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[REDACTED]

WRITER'S DIRECT DIAL NUMBER

[REDACTED]

INTERNET

March 26, 1999

VIA FEDERAL EXPRESS

Mr. Patrick Sharp
Compliance Specialist
Federal Trade Commission
Sixth and Pennsylvania Avenue, N.W.
Room 172
Washington, D.C. 20580

MMXIII 29 P 2 31

RECEIVED
FEDERAL TRADE COMMISSION
MARCH 29 1999

Re: Lease and Transfer Agreement between

[REDACTED] and [REDACTED]

Dear Patrick:

In accordance with our discussion of this afternoon, enclosed please find a copy of the LEASE AND TRANSFER AGREEMENT between [REDACTED], as lessor, and [REDACTED]

[REDACTED] owns and operates a [REDACTED] facility and other assets located in [REDACTED] which is [REDACTED] is located.

[REDACTED] and just south of [REDACTED] is located in [REDACTED] and the [REDACTED] involved does business as [REDACTED] located at [REDACTED] in [REDACTED]

three adjacent counties

Thus, this transaction affiliates a [REDACTED] to the east and north in [REDACTED], a [REDACTED] in [REDACTED] and a [REDACTED] of [REDACTED] in [REDACTED] is located in [REDACTED]. Therefore, this merger has no antitrust implications and in fact it is pro-competitive because of the increasing concentration of the [REDACTED] in the Tampa [REDACTED] and [REDACTED] market.

I disagree, they may have overlapping geographic markets.

Mr. Patrick Sharp
March 26, 1999
Page 2

I am encouraged that this Lease of [REDACTED] Inc. is not some sort of a subterfuge to acquire this [REDACTED] over time because the first page of the Lease and Transfer Agreement states, in pertinent part, that:

WHEREAS, a substantial inducement to Lessor's willingness to execute this Agreement is the covenant on the part of Lessee herein to return or otherwise convey to Lessor all of the assets comprising the [REDACTED] upon the expiration or earlier termination of this Agreement.

I would very much appreciate your letting me know whether we should make a Premerger Notification Report Form filing for this transaction.

My very best regards.

Very truly yours,
[REDACTED]

[REDACTED]
Enclosure
cc: [REDACTED]

(without enclosure)

per [REDACTED] 4/1/99
will lease the [REDACTED] and
equipment. No assets will
be acquired in this transaction.

called [REDACTED]
4/1/99

(FS)

This material may be subject to the confidentiality provisions of section 7A(4) of The Clayton Act which restricts release under The Freedom of Information Act.

LEASE AND TRANSFER AGREEMENT

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- Exhibit "A" - Description of Real Property
- Exhibit "B" - Description of Medical Education Program

LEASE AND TRANSFER AGREEMENT

THIS LEASE AND TRANSFER AGREEMENT (this "Agreement") is made as of the _____ day of _____, 1999, between _____, INC., a Florida not-for-profit corporation, as Lessor ("Lessor"), and _____, L, INC., a Florida not-for-profit corporation ("LCH"), and _____, a Florida not-for-profit corporation ("Adventist"), as joint tenants (together, "Lessee").

W I T N E S S E T H:

WHEREAS, Lessor owns and operates a _____ facility and other assets located in Largo, Florida known as the _____ "as hereinafter defined); and

WHEREAS, Lessor believes that continuation of the high quality level of _____ services currently rendered at the _____ can best be accomplished by leasing and transferring all of the operations and physical assets of the _____ as well as certain assets and liabilities of Lessor, to Lessee; and

WHEREAS, Lessee wishes to assume all of the operations of the _____ to lease all of the physical assets of the _____ and to assume certain other assets and liabilities of Lessor, all on the terms and conditions hereinafter set forth; and

WHEREAS, Lessor desires to provide for an orderly transition of the employees and members of the _____ staff of the _____ to Lessee; and

WHEREAS, a substantial inducement to Lessor's willingness to execute this Agreement is the covenant on the part of Lessee herein to return or otherwise convey to Lessor all of the assets comprising the _____ upon the expiration or earlier termination of this Agreement.

claims this

NOW, THEREFORE, in consideration of the premises, covenants and agreements set forth herein, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

The following words, terms or phrases, when used in this Agreement, shall have the following meanings unless the context indicates a different meaning:

1.1 "Affiliate" means, as to the Person in question, any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question and any successors or assigns of such Person; and the term "control"

means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person whether through ownership of voting securities, by contract or otherwise.

1.2 "Agreement" or "Lease" means this Lease and Transfer Agreement as from time to time amended or supplemented pursuant hereto.

1.3 "AOA" means the American Osteopathic Association.

1.4 "Assigned Contracts" means all contracts in any way related to the use and operation of the Facilities to which Lessor is a party, excluding only such contracts for which any required consent to such assignment is not obtained or waived by Lessee, more particularly described in Schedule 1.4 attached hereto.

1.5 "Assumed Liabilities" means (a) liabilities of Lessor under the Assigned Contracts accruing on and after the Commencement Date, (b) liabilities arising under executory purchase orders made, and contracts entered into, by Lessor in the ordinary course of Existing Facilities Operations that are outstanding on the Commencement Date and in conformance with the annual capital and/or operating budgets for the [REDACTED] in effect at the date of execution of this Agreement, a copy of which has been provided to Lessee by Lessor; and (c) other liabilities expressly assumed by Lessee.

1.6 "Bank" means _____ Bank of _____ National Association, or its successors or assigns.

1.7 "Bank's Designee" means a Florida corporation not-for-profit which is duly qualified as a 501(c)(3) corporation under the Code.

1.8 "Beginning Net Working Capital" shall be the excess of Working Capital Assets over Working Capital Liabilities, determined based on the financial statements of the [REDACTED] as of the [REDACTED] last fiscal period ended before the Commencement Date, and adjusted for changes in estimates or corrections of errors or omissions in Working Capital Assets or Working Capital Liabilities as of the Commencement Date for up to one year following the date on which such Beginning Net Working Capital is reported. Beginning Net Working Capital shall be agreed upon by Lessor and Lessee within 180 days following the Commencement Date.

1.9 "Board of Directors" means the Board of Directors of Lessor.

1.10 "Bond Indenture" means that Trust Indenture dated as of _____, between the Lessor and _____ Bank,

National Association, as Trustee, as amended and supplemented, pursuant to which the Lessor has issued the Bonds.

1.11 "Bonds" means the _____, Series 19____, dated as of _____ in the aggregate principal amount of \$_____.

1.12 "Capital Additions" means all real property, capital equipment and fixtures, additions of a capital nature to, and substantial renovations of, the Existing Facilities purchased by Lessee regardless of whether the purchase price was remitted from revenues derived from the operations of the Facilities or from the operations of other _____ facilities owned and operated by the Lessee.

1.13 "_____" or "_____" means _____, a Florida not-for-profit membership corporation, which as of the execution date of this Agreement has two corporate members, _____ and _____.

1.14 "_____" means an Affiliate of _____ established by _____ to assume Lessee's obligations under this Agreement.

1.15 "Choice Assets" means all real property, capital equipment and fixtures and other assets acquired, constructed or leased by the Lessee from a third party (other than the Lessor or an Affiliate of the Lessor) located within the _____ Service Area during the term of this Agreement, excluding the Capital Additions.

1.16 "Code" means the Internal Revenue Code of 1986, as amended, and all applicable existing and proposed regulations that may from time to time be issued thereunder.

1.17 "Commencement Date" shall have the meaning set forth in Section 2.1(b).

1.18 "~~Credit Agreement Confidential Information~~" means the Credit Agreement dated as of _____, 19__ between Lessor and the Bank.

1.19 "Environmental Laws" means all laws relating to pollution or the environment, including the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §9601, et. seq. ("CERCLA"); the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §9601, et. seq. ("RCRA"), the Clean Air Act, 42 U.S.C. §7401, the Occupational Safety and Health Act, 29 U.S.C. §651, et. seq. ("OSHA"), and all other laws and regulations relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, pesticides or industrial,

infectious, toxic or hazardous substances or wastes into the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or otherwise relating to the processing, generation, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, chemicals or industrial, infectious, toxic or hazardous substances or wastes which are applicable to Lessee's possession and use of the Existing Facilities and any Expansion Facilities.

1.20 "Equipment" means all equipment, machinery and furniture owned by Lessor and used in connection with the Existing Facilities Operations as of the Commencement Date, as well as all equipment, machinery and furniture acquired and used in connection with the Expansion Facilities, and all equipment, machinery and furniture acquired and installed in replacement thereof or in substitution therefor and further shall mean all tangible personal property which is owned by Lessor and leased to Lessee which is not included in the definition of Real Property.

1.21 "Excluded Assets" means cash, securities, rights to settlement and retroactive adjustments, if any, for open cost reporting periods ending on or prior to the Commencement Date (whether open or closed) arising from or against the U.S. Government under the terms of the Medicare program or Champus and against any state under its Medicaid program and against any third-party payor programs that settle on a cost report basis, provided, however, that Lessee shall be afforded the right to participate in (but not direct) any administrative appeal of claims denials or cost disallowances that would reasonably be expected to have a material adverse effect on the post-Commencement Date operation of the Facilities, accounts receivable and other receivables of Lessor or segregated funds held pursuant to (i) bond indentures securing indebtedness of Lessor; (ii) self-insured health and welfare benefit plans offered by Lessor to its employees prior to the commencement Date; (iii) self-insured workers' compensation trust or similar instrument, evidencing coverage afforded to employees of the Lessor prior to the Commencement Date; ~~and~~ (iv) self-insured general and/or professional liability trusts established by Lessor to cover claims; ~~and~~ (v) excluded contracts.

1.22 "Excluded Contracts" means those contracts related to the use and/or operation of the facilities to which Lessor is a party and for which any required consents to the assignment thereof to Lessee is not obtained.

1.23 "Existing Facilities" means the Hospital and all Equipment and Improvements comprising the Hospital or used in connection with the operation thereof, more particularly described in Schedule 1.23 attached hereto, as well as the Real Property on which the same are located.

1.24 "Existing Facilities Operations" means all of the hospital, health care, teaching, administrative and related activities conducted in connection with the operation of the Hospital as of the Commencement Date hereof or in the past by Lessor in the ordinary course of owning and operating the Existing Facilities.

1.25 "Expansion Facilities" means the additions to and renovations of the Existing Facilities contemplated by the Plans, if any.

1.26 "Excluded Liabilities" except as expressly provided to the contrary in Schedule 1.26, Lessee is not obligated to pay or assume and shall be indemnified under Article VIII against any liability of Lessor, including the following, whether fixed or contingent, recorded or unrecorded, known or unknown (~~collectively "Excluded Liabilities"~~): (a) any obligation or liability (including applicable interest or penalties) accruing, arising out of, or relating to acts or omissions or interpretations of any Person (including Governmental Entities) other than Lessee prior to the Commencement Date, including any acts or omissions in connection with (i) any Assigned Contract; (ii) the business or operation of the Facilities; (iii) any Medicare, Medicaid or other third party payor programs, including recapture or recoupment of previously paid or reimbursed expenses or claims; or (iv) any claim, action, suit, audit, proceeding, investigation, judgment, order or decree initiated before or after, to the extent (but only to the extent) that it relates to or arises from the operations of the Facilities or actions of Lessor prior to the Commencement Date; (b) any obligation or liability accruing out of, or relating to any act or omission of Lessor prior to Commencement Date; (c) any federal, state or local tax obligations of Lessor in respect to periods ~~beginning or ending before~~ beginning or ending before the Commencement Date; (d) any liability or obligation for employee-related claims by or on behalf of employees of Lessor relating to periods prior to the Commencement Date, including liability for any pension, profit-sharing, deferred compensation or any plan, liability for any EEOC claim, wage and hour claim, unemployment compensation claim or workers' compensation claim and liability for all employee wages due prior to the Commencement Date; (e) any obligation or liability accruing, arising out of, or relating to any federal, state or local investigations of, or claims or actions against Lessor or any of its employees, medical staff, contractors, agents, vendors or representatives with respect to acts or omissions prior to the Commencement Date; (f) any civil or criminal obligation or liability accruing, arising out of, or relating to any acts or omissions of Lessor or its directors, officers, employees, and agents and contractors; and (g) any other liability, fixed or contingent, relating to the Facilities attributable to period~~beginning~~ prior to the Commencement Date and not expressly assumed by Lessee pursuant to Section 2.3.

1.27 "Facilities" means the Existing Facilities and the Expansion Facilities.

1.28 "Facilities Operations" means all of the [REDACTED] e, teaching, administrative and related activities conducted by Lessee in the ordinary course of leasing and operating the Existing Facilities and the Expansion Facilities during the Term of this Agreement.

1.29 "Financial Statements" means the audited financial statements of the [REDACTED] as of its fiscal year ended July 31, 1998.

1.30 "Financing Documents" means any and all documents executed or delivered in connection with the provision of the Letter of Credit by the Bank, including, without limitation, the Credit Agreement.

