pro forma financial statements and pro forma adjustments for the period specified in (x) above and for the 12-month period ended on the last day of the most recently ended quarter (it being acknowledged that Parent shall be responsible for such pro forma financial statements, pro forma adjustments and information relating specifically to the Financing included in liquidity and capital resources disclosure and risk factors relating to the Financing) for registered offerings on Form S-3, as at the time during the Company's fiscal year when such offering will be made to finance the transactions contemplated by this Agreement,

or, if applicable, of the type and form that would be customarily included in an offering memorandum for private placements of debt securities under Rule 144A of the 1933 Act (provided that in no circumstance shall the Company be required to provide subsidiary financial statements or any other information of the type required by Rule 3-10 (other than to the extent already prepared) or Rule 3-16 of Regulation S-X) (information required to be delivered pursuant to this clause (i) being referred to as the "**Required Information**"); (ii) participating in a reasonable number of meetings, presentations and due diligence sessions; (iii) assisting in the preparation of documents and materials, including (A) any customary offering documents and bank information memoranda and (B) materials for rating agency presentations; (iv) providing authorization letters to the Financing Parties authorizing the distribution of information to prospective lenders and containing a representation to the Financing Parties that the public side versions of such documents, if any, do not include material non-public information about the Company or its Affiliates or securities; (v) executing and delivering, and causing its Subsidiaries to execute and deliver, or using its reasonable best efforts to obtain from its advisors, as applicable, customary certificates, comfort letters, surveys, title insurance or such other documents and instruments relating to the Financing as may be reasonably requested by Parent; (vi) reasonably cooperating with Parent's legal counsel in connection with any legal opinions that such legal counsel may be required to deliver in connection with the Financing; (vii) using its reasonable best efforts to assist in the preparation of definitive financing agreements as may be reasonably requested by Parent or required in connection with the Financing and taking all actions reasonably necessary for the Company and/or its Subsidiaries to become guarantors and pledgors thereunder at the Effective Time in accordance with the terms thereof, including with respect to the granting of and perfection of liens on assets and properties of the Company and its Subsidiaries at or following the Closing to the extent required under the definitive financing agreements, and executing and delivering, or causing its Subsidiaries to execute and deliver, such definitive financing agreements as necessary (provided that no obligation of the Company or any of its Subsidiaries under any such agreements shall be effective until the Effective Time); (viii) using its reasonable best efforts to cooperate with the Financing Parties' due diligence and investigation, including legal, business and tax due diligence, evaluation of cash management systems and assets for the purpose of establishing collateral arrangements, and customary field audits and appraisals, in a manner not unreasonably interfering with the business of the Company; (ix) assisting Parent and its Representatives in connection with the preparation of an initial borrowing base certificate as required under the Financing; and (x) providing all documentation and other information about the Company and each of its Subsidiaries at least five days prior to the Closing Date as is reasonably requested in writing by Parent relating to applicable "know your customer" and anti-money laundering rules and regulations including, without limitation, the USA PATRIOT Act.

(c) Parent (i) shall promptly, upon request by the Company, reimburse the Company for all reasonable out-of-pocket costs (including reasonable

attorneys' and accountants' fees) incurred by the Company, any of its Subsidiaries or their respective Representatives in connection with the cooperation of the Company, its Subsidiaries and their respective Representatives contemplated by this Section 7.06 (other than in connection with the provision of information that the Company would have prepared in the ordinary course for inclusion in the Company SEC Documents or the Form S-4), (ii) acknowledges and agrees that the Company, its Subsidiaries and their respective Representatives shall not incur any liability to any Person prior to the Effective Time under the Financing and (iii) shall indemnify and hold harmless the Company, its Subsidiaries and their respective Representatives from and against any and all losses, damages, claims, costs or expenses suffered or incurred by any of them in connection with the arrangement of the Financing and any information used in connection therewith, except (A) with respect to any information provided by the Company or any of its Subsidiaries in writing for inclusion in customary offering documents and (B) for any of the foregoing to the extent the same is the result of willful misconduct or bad faith of the Company, any such Subsidiary or their respective Representatives.

(d) The Company shall use reasonable best efforts to negotiate a payoff letter from the agent under the Company Credit Facility, in customary form reasonably acceptable to Parent, with respect to any and all obligations of the Company and its Subsidiaries under the Company Credit Facility (the "**Company Revolver Indebtedness**") which payoff letter shall (i) indicate the total amount required to be paid to fully satisfy all principal, interest, prepayment premiums, penalties, breakage costs or similar obligations related to such Company Revolver Indebtedness as of the anticipated Closing Date (and daily accrual thereafter) (the "**Payoff Amount**") and (ii) state that all liens and all guarantees in connection therewith relating to the assets of the Company or any Subsidiary of the Company shall be, upon the payment of the Payoff Amount on the Closing Date, released and terminated (the payoff letter described in this sentence being referred to as the "**Payoff Letter**"). The Company shall use its reasonable best efforts to deliver a copy of the Payoff Letter to Parent no less than two Business Days prior to the delivery thereof to such agent, and in any case no less than two Business Days prior to the Closing Date. The Company shall, and shall cause its Subsidiaries to, deliver all notices and take all other actions reasonably requested by Parent to facilitate the termination of commitments under the Company Credit Facility, effective as of the Effective Time, the repayment in full of all obligations then outstanding thereunder (using funds provided by Parent) and the release of all encumbrances and termination of all guarantees in connection therewith on the Closing Date, effective as of the Effective Time (such termination, repayment and release, the "**Credit Facility Termination**"); *provided* that in no event shall this Section 7.06(d) require the Company or any of its Subsidiaries to make any payment or incur any obligation or liability in connection with such Credit Agreement Termination or cause such Credit Agreement Termination unless the Closing shall have occurred and the Company shall have received funds to pay in full the Payoff Amount. In addition, to the extent Parent requests, the Company shall use its reasonable best efforts to obtain

payoff letters in customary form for and with respect to any other indebtedness to be paid at Closing not covered by the foregoing.

Section 7.07. *Further Assurances*. At and after the Effective Time, the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name and on behalf of the Company or Parent (or, in the event of a Subsidiary Merger Election, Merger Subsidiary), any deeds, bills of sale, assignments or assurances and to take and do, in the name and on behalf of the Company or Parent (or, in the event of a Subsidiary Merger Election, Merger Subsidiary), any other actions and things to vest, perfect or confirm of record or otherwise in the Surviving Corporation any and all right, title and interest in, to and under any of the rights, properties or assets of the Company acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger.

Section 7.08. *Notices of Certain Events*. Each of the Company and Parent shall promptly notify the other of:

(a) any material notice or other communication from any Governmental Authority received by such party in connection with the transactions contemplated by this Agreement;

(b) any inaccuracy of any representation or warranty of such party contained in this Agreement at any time during the term of this Agreement that could reasonably be expected to give rise to a failure of the closing condition set forth in Section 8.02(a) or Section 8.03(a), as the case may be;

(c) any failure of such party to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder that could reasonably be expected to give rise to a failure of the closing condition set forth in Section 8.02(b) or Section 8.03(b), as the case may be; and

(d) any change, effect, development or event that has or would reasonably be expected to have a Material Adverse Effect on such party;

provided, however, that the delivery of any notice pursuant to this Section 7.08 shall not limit or otherwise affect the remedies available hereunder to the party receiving that notice.