1.31 "Fiscal Year" means the fiscal year of Lessee, which as of the execution date of this Agreement is October 1 of each year through September 30 of each subsequent year.

1.32 "GAAP" means United States generally accepted accounting principles and practices as in effect from time to time and applied consistently by Lessee throughout the periods involved.

1.33 "Hazardous Materials" shall mean any material defined as hazardous or regulated or dangerous under any applicable Environmental Law.

1.34 [REDACTED] means the facility and institution presently known as Sun [REDACTED] al located in [REDACTED] and all licenses, permits and approvals, including certificate of need approvals, necessary or desirable for the use and operation thereof.

1.35 "Hospital Campus" means the Owned Real Property and the area lying within a three (3) block radius thereof as reflected on Schedule 1.35 hereto.

1.36 "Improvements" means any and all buildings, structures and other improvements now or hereafter constituting part of the Existing Facilities, including those improvements made as a substitution for or in renewal or replacement of any such buildings, structures or other improvements, and those to be constructed as part of the Expansion Facilities, and any other additions, alterations and improvements to the Facilities placed or installed in or upon the Real Property, excluding any Capital Additions.

1.37 "Independent Accountant(s)" means a firm of nationally recognized, independent certified public accountants selected by Lessee.

1.38 "Intellectual Property" means, to the extent held or used in or ancillary to the business or operation of the Facilities, patents, trademarks, trade names, service marks, copyrights and any applications therefor, mask works, net lists, schematics, technology, know-how, trade secrets, ~~ideas~~, algorithms, processes, computer software programs and applications (in both source code and object code form) and tangible or intangible proprietary information or material.

1.39 "JCAHO" means the Joint Commission on Accreditation of Healthcare Organizations.

1.40 "Known" or "Knowledge" means, when used in a statement regarding the existence or absence of facts in this Lease Agreement that is qualified by a phrase such as "to such Person's knowledge" or "known to such Person," information actually known to (a) the person in a case of an individual, or (b) in the case of a corporation or other entity, an executive officer of such corporation or entity.

1.41 "Leased Real Property" means all real property subject to a leasehold or subleasehold estate located, held or used in ancillary to the business or operation of the Facilities as of the Commencement Date, as more particularly described on Schedule 1.41 hereto.

1.42 "Letter of Credit" means the letter of credit in the amount of \$ _____ to be issued by the Bank.

1.43 "Management Consultant" means a nationally recognized firm of independent professional management consultants knowledgeable in the operation of _____, which may include a firm of Independent Accountants.

1.44 "OMS Agreement" means the Operating and Management Services Agreement dated December 14, 1998 between _____ and _____.

1.45 "Operating Assets" means those assets which are owned by Lessor in connection with the operation of the Existing Facilities, excluding the Excluded Assets, but including, without limitation:

(a) all Assigned Contracts;

(b) all books, records and other information collected and maintained in connection with the Existing Facilities including, without limitation, patient records and employee records;

(c) Intellectual Property including the name [REDACTED];

(d) all assets restricted by a third party for a particular use in association with the [REDACTED]

(e) all permits, licenses, filings, certificates of need, authorizations, approvals or indicia of authority (and any pending applications for any thereof) held by Lessor with respect to the ownership, maintenance or operation of the Existing Facilities, or the operation of the businesses conducted in connection therewith, to the extent that each of the foregoing is transferable; and

(f) all assets of Lessor not listed above utilized in Existing Facilities Operations that are not otherwise classified as Existing Facilities or Working Capital Assets and which are not Excluded Assets.

Upon the transfer of the Operating Assets to Lessee pursuant to Section 2.2 hereof, the term "Operating Assets" shall mean all Operating Assets received by Lessee and all substitutions and replacements thereof, and less all deletions and deductions therefrom, as may occur in the ordinary course of business of Lessee or as otherwise may be permitted by the terms of this Agreement, other than Capital Additions.

1.46 "Net Operating Income" means (a) all income received by Lessee (or any Affiliate of Lessee) attributable to Facilities Operations, less (b) all expenses incurred by Lessee or any Affiliate of Lessee for the same period in connection with the Facilities Operations, specifically including, without limitation, the Rental Payments under Section 2.4 hereof, and specifically excluding, without limitation, depreciation and other non-cash items of expense, as well as any payments owed by Lessee under the OMS Agreement for other than typical expense reimbursements incurred on behalf of Lessee. All items of income and expense shall be determined on a cash basis in accordance with generally accepted accounting principles.

1.47 "Owned Real Property" means all real property owned by Lessor or its Affiliates and held or used in the business or operation of the Facilities, more particularly described in Schedule 1.467, together with all leases and subleases thereon, improvements, buildings or fixtures located thereon or therein, all easements, rights of way, and all other appurtenances thereto, all architectural plans or design specifications (including the Plans), relating to the development thereof.

1.48 "Permitted Encumbrances" means the Bond Indenture, the Financing Documents, this Agreement and, as of any particular time,

(a) liens for taxes and special assessments, if any, which are not then delinquent, or if then delinquent are being contested in accordance with the provisions of this Agreement;

(b) utility, access and other easements and rights-of-way, restrictions and exceptions which will not materially interfere with or materially impair the operation of the Facilities or any portion thereof (or, if they are not being then operated, the operation for which they were designed or last modified);

(c) any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right in respect thereof, if any, if payment is not yet due under the contract in question or if covered by proper bond or if such lien is being contested in accordance with the provisions of this Agreement;

(d) such minor defects and irregularities of title as customarily exist with respect to properties similar in character to the Real Property and which do not materially and adversely affect the value of the Facilities or materially impair the property affected thereby for the purpose for which it was acquired or is held;

(e) leases which relate to portions of the Facilities which are customarily the subject of such leases, such as equipment, office space for physicians and educational institutions, food service facilities, gift shops and radiology, pharmacy and similar departments to the extent that such leases will not adversely affect the exclusion from gross income for federal income tax purposes of interest payable on the Bonds, and to the extent the same are permitted by Article V hereof or Section 9.2 hereof;

(f) zoning laws and similar restrictions which are not violated by Lessee or Lessor or its Affiliates or which do not materially and adversely affect the value of the Facilities;

(g) all right, title and interest of the State, municipalities and the public in and to access over, under or upon a public way;

(h) liens on and security interests in Property given, bequeathed or devised existing at the time of such gift, bequest or devise, provided that (i) such liens or security interests attach solely to the Property which is the subject of such gift, bequest or devise, and (ii) any indebtedness incurred in connection with such liens or security interests is nonrecourse;

(i) restrictions or other encumbrances which are either insured over by a reputable, solvent title insurance company or which relate to properties which are not contiguous to the property on which the [REDACTED] is situated and the loss of

which would have no material adverse impact on the Facilities Operations of the Hospital;

(j) any liens, charges, encumbrances and restrictions in favor of Lessor which may be created or exist by reason of this Agreement; and

(k) any liens, charges or encumbrances encumbering Lessee's leasehold estate under this Lease which are incurred to improve, expand, renovate and/or equip the Existing Facilities and/or acquire Choice Assets, provided further, the grant of such lien, charge or encumbrance does not violate or contravene ~~an~~ ~~equal~~ ~~of~~ the terms of the Bond Indenture or the Financing Documents.

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

1.50 "Plans" means the plans and specifications for the Expansion Facilities prepared by _____ as amended from time to time.

1.51 "Prior Tort Liabilities" shall mean any and all tort liabilities arising or accruing from any act or omission on or before the Commencement Date in relation to the _____ or the Board of Directors.

1.52 "Property" means any and all right, title and interest in and to any and all property, whether real or personal, tangible or intangible and wherever situated, excluding Choice Assets.

1.53 "Property Assets" are defined as the sum of unexpended bond funds, restricted capital contributions, and net property, plant and equipment, excluding the Excluded Assets and Choice Assets.

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

1.55 "Rental Payments" means any and all of the payments required to be made by Lessee pursuant to the terms hereof.

1.56 "Senior Management" means persons holding the following titles with respect to the Facilities: Chief Executive Officer and Controller.

1.57 "Service Area" means _____.

1.58 "State" means the State of Florida.

1.59 "Term of this Agreement" or the "term hereof" means the period commencing on the Commencement Date and expiring at the end of the ~~25~~²⁷th anniversary thereof, unless sooner terminated pursuant to the provisions hereof, and shall include any extension thereof duly exercised in accordance with the terms hereof.

1.60 "Early Termination Payment" means the payment to be tendered by Lessee upon the exercise of its right to terminate the Agreement pursuant to Section 3.1(c)(iii)(B). The Early Termination Payment shall equal _____.

1.610 "Trustee" means the Trustee serving from time to time under the Bond Indenture.

1.624 "Working Capital Assets" means inventories, supplies, prepaid expenses and any other working capital assets that are transferred to Lessee as of the Commencement Date.

1.62 "Working Capital Liabilities" means any working capital liabilities that are transferred to and assumed by Lessee as of the Commencement Date.

ARTICLE II

LEASING OF FACILITIES; TERM; TRANSFER OF OPERATING ASSETS; ASSUMPTION OF LIABILITIES; RENTAL PAYMENTS

2.1 Leasing of Facilities; Term; Commencement Date;
Termination; Quiet Enjoyment.

(a) Lessor, for and in consideration of the payment by Lessee of the Rental Payments herein provided and the performance by Lessee of the covenants and agreements set forth herein, hereby leases and rents to Lessee, and Lessee hereby takes, accepts and rents from Lessor, beginning as of the Commencement Date, the Existing Facilities, as well as the Expansion Facilities to be constructed by Lessor (if any), subject to and upon the terms, covenants, conditions and provisions hereinafter stated and the following limitations, restrictions, reservations and encumbrances, to have and to hold for the term hereof. Lessee shall have the right to extend the original Term of this Agreement, on the same terms and conditions set forth herein, for up to ~~five (5)~~^{six (6)} consecutive additional periods of ~~five (5)~~^{seven (7)} years each, if Lessee provides Lessor written notice of its exercise of each such option no less than six (6) months prior to the expiration of the original term hereof or of the applicable extension period, as the case may be. The term hereof may be extended by mutual agreement of Lessor and Lessee to be co-extensive with the term of any outstanding bonds issued by or on behalf of Lessee for the benefit of the Existing Facilities and/or Choice Assets.

(b) The Commencement Date of this Lease shall be the first day of the first calendar month after the occurrence of all of the following:

(i) Notice by Lessee of the terms of this Lease to the appropriate federal agencies under the Hart-Scott-Rodino Act without a responsive objection to or disapproval of the transaction contemplated hereby within the time allowed;

(ii) Receipt by Lessee of approval the license required to operate the Facilities from the Florida Agency For Health Care Administration;

(iii) Receipt by Lessee of approval from the Health Care Finance Administration or other appropriate agency of the use by Lessee of the existing provider number(s) issued to Lessor for purposes of the Medicare and Medicaid programs, unless waived by the Lessee;

(iv) Receipt by each of [REDACTED] and [REDACTED] of an opinion of bond counsel that neither the execution, delivery nor performance of the terms of this Lease violates the terms of any trust indenture or other instrument relating to any bonds issued by it and will not adversely affect the tax-exempt status of such bonds;

(v) Receipt by Lessee of a written contract(s) signed by each member of Senior Management evidencing his or her acceptance of employment with [REDACTED] for a period not less than twelve (12) months following the execution of this Agreement; and

(vi) Receipt by Lessor of an opinion of bond counsel that neither the execution, delivery nor performance of the terms of this Lease violates the terms of the Bond Indenture or the Credit Agreement and will not adversely affect the tax-exempt status of the Bonds.

Each of Lessor, [REDACTED] and [REDACTED] covenant to use their reasonable best and most diligent efforts and to cooperate promptly with each other to cause the occurrence of all of the foregoing events no later than April 30, 1999.

(c) ~~Termination.~~ The following provisions shall govern the termination of this Agreement prior to the natural expiration of the initial term or any renewal term of this Agreement:

(1) Automatic Termination. This Agreement shall automatically terminate upon the occurrence of either of the following:

(A) The written consent of the Parties.

(B) The failure of the Lessee to obtain all necessary regulatory approvals to lease the [REDACTED] on or before September 1, 1999.

(ii) Termination by Lessor. The Lessor shall have the right, in its sole discretion, to terminate this Agreement upon the occurrence of an Event of Default (as defined in Section 10.1) in accordance with the provisions of Article X of this Agreement. 4

(iii) Termination by Lessee. The Lessee shall have the right, in its sole discretion, to terminate this Agreement upon the occurrence of any of the following events:

(A) upon the occurrence of an Event of Default (as defined in Section 10.2) in accordance with the provisions of Article X of this Agreement; and

(B) on the fourth anniversary of the Commencement Date of this Agreement and on each anniversary thereafter during the Term of this Agreement, without cause, on the giving of one hundred and eighty (180) days notice, provided, Lessee remits the appropriate Early Termination Payment simultaneously with the giving of notice, and provided further, Lessor shall have the option to extend the terms and conditions of this Agreement for a period of up to six (6) months ("Disengagement Period") commencing upon the expiration of the aforementioned one hundred and eighty (180) days notice period, in order to provide for an orderly transition, provided notice of such election is given by Lessor within thirty (30) days after its receipt of notice of termination from Lessee, which written election shall set forth the number of months of the Disengagement Period (which shall be no more than six (6) months). Termination pursuant to the provisions of this Section shall be subject to the provisions of Article XI.

(iv) Termination or Amendment as the Result of Governmental Regulation. Lessor and Lessee shall have right to terminate this Agreement, without liability to the other party, if, or the advice of a law firm with a nationally recognized health and tax law practice, it determines in its reasonable judgment that the terms of this Agreement more likely than not may be interpreted to violate any present or proposed future law or regulation applicable to it, which, if violated, would jeopardize its status as a recipient of governmental or private funds for the provision of [REDACTED] services or its status as an organization described in Section 501(c)(3) of the Code. Notwithstanding such right to terminate, the parties shall first use reasonable efforts to amend this Agreement to the extent necessary to conform the potentially violative terms to the applicable law or regulation and, provided, further, a party will terminate this Agreement pursuant to this Section only if it determines, in its reasonable judgment, that an amendment

otherwise acceptable to it will not result in compliance.
Termination pursuant to the provisions of this Section shall be
subject to the provisions of Article XI.

(d) Beginning as of the Commencement Date, Lessor grants to Lessee the right to possess and operate the Existing Facilities, as well as the Expansion Facilities (as the same are constructed), and agrees that so long as Lessee shall pay the Rental Payments as provided herein and Lessee shall duly observe and perform all the terms, covenants, conditions, provisions, stipulations and agreements of this Agreement, then Lessee shall have, hold and enjoy, during the term hereof, peaceful, quiet and undisputed possession of the Facilities, without hindrance or molestation by anyone claiming by or through Lessor, subject, however, to the provisions of this Agreement, and Lessor shall from time to time take all necessary or appropriate actions to that end. Notwithstanding the foregoing, Lessee acknowledges that its right to possession, use and enjoyment of the Facilities is subject to the terms and conditions of the Bond Indenture and the Financing Documents.

2.2 Transfer of Working Capital Assets, Operating Assets and Existing Facilities Operations. Lessor, for and in consideration of the assumption by Lessee of the Assumed Liabilities pursuant to Section 2.3 hereof and the performance by Lessee of its other agreements hereunder, and effective as of the Commencement Date, hereby assigns, transfers and conveys to Lessee all of Lessor's right, title and interest in and to the Working Capital Assets, the Operating Assets and Existing Facilities Operations. Lessee during the term hereof shall use the Working Capital Assets, the Operating Assets and Existing Facilities Operations so transferred to it in the Facilities Operations of the Facilities and in furtherance of Lessee's purposes as set forth in its organizational documents and as otherwise permitted by this Agreement. Subject to the rights of the Bank under the Financing Documents and under Article X hereof, Lessor and Lessee agree that, at the expiration or earlier termination of the term hereof, (a) Lessee shall assign, transfer and convey to Lessor the Working Capital Assets less Working Capital Liabilities (with a value equal to Beginning Net Working Capital in the manner set forth in Section 10.7), plus the Operating Assets and Facilities Operations, and (b) Lessee shall discharge all of its then current liabilities related to the Facilities, except for those (if any) that Lessor is willing to assume provided, however, Lessor acknowledges that it will agree to assume liabilities Lessee incurred to equip, improve and/or operate the Facilities in an amount not less than the Assumed Liabilities assumed by Lessee on the Commencement Date pursuant to this Agreement.

2.3 Assumption of Liabilities. Effective as of the Commencement Date, Lessee assumes, and agrees to perform and

discharge, all of the Assumed Liabilities; provided, that with respect to the Assigned Contracts, Lessor and Lessee each agree to use their respective reasonable best efforts to renegotiate or terminate any Assigned Contract which the parties mutually agree is not in the Hospital's best interest.

2.4 Rental Payments.

(a) In consideration of the leasing of the Facilities to Lessee hereunder, Lessee agrees, effective as of the Commencement Date, and at least one (1) business day before each payment of principal of, premium, if any, and interest on the Bonds shall be due until all the principal of, premium, if any, and interest on the Bonds shall have been paid in full, to pay as a Rental Payment hereunder an amount of money equal to the amount payable on the following day as principal of (whether at stated maturity, upon acceleration if attributable to an act or omission of Lessee or by redemption or otherwise as agreed to by Lessee), premium, if any, and the interest on the Bonds as provided in the Bond Indenture, which Lessee shall pay directly to the Trustee but excluding any amounts payable due to mandatory or optional tenders under the Bond Indenture; or, if such payments are made to the Trustee by the Bank under draws made on the Letter of Credit, such payments shall be made directly to the Bank on the same day on which such draws are paid by the Bank. Lessee shall also pay to the Trustee until the principal of, premium, if any, and interest on the Bonds shall have been paid in full an amount equal to all fees and expenses of the Trustee and any other amounts relating to the Bonds payable by Lessor under the Bond Indenture as and when the same shall become due pursuant to the terms of the Bond Indenture, as well as all fees, expenses and other amounts due to the Bank under the Credit Agreement, not attributable to an act or omission of Lessor in contravention of the Bond Indenture. If any amounts required to be paid to the Trustee under the Bond Indenture are paid by the Bank pursuant to draws made on the Letter of Credit, then such amounts shall be paid to the Bank.

All Rental Payments due from Lessee hereunder shall be in addition to Lessee's obligations to pay or discharge the Assumed Liabilities as specified in Section 2.3 hereof.

(b) In addition to the Rental Payments set forth above, Lessee shall pay to Lessor an amount equal to ten percent (10%) of the Net Operating Income, on a quarterly basis, which shall be due and remitted on the twentieth day of the first month after each three (3) month period after the Commencement Date. Notwithstanding the foregoing, Lessee shall be entitled to credit against the Rental Payments due under this subsection any negative amounts of Net Operating Income for prior quarters which have not previously been credited. On each such due date, Lessee shall deliver to Lessor statements of income and expense for such quarter, certified by the chief financial official of Lessee (or

an Affiliate of Lessee), demonstrating the calculation of Net Operating Income.

(c) In the event Lessee shall fail to make any Rental Payment under Section 2.4(a) above when due, then in addition to any other remedies provided herein, Lessor shall have the right (but not the obligation) to make such payment and to otherwise cure any default under the Bond Indenture or under the Financing Documents caused by such failure by Lessee timely to make such Rental Payment, and if Lessor does so elect to cure such failure, then the amounts paid by Lessor to effect such cure shall constitute a debt due from Lessee to Lessor, which debt shall be due on demand and which shall bear interest from the date so advanced by Lessor until repaid by Lessee at the rate equal to the publicly announced "prime" or "base" (or equivalent) lending rate of the Bank (or its successor), which rate shall be adjusted as and when adjusted by the Bank; or, at Lessor's option, Lessor may offset such amounts against funds otherwise payable from Lessor to Lessee.

2.5 Absolute Obligation to Pay Rental Payments. Except as set forth in Section 2.4(b), the obligation of Lessee to make the Rental Payments in accordance with Section 2.4 hereof shall be a general obligation of Lessee, shall be absolute and unconditional and shall not be abated, rebated, set off, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever, regardless of any rights of set off, recoupment or counterclaim that Lessee might otherwise have against Lessor. Failure to receive any prior notice of the due date of any Rental Payment will not relieve Lessee of its obligation to pay such installment thereof, without notice or demand therefor, in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts.

ARTICLE III

REPRESENTATIONS AND WARRANTIES BY LESSOR

Lessor makes the following representations and warranties to Lessee as the basis for the undertakings on Lessee's part herein contained.

3.1 Organization. Lessor is a not-for-profit corporation duly incorporated, validly existing and in good standing under the laws of the State of Florida.

3.2 Power and Authority. Lessor has full power and authority to enter into this Agreement, to carry out the transactions contemplated hereunder, and to carry out its obligations hereunder and has duly authorized the execution, delivery and performance of this Agreement.

3.3 Tax-Exempt Status. Lessor has received from the Internal Revenue Service a determination that Lessor is an organization described in Section 501(c)(3) of the Code exempt from federal income tax under Section 501(a) of the Code and is not a private foundation as defined in Section 509(a) of the Code.

3.4 No Violation. Lessor is not subject to any limitation, restriction or provision of any nature whatsoever contained in Lessor's articles of incorporation or bylaws or in any evidence of indebtedness, indenture, commitment, agreement or contract to which Lessor is a party or by which it is bound or subject to any existing judgment, order or decree binding upon Lessor, which in any way limits, restricts or prevents Lessor from entering into this Agreement or performing any of its obligations hereunder.

3.5 Enforceability. This Agreement and the other documents to be executed by Lessor in connection herewith constitute legal, valid and binding obligations of Lessor enforceable in accordance with their respective terms, except insofar as (i) enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws of general application with respect to creditors, and (ii) the remedy of injunctive and other forms of equitable relief may be subject to equitable defenses (including commercial reasonableness, good faith and fair dealing), and to the discretion of the court before which any proceeding therefor may be brought.

3.6 Consents. Lessor has obtained all consents, approvals, authorizations and orders of governmental authorities that are required to be obtained by it as a condition to the execution, delivery, and performance of this Agreement other than those identified as conditions to the Commencement Date.

3.7 No Litigation. There is no action, suit, proceeding, inquiry or investigation pending before any court or governmental authority or threatened against Lessor or affecting Lessor or its properties that (i) involves the consummation of the transactions contemplated by, or the validity or enforceability of this Agreement or (ii) could have a materially adverse impact upon its financial condition or operations.

3.8 [REDACTED]

(a) The [REDACTED] is licensed by the State of Florida, Agency for Health Care Administration, as an acute care general hospital authorized to operate 300 beds in its existing facilities located in Largo, Florida.

(b) The [REDACTED] is accredited by the JCAHC and AOA.

(c) The Hospital is qualified and certified for participation in the Medicare program.

(d) The [REDACTED] is qualified and certified for participation in the Medicaid program.

(e) Lessor has not received notice with respect to the [REDACTED] of any deficiencies under, or violations of the requirements for participation in, the Medicare or Medicaid programs or Blue Cross or third party provider which has not been corrected. Lessor has filed, or will file within permitted time periods or permitted extensions thereof, all Medicare or Medicaid cost reports required by such programs with respect to the period prior to the Commencement Date hereof.

3.9 Condition of Facilities. As of the Commencement Effective Date, the Facilities are in good operating condition, except (i) as otherwise disclosed to Lessee by Lessor, (ii) as revealed to Lessee by a third party inspector, or (iii) as learned by Lessee through inspections performed by its staff or advisors.

3.10 Title to Facilities. Lessor is the owner of fee simple to the Owned Real Property and of good title to or a leasehold interest in the balance of the Facilities, subject only to the Permitted ~~367~~-Encumbrances.

3.11 Environmental Matters. Except as set forth in Schedule 3.11, to the Lessor's knowledge, as of the date hereof (i) no Hazardous Substances or any other toxic material or medical waste are present on or in the Improvements or Real Property, except for Hazardous Substances or other toxic materials or medical waste brought, kept or used on the Real Property in commercial quantities similar to those quantities usually kept on similar premises by others in the same business or profession or who operate medical facilities similar to those located in and on the Real Property, and which are used and kept in compliance with applicable public health, safety and Environmental Laws; (ii) Lessor has materially complied and is in material compliance (with respect to each of the Facilities) with, and the Real Property and all improvements on the Real Property are in material compliance with, all Environmental Laws; (iii) the Real Property contains no underground improvements, including treatment or storage tanks or underground piping associated with such tanks, used currently or in the past, for the management of Hazardous Materials; (iv) Lessor has not used any portion of the Real Property as a dump or landfill; ~~and~~ (v) except to the extent permitted under Environmental Laws, neither PCBs, lead paint, nor asbestos-containing materials are present on or in the Real Property; and (v) the Real Property was not occupied and/or used by an predecessor in interest in a manner that created or creates a violation of any Environmental Law.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES BY LESSEE

██████████ and ██████████ make the following representations and warranties as to their respective organization solely to and for the benefit of Lessor as of the date of delivery hereof:

4.1 Organization. ██████████ and ██████████ are not-for-profit corporations ~~duly incorporated~~, validly existing and in good standing under the laws of the State of Florida.

4.2 Power and Authority. ██████████ and ██████████ have full power and authority to enter into this Agreement, to carry out the transactions contemplated hereby and to carry out the obligations of Lessee hereunder and Adventist and ██████████ have duly authorized the execution, delivery and performance of this Agreement.