Section 7.09. *Rule 16b-3*. The Company shall, and shall be permitted to, take all actions as may be reasonably requested by any party hereto to cause any dispositions of equity securities of the Company by each individual who is a director or officer of the Company, and who would otherwise be subject to Rule 16b-3 under the 1934 Act, to be exempt under Rule 16b-3 under the 1934 Act.

ARTICLE 8

CONDITIONS TO THE MERGER

Section 8.01. *Conditions to the Obligations of Each Party.* The obligations of the Company and Parent (and, in the event of a Subsidiary Merger Election, Merger Subsidiary) to consummate the Merger are subject to the satisfaction (or, to the extent permissible, waiver) of the following conditions:

(a) Stockholder Approvals. Each of the Company Shareholder Approval and Parent Shareholder Approval shall have been obtained.

(b) No Order. No Governmental Authority shall have obtained, enacted, issued, promulgated, enforced or entered any statute, rule, regulation, executive order, decree, arbitration award, finding or Order (whether temporary, preliminary or permanent), in any case that is in effect and prevents or prohibits consummation of the Merger.

(c) HSR Act. Any applicable waiting periods, together with any extensions thereof, under the (i) HSR Act and (ii) other similar non-U.S. laws required to consummate the Merger shall have expired or been terminated.

(d) Form S-4. The Form S-4 shall have become effective under the 1933 Act. No stop order suspending the effectiveness of the Form S-4 shall be in effect, and no proceedings for that purpose shall be pending or threatened, by the SEC.

(e) NYSE Listing. The shares of Parent Common Stock to be issued to holders of Company Common Stock upon consummation of the Merger shall have been authorized for listing on the NYSE, subject to official notice of issuance.

Section 8.02. *Additional Conditions to Obligations of Parent and Merger Subsidiary.* The obligations of Parent (and, in the event of a Subsidiary Merger Election, Merger Subsidiary) to consummate the Merger are also subject to the satisfaction (or, to the extent permissible, waiver) of the following conditions:

(a) Representations and Warranties. (i) The representations and warranties in Section 3.10(b) shall be true and correct in all respects as of the date hereof and as of the Effective Time as though made on and as of the Effective Time, (ii) the representations and warranties of the Company contained in the first sentence of Section 3.01, Section 3.02, Section 3.05(a), Section 3.05(b), Section 3.20, Section 3.21 and Section 3.22 shall be true and correct (in each case disregarding and without giving effect to all qualifications and exceptions contained therein related to materiality or Material Adverse Effect or any similar standard or qualification) in all material respects as of the date hereof and as of the Effective Time as though made on and as of the Effective Time (except that those representations and warranties that address matters only as of a particular

date need only be true and complete as of such date) and (iii) all other representations and warranties of the Company contained in this Agreement, in each case disregarding and without giving any effect to all qualifications and exceptions contained therein relating to materiality or Material Adverse Effect or any similar standard or qualification, shall be true and correct as of the date hereof and as of the Effective Time (except that those representations and warranties that address matters only as of a particular date need only be true and correct as of such date), except where the failure of such representations and warranties to be so true and correct has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company.

(b) Agreements and Covenants. The Company shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Effective Time.

(c) Officer's Certificate. The Company shall have delivered to Parent a certificate, signed by an executive officer of the Company and dated as of the Closing Date, to the effect that the conditions set forth in Section 8.02(a) and Section 8.02(b) have been satisfied.

(d) Consents and Approvals. The Company shall have obtained all of the consents and approvals listed in Schedule 8.02(d).

(e) Proceeding. No Proceeding initiated by any Governmental Authority listed in Schedule 8.02(e) shall be pending that is (i) challenging or seeking to prevent or prohibit consummation of the Merger or (ii) seeking to impose any undertaking, condition or consent decree to compel any divestiture or operational restriction, in each case under this clause (ii) that Parent would not be obligated to agree to accept pursuant to Section 7.02(c).

(f) Financing. Parent shall have consummated the Financing described in the Commitment Letter on the terms and conditions set forth therein and received the proceeds therefrom.

Section 8.03. *Additional Conditions to Obligations of the Company.* The obligation of the Company to effect the Merger is also subject to the satisfaction (or, to the extent permissible, waiver) of the following conditions:

(a) Representations and Warranties. (i) The representations and warranties in Section 4.09(b) shall be true and correct in all respects as of the date hereof and as of the Effective Time as though made on and as of the Effective Time, (ii) the representations and warranties of Parent (and, in the event of a Subsidiary Merger Election, Merger Subsidiary) contained in the first sentence of Section 4.01, Section 4.02 and Section 4.05 shall be true and correct (in each case disregarding and without giving effect to all qualifications and exceptions contained therein related to materiality or Material Adverse Effect or any similar

standard or qualification) in all material respects as of the date hereof and as of the Effective Time as though made on and as of the Effective Time (except that those representations and warranties that address matters only as of a particular date need only be true and complete as of such date) and (iii) all other representations and warranties of Parent (and, in the event of a Subsidiary Merger Election, Merger Subsidiary) contained in this Agreement and in any certificate or other writing delivered by Parent or Merger Subsidiary pursuant hereto, in each case disregarding and without giving any effect to all qualifications and exceptions contained herein and therein relating to materiality, Parent Material Adverse Effect or any similar standard or qualification pursuant hereto shall be true and correct as of the date hereof and as of the Effective Time (except that those representations and warranties that address matters only as of a particular date need only be true and correct as of such date), except where the failure of such representations and warranties to be so true and correct has not had and would not have, a Material Adverse Effect on Parent.

(b) Agreements and Covenants. Parent shall have performed or complied with all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Effective Time.

(c) Officer's Certificate. Parent shall have delivered to the Company a certificate, signed by an executive officer of Parent and dated as of the Closing Date, to the effect that the conditions set forth in Section 8.03(a) and Section 8.03(b) have been satisfied.

ARTICLE 9

TERMINATION

Section 9.01. *Termination.* This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time (notwithstanding the receipt of Company Shareholder Approval and/or Parent Shareholder Approval):

(a) by mutual written agreement of the Company and Parent, by action of their respective Boards of Directors;

(b) by either the Company or Parent, if:

(i) the Merger has not been consummated on or before September 30, 2011 (the "**End Date**"); *provided* that the right to terminate this Agreement pursuant to this Section 9.01(b)(i) shall not be available to any party if a breach of any provision of this Agreement by such party has resulted in the failure of the Merger to be consummated by such time;

(ii) there shall be any Applicable Law that (A) is final and makes consummation of the Merger illegal or otherwise prohibited or (B) permanently enjoins the Company or Parent from consummating the

Merger and such enjoinment shall have become final and nonappealable; *provided* that the right to terminate this Agreement pursuant to this Section 9.01(b)(ii) shall not be available to any party whose failure to comply in any material respect with any provision of this Agreement has been the direct cause of, or resulted directly in, such action; or

(iii) at the Company Shareholder Meeting (including any adjournment or postponement thereof), the Company Shareholder Approval shall not have been obtained; or

(iv) at the Parent Shareholder Meeting (including any adjournment or postponement thereof), Parent Shareholder Approval shall not have been obtained;

(c) by Parent, if:

(i) (A) a Company Adverse Recommendation Change has occurred, (B) the Company shall have intentionally and knowingly breached in any material respect any of the provisions of Section 5.02, (C) a tender or exchange offer relating to securities of the Company shall have been commenced by a Person unaffiliated with Parent, and the Company shall not have sent to its security holders pursuant to Rule 14e-2 promulgated under the 1934 Act, within ten Business Days after such tender or exchange offer is first published, sent or given, a statement disclosing that the Company recommends rejection of such tender or exchange offer or (D) the Company Board shall have failed to publicly confirm the Company Board Recommendation within ten Business Days of a written request by Parent that it do so, *provided* Parent shall not make such a request more frequently than once in any thirty calendar day period; or

(ii) a breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Company set forth in this Agreement shall have occurred (A) that would cause the conditions set forth in Section 8.02(a) or Section 8.02(b) not to be satisfied, and (B) if curable, such breach or failure is not cured by the Company by the earlier of (1) the End Date or (2) thirty days following receipt by the Company of written notice of such breach or failure *provided* that, at the time of the delivery of such written notice, Parent shall not be in material breach of its obligations under this Agreement; or

(d) by the Company, if:

(i) at any time prior to the Company Stockholder Approval, the Company enters into a definitive agreement providing for a Superior Proposal after complying with Section 5.02 and satisfying the requirements and conditions set forth in clauses (i), (ii), (iii) and (iv) of

Section 5.02(d); *provided*, that the Company shall have paid all amounts due pursuant to Section 10.04(b) in accordance with the terms, and at the times, specified therein;

(ii) (A) a Parent Adverse Recommendation Change has occurred, (B) Parent shall have intentionally and knowingly breached in any material respect any of the provisions of Section 6.06 or (C) Parent Board shall have failed to publicly confirm the Parent Board Recommendation within ten Business Days of a written request by the Company that it do so, *provided* the Company shall not make such a request more frequently than once in any thirty calendar day period;

(iii) a breach of any representation or warranty or failure to perform any covenant or agreement on the part of Parent (or, in the event of a Subsidiary Merger Election, Parent or Merger Subsidiary) set forth in this Agreement shall have occurred (A) that would cause the conditions set forth in Section 8.03(a) or Section 8.03(b) not to be satisfied, and (B) if curable, such breach or failure is not cured by Parent by the earlier of (1) the End Date or (2) thirty days following receipt by Parent of written notice of such breach or failure *provided* that, at the time of the delivery of such written notice, the Company shall not be in material breach of its obligations under this Agreement; or

(iv) (A) all of the conditions set forth in Section 8.01 and Section 8.02 have been satisfied (other than the conditions set forth in Section 8.01(e), Section 8.02(c) and Section 8.02(f) and assuming for purposes of this Section 9.01(d)(iv)(A) that the Effective Time shall be deemed to be the time of delivery of the Company's notice provided in subsection (C) below and the time the Company terminates this Agreement pursuant to this Section 9.01(d)(iv)(A)), (B) the Marketing Period has elapsed, (C) Parent (and, in the event of a Subsidiary Merger Election, Merger Subsidiary) shall have failed to complete the Closing during the period (which may not be less than three Business Days, commencing with the first Business Day) following the date on which the Company has given written notice to Parent that it believes the three Business Day period contemplated by Section 1.01(b) has commenced and (D) the Company stands ready, willing and able to consummate the Closing following delivery of such notice.

The party desiring to terminate this Agreement pursuant to this Section 9.01 (other than pursuant to Section 9.01(a)) shall give notice of such termination to the other party.

Section 9.02. *Effect of Termination*. If this Agreement is terminated pursuant to Section 9.01, this Agreement shall become void and of no effect without liability of any party (or any shareholder, director, officer, employee, agent, consultant or representative of such party) to the other party hereto (except

as provided in Section 10.04(b) or Section 10.04(c)); *provided* that, if such termination shall result from the intentional and material breach by any party of any representation or warranty, covenant or agreement contained herein, such party shall be fully liable for any and all liabilities and damages incurred or suffered by the other party as a result of such breach. The provisions of this Section 9.02 and Article 10 (other than Section 10.13) shall survive any termination hereof pursuant to Section 9.01.

ARTICLE 10

MISCELLANEOUS

Section 10.01. *Notices*. All notices, requests and other communications to any party hereunder shall be in writing (including facsimile or electronic mail transmission) and shall be given,

if to Parent or Merger Subsidiary, to:

Kindred Healthcare, Inc.
680 South Fourth Street
Louisville, Kentucky 40202-2412
Attention: Joseph L. Landenwich
Facsimile No.: (502) 596-4075
Email: Joseph.Landenwich@kindredhealthcare.com

with a copy to:

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
Attention: Ethan A. Klingsberg and Benet J. O'Reilly
Facsimile No.: (212) 225-3999
Email: eklingsberg@cgsh.com and boreilly@cgsh.com

if to the Company, to:

RehabCare Group, Inc.
7733 Forsyth Boulevard, 23rd Floor
St. Louis, Missouri 63105
Attention: Patricia S. Williams
Facsimile No.: (314) 863-0769
E-mail: pswilliams@rehabcare.com

with copies to:

Armstrong Teasdale LLP
7700 Forsyth Boulevard, Suite 1800
St. Louis, Missouri 63105
Attention: David W. Braswell
Facsimile No.: (314) 612-2229
Email: dbraswell@armstrongteasdale.com

Bryan Cave LLP
211 North Broadway, Suite 3600
St. Louis, Missouri 63102
Attention: William F. Seabaugh and Joel N. Lander
Facsimile No.: (314) 552-8450
Email: wfseabaugh@bryancave.com and
joel.lander@bryancave.com

or to such other address, facsimile number or electronic mail address as such party may hereafter specify for the purpose by notice to the other parties hereto. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. on a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed to have been received on the next succeeding Business Day in the place of receipt.

Section 10.02. *Non-Survival of Representations and Warranties*. The representations and warranties contained herein and in any certificate or other writing delivered pursuant hereto shall not survive the Effective Time, or except as otherwise provided in Section 9.02, upon termination of this Agreement.

Section 10.03. *Amendments and Waivers*.

(a) Any provision of this Agreement may be amended or waived prior to the Effective Time if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective; *provided* that, after the Company Shareholder Approval or Parent Shareholder Approval there shall be no amendment or waiver that pursuant to Delaware Law requires further Company Shareholder Approval or Parent Shareholder Approval, as the case may be, without such further approval.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Applicable Law.

Section 10.04. *Expenses.*

(a) Except as otherwise provided herein, all costs and expenses incurred in connection with this Agreement shall be paid by the party incurring such cost or expense.

(b) If a Company Payment Event (as hereinafter defined) occurs, the Company shall pay Parent (by wire transfer of immediately available funds), if, pursuant to clause (x) below, simultaneously with the occurrence of such Company Payment Event (and as a condition to the effectiveness of such termination by the Company) or, if pursuant to clause (y) below, within two Business Days following the consummation of an Acquisition Proposal, the Company Termination Fee.