4.3 Tax-Exempt Status. ██████████ and ██████████ have received from the Internal Revenue Service a determination that each is an organization described in Section 501(c)(3) of the Code exempt from federal income tax under Section 501(a) of the Code and is not a private foundation as defined in Section 509(a) of the Code.

4.4 No Violation. Neither A ██████████ nor and ██████████ is subject to any limitation, restriction or provision of any nature whatsoever contained in the respective organization's articles of incorporation or bylaws or in any evidence of indebtedness, indenture, commitment, agreement or contract to which ██████████ and/or ██████████ is a party or by which either is bound, or subject to any existing judgment, order or decree binding upon ██████████ and/or ██████████ which materially in any way limits, restricts or prevents ██████████ and/or ██████████ from entering into this Agreement or performing any of Lessee's obligations hereunder.

4.5 Enforceability. This Agreement and the other documents to be executed by ██████████ and ██████████ in connection herewith constitute legal, valid and binding obligations of ██████████ and ██████████ enforceable in accordance with their respective terms, except insofar as (i) enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws of general application with respect to creditors, and (ii) the remedy of injunctive and other forms of equitable relief may be subject to equitable defenses (including commercial reasonableness, good faith and fair dealing), and to the discretion of the court before which any proceeding therefor may be brought.

4.6 Consents. ██████████ and ██████████ have obtained all consents, approvals, authorizations and orders of governmental authorities that are required to be obtained as a condition to their execution, delivery, and performance of this Agreement, other than those identified as conditions to the Commencement Date.

4.7 No Litigation. There is no action, suit, proceeding, inquiry or investigation pending before any court or governmental authority, or threatened, against [REDACTED] or [REDACTED] or affecting [REDACTED] or [REDACTED] or their respective properties, that (i) involve the consummation of the transactions contemplated by, or the validity or enforceability of this Agreement or (ii) could have a materially adverse impact upon the financial condition or operations of [REDACTED] or [REDACTED].

4.8 Place of Business. The executive office of [REDACTED] is located at [REDACTED].

ARTICLE V

COVENANTS OF LESSOR AND LESSEE

The following covenants contained in this Article V shall be effective from and after the Commencement Date and shall inure solely to the benefit of the parties and to the Bank:

5.1 Facilities.

(a) Construction of Expansion Facilities and Renovations. Lessor shall undertake and see through to timely completion the construction of the Expansion Facilities (if any) substantially in accordance with the Plans. The cost of constructing the Expansion Facilities shall be paid by Lessor with the proceeds of the Bonds and such other funds of Lessor as may be necessary.

(b) Maintenance of Facilities. Lessee shall at all times during the Term of this Agreement keep and maintain the Facilities, both inside and outside, structural and nonstructural, in a good state of repair and preservation, ordinary wear and tear and acts of God excepted, and Lessee shall make all repairs and replacements that may be necessary to maintain the Facilities (including, without limitation, all electrical, plumbing, HVAC systems and equipment and such equipment as shall be reasonably required to meet JCAHO, AOA or comparable accreditation standards and to comply in all material respects with all applicable codes) in such state of repair. The obligations of the Lessee to maintain and repair the Facilities shall be deemed to have been met if the Lessee maintains the Property in substantially the same condition it was in on the Commencement Date. Lessee covenants that it will not permit, commit or suffer any waste of the whole or any part of the Facilities and shall not use or permit the use of the Facilities, or any part thereof, for any unlawful purpose or permit any nuisance to exist thereon. Lessee covenants and agrees that it shall provide current and modern equipment as generally used in accredited, comparable community hospitals, and shall provide all equipment, machinery, furnishings, supplies and other personal

property required or necessary for the proper operation, repair and maintenance of the [REDACTED], consistent with standards of [REDACTED] organization and administration generally acceptable for fully accredited [REDACTED]s comparable to the [REDACTED]. All equipment, machinery, furnishings and other personal property required or necessary for the proper operation, repair and maintenance of the [REDACTED] and purchased ~~acquired~~ by Lessee shall be deemed part of the Facilities immediately upon acquisition and shall not be deemed Capital Additions. All costs incurred by Lessee in meeting its obligations under this subsection (b) ~~may not~~ be paid from operating revenues of the Facilities, and Lessee shall not grant any lien, security interest or other encumbrance in connection therewith other than a Permitted Encumbrance.

5.2 Operation of Facilities. Lessee will faithfully and efficiently administer, maintain and operate the Facilities as charitable facilities open to the general public and will use, maintain and operate the Facilities consistent with Lessee's obligations under this Agreement. Lessee further covenants and agrees that:

(a) it will at all times use its best efforts to maintain and operate the Facilities in the tradition of osteopathic medicine, as an osteopathic teaching [REDACTED] and to meet the standards and requirements and provide [REDACTED] of such quality and in such manner as shall enable the Facilities to remain eligible to participate in, and provide services in connection with, recognized medical insurance programs, and Lessee agrees that, so long as it shall participate in such recognized programs, it will use reasonable and diligent ~~its best~~ efforts to comply with the standards and requirements for remaining a participating medical facility thereunder;

(b) it will comply with applicable federal and state laws prohibiting discrimination based on race, religion, creed, color, marital status, sex, national origin or any other protected basis;

(c) it will use the Facilities only in furtherance of the lawful purposes of Lessee;

(d) it will not use the Facilities or suffer or permit the Facilities to be used by any person or in any manner which would result in the loss of tax exemption of Lessee or Lessor or of the interest on the Bonds otherwise afforded under the Code;

(e) it will not be in material violation of any laws, ordinances, governmental rules or regulations to which it is subject and will not fail to obtain any licenses, permits, franchises or other governmental authorizations necessary to the ownership of the Facilities or the conduct of its activities, which violation or failure to obtain might materially adversely

affect the [REDACTED] or the condition (financial or otherwise) of Lessee;

(f) it will not take any action to discontinue a service provided by a [REDACTED] facility included among the Facilities, if such discontinuation of service is a project subject to review by the State of Florida, or an agency thereof, pursuant to Section 408.036, Florida Statutes, as such law may be amended, transferred or superseded during the Term of this Agreement, without giving at least sixty (60) days prior written notice to Lessor of Lessee's intention to take such action, provided, however, Lessee's obligation to give notice shall not be interpreted as granting the Lessor the right to approve or disapprove the decision of the Lessee;

(g) it will at all times comply with all federal, state and local laws, rules and regulations in effect from time to time governing the use, handling, storage, generation, disposal and transport of all ~~toxic, hazardous and bio-hazardous materials, substances and wastes, as such terms are defined by such federal, state and local laws, rules and regulations,~~ and will indemnify and hold Lessor harmless from and against all losses, costs, expenses, claims and damages arising out of or in connection with the use, handling, storage, generation, disposal and transport of the same arising from and attributable to acts or omissions of Lessee occurring after the Commencement Date;

(h) it will enter into all such agreements and take all such actions as may be reasonably requested by Lessor in order to maintain the tax exempt status of the Bonds; and

(i) it will continue to support the development and operation of community health improvement programs to improve access to cost effective primary and preventive care for residents of the [REDACTED]'s service area and to continue the operation of those programs identified in Schedule 5.2(i), provided, however, the Lessee's obligation shall be limited to the availability of financial revenue generated by the Facilities.

Subject to (i) the requirements of this Agreement regarding the provision of medical care at the [REDACTED] to medically indigent persons, and (ii) so long as Lessee is not in material default under this Agreement, Lessee shall have sole and exclusive charge of the operation of the Facilities including, but not limited to, the selection or retention of any or all employees or personnel of Lessee. Lessee shall have the right to place a sign or signs and other forms of notice on or at the Facilities identifying the operation of the Facilities as being that of Lessee in accordance with applicable sign ordinances.

Lessee shall further have the right to operate the Facilities as part of an affiliated group of health care

facilities pursuant to the terms of the OMS Agreement. In the event of any conflict between the terms of this Agreement and the terms of the OMS Agreement, the terms of this Agreement shall control.

5.3 Compliance With Applicable Law.

(a) Lessee shall not use or occupy, nor permit any use or occupancy of, the Facilities or any part thereof contrary to any applicable law, ordinance or governmental regulation now or hereinafter in force. Lessee covenants and agrees that throughout the Term of this Agreement, it shall promptly comply with all such applicable laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments, and appropriate departments, commissions, boards and officers thereof, whether or not requiring structural repairs or alterations to the Facilities or relating to the use or occupancy or manner of use of the Facilities. Lessee shall also observe and comply in all material respects with the requirements respecting the Facilities of all policies of insurance at any time in force with respect to any of the buildings, improvements, machinery or equipment constituting a part of the Facilities. Lessee will not use or occupy the Facilities or permit their use or occupancy in such manner as may reasonably be deemed to prejudice Lessor's title to or interest in the Facilities, or any portion thereof, or as may provide a basis for claims of adverse use or possession by the public or implied dedication to public use of any part of the Facilities or as may in any way impair materially the efficient operation, use or control of the Facilities.

(b) Nothing in this Section 5.3 shall require Lessee to comply with any law, ordinance or governmental regulation so long as there is a substantial and legitimate question as to its applicability to Lessee or so long as the interpretation or validity of such law, ordinance or governmental regulation shall be contested in good faith and by appropriate legal proceedings, including securing any necessary injunctive relief which will stay enforcement of such law, ordinance or governmental regulation.

5.4 Opportunities. In the event ~~that~~ Lessee or any Affiliate of Lessee desires to acquire or construct any health care facility during the Term hereof and within the Service Area, such facility shall be subject to the provisions of Article XI of this Agreement. In the event Lessee or any Affiliate of Lessee desires to establish or provide a health care service or program during the Term and within the Service Area, such program and/or health care service shall be subject to the provisions of Article XI, provided however if the program and/or health care service is offered by Lessee both within and without the Service Area (e.g., health maintenance organization) or is offered by the Lessee through one or more contractual arrangements with a non-

~~Affiliate, such programs and/or health care services shall not be subject to the provisions of Article XI, establish or provide any kind of health care service, facility or program during the term hereof and within the Hospital's Service Area, such service, facility or program shall be subject to the provisions of Article XI of this Agreement.~~

5.5 Governance of [REDACTED] The governing documents of the [REDACTED] shall provide, effective as of the Commencement Date, that the Governing Body of the [REDACTED] shall consist of thirteen (13) individuals, the initial members of which shall be those individuals identified in Schedule 5.5 and who shall take office as of the Commencement Date and shall remain in office for the term specified therein unless terminated as hereinafter provided. The Governing Body shall include a member of the medical staff of the [REDACTED]. Of the remaining twelve (12) directorships, all shall be appointed by Lessee but not less than five (5) shall be residents of Pinellas County, Florida ("Local Appointments to Governing Body"). The Lessor shall have the right to submit a list of nominees to fill the Local Appointments to Governing Body. At any time from and after the Commencement Date, the Lessee shall have the right to alter the composition and size of the Governing Body; provided, however, that during the ten (10) year period following the Commencement Date (i) Lessee may not decrease or reduce the number, identity, or voting rights of the Governing Body, and (ii) regardless of the number of members of the Board at any time, at least five of the total members of the Governing Body shall be (a) residents of Pinellas County and (b) shall not be employees of [REDACTED] or [REDACTED].

5.6 Teaching Program. Lessee shall continue to operate those medical education programs more particularly identified in ~~Schedule 5.6 in accordance with the past and current levels of administrative and financial commitment as more particularly described in Schedule 5.5, unless the accrediting organization for such programs withdraws its accreditation for any reason not attributable to the act or omission of Lessee.~~

5.7 Foundations. [REDACTED] ("Foundation") shall be the sole entity which shall solicit funds in the [REDACTED] Service Area to support the [REDACTED] provided that the Foundation continues to take an active role in generating support within the community. Neither [REDACTED] nor [REDACTED] shall, directly or indirectly, engage in the solicitation of funds in the Hospital's Service Area, other than those donors residing in the [REDACTED] Service Area who provide support as of the Commencement Date to [REDACTED] and/or [REDACTED] or an Affiliate of either. Nothing in this Section shall be interpreted as precluding the Lessee from accepting support from the community as a part of any solicitation made to the general public in the Tampa Bay region. Money raised, acquired, given or otherwise obtained by the Foundation shall continue to be used for the predominant benefit of the Hospital. So long as the

Lessee leases the Hospital, the incorporating documents of the Foundation shall not be amended to alter such charitable purpose.

5.8 Liens and Encumbrances. Except for Permitted Encumbrances, Lessee covenants and agrees that it shall not create or suffer to be created any lien, encumbrance, security interest or charge upon the Facilities, the Working Capital Assets, the Operating Assets, any Improvements or any Equipment or other personal property (other than Capital Additions) and that it will satisfy or cause to be discharged, or shall make adequate provision to satisfy and discharge, within sixty (60) days after the same shall be due, all lawful claims and demands for labor, materials, supplies or other items. Nothing in this Section shall require Lessee to satisfy or discharge any such charge, claim or demand so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings if Lessee shall have posted a bond or other security acceptable to Lessor, such acceptance not to be unreasonably withheld or delayed.