"**Company Payment Event**" means the termination of this Agreement pursuant to (x) Section 9.01(c)(i) or Section 9.01(d)(i) or (y) Section 9.01(b)(i), Section 9.01(b)(iii) or Section 9.01(c)(ii) but in the case of clause (y), only if (A) prior to such termination, an Acquisition Proposal shall have been (i) made to the shareholders of the Company generally, proposed to the Company Board or publicly announced by a Third Party in the case of Section 9.01(b)(i) or Section 9.01(c)(ii) or (ii) made to the shareholders of the Company generally or publicly announced by a Third Party in the case of Section 9.01(b)(iii), and (B) within twelve months following the date of such termination, the Company enters into a definitive agreement with respect to, or consummates, a transaction described in the definition of "Acquisition Proposal" (*provided*, that for purposes of this definition only, all references to 20% in the definition of "Acquisition Proposal" shall be deemed instead to be "50%").

"**Company Termination Fee**" means an amount equal to $26,000,000.

(c) If a Parent Payment Event (as hereinafter defined) occurs, Parent shall pay the Company (by wire transfer of immediately available funds), within two Business Days following the termination, $62,000,000 (the "**Parent Termination Fee**").

"**Parent Payment Event**" means the termination of this Agreement pursuant to Section 9.01(d)(ii) or Section 9.01(d)(iv).

(d) Each party acknowledges that the agreements contained in this Section 10.04 are an integral part of the transactions contemplated by this Agreement and that, without these agreements, the other party would not enter into this Agreement. Notwithstanding anything to the contrary in this Agreement, each party acknowledges and agrees on behalf of itself and its Affiliates that (i) the fee contemplated by this Section 10.04 is not a penalty, but rather is liquidated damages in a reasonable amount that will compensate the other party in the circumstances in which the fee is payable for the efforts and resources expended and opportunity forgone while negotiating this Agreement and in reliance on this

Agreement and on the expectation of the consummation of the transactions contemplated hereby, which amount would otherwise be impossible to calculate with precision, (ii) in the event that the Company Termination Fee becomes payable and is paid by the Company pursuant to this Section 10.04, neither the Company nor any of its Subsidiaries shall have any further liability or obligation to Parent or its Subsidiaries relating to or arising out of this Agreement, the transactions contemplated hereby or in respect of any other document or theory of law or equity or in respect of oral representations made or alleged to be made in connection herewith, whether in equity or at law, in contract, in tort or otherwise, and (iii) in the event that the Parent Termination Fee becomes payable and is paid by Parent pursuant to this Section 10.04, none of Parent, its Subsidiaries or the Financing Parties (which for purposes of this Section 10.04 shall include each of their affiliates, equity holders, directors, employees, agents and advisors) shall have any further liability or obligation to the Company or its Subsidiaries relating to or arising out of this Agreement, the transactions contemplated hereby, the Commitment Letter or in respect of any other document or theory of law or equity or in respect of oral representations made or alleged to be made in connection herewith or therewith, whether in equity or at law, in contract, in tort or otherwise; *provided, however*, this Section 10.04(d) shall not limit the right of any party to specific performance of this Agreement pursuant to Section 10.13 and the remedies related thereto prior to the termination of this Agreement in accordance with its terms.

(e) For the avoidance of doubt, only one fee shall be payable pursuant to this Section 10.04.

Section 10.05. *Disclosure Schedule References*. If and to the extent any information required to be furnished in any Section of a Disclosure Schedule is contained in any other Section of such Disclosure Schedule, such information shall be deemed to be included in all Sections of such Disclosure Schedule in which the information would otherwise be required to be included so long as the relevance of such information to such other Sections is reasonably apparent on its face. Disclosure of any fact or item in any Section of a Disclosure Schedules shall not be considered an admission by the disclosing party that such item or fact (or any non-disclosed item or information of comparable or greater significance) represents a material exception or fact, event or circumstance or that such item has had or would reasonably be expected to have a Material Adverse Effect on the Company or Parent, as the case may be, or that such item or fact will in fact exceed any applicable threshold limitation set forth in the Agreement and shall not be construed as an admission by the disclosing party of any non-compliance with, or violation of, any third party rights (including but not limited to any Intellectual Property rights) or any Applicable Law of any Governmental Authority, such disclosures having been made solely for the purposes of creating exceptions to the representations made herein or of disclosing any information required to be disclosed under the Agreement.

Section 10.06. *Binding Effect; Benefit; Assignment.*

(a) The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Except (i) only from and after the Effective Time, as provided in Section 6.04 and, only from and after the Effective Time, for the rights of the holders of Company Common Stock, Company Restricted Shares and Company Stock Options under Article 1 of this Agreement to receive payment therefor and (ii) Section 10.08(b) and Section 10.09 which are intended to inure to the benefit of the Financing Parties (which for purposes of this Section 10.06 shall include each of their affiliates, equity holders, directors, employees, agents and advisors), no provision of this Agreement is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any Person other than the parties hereto and their respective successors and assigns.

(b) No party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of each other party *provided* that Parent or Merger Subsidiary may pledge its rights hereunder as security to any of the Financing Parties.

Section 10.07. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law rules of such state.

Section 10.08. *Jurisdiction.* (a) The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the Delaware Court of Chancery or, if such court shall not have jurisdiction, any federal court sitting in Delaware, so long as one of such courts shall have subject matter jurisdiction over such suit, action or proceeding, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of Delaware, and each of the parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such Proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 10.01 shall be deemed effective service of process on such party.

(b) Notwithstanding the foregoing, each of the parties hereto agrees that it will not bring or support any action, cause of action, claim, cross-claim or third-party claim of any kind or description, whether in law or in equity, whether

in contract or in tort or otherwise, against any of the Financing Parties (which for purposes of this Section 10.08 shall include each of their affiliates, equity holders, directors, employees, agents and advisors) in any way relating to this Agreement or any of the transactions contemplated hereby, including any dispute arising out of or relating in any way to the Commitment Letter or the performance thereof, in any forum other than the Supreme Court of the State of New York, County of New York, or, if under Applicable Law exclusive jurisdiction is vested in the federal courts, the United States District Court for the Southern District of New York (and appellate courts thereof). The parties hereby further agree that New York State or United States Federal courts sitting in the borough of Manhattan, City of New York shall have exclusive jurisdiction over any action brought against any Financing Party under the Commitment Letter in connection with the transactions contemplated under this Agreement and the Commitment Letter.

Section 10.09. *Waiver of Jury Trial.* EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING ANY LEGAL PROCEEDING AGAINST ANY FINANCING PARTY (WHICH FOR PURPOSES OF THIS SECTION 10.09 SHALL INCLUDE EACH OF THEIR AFFILIATES, EQUITY HOLDERS, DIRECTORS, EMPLOYEES, AGENTS AND ADVISORS) ARISING OUT OF THE COMMITMENT LETTER OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Section 10.10. *Counterparts; Effectiveness.* This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Delivery of a signed counterpart of a signature page of this Agreement by facsimile or by PDF file (portable document format file) shall be as effective as delivery of a manually signed counterpart of this Agreement. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by all of the other parties hereto. Until and unless each party has received a counterpart hereof signed by the other party hereto, this Agreement shall have no effect and no party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication).

Section 10.11. *Entire Agreement.* This Agreement and the Confidentiality Agreement constitute the entire agreement between the parties with respect to the subject matter thereof and supersedes all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter thereof.