5.9 Payments From and After the Commencement Date.

(a) Lessee covenants and agrees to pay when due the Rental Payments and all assessments, levies, taxes (ordinary or extraordinary, special or general) and premiums for insurance obtained and maintained by Lessee pursuant to the terms of this Agreement, of every kind and nature, relating to the whole or any part of the Facilities, or any interest therein and all sales, use and excise taxes, if any, levied upon the Rental Payments and other payments due under this Agreement, and all costs, expenses, liabilities and charges of every kind and nature, including charges for gas, electricity, water, sewer and other utilities, relating to the maintenance, repair, replacement and improvement (if undertaken hereunder by Lessee) of the Facilities, or any part thereof, or the facilities, machinery or equipment thereon or used in connection therewith which may arise or accrue during the Term of this Agreement; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as are required to be paid during the Term of this Agreement.

(b) Lessee shall not be required to pay any tax, charge, assessment or imposition, nor to remove any lien required to be removed under this Agreement, so long as Lessee shall contest or there shall be contested on Lessee's behalf, in good faith and at Lessee's own cost and expense, the amount or validity thereof, in an appropriate manner or by appropriate proceedings which shall operate during the pendency thereof to prevent the collection or other realization of the tax, assessment, levy, fee, rent, charge, lien or encumbrance so contested, and the sale, forfeiture, or loss of the Facilities or

any part thereof or interest therein, to satisfy the same. Each such contest shall be promptly prosecuted to final conclusion (subject to the right of Lessee to settle any such contest), and in any event Lessee will save Lessor harmless against all losses, judgments, decrees and costs (including attorneys' fees and expenses) in connection therewith and will, promptly after the final determination of such contest or settlement thereof, enter into a structured payment agreement with respect to, or pay and discharge, the amounts which shall be levied, assessed or imposed or determined to be payable therein, together with all penalties, fines, interest, costs and expenses thereon or in connection therewith. Lessee shall give Lessor prompt written notice of any such contest and shall give such reasonable security as may be demanded by Lessor or the Trustee to prevent any sale or forfeiture of all or part of the Facilities.

5.10 Lessor's Performance of Lessee's Obligations. In the event Lessee at any time neglects, refuses or fails to perform any of its obligations under this Agreement, Lessor, at its option and following at least thirty (30) days' written notice to Lessee, except where a shorter period of notice is necessary to avoid a default on the Bonds or under the Financing Documents or to prevent any loss or forfeiture thereof, or to prevent any material loss to the Facilities, may (but is not obligated to) perform or cause to be performed such obligation, and all expenditures incurred by Lessor thereby shall, at Lessor's option, either be offset against amounts otherwise due from Lessor to Lessee or be promptly paid or reimbursed, plus interest at the rate specified in Section 2.4(c) hereof, by Lessee to Lessor.

5.11 Tax-Exempt Status.

(a) Each of [redacted] and [redacted] covenants and agrees that it will maintain during the term of this Agreement its status as an organization described in Section 501(c)(3) of the Code, and not a "private foundation" as defined in Section 509(a) of the Code. Each of [redacted] and [redacted] Lessee further covenants and agrees that it shall not perform any act or enter into any agreement which shall adversely affect the federal income tax status of the Lessee and shall conduct their respective operations and the operations of the [redacted] so as to maintain its status as a charitable organization within the meaning of Section 501(c)(3) of the Code which is exempt from federal income taxes under Section 501 (a) of the Code, or any successor provisions of federal income tax law.

(b) To the extent permitted by Law, Lessor and Lessee agree to take all such actions as the laws of Florida permit to ensure that the Facilities are and remain, at all times during the Term of this Agreement, exempt from ad valorem and other state and local taxation to the maximum extent allowed by law.

5.12 Regulatory Controls. Lessee covenants and agrees that it shall take all appropriate action to obtain such consents, exceptions, exemptions or approvals of governmental authorities as may be necessary to permit it to comply fully with all of its covenants, stipulations, obligations and agreements contained in this Agreement. Lessor covenants to cooperate reasonably with Lessee in this regard.

5.13 License and Accreditation. Lessee will maintain in good standing a license from the State of Florida to operate the [REDACTED] as a [REDACTED]. Lessee will cause the [REDACTED] to have JCAHO and AOA accreditation throughout the Term of this Agreement, or such accreditation issued by a nationally recognized accrediting body that in the judgment of Lessee's Board of Directors is in the best interest of the [REDACTED]. Such alternative accreditation shall not be deemed to be in the [REDACTED]'s best interest if it would materially impair Lessee's ability to make the Rental Payments hereunder.

5.14 [REDACTED]. Lessee will, effective as of the Commencement Date, adopt the bylaws of the [REDACTED] [REDACTED] a copy of which has previously been furnished to Lessee, and will extend privileges to all present members of the [REDACTED] if who are in good standing, on the same terms as they presently enjoy. During the Term of this Agreement, Lessee (i) will maintain appropriate procedures for review and amendment of the [REDACTED] bylaws of the [REDACTED] and for appointment, reappointment, suspension and termination of [REDACTED] privileges, (ii) shall have the power and authority to grant [REDACTED] privileges to qualified new applicants, and (iii) shall take all other actions which it may deem necessary or appropriate with respect to [REDACTED] bylaws and privileges, including, without limitation, all final action regarding the granting, denial, suspension or revocation of [REDACTED] privileges. This Section shall not be construed to prohibit Lessee from amending the [REDACTED] bylaws in the ordinary course of business.

5.15 Medicare/Medicaid Filings. During the term hereof, Lessee shall be responsible for making all filings required under the Medicare and Medicaid programs and Lessor shall not file any reports or other documents or make any other filings in connection with Medicare and Medicaid reimbursement with respect to the Facilities, including but not limited to any cost reports (other than the final return required to be filed by Lessor for the period [REDACTED] to [REDACTED]), without allowing Lessee at least thirty (30) business days to review any such filings and related documentation and obtaining Lessee's prior written approval of such filing. Lessee shall be responsible for taking all actions with respect to any liability to the Medicare or Medicaid program accruing on and after the Commencement Date and Lessor shall, at Lessee's expense, execute such documents, respond to any audit or Notice of Program Reimbursement and

pursue any appeal with respect thereto in the manner and at the time deemed appropriate by Lessee in its reasonable discretion.

5.16 Transfer of Employees; Benefits.

(a) As of the Commencement Date, Lessor shall terminate all employees of the Facilities and Lessee shall offer employment to substantially all of the persons employed by Lessor at their existing compensation and at benefit levels equivalent to those provided to similarly situated employees of Lessee; subject, however, to Lessee's right as employer to determine appropriate staffing levels for the [REDACTED] consistent with good and sound [REDACTED] practices and standards, and to vary the compensation, duties and benefits of any employee for any reason permitted under applicable state and federal employment laws and in accordance with Lessee's personnel policies, which policies may be amended by Lessee during the term hereof. Lessor's employees who become employees of Lessee on the Commencement Date shall retain all accumulated personal leave time as more particularly described in Schedule 5.16 attached hereto. No employee of either party shall be a third party beneficiary of any provision of this Agreement, including this section. Lessee shall be responsible for compliance with the provisions of the Worker Adjustment and Retraining Notification Act, 29 USC §2101, et seq. for any reductions in staffing it chooses to implement at the Hospital.

(b) As of the Commencement Date, Lessor will, at its expense and the expense of the applicable pension, retirement or other employee welfare benefit plan (collectively "Employee Benefit Plans") ~~plan~~ (i) terminate all Employee Benefit Plans, if any, relating solely to employees of the Facilities, (ii) terminate the participation of all employees employed at the Facilities from all Employee Benefit Plans; (iii) take such actions as are necessary to make, or cause such plans to make, timely appropriate distributions to such employees to the extent required or permitted by, and in accordance with, such Employee Benefit Plans and applicable law, as determined by Lessor and/or its counsel, and (iv) comply with all applicable laws, in connection with the foregoing. Lessor shall indemnify and hold harmless Lessee from and against any and all liabilities and obligations whatsoever with respect to the Employee Benefit Plans or the acts or omissions of Lessor under this Section 5.16.

5.17 Participating Provider Agreements. Lessee will enter into such participating provider agreements as it may, from time to time, deem to be appropriate, with Medicare, Medicaid, Blue Cross, and other third-party payors and insurers.

5.18 Consents and Notices. Lessor shall use its best efforts to obtain all consents and shall give all notices which may be required in connection with the transfer of the Assigned

Contracts to Lessee and the assumption by Lessee of the Assumed Liabilities hereunder in accordance with the terms of such agreements and liabilities. Lessor shall provide Lessee with satisfactory evidence that all such material consents have been obtained and notices have been given upon Lessee's written request.

5.19 Indigent Care. Lessee covenants and agrees throughout the term of this Agreement to provide [REDACTED] to indigent patients at the Facilities on the same basis as provided on the date of execution hereof by Lessor at the [REDACTED] and the other [REDACTED] operated exclusively by Lessor as more particularly described in Section 5.19.

5.20 Financial Books and Records. Lessee shall install and maintain proper books of record and account of all business and affairs of Lessee with respect to the Facilities, in which full and correct entries shall be made in accordance with GAAP. Lessee will deliver to Lessor, within one hundred twenty (120) days after the end of each Fiscal Year, a financial report for such Fiscal Year containing a balance sheet of Lessee as of the end of such Fiscal Year, a statement of changes in financial position of Lessee for such Fiscal Year and a statement of revenue and expenses of Lessee for such Fiscal Year, specifically including revenue and expenses attributable to the Facilities. Such report shall be audited by a firm of Independent Accountants and shall contain their opinion as to whether the report fairly presents the results of operations and was prepared in accordance with GAAP, applied on a consistent basis. In addition, Lessee shall provide Lessor with respect to the Facilities (a) Monthly Financial Statements and Monthly Utilization Statistics provided on a quarterly basis, (b) Quarterly Indigent Care Report, (c) Annual Capital Expenditure Report, (d) Detailed Annual Capital Budget, (e) Annual Operating Budget, and (f) Annual "State of the [REDACTED] Report, and (g) any other financial documents necessary for Lessor to comply with the terms of the Credit Agreement. Lessee shall further permit representatives of the Bank to inspect the books of Lessee with respect to the Facilities upon reasonable notice and during usual business hours.

5.21 Lessor and Lessee Not to Compete. Except for legal obligations existing on the date of execution of this Agreement as identified in Schedule 5.21, and to the extent not prohibited by law, Lessor hereby covenants that during the Term of this Agreement it shall not without the prior written consent of Lessee (i) construct, fund, own, manage or operate any acute-care [REDACTED] facility, ambulatory surgical center, emergency or urgent care center or any similar facility in the [REDACTED] Area; or (ii) offer, provide or fund any [REDACTED] related services which compete with the services offered by the [REDACTED] as of the date hereof, except that Lessor may take any of the actions described in this Section to provide or aid in the provision of a [REDACTED] service discontinued by Lessee. If,

after the date hereof, Lessor proposes to offer, provide or fund any [REDACTED] in the Service Area of the [REDACTED] that are not presently offered by the [REDACTED]. Lessor shall first give Lessee written notice of the same and shall give Lessee ninety (90) days in which to elect to offer said services under the same terms and conditions as proposed by Lessor. If Lessee exercises such election within said ninety (90) day period, Lessee shall commence providing such services within one hundred eighty (180) days after Lessor's notice; provided, however, that if a certificate of need or other regulatory approvals are necessary prior to offering such services, Lessee shall initiate appropriate proceedings to obtain such approvals within one hundred twenty (120) days after Lessor's notice, shall pursue such proceedings diligently toward conclusion, and, if granted such approvals, shall commence providing such services within ninety (90) days after receiving such approvals; except, however, that if a building or structure must be built prior to commencing such service, then Lessee shall commence such construction within one hundred eighty (180) days after receiving such approvals and shall diligently pursue such construction until completion. If Lessee does not so exercise such election within such ninety (90) days period, then Lessor may offer, provide or fund such services, provided the services are offered pursuant to the same terms as proposed to Lessee and, provided further, that said services are commenced within one hundred eighty (180) days after Lessor's notice to Lessee (except that if certificate of need or other regulatory approvals are required prior to offering such services, Lessor shall initiate proceedings to obtain such approvals within one hundred twenty (120) days after Lessor's notice, shall pursue such proceedings diligently towards conclusion, and, if granted such approvals, shall commence offering, providing or funding such services within ninety (90) days after receiving such approvals; except, however, that if a building or structure must be built prior to commencing the service, then Lessor shall commence such construction within one hundred eighty (180) days after receiving such approvals and shall diligently pursue such construction to completion).

5.22 Prohibited Transfer of Obligations; Maintenance of Existence. Neither Lessee nor Lessor may transfer or assign their respective obligations hereunder to any other entity without the other party's prior written consent. No such transfer or assignment shall release either party from its obligations hereunder unless the other party has specifically consented in writing to such release. Similarly, each party shall maintain its respective legal existence, and shall not dissolve or take steps to terminate its continued legal existence without the prior written consent of the other party hereto.

Notwithstanding the foregoing, [REDACTED] and [REDACTED] shall be entitled to assign this Lease to Choice or an Choice Affiliate of ~~Choice~~ upon the proposed assignee meeting each of the requirements of Lessee hereunder (including, without

limitation, recognition by the Internal Revenue Service of Choice as a tax-exempt charitable organization under Section 501(c)(3) of the Code), satisfaction of the conditions set forth in Section 2.1(b) herein, and assumption of all of the obligations of Lessee hereunder. Upon any such assignment and assumption, [REDACTED] and [REDACTED] shall be relieved of all obligations of Lessee accruing after the effective date of such assignment and assumption.

5.23 Support Services for Lessor. Throughout the Term of this Agreement, Lessee shall provide reasonable accounting and other financial recordkeeping services to Lessor, as well as such other administrative support reasonably required by Lessor to enable Lessor to comply with applicable state or federal law. Lessee shall be ~~entitled to be~~ reimbursed by Lessor for Lessee's reasonable cost of providing such services to Lessor.

5.24 Right of First Refusal. Lessor hereby grants to Lessee the right of first refusal to purchase the Facilities in accordance with the terms of this subsection. If, at any time during the term of this Agreement, Lessor receives an offer to purchase all or part of its interest in the Facilities that Lessor desires to accept, Lessor shall so notify Lessee in writing, which notice shall include all of the terms included in such offer. Lessee shall then have thirty (30) days after its receipt of such notice in which to notify Lessor in writing of the exercise of its right to purchase Lessor's interest in the Facilities on the same terms and provisions as contained in such offer. If Lessee timely exercises its right of first refusal hereunder, then Lessor and Lessee shall be mutually bound and obligated to sell and purchase all or the pertinent part of Lessor's interest in the Facilities in accordance with the terms of such offer. Upon the completion of any of such purchase, but not prior thereto, this Agreement and all obligations hereunder (including, but not limited to, the obligations to pay rent) shall terminate, provided that neither party shall be released with respect to obligations and liabilities of Lessee and Lessor, actual or contingent, under this Agreement which arose on or prior to the date of the closing of the purchase, unless specific provision therefor shall be made in the instruments and agreements relating to such purchase.

If Lessee does not timely exercise its right of first refusal herein, then Lessor may thereafter sell its interest in the Facilities (or pertinent portion thereof), free and clear of the right of first refusal herein granted, to the party that submitted the offer, but in any such instance remaining subject to this Agreement. If Lessor does not complete the sale and purchase of Lessor's interest in the Facilities pursuant to the terms of such offer, then the right of refusal herein granted to Lessee, shall be reinstated, and Lessor may not sell or convey its interest in the Facilities (or pertinent portion thereof) to

any third party without again complying with the terms of this subsection. If Lessor's interest in only a portion of the Facilities is sold to a third party in accordance with the terms of the subsection, the right of first refusal herein granted shall remain in force and effect as the balance to the Facilities. The right of first refusal herein granted to Lessee shall not inure to the benefit of any permitted assignee of Lessee without the prior written consent of Lessor, other than an assignment to Choice or a ChoiceCHA Affiliate. The right of first refusal herein granted shall not be binding on any purchaser of Lessor's interest in the Facilities after compliance with the provisions of this subsection, nor shall the right of first refusal be triggered in connection with any transfer or conveyance for which no consideration is received by Lessor.

ARTICLE VI

IMPROVEMENTS; DISPOSITION OF PROPERTY; ALTERATIONS

6.1 Choice Assets. All land situated within the Service Area of the ██████████ in which an interest is acquired by Lessee during the Term of this Agreement (other than an interest acquired from the Lessor), and all facilities installed or constructed thereon, shall be subject to the right of Lessor to acquire the same in accordance with the provisions of Article XI upon the expiration or termination of this Agreement, and each instrument by which such interest is acquired shall so state. All buildings, structures, improvements, machinery, equipment and other property which shall be constructed, placed or installed in or upon the Real Property as an addition to, or as a substitute for or in renewal or replacement of, any buildings, structures, improvements, furnishings, equipment or other property constituting part of the Facilities shall (unless the same constitute Capital Additions, Choice Assets or Lessor and Lessee otherwise provide by signed written agreement directed to a specific item) become Improvements hereunder, and shall be owned by Lessor and leased to Lessee hereunder, without any further act or deed. No such Improvements shall be financed with liens, retained-title interests or security interests granted by Lessee in connection therewith other than Permitted Encumbrances. -- At the request of Lessee, Lessor shall cooperate in securing such permits and authorizations and shall join in applications for such municipal and other governmental permits and authorizations as may be deemed necessary or advisable in connection with any such construction, acquisition or installation, provided that Lessee shall indemnify and hold Lessor harmless against and from all costs and expenses which may be incurred reasonably by Lessor or a direct result of and in connection with any such joinder or application.

6.2 Dispositions of Property Without Notice. Subject to the terms of the Bond Indenture and the Financing Documents,

Lessee may from time to time, at its cost and expense, without notice to and without obtaining the approval of Lessor and free of any obligation to make any replacement thereof, remove or dispose of:

(a) Property (other than Owned Real Property) for fair market value in a transaction which qualifies as a transaction in the ordinary course of business of operating a hospital similar to the Hospital;

(b) Property (other than Owned Real Property) that in the discretion of Lessee is obsolete, unnecessary or unusable for its intended purpose; or

(c) Property (other than Owned Real Property and other than property disposed of pursuant to Section 6.2(a) and (b) above) if (i) for fair market value, and (ii) such dispositions will not impair the structural soundness or usefulness of the Facilities or adversely affect the operations of the Facilities or the purposes of this Agreement, or (iii) such Property will be promptly replaced by items of substantially similar value or utility.

All Property disposed of as aforesaid shall thereafter not constitute part of the Facilities. Lessee shall maintain accurate records of the location of, and any dispositions with respect to, the Facilities, and such records shall be available for inspection by Lessor during normal business hours of Lessee. For purposes of this Article VI, the term "dispose of" means to transfer, assign, sell, lease, or sublease. Except as set forth in this section, Lessee shall not dispose of all or any part of the Facilities without the prior written consent of Lessor.

6.3 Demolition or Alterations. Lessee shall not, without Lessor's written consent, demolish or structurally alter the Facilities in any material respect unless such demolition or alteration is in connection with a project by Lessee to repair, remodel or make additions to the Facilities. Any alterations, renovations or additions to the Facilities shall be subject to the prior written approval of Lessor, which shall not be unreasonably withheld or delayed.

ARTICLE VII

INSURANCE

7.1 Required Insurance. At all times while this Agreement is in effect, Lessee shall maintain or cause to be maintained such insurance of the types specified below in amounts and with such deductibles as shall be comparable to coverages carried by institutions possessing, operating managing assets similar to those being leased to Lessee under this Agreement, as well as any

additional coverage, or coverage in additional amounts, as may be required under the Bond Indenture:

(a) fire (with uniform standard extended coverage endorsements), flood, crime, vandalism and malicious mischief insurance, as may be approved for issuance in the State, including insurance against loss or damage from lightning, windstorm, civil commotion, aircraft, vehicles and smoke, covering the Facilities at all times in an amount not less than the full replacement value thereof;

(b) insurance coverage of boilers, pressure vessels, auxiliary piping and selected machinery objects (pumps and compressors);

(c) comprehensive general liability insurance including malpractice insurance protecting Lessee against liability for death, injury, loss or damage as a result of or arising out of examination, diagnoses, treatment or care of (or failure to so examine, diagnose, treat or care for) any patient of Facilities or any occupant of the same;

(d) comprehensive automobile liability insurance;

(e) workers' compensation and unemployment coverages as required or permitted by the State;

(f) builder's risk insurance during the construction of any Improvements;

(g) directors and officers liability insurance; and

(h) such other policies of insurance as may be required under the Bond Indenture or under the Credit Agreement.

7.2 Insurers and Policies. Lessee agrees that each insurance policy maintained pursuant to Section 7.1 hereof (a) shall be issued by such insurer (or insurers) as is financially responsible, allowed to write the respective insurance in the State and of recognized standing, including Underwriters at Lloyds and insurers having at least a Best's "A" rating, (b) shall be in such forms and with such provisions (including, without limitation, a loss payable clause, a waiver of subrogation clause, and the designation of the named insureds) as are generally considered standard provisions for the type of insurance involved and (c) shall prohibit cancellation or substantial modification by the insurer without at least thirty (30) days' prior written notice to Lessor and Lessee. Without limiting the generality of the foregoing, all insurance policies carried pursuant to Section 7.1 (a), (b) and (c), above shall name Lessor and Lessee as parties insured thereunder as the respective interest of each of such parties may appear, and loss

thereunder shall be made payable and shall be applied as provided in Section 7.3 hereof. Each such policy shall provide that losses thereunder may be adjusted with the insurer by Lessee on behalf of the insured parties.

7.3 Involuntary Loss; Use of Insurance Proceeds; Condemnation Awards and Sale Proceeds.

(a) If during the term hereof all or any part of the Facilities shall be damaged or destroyed by whatever cause or shall be taken by any public authority or entity in the exercise of, or acquired under the threat or the exercise of, the power of eminent domain (for purposes hereof, an "Involuntary Loss"), Lessee shall give prompt notice of such Involuntary Loss to Lessor. Subject to the termination rights of Lessee under Section 2.1(c) and Article X hereof, there shall be no abatement or reduction in the Rental Payments as a result of any Involuntary Loss.

(b) Subject to paragraph (c) below and the terms of the Bond Indenture and the Financing Documents, Lessee shall proceed promptly to repair, rebuild or restore the Facilities damaged or destroyed with such changes, alterations and modifications (including the substitution and addition of other property) as may be desired by it, provided that Lessee shall have no obligation to expend funds for such repair or replacement in excess of insurance proceeds received and resulting from such Involuntary Loss and shall apply said proceeds for such purpose together with applicable deductibles. In the event the insurance proceeds plus applicable deductible, is insufficient to repair, rebuild or restore the Facilities, and the Lessor and the Lessee cannot agree upon the source or sources of funding of such excess, either party may terminate this Agreement as provided in Section 2.1(c) or Article X hereof.

(c) If the condemnation award, insurance claim or proceeds from a sale under threat of condemnation shall exceed an amount equal to 50% of the replacement value of the Facilities, or portion thereof, threatened with condemnation, all proceeds resulting from the Involuntary Loss shall be paid to Lessor to be placed in a separate account (the "Loss Account") and applied in one of the following ways at Lessee's election (which shall be exercised by Lessee by notice to Lessor within ninety (90) days after the date of the Involuntary Loss):

(i) the repair, rebuilding, replacement or restoration of the Facilities or the portion thereof damaged, destroyed or taken to substantially the same condition as it was in prior to such Involuntary Loss (taking into consideration such changes, alterations, and modifications as may be proposed by Lessor); or

(ii) the acquisition, by construction or otherwise, of other land or improvements suitable for Lessee's operation of the Facilities (which land or improvements shall be deemed a part of the Facilities and available for use and occupancy by Lessee without the payment of any Rental Payments other than herein provided, to the same extent as if such land or other improvements were specifically described herein and demised hereby); or

(iii) the acquisition or construction of other capital assets as may be mutually agreed to by Lessor and Lessee.

Upon the exercise of Lessee's election, Lessee shall proceed to effect such election and Lessor shall make disbursements from the Loss Account upon application by Lessee supported by reasonably itemized invoices and other documentation (such as lien waivers) reasonably required by Lessor. In the event the insurance proceeds (plus applicable deductible) and/or condemnation award is insufficient to repair, rebuild or restore the Facilities and the Lessor and the Lessee cannot agree upon the source or sources of funding of such excess, either party may terminate this Agreement as provided in Section 23.1(c) or Article X hereof.

(d) Lessee and Lessor shall cooperate fully with one another in the handling and conduct of any prospective, pending or threatened condemnation proceedings or with respect to any settlement or negotiation proceedings involving coverage provided under any policy of insurance.

(e) In the event any portion of the [REDACTED] is acquired in any condemnation or eminent domain proceeding or by conveyance in lieu thereof, such proceeds shall be jointly received by Lessor and Lessee and applied pursuant to Lessee's election as made pursuant to Section 7.3(c). In the event that no election is made by Lessee, or Lessor and Lessee are unable to otherwise agree as to appropriate use of the condemnation award, such condemnation award shall be the property of Lessor; however, Lessee shall be entitled to the proceeds of any condemnation award or any portion thereof made for damage to or taking of any of Lessee's property, which, at the time of such damage or taking, is not part of the Facilities. Furthermore, Lessee shall be entitled to claim compensation from the condemning authority for business damages as long as any award to Lessee does not impair or diminish the award otherwise payable to Lessor.