Section 10.12. *Severability.* If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other Governmental Authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in

full force and effect and shall in no way be affected, impaired or invalidated 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 a determination, the parties 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 in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 10.13. *Specific Performance.* The parties hereto agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that, prior to the termination of this Agreement, the parties shall be entitled, without posting a bond or similar indemnity, to an injunction or injunctions to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof in any court as specified in Section 10.08, in addition to any other remedy to which they are entitled at law or in equity. Subject to Section 10.04(b) and Section 10.04(d), the parties acknowledge and agree that damages of a party shall not be limited to reimbursement of expenses or out-of-pocket costs, and may include to the extent proven the benefit of the bargain lost by a party's shareholders (taking into consideration relevant matters, including lost shareholder premium, other combination opportunities and the time value of money), which shall be deemed in such event to be damages of such party. Without limiting the foregoing, it is explicitly agreed that the Company shall be entitled to specific performance (a) to cause Parent (and, in the event of a Subsidiary Merger Election, Merger Subsidiary) to enforce the terms of the Commitment Letter (including by demanding Parent to file one or more lawsuits against the sources of Financing to fully enforce such sources' obligations thereunder and Parent's rights thereunder) and (b) of Parent's (and, in the event of a Subsidiary Merger Election, Merger Subsidiary's) obligations to fund the Merger and to consummate the Merger in the event that, in each case, (i) all conditions in Section 8.01 and Section 8.02 (other than, in the case of clause (a) above, Section 8.02(f)) have been satisfied (other than conditions that by their nature can only be satisfied by actions taken at Closing) at the time when the Closing would have occurred and (ii) all of the conditions to the consummation of the financing provided by the Commitment Letter, pursuant to the commitments with respect thereto have been satisfied (other than those conditions that by their nature can only be satisfied by actions taken at the Closing). Each of the parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that (x) the other party has an adequate remedy at law or (y) an award of specific performance is not an appropriate remedy for any reason at law or equity.

ARTICLE 11

DEFINITIONS

Section 11.01. *Definitions.*

As used herein, the following terms have the following meanings:

"**1933 Act**" means the Securities Act of 1933, as amended.

"**1934 Act**" means the Securities Exchange Act of 1934, as amended.

"**Acquisition Proposal**" means, other than the transactions contemplated by this Agreement, any offer or proposal (other than an offer or proposal by Merger Subsidiary or Parent) relating to, (i) any acquisition or purchase, direct or indirect (including by merger), of 20% or more of the voting securities of the Company, (ii) any tender offer or exchange offer that, if consummated, would result in such Third Party beneficially owning 20% or more of the voting securities of the Company, or (iii) a sale of assets (including by way of a sale of capital stock of, or other equity interests in, any Subsidiary of the Company) equal to 20% or more of the fair market value of the Company's consolidated assets or to which 20% or more of the Company's net revenues or net income on a consolidated basis are attributable, or a merger, consolidation, share exchange, business combination, reorganization, recapitalization, liquidation, dissolution or other similar transaction involving the Company or any of its Subsidiaries whose assets, individually or in the aggregate, constitute 20% or more of the fair market value of the consolidated assets of the Company or to which 20% or more of the Company's net revenues or net income on a consolidated basis are attributable.

"**Affiliate**" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person.

"**Applicable Law**" means, with respect to any Person, any federal, state or local law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a Governmental Authority that is binding upon or applicable to such Person, as the same may be amended from time to time unless expressly specified otherwise herein.

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

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Company Balance Sheet**" means the consolidated balance sheet of the Company and its Subsidiaries as of September 30, 2010 and the footnotes thereto set forth in the Company's quarterly report on Form 10-Q for the fiscal quarter ended September 30, 2010.

"**Company Balance Sheet Date**" means September 30, 2010.

"**Company Common Stock**" means the common stock, $0.01 par value, of the Company.

"**Company Credit Facility**" means the Company's Amended and Restated Credit Agreement with Bank of America, N.A., as administrative agent and collateral agent, and Banc of America Securities LLC, RBC Capital Markets and BNP Paribas Securities Corp., as joint lead arrangers.

"**Company Data Room**" means the documents and information relating to the Company and its Subsidiaries provided to Parent in that certain virtual data room maintained by the Company.

"**Company Disclosure Schedule**" means the disclosure schedule dated the date hereof regarding this Agreement that has been provided by the Company to Parent and Merger Subsidiary.

"**Company Owned Intellectual Property**" means all Intellectual Property owned (or purported to be owned) by the Company or any of its Subsidiaries and includes all Intellectual Property listed in Section 3.17(a) of the Company Disclosure Schedule.

"**Company Restricted Share**" means each restricted share of Company Common Stock outstanding as of the Effective Time granted pursuant to any equity or compensation plan or arrangement of the Company.

"**Compliant**" means, with respect to the Required Information, that (i) that such Required Information, taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make such Required Information, in light of the circumstances under which it was made, not misleading, (ii) such Required Information is, and remains throughout the Marketing Period, compliant in all material respects with all applicable requirements of Regulation S-K and Regulation S-X under the 1933 Act (excluding information required by Regulation S-X Rule 3-10 and Regulation S-X Rule 3-16) for offerings of debt securities on a registration statement on Form S-3, or, if applicable, in a Rule 144A offering, (iii) the Company's auditors have not withdrawn any audit opinion with respect to any financial statements contained in the Required Information, (iv) the Company's auditors have delivered drafts of customary comfort letters, including, without limitation, customary negative assurance comfort with respect to periods following the end of the latest fiscal year or fiscal quarter for which historical financial statements are included in the offering documents, and such auditors have confirmed they are prepared to issue any such comfort letter upon pricing throughout the Marketing Period and (v) the financial statements and other financial information (excluding information required by Regulation S-X Rule 3-10 and Regulation S-X Rule 3-16) included in such Required Information are, and remain throughout the Marketing Period, sufficient to permit (A) a registration statement on Form S-3 using such financial statements and financial information to be declared effective by the SEC

throughout the Marketing Period or, if applicable, the relevant debt securities to be offered in a Rule 144A offering and (B) the Financing Parties to receive customary comfort letters, including, without limitation, customary negative assurance comfort with respect to periods following the end of the latest fiscal year or fiscal quarter for which historical financial statements are included in the offering documents, in order to consummate any offering of debt securities on Form S-3 or, if applicable, in a Rule 144A offering throughout the Marketing Period.

"**Contract**" any legally binding contract, agreement, obligation, commitment, arrangement, understanding, instrument, permit, lease or license.

"**Delaware Law**" means the Delaware General Corporation Law.

"**Disclosure Schedule**" means the Company Disclosure Schedule and/or the Parent Disclosure Schedule, as applicable.

"**Environmental Law**" means any Applicable Law relating to (i) the presence, release or control of or exposure to any Hazardous Substance (ii) solid, gaseous or liquid waste generation, handling, treatment, storage, disposal or transportation of a Hazardous Substance, (iii) human health and safety with respect to exposures to and management of Hazardous Substances, or (iv) pollution or protection of the environment (including outdoor or indoor air, groundwater, surface water, sediments, soils, land surface and subsurface strata) or natural resources.

"**Environmental Permits**" means all permits, licenses, franchises, certificates, approvals and other similar authorizations of Governmental Authorities required by Environmental Laws and affecting, or relating to, the business of the Company or any of its Subsidiaries as conducted as of the date of this Agreement.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**ERISA Affiliate**" of any entity means any other entity that, together with such entity, would be treated as a single employer under Section 414 of the Code.

"**GAAP**" means United States generally accepted accounting principles consistently applied.