(f) Any balance remaining after completion of the repair, rebuilding or restoration of the Facilities which is attributable to business interruption insurance proceeds shall be paid to Lessee, subject to set-off for any sums then due and payable to Lessor; and any remaining balance shall be made available by Lessor to Lessee exclusively for the purposes of reinvestment thereof in capital assets for the Facilities.

(g) Nothing in this Agreement shall be construed as obligating Lessor or Lessee in any way or to any extent to repair, restore or replace the Facilities, or any part thereof, except from funds made available as provided in this Article.

(h) In the event that it is determined by a Management Consultant that the ~~involuntary taking or other~~ loss results in Lessee's inability to generate revenues sufficient to meet the obligations of Lessor under the Bond Indenture or under the Financing Documents, and there are Bonds outstanding, all funds contemplated by this Article will be paid to the Trustee to be disposed of in accordance with the terms of the Bond Indenture or the Financing Documents, as the case may be.

7.4 Failure to Carry Insurance. In the event Lessee shall at any time during the term hereof neglect or refuse to procure or maintain insurance as herein required, Lessor may at its option and following at least thirty (30) days' written notice to Lessee, except where a shorter period of written notice is necessary to avoid a default on the Bonds or an Event of Default under the Financing Documents, or to prevent any loss or forfeiture thereof or a lapse of coverage, procure and maintain such insurance and, at Lessor's option, Lessee shall be obligated to reimburse promptly Lessor for all amounts expended in connection therewith or Lessor may offset such amounts against any payments otherwise due from Lessor to Lessee.

ARTICLE VIII

INDEMNIFICATION

8.1 Indemnification by Lessor. To the extent permitted by law, Lessor shall defend and indemnify Lessee and its Affiliates ("Lessee Parties") and hold Lessee Parties wholly harmless from and against any and all losses, liabilities, damages, costs (including, without limitation, court costs and costs of appeal) and expenses (including, without limitation, reasonable attorneys' fees), other than claims against which Lessee is otherwise indemnified or for which Lessee is required to provide insurance hereunder, that Lessee incurs as a result of, or with respect to:

(a) any and all debts, obligations or liabilities of Lessor that are not assumed by Lessee pursuant to the terms of this Agreement as Assumed Liabilities and are not otherwise identified in Subsections (b) through (e) below;

(b) any Prior Tort Liabilities;

(c) any claim, cause of action, liability or obligation (actual or alleged) of any nature whatsoever of Lessor arising out of or relating to any act or omission of Lessor, or

any of its agents, employees, or officers, occurring on or after the Commencement Date, including, without limitation, any claim or cause of action arising out of or relating to any act of medical malpractice or battery, occurring after the Commencement Date;

(d) any material inaccuracy in or breach of any material representation, warranty, covenant or agreement of Lessor contained in this Agreement; and

(e) Excluded Liabilities.

8.2 Indemnification by Lessee. To the extent permitted by law, Lessee shall defend and indemnify Lessor and its Affiliates ("Lessor Parties") and hold Lessor Parties wholly harmless from and against any and all losses, liabilities, damages, costs (including, without limitation, court costs and costs of appeal) and expenses (including, without limitation, reasonable attorneys' fees) that Lessor incurs as a result of, or with respect to:

(a) any and all debts, obligations or liabilities of Lessor that are assumed by Lessee pursuant to the terms of this Agreement as Assumed Liabilities;

(b) any material inaccuracy in or breach of any material representation, warranty, covenant or agreement of Lessee contained in this Agreement;

(c) any claim, cause of action, liability or obligation (actual or alleged), of any nature whatsoever arising out of or relating to any act or omission of Lessee or any of its agents, employees or officers with respect to the Facilities or the operation thereof occurring after the Commencement Date;

(d) any claim, cause of action, liability or obligation (actual or alleged), of any nature whatsoever of Lessee arising out of or relating to any act or omission of Lessee, or any of its agents, employees, or officers, occurring on or after the Commencement Date, including, without limitation, any claim or cause of action arising out of or relating to any act of medical malpractice or battery, occurring after the Commencement Date; and

(e) any and all debts, obligations or liabilities of Lessee that are not assumed by the Lessor upon termination of this Agreement pursuant to Section 2.2.

8.3 Continuation of Liability. Each of the foregoing provisions of this Article VIII shall be severable from and independent of and may be enforced without regard to the enforcement of the other provisions of this Article VIII or other provisions of this Agreement, and the provisions of this Article

shall survive the termination of this Agreement with respect to acts occurring prior to the termination of this Agreement.

8.4 Escrow. Escrow Agent, Lessor and Lessee shall execute the Escrow Agreement attached hereto as Schedule 8.4 and Lessor shall deliver to the Escrow Agent the Escrow Funds (as defined in the Escrow Agreement) in accordance with the terms of the Escrow Agreement.

ARTICLE IX

ASSIGNMENTS; SUBLEASES; OPERATING ARRANGEMENTS

9.1 Subleases and Operating Contracts. Lessee may sublease any part, but not all or substantially all, of the Facilities or the [REDACTED] or contract for the performance by others of operations or services on or in connection with any part, but not all or substantially all, of the Facilities or the [REDACTED] for any lawful purpose, but only if (i) each such sublease or contract is consistent with and subject to the provisions of this Agreement; (ii) Lessee shall remain fully obligated and responsible under this Agreement to the same extent as if such sublease or contract had not been executed; (iii) such sublease or contract would not adversely affect Lessee's status as an organization described in Section 501(c)(3) of the Code, which shall be verified upon Lessor's request (at Lessor's sole expense) by a signed opinion of counsel for Lessee prior to such sublease or contract becoming effective (except that no opinion of counsel shall be necessary in connection with subleases or contracts for any [REDACTED]-based" physician services related to the operation of the [REDACTED] and for other subleases or contracts relating to other than the clinical services provided by the [REDACTED] such other subleases or contracts including, but not limited to, activities related to gift shop, doctors' office space, food service, electronic banking machines, parking and similar services); (iv) if any Bonds are issued and outstanding, an opinion of nationally recognized bond counsel that the lease or contract does not adversely affect the exclusion from gross income for federal income tax purposes of the interest payable on the Bonds; and (v) notice of the same is provided to Lessor and to the Bank.

9.2 Prohibition on Other Assignments and Subleases. Lessee shall not assign or sublet all or any part of the Facilities without Lessor's consent, except as described in Section 9.1 and in Section 5.22, above.

ARTICLE X

DEFAULT AND REMEDIES

10.1 Events of Default of Lessee. The following shall constitute Events of Default of the Lessee hereunder and a material breach of this Agreement:

(a) if Lessee shall fail to pay, when due and payable, any Rental Payment;

(b) the occurrence of an event of default under the Bond Indenture or under the Financing Documents which is attributable to an act or omission of the Lessee;

(c) if Lessee shall file a voluntary petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file any petition or other pleading seeking any reorganization, composition, readjustment, liquidation or similar relief for itself under any present or future law or regulation;

(d) if a petition or other pleading shall be filed against Lessee seeking an adjudication of bankruptcy, reorganization, composition, readjustment, liquidation or similar relief under any present or future law or regulation and shall remain undismissed or unstayed for ninety (90) days, or if, by an order or decree of a court of competent jurisdiction, Lessee shall be adjudicated a bankrupt or insolvent or relief shall be granted under or pursuant to any such petition or other pleading, or if by order or decree of such court, there shall be appointed without the consent or acquiescence of Lessee, a trustee in bankruptcy or reorganization or a receiver or liquidator of it or of all or any substantial part of its property or of the [REDACTED] and any such order or decree shall have continued unvacated, or unstayed on appeal or otherwise and in effect for a period of thirty (30) days, or if Lessee shall be dissolved or liquidated;

(e) the abandonment by Lessee of the [REDACTED] or any substantial part thereof, and such abandonment shall continue for a period of fifteen (15) days;

(f) loss of federal tax exempt status for Lessee or the interest on the Bonds, provided such is attributable to the act or omission of the Lessee; and

(g) Any substantial failure by Lessee to observe or perform in any material respect any covenant, condition or agreement in this Agreement on Lessee's part to be observed or performed, other than as specifically referred to above, which continues unremedied for a period of thirty (30) days after

written notice (specifying such failure and requesting that it be remedied) has been given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, that if such failure by Lessee is of the type that cannot be remedied within such thirty (30) day period and Lessee diligently pursues appropriate actions to remedy such failure, and there shall be no risk of substantial economic loss or forfeiture to Lessor, the agreement for an extension by Lessor shall not be withheld or delayed.

10.2 Lessor's Default. Each of the following shall be deemed an "Event of Default" by Lessor hereunder and a material breach of this Agreement:

(a) The occurrence of an event of default under the Bond Indenture or under the Financing Documents which is attributable to an act or omission of the Lessor;

(b) If Lessor shall file a voluntary petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file any petition or other pleading seeking any reorganization, composition, readjustment, liquidation or similar relief for itself under any present or future law or regulation;

(c) If a petition or other pleading shall be filed against Lessor seeking an adjudication of bankruptcy, reorganization, composition, readjustment, liquidation or similar relief under any present or future law or regulation and shall remain undismissed or unstayed for ninety (90) days, or if, by an order or decree of a court of competent jurisdiction, Lessor shall be adjudicated a bankrupt or insolvent or relief shall be granted under or pursuant to any such petition or other pleading, or if by order or decree of such court, there shall be appointed without the consent or acquiescence of Lessor, a trustee in bankruptcy or reorganization or a receiver or liquidator of it or of all or any substantial part of its property or of the [REDACTED] and any such order or decree shall have continued unvacated, or unstayed on appeal or otherwise and in effect for a period of thirty (30) days, or if Lessor shall be dissolved or liquidated;

(d) Loss of federal tax exempt status for Lessor or the interest on the Bonds, provided such is attributable to the act or omission of the Lessor; and

(e) Any substantial failure by Lessor to observe or perform in any material respect any covenant, condition or agreement in this Agreement on Lessor's part to be observed or performed, other than as specifically referred to above, which continues unremedied for a period of thirty (30) days after written notice (specifying such failure and requesting that it be remedied) has been given to Lessor by Lessee, unless Lessee shall agree in writing to an extension of such time prior to its expiration; provided, however, that if such failure by Lessor is

of the type that cannot be remedied within such thirty (30) day period and Lessor diligently pursues appropriate actions to remedy such failure, and there shall be no risk of substantial economic loss or forfeiture to Lessee, the agreement for an extension by Lessee shall not be withheld or delayed.

10.3 Termination Upon Default of Lessee. Upon the occurrence of any one or more of the Events of Default specified in Section 10.1 hereof, Lessor may give to Lessee written notice that this Agreement shall terminate upon a date specified in such notice, which date shall be not less than thirty (30) days after the date of such notice. Lessor and Lessee acknowledge and agree, however, notwithstanding the foregoing sentence, that so long as Lessor's obligations under the Financing Documents remain outstanding, no such notice of termination shall be effective unless the Bank waives in writing its right (if applicable) to have the Bank's Designee assume the interests of Lessee hereunder. The assumption by the Bank's Designee of Lessee's interest hereunder pursuant to Lessee's Assignment shall take effect not less than thirty (30) days after the delivery of written notice by the Bank to Lessor and to Lessee, in which event the Bank's Designee shall become the lessee under this Agreement as if the Bank's Designee were Lessee hereunder on the date hereof (except as set forth in the next sentence), until all amounts owed to the Bank under the Financing Documents are paid in full, whereupon this Agreement shall cease and terminate. In the event of the assumption by the Bank's Designee of Lessee's interest hereunder, the Bank's Designee shall be subject to the same covenants and obligations of Lessee hereunder, except that (i) the Bank's Designee shall not be deemed to have assumed any claims by Medicare or Medicaid; (ii) the Bank's Designee shall not be subject to the limitations on the source of funds used, or on the granting of security interests, in connection with the acquisition of any equipment, machinery, furnishings, improvements or other such property set forth in Sections 5.1 and 6.1 hereof, and (iii) all such equipment, machinery, furnishings, improvements and other such property acquired by the Bank's Designee with funds other than operating revenues of the Facilities shall remain the property of the Bank's Designee and may be removed from the Facilities upon the expiration or earlier termination of the term hereof so long as such removal can be accomplished without otherwise damaging the Facilities. Upon the effective date of either of the notices described above, Lessee shall peaceably vacate and surrender possession of the Facilities, Beginning Net Working Capital and the Operating Assets, including such additional or renewal or replacement facilities, furnishings or equipment as Lessee may have placed on or in the Facilities, excluding Capital Additions and Lessor, or its designee or the Bank's Designee (as the case may be); may re-enter and take possession of any interest that Lessee may then have in the Facilities, Beginning Net Working Capital and the Operating Assets, including such additional or renewal or replacement facilities, furnishings, equipment or improvements as

Lessee may have placed on or in the Facilities, excluding Capital Additions. The Bank's Designee shall have the right, but not the obligation, to acquire the Capital Additions pursuant to Article XI.

10.4 Termination Upon Default by Lessor. Upon the occurrence of any one or more of the Events of Default specified in Section 10.2 hereof, Lessee shall (i) have the right to give Lessor written notice that this Agreement shall terminate upon a date specified in such notice, which date shall be not less than thirty (30) days after the date of such notice, or (ii) have the right, but not the obligation, to take whatever action Lessor has failed to take, on behalf of Lessor and for Lessor's account, and Lessor shall promptly reimburse Lessee for all reasonable costs incurred by Lessee in connection therewith, plus interest from the date such sums are expended until reimbursed at the Interest Rate as defined in Section 2.4. If Lessor does not reimburse Lessee within fifteen (15) days from Lessee's written request, Lessee may submit the matter to the dispute resolution process identified in Article XII.

10.5 Effect of Early Termination Upon Default. Upon the termination of this Agreement by Lessor as a result of the occurrence of an Event of Default by Lessee, or the assumption of Lessee's interest hereunder by the Bank's Designee (as the case may be) as a result of an Event of Default, (a) neither Lessee nor any Affiliate shall provide operating, management or planning services to any other [REDACTED] within the Service Area of the [REDACTED] for a period of three (3) years after termination; (b) neither Lessee nor its employees shall disclose to third parties any of the database, plans, strategies or programs developed by Lessee for the [REDACTED] except as such items were developed and used by Lessee or its Affiliates for other [REDACTED] or [REDACTED] [REDACTED] owned or operated by it and then only as such items do not relate directly and specifically to Lessor or the Existing Facilities; (c) Lessee shall cooperate with Lessor (or the Bank's Designee, as the case may be) to effect a prompt and smooth transfer of the operations and control of the Facilities; (d) Lessee shall deliver to Lessor copies of such database, plans, strategies and programs whether recorded on disk, paper, tape, file or other medium whatsoever pertaining to the Facilities; and (e) Lessor (or the Bank's Designee, as the case may be) shall have the right to offer employment to each of Lessee's employees who regularly perform services for or at the Facilities.

10.6 Damages. Upon the termination of this Agreement or the assumption of Lessee's interest hereunder by the Bank's Designee (as the case may be) pursuant to Section 10.3 hereof, Lessee shall be obligated to pay, and shall forthwith pay, as damages to Lessor (or to the Bank's Designee, as the case may be) an amount sufficient to pay and satisfy all unpaid costs and obligations reasonably incurred by Lessor (or the Bank's Designee, as the

case may be) in connection with or as a result of Lessee's default under this Agreement, and the termination or assignment hereof, provided, however, that nothing herein contained shall be deemed to create a continuing obligation on the part of Lessee to pay any amounts due under the Bond Indenture or under the Financing Documents upon the termination of Lessee's interest hereunder or to assume financial responsibility for expenses associated with the Facilities Operations on and after the effective termination and/or assignment date.

10.7 Additional Remedies. The rights and remedies of Lessor specified in this Agreement shall be cumulative. In addition thereto, Lessor shall have all of the rights and remedies now or hereafter conferred by law or in equity, including, among other remedies, receivership and injunctions to restrain violations or attempted violations of any provisions of this Agreement by Lessee. Lessee agrees that a default under the terms of this Agreement shall entitle Lessor to specific performance of this Agreement.

10.8 No Waiver of Rights. No failure by Lessor to insist upon the strict performance of any term, covenant, condition or provision of this Agreement, or to exercise any right or remedy consequent upon an event of default hereunder, and no acceptance of Rental Payments during the continuance of any such default shall constitute a waiver of any such default or of such term, covenant, condition or provision or a waiver or relinquishment for the future of the right to insist upon and to enforce by any appropriate legal remedy a strict compliance with all the terms, covenants, conditions and provisions of this Agreement, or of the right to exercise any such rights or remedies, if any default by Lessee be continued or repeated, or of the right to recover possession of the Facilities by reason thereof. No term, covenant, condition or provision of this Agreement binding upon Lessee, and no breach hereof or default hereunder, shall be waived, altered or modified, except as set forth in a written instrument executed by Lessor. No waiver of any breach shall affect or alter this Agreement but every term, covenant, condition and provision of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach hereof.

No failure by Lessee to insist upon the strict performance of any term, covenant, condition or provision of this Agreement, or to exercise any right or remedy consequent upon an event of default hereunder, shall constitute a waiver of any such default or of such term, covenant, condition or provision or a waiver or relinquishment for the future of the right to insist upon and to enforce by any appropriate legal remedy a strict compliance with all the terms, covenants, conditions and provisions of this Agreement, or of the right to exercise any such rights or remedies, if any default by Lessor be continued or repeated. No term, covenant, condition or provision of this Agreement binding

upon Lessor, and no breach hereof or default hereunder, shall be waived, altered or modified, except as set forth in a written instrument executed by Lessee. No waiver of any breach shall affect or alter this Agreement but every term, covenant, condition and provision of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach hereof.

10.9 Distribution of Assets. Upon the termination of this Agreement whether at the natural expiration of the Lease or as a result of the occurrence of an Event of Default on the part of Lessee or Lessor, or in the event this Agreement shall become void or unenforceable, Lessee shall peacefully surrender possession of the Facilities and the Operating Assets, and Lessee shall assign, transfer and convey to Lessor an amount equal to Beginning Net Working Capital. The Beginning Net Working Capital conveyed by Lessee to Lessor may include accounts receivable, inventory, supplies, prepaid expenses, and other current assets; provided, however, that the amount of cash and cash equivalents included shall be in the same ratio as cash and cash equivalents were to total Beginning Net Working Capital as of the Commencement Date. The amount of Beginning Net Working Capital applicable to the first day of the Operating Year during which the date of termination of this Agreement occurs shall be assigned, transferred and conveyed to Lessee on the date of termination of this Agreement. Lessee shall engage at its expense an audit by an Independent Accountant, conducted in accordance with GAAP, who shall determine whether any adjustments to Beginning Net Working Capital are appropriate with respect to the final Operating Year, or portion thereof, of this Agreement. One hundred eighty (180) days following the date of termination of this Agreement, Lessee shall remit such additional amounts to Lessor, or Lessor shall refund such amounts to Lessee, if any, as shall be indicated by such audit. Lessor shall further pay to Lessee the then-current book value of any Capital Additions made by Lessee pursuant to Article XI, and shall have the right to acquire the Choice Assets as provided below.

ARTICLE XI

DISTRIBUTION UPON TERMINATION

11.1 Capital Additions/Choice Assets Distribution Upon Voluntary Termination. Upon the natural expiration of the Lease or termination of this Agreement by Lessee or by Lessor pursuant to Section 2.1(c) or Article X hereof, Lessor shall have the right to purchase from Lessee the Choice Assets and shall have the obligation to acquire all Capital Additions to the Facilities. Lessor shall notify Lessee of the particular Choice Assets Lessor desires to purchase not less than sixty (60) days prior to the natural expiration date of this Lease or upon termination of this Lease pursuant to Section 2.1(c) or Article

X. ~~w~~ within sixty (60) days after the date on which Lessor receives notice of termination from Lessee or the date on which Lessor provides notice of termination to Lessee, as the case may be. The purchase price for the Capital Additions to be purchased by Lessor shall be equal to the book value of such Capital Additions. The purchase price for each of the Choice Assets shall be its fair market value. The purchase price shall be paid in cash as of the effective date of termination.

11.2 Valuation. If the parties are unable to agree on the book value of any Capital Additions to be purchased by Lessor pursuant to the preceding subsection or the fair market value of any Choice Asset desired to be purchased by the Lessor, then Lessee shall engage a qualified expert to appraise the value of such Capital Additions/Choice Assets. If Lessor does not agree with the valuation determined by Lessee's expert, then Lessor shall have the right to engage another duly qualified expert. If Lessee and Lessor are unable to agree on the value after both have obtained appraisals thereof, then the experts engaged by both Lessee and Lessor shall choose a third duly qualified expert within thirty (30) days after written demand of either of them. Such third appraiser shall choose the valuation of either Lessee's or Lessor's expert as that most closely reflective of the book value, as to Capital Additions, or fair market value as to Choice Assets and such determination shall be binding upon both Lessee and Lessor.

ARTICLE XII

DISPUTE RESOLUTION

12.1 Disputes Subject to Procedure. All disputes, claims, controversies or other matters in question (collectively, "Disputes") other and those that are described in Section 12.1(a) below, between or among Lessee, Lessor and/or Guarantor (for the purposes of this Article, the "Parties") that in any way arise out of or relate to this Agreement, including the validity of this Agreement or the arbitrability of any Dispute (collectively, a "Subject Dispute"), shall be resolved in accordance with the procedures specified in this Article XII. These procedures shall be the sole and exclusive method of resolution of any Subject Dispute between the Parties.

(a) Notwithstanding any other provision of this Agreement, the following Disputes shall not constitute Subject Disputes and shall not be subject to the procedures set forth in this Article XII:

(i) Enforcement by Lessor of its rights and remedies upon the occurrence ~~116~~ of an Event of Default hereunder;

(ii) Disputes regarding whether or not a Dispute is a Subject Dispute;

(iii) Disputes, the resolution of which would result in the substitution by an arbitrator of its judgment for that of a Party or a director or officer of a Party;

(iv) Disputes as to valuation of a Capital Addition to be purchased by Lessec, which shall be resolved pursuant to Section 123.2, below; and

(v) Other Disputes that are not arbitrable under Florida law.

12.2 Step One: Notice of Subject Dispute and Mandatory Negotiation.

(a) On or before thirty (30) days from the date a Party ("Claimant") knew or should have known about its Subject Dispute, it shall send a detailed written notice to the other party ("Respondent") of the specific Subject Dispute (including the nature of and a summary of the facts of the Subject Dispute, and, if applicable, the basis for any recovery sought, the amount of actual damages, costs and expenses (including attorneys fees) claimed. The Claimant shall also disclose the name and title of an officer who will represent the Claimant and who has authority to settle the Subject Dispute.

(b) On or before thirty (30) days from the Respondents' receipt of the notice, Respondent shall send a detailed written response to the Claimant stating any defenses to the claim or Subject Dispute and any counterclaims arising out of the transaction or occurrence that is the subject matter of the claim or Subject Dispute. The Respondent shall include copies of non-privileged documents that support its response and the name and title of an officer who will represent Respondent and who has authority to settle the Subject Dispute.

(c) On or before thirty (30) days from the Claimant's receipt of the response, the specified representatives of the Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, attempt to resolve the Subject Dispute in good faith. All such negotiations are confidential compromise and settlement negotiations and shall not be admissible as evidence at any later proceeding. All reasonable requests for information made by one Party to the other shall be honored.

(d) In the event the Parties are unable to settle their Subject Disputes after following the procedures set forth above, the Parties shall submit their Subject Disputes to Mandatory Mediation.

12.3 Step Two: Mandatory Mediation.

(a) Notice. If the Parties do not resolve their Subject Dispute under Section 12.14-2, then Claimant or Respondent if Claimant fails to do so shall submit the Subject Dispute to mediation. In order to submit a Subject Dispute to mediation, Claimant shall send a written request for mediation to Respondent on or before ninety (90) days from Respondent's receipt of the written request for negotiation.

(b) Consent to Mediator. The Parties shall agree upon a mediator on or before fourteen (14) days from Respondents' receipt of the written request for mediation. In the event that the Parties cannot agree on a mediator, the mediator shall be chosen by the American Arbitration Association ("AAA"). The mediation shall be conducted in Tampa, Florida, unless otherwise agreed to by the Parties. In the event a Party fails to attend a mediation session without good cause or if the Mediator determines that a Party has not acted in good faith to settle the dispute, the Mediator may assess against such Party the reasonable attorneys fees and costs of the other Party.

(c) Mediation Procedure. The mediation shall be governed by the Commercial Mediation Rules of the AAA.

(d) Commitment to Participate in Good Faith. The Parties agree that at any time following the mediation process but prior to the initiation of binding arbitration, the President or highest ranking senior level officer of the respective Parties shall meet or confer telephonically in one last effort to resolve the Subject Dispute. During each phase of the alternative dispute resolution process, the Parties agree to act in good faith to settle the Subject Dispute, if possible.

12.4 Step Three: Mandatory Final and Binding Arbitration.

(a) If negotiation and mediation are unsuccessful, the Parties shall submit to final binding arbitration. The arbitration shall be administered by the AAA and conducted in accordance with its Commercial Arbitration Rules. The arbitration specified herein is intended to provide an arbitral forum instead of a judicial forum for the resolution of a Subject Dispute, as authorized by Florida Statutes Section 682.02.

(b) Notice. In order to invoke arbitration, Claimant or Respondent if Claimant fails to do so shall send a notice of demand for binding arbitration in writing to the other Party on or before ninety (90) days from the completion of mediation