"**Governmental Authority**" means any transnational, domestic or foreign federal, state or local governmental, regulatory or administrative authority, department, court, agency, commission or official, including any political subdivision thereof, or any non-governmental self-regulatory agency, commission or authority.

"**Hazardous Substance**" means any chemical, substance, waste or material identified, listed, regulated or defined as a "pollutant", "contaminant", "toxic," "radioactive," "ignitable," "corrosive," "reactive," or "hazardous," or subject to liability or a requirement for investigation or remediation, under any Environmental Law, including petroleum or any fraction thereof, asbestos and asbestos-containing material, and toxic mold.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"**Intellectual Property**" means all intellectual property, industrial property and other similar proprietary rights, in any jurisdiction, whether registered or not, including, rights in and to (i) trademarks, service marks, brand names, certification marks, trade dress, domain names and other indications of origin, the goodwill associated with the foregoing and registrations, and applications to register, the foregoing, including any extension, modification or renewal of any such registration or application; (ii) inventions and discoveries, whether patentable or not; patents, applications for patents (including, without limitation, divisions, continuations, continuations in part, reexaminations and any counterparts claiming priority therefrom), and any renewals, extensions, or reissues thereof; (iii) trade secrets, business, technical and know-how information, non-public information and confidential information and rights to limit the use or disclosure thereof by any Person (collectively, "**Trade Secrets**"); (iv) writings and other works of authorship including software, whether copyrightable or not, and any and all copyright rights, whether registered or not; and registrations or applications for registration of copyrights, and any renewals or extensions thereof; (v) moral rights, database rights, design rights, industrial property rights, publicity rights and privacy rights and (vii) all tangible embodiments and all past, present and future claims, causes of action and defenses relating to the any of the foregoing..

"**IT Assets**" means computers, computer software, firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines, and all other information technology equipment, and all associated documentation used by the Company or its Subsidiaries, including as owned, licensed or leased by the Company or its Subsidiaries pursuant to written agreement (excluding any public networks).

"**knowledge**" of a party means the actual knowledge of such party's executive officers after making due inquiry of those Persons reporting directly to such individual, but without further investigation by such individual.

"**Lien**" means, with respect to any property or asset, any mortgage, lien, pledge, charge, security interest, encumbrance or other adverse claim of any kind in respect of such property or asset, including rights of first refusal, options to purchase, purchase agreements and Contracts for deed or installment sale agreements. For purposes of this Agreement, a Person shall be deemed to own

subject to a Lien any property or asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such property or asset.

"**made available**" means with respect to any material shall mean a copy of such material has been (a) posted on or before 5 p.m. (Central Time) on February 4, 2011 to the Company Data Room or Parent Data Room, as applicable or (b) provided to counsel to Parent after February 4, 2011 but before 2 p.m.(Central Time) on February 7, 2011.

"**Marketing Period**" means the first period of thirty-five consecutive calendar days after the date of this Agreement beginning on the later of the first day on which (a) Parent shall have the Required Information the Company is required to provide pursuant to Section 7.06(b), and such Required Information is Compliant; *provided*, that if the Company shall in good faith reasonably believe it has provided the Required Information and such Required Information is Compliant, it may deliver to Parent a written notice to that effect (stating when it believes it completed such delivery), in which case the Company shall be deemed to have complied with this clause (a) unless Parent in good faith reasonably believes the Company has not completed the delivery of the Required Information or that the Required Information is not Compliant and, within two Business Days after the receipt of such notice by Parent, delivers a written notice to the Company to that effect (describing with reasonable specificity which Required Information the Company has not delivered or is not Compliant), (b) all of the conditions set forth in Section 8.01(b), Section 8.01(c), Section 8.02(d) and Section 8.02(e) have been satisfied, or waived by Parent, and nothing has occurred and no condition exists that would cause any of such conditions not to be satisfied assuming Closing were to be scheduled for any time during such thirty-five consecutive calendar day period, (c) there shall have been no changes, effects, developments or events that, individually or in the aggregate, have had or would reasonably be expected to have a Material Adverse Effect on the Company and (d) the Form S-4 shall have been filed with the SEC; *provided* (w) such period shall end no earlier than five Business Days after the first date that each of the conditions set forth in Section 8.01(a) shall have been satisfied, (x) that such period shall not include any period that includes the period from and including August 22, 2011 through and including September 6, 2011, (y) if such period either (1) begins prior to May 28, 2011 and ends after May 30, 2011 or (2) begins prior to July 2, 2011 and ends after July 5, 2011, such thirty-five consecutive calendar day period shall be extended by three calendar days and (z) that the Marketing Period shall end on any earlier date on which the Financing is consummated. Notwithstanding the foregoing, the "Marketing Period" shall not commence and shall be deemed not to have commenced if, on or prior to the completion of such thirty-five consecutive calendar day period, (x) the Company shall have publicly announced any intention to restate any material financial information included in the Required Information or that any such restatement is under consideration, in which case the Marketing Period shall be deemed not to commence unless and until such restatement has been completed and the applicable Required Information has been

amended or the Company has announced that it has concluded that no restatement shall be required, and the requirements in clauses (a) and (b) above would be satisfied on the first day, throughout and on the last day of such new thirty-five consecutive calendar day period or (y) the Required Information would not be Compliant at any time during such thirty-five consecutive calendar day period, in which case a new thirty-five consecutive calendar day period shall commence upon Parent and the Financing Parties receiving updated Required Information that would be Compliant, and the requirements in clauses (a) and (b) above would be satisfied on the first day, throughout and on the last day of such new thirty-five consecutive calendar day period (for the avoidance of doubt, it being understood that if at any time during the Marketing Period the Required Information provided at the initiation of the Marketing Period ceases to be Compliant, then the Marketing Period shall be deemed not to have occurred).

"**Material Adverse Effect**" means with respect to any Person, any change, effect, development or event that has had or would reasonably be expected to have a material adverse effect on the financial condition, business, assets, liabilities, or results of operations of such Person and its Subsidiaries, taken as a whole; *provided, however*, that no change, effect, development or event (by itself or when aggregated or taken together with any and all other changes, effects, developments or events) to the extent resulting from, arising out of, or attributable to, any of the following shall be deemed to constitute or be taken into account when determining whether a "Material Adverse Effect" has occurred or may, would or could occur: (A) any changes, effects, developments or events in the economy or the financial, credit or securities markets in general (including changes in interest or exchange rates), (B) any changes, effects, developments or events in the industries in which such Person and its Subsidiaries operate, (C) any changes, effects, developments or events resulting from the announcement or pendency of the transactions contemplated by this Agreement, the identity of Parent or the performance or compliance with the terms of this Agreement (including, in each case, any loss of customers, suppliers or employees or any disruption in business relationships resulting therefrom, but excluding the effects of compliance with Section 5.01), (D) any changes, effects, developments or events resulting from the failure of such Person to meet internal forecasts, budgets or financial projections or fluctuations in the trading price or volume of such Person's common stock (but not, in each case, the underlying cause of such failure or fluctuations, unless such underlying cause would otherwise be excepted from this definition), (E) acts of God, natural disasters, calamities, national or international political or social conditions, including the engagement by any country in hostility (whether commenced before, on or after the date hereof, and whether or not pursuant to the declaration of a national emergency or war), or the occurrence of a military or terrorist attack, or (F) any changes in Applicable Law or GAAP (or any interpretation thereof), except to the extent such changes, effects, developments or events resulting from or arising out of the matters described in clauses (A), (B), (E) and (F) disproportionately affect such Person and its Subsidiaries as compared to other companies operating in the industries in which such Person and its Subsidiaries operate.

"**Multiemployer Plan**" means any "multiemployer plan," as defined in Section 3(37) of ERISA.

"**NYSE**" means the New York Stock Exchange.

"**Organizational Documents**" means (i) with respect to any entity that is a corporation, such corporation's certificate or articles of incorporation and bylaws, (ii) with respect to any entity that is a limited liability company, such limited liability company's certificate or articles of formation and operating agreement, and (iii) with respect to any other entity, such entity's organizational or charter documents.

"**Parent Balance Sheet**" means the consolidated balance sheet of Parent and its Subsidiaries as of September 30, 2010 and the footnotes thereto set forth in Parent's quarterly report on Form 10-Q for the fiscal quarter ended September 30, 2010.

"**Parent Common Stock**" means the common stock, $0.25 par value, of Parent.

"**Parent Data Room**" means the documents and information relating to Parent and its Subsidiaries provided to the Company in that certain virtual data room maintained by Parent.

"**Parent Disclosure Schedule**" means the disclosure schedule dated the date hereof regarding this Agreement that has been provided by Parent to the Company.

"**Parent Owned Intellectual Property**" means all Intellectual Property owned (or purported to be owned) by the Parent or any of its Subsidiaries.

"**Parent Performance Unit**" means the right to receive a share of Parent Common Stock upon the achievement of specified performance goals.

"**Parent Stock Option**" means the option to purchase a share of Parent Common Stock.

"**Permitted Liens**" means any of the following: (i) Liens for Taxes, assessments and governmental charges or levies either not yet due and delinquent or which are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established in accordance with GAAP; (ii) mechanics, carriers', workmen's, warehouseman's, repairmen's, materialmen's or other Liens or security interests arising or incurred in the ordinary course of business that are not yet due; (iii) Liens to secure obligations to landlords, lessors or renters under leases or rental agreements or underlying leased property arising in the ordinary course of business; (iv) Liens imposed by Applicable Law (other than as a result of a failure to comply therewith); (v) pledges or deposits to secure obligations under workers' compensation laws or similar legislation or to secure

public or statutory obligations; (vi) pledges and deposits to secure the performance of bids, trade Contracts, leases, surety and appeal bonds, performance bonds and other obligations of a similar nature, in each case in the ordinary course of business; (vii) Liens that do not materially detract from the value or materially interfere with the present use of the property or asset subject thereto or affected thereby; (viii) with respect to the Company, Liens the existence of which are specifically disclosed in the notes to the consolidated financial statements of the Company included in the Company SEC Documents filed prior to the date of this Agreement; and (ix) with respect to Parent, Liens the existence of which are specifically disclosed in the notes to the consolidated financial statements of Parent included in the Parent SEC Documents filed prior to the date of this Agreement; (x) with respect to the Company, Liens on Company Owned Intellectual Property recorded prior to the date of this Agreement at the United States Patent and Trademark Office; and (xi) with respect to Parent, Liens on Intellectual Property owned by Parent and recorded prior to the date of this Agreement at the United States Patent and Trademark Office.

"**Person**" means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"**Sarbanes-Oxley Act**" means the Sarbanes-Oxley Act of 2002.

"**SEC**" means the Securities and Exchange Commission.

"**Stock Plans**" means the RehabCare Group, Inc. 2006 Equity Incentive Plan, the RehabCare Directors' Stock Option Plan, the Second Amended and Restated 1996 Long-Term Performance Plan, and the RehabCare Corp. 1987 Incentive Stock Option Plan and 1987 Nonstatutory Stock Option Plans.

"**Subsidiary**" means (i) with respect to any Person (including the Company), any entity, the accounts of which would be consolidated with those of such party in such party's consolidated financial statements if such financial statements were prepared in accordance with GAAP, as well as any other entity, of which securities or other ownership interests representing at least fifty percent of the equity or at least fifty percent of the ordinary voting power (or, in the case of a partnership, more than fifty percent of the general partnership interests) are directly or indirectly owned by such Person and (ii) with respect to the Company (in addition to clause (i)), each of the entities listed on Section 3.06(a) of the Company Disclosure Schedule.

"**Third Party**" means any Person, including as defined in Section 13(d) of the 1934 Act, other than Parent or any of its Affiliates.

"**WARN Act**" means the U.S. Worker Adjustment and Retraining Notification Act and any state or local equivalent.

Each of the following terms is defined in the Section set forth opposite such term:

Term	Section
Acceptable Confidentiality Agreement	Section 5.02(b)
Agreement	Preamble
Antitrust Filings	Section 7.02(b)
Cash Consideration	Section 1.02(a)
Certificate	Section 1.02(a)
Certificate of Merger	Section 1.01(c)
Closing	Section 1.01(b)
Closing Date	Section 1.01(b)
COBRA	Section 3.16(g)
Commitment Letter	Section 4.16
Company	Preamble
Company Adverse Recommendation Change	Section 5.02(a)(i)
Company Board	Section 1.05(a)
Company Board Recommendation	Section 3.02(c)
Company Capital Stock	Section 3.05(a)
Company Facility	Section 3.13(c)
Company Intervening Event	Section 5.02(d)
Company Material Contract	Section 3.14(a)
Company Payment Event	Section 10.04(b)
Company Permits	Section 3.13(c)
Company Physician-Investor	Section 3.13(d)
Company Preferred Stock	Section 3.05(a)
Company Revolver Indebtedness	Section 7.06(d)
Company SEC Documents	Section 3.07(a)
Company Securities	Section 3.05(b)
Company Shareholder Approval	Section 3.02(a)
Company Shareholder Meeting	Section 7.01(a)
Company Stock Option	Section 1.05(b)
Company Subsidiary Securities	Section 3.06(b)
Company Termination Fee	Section 10.04(b)
Confidentiality Agreement	Section 5.03(c)
Credit Facility Termination	Section 7.06(d)
Current Employees	Section 6.05(a)
D&O Insurance	Section 6.04(c)
Dissenting Shares	Section 1.04
Effective Time	Section 1.01(c)
Employee	Section 3.16(k)
Employee Plans	Section 3.16(a)
End Date	Section 9.01(b)(i)
ESPP	Section 1.05(c)

Term	Section
Exchange Agent	Section 1.03(a)
Exchange Fund	Section 1.03(a)
Federal Anti-Kickback Statute	Section 3.13(a)(iii)
Financing	Section 4.16
Financing Parties	Section 7.06(b)
Form S-4	Section 7.01(a)
Health Care Regulatory Laws	Section 3.13(a)
HIPAA	Section 3.13(a)(iv)
Improvements	Section 3.18(d)
Indemnified Person	Section 6.04(a)
internal controls	Section 3.07(g)
IRF	Section 3.23(c)
Joint Proxy Statement	Section 7.01(a)
Leased Real Property	Section 3.18(b)
LTCH	Section 3.23(b)
Merger	Section 1.01(a)
Merger Consideration	Section 1.02(a)
Merger Subsidiary	Preamble
New Company Plans	Section 6.05(a)
Order	Section 3.12
Owned Real Property	Section 3.18(a)
Parent	Preamble
Parent Adverse Recommendation Change	Section 6.06(a)
Parent Board	Section 4.02(c)
Parent Board Recommendation	Section 4.02(c)
Parent Capital Stock	Section 4.05(a)
Parent Employee Plans	Section 4.14(a)
Parent Facility	Section 4.11
Parent Intervening Event	Section 6.06(b)
Parent Material Contract	Section 4.12
Parent Payment Event	Section 10.04(c)
Parent Permits	Section 4.11
Parent Preferred Stock	Section 4.05(a)
Parent SEC Documents	Section 4.07(a)
Parent Share Issuance	Section 4.02(c)
Parent Shareholder Approval	Section 4.02(a)
Parent Shareholder Meeting	Section 7.01(a)
Parent Termination Fee	Section 10.04(c)
Payoff Amount	Section 7.06(d)
Payoff Letter	Section 7.06(d)
Payors	Section 3.23(a)
Physician-Investor	Section 3.13(d)
Proceedings	Section 3.12
Real Property	Section 3.18(b)
Representatives	Section 5.02(a)(i)

Term	Section
Required Governmental Authorizations	Section 3.03
Required Information	Section 7.06(b)
Stark Act	Section 3.13(a)(i)
Stock Consideration	Section 1.02(a)
Subsidiary Merger Election	Section 1.01(a)
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Surviving Corporation	Section 1.01(a)
Tax Return	Section 3.15(j)
Taxes	Section 3.15(i)
Taxing Authority	Section 3.15(i)
Title Companies	Section 5.05
Titled Property	Section 5.05
Uncertificated Share	Section 1.02(a)

Section 11.02. *Other Definitional and Interpretative Provisions.* The words "hereof", "herein" and "hereunder" and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. References to Articles, Sections, Exhibits and Schedules are to Articles, Sections, Exhibits and Schedules of this Agreement unless otherwise specified. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein, shall have the meaning as defined in this Agreement. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation", whether or not they are in fact followed by those words or words of like import. "Writing", "written" and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. Except as the context may otherwise require, references to any Contract are to that Contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof; *provided* that with respect to any Contract listed on any schedules hereto, all such amendments, modifications or supplements must also be listed in the appropriate schedule. References to any Person include the successors and permitted assigns of that Person. Any dollar threshold set further herein shall not be used as a benchmark for determination of what is "material" or a "Material Adverse Effect" or any phrase of similar import under the Agreement. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively. References to "law", "laws" or to a particular statute or law shall be deemed also to include any Applicable Law. The parties agree that the terms and language of this Agreement were the result of negotiations between the parties and their respective advisors and, as a result, there shall be no presumption that any ambiguities in this Agreement shall be resolved against any party. Any

controversy over construction of this Agreement shall be decided without regard to events of authorship or negotiation.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

KINDRED HEALTHCARE, INC.

By: _____
Name: Paul J. Diaz
Title: President and
Chief Executive Officer

KINDRED HEALTHCARE DEVELOPMENT, INC.

By: _____
Name: Paul J. Diaz
Title: President and
Chief Executive Officer

REHABCARE GROUP, INC.

By: _____
Name: John Short
Title: President and
Chief Executive Officer

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

KINDRED HEALTHCARE, INC.

By: _____
Name: Paul J. Diaz
Title: President and
Chief Executive Officer

KINDRED HEALTHCARE DEVELOPMENT, INC.

By: _____
Name: Paul J. Diaz
Title: President and
Chief Executive Officer

REHABCARE GROUP, INC.

By: _____
Name: John Short
Title: President and
Chief Executive Officer

Annex I

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

REHABCARE GROUP, INC.
a Delaware corporation

ARTICLE FIRST

The name of the corporation is "RehabCare Group, Inc." (the "Corporation").

ARTICLE SECOND

The address of the Corporation's registered office in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of the registered agent at such address is The Corporation Trust Company.

ARTICLE THIRD

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

ARTICLE FOURTH

The Corporation is authorized to issue one class of stock to be designated Common Stock. The total number of shares of Common Stock authorized to be issued is one thousand (1,000) shares with a par value of $0.01 per share.

ARTICLE FIFTH

The Corporation is to have perpetual existence.

ARTICLE SIXTH

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is expressly authorized to make, alter, amend or repeal the Bylaws of the Corporation.

ARTICLE SEVENTH

The number of directors that constitute the whole Board of Directors of the Corporation shall be determined in the manner specified in the Bylaws of the Corporation.

ARTICLE EIGHTH

Elections of directors need not be by written ballot unless a stockholder demands election by written ballot at the meeting and before voting begins or unless the Bylaws of the Corporation shall so provide.

ARTICLE NINTH

Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside of the State of Delaware at such place or places as may be designated from time to time by the Board or in the Bylaws of the Corporation.

ARTICLE TENTH

Section 203 of the General Corporation Law of the State of Delaware, as amended from time to time, shall not apply to the Corporation.

ARTICLE ELEVENTH

A. Limitation of Director's Liability. To the fullest extent permitted by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended, a director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

B. Indemnification of Officers and Directors. Every person who was or is a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or a person of whom he is the legal representative is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director or officer of another corporation, or as its representative in a partnership, joint venture, trust or other enterprise shall be indemnified and held harmless by the Corporation to the fullest extent legally permissible under the General Corporation Law of the State of Delaware, as amended from time to time, against all expenses, liabilities and losses (including attorneys' fees, judgments, fines and amounts paid in settlement) reasonably incurred or suffered by him in connection therewith. Such right of indemnification shall not be exclusive of any other right which such directors, officers or representatives may have or hereafter acquire and, without limiting the generality of such statement, they shall be entitled to their respective rights of indemnification under any Bylaws, agreement, vote of stockholders, provision of law, or otherwise, as well as their rights under this Article Eleventh.

The Board of Directors may adopt Bylaws from time to time with respect to indemnification to provide at all times the fullest indemnification permitted by the General Corporation Law of the State of Delaware, as amended from time to time, and may cause the Corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director or officer of another corporation, or as its representative in a partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred in any such capacity or arising out of such status, whether or not the Corporation would have the power to indemnify such person against such liability.

C. Repeal or Modification. Neither any amendment or repeal of this Article Eleventh, nor the adoption of any provision of the Corporation's Certificate of Incorporation inconsistent with this Article Eleventh, shall eliminate or reduce the effect of this Article Eleventh in respect of any matter occurring, or any action or proceeding accruing or arising or that, but for this Article Eleventh, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

EXECUTION COPY

SCHEDULES TO

AGREEMENT AND PLAN OF MERGER

dated as of

February 7, 2011

among

KINDRED HEALTHCARE, INC.,

KINDRED HEALTHCARE DEVELOPMENT, INC.

and

REHABCARE GROUP, INC.

Schedule 8.02(d)

CONSENTS AND APPROVALS

1. Illinois CON approval for Greater Peoria Specialty Hospital

2. Notice of Intent to and issuance of a license by the Colorado Department of Public Health and Environment

3. Notice to Florida Agency for Health Care Administration's Hospital and Outpatient Services Unit

Schedule 8.02(e)

GOVERNMENTAL AUTHORITIES

1. Centers for Medicare and Medicaid Services
2. Department of Justice
3. Department of Health and Human Services – Office of Inspector General
4. State Attorneys General
5. Illinois Health Facilities and Services Review Board

After paginating the entire, completed application, indicate in the chart below, the page numbers for the attachments included as part of the project's application for permit:

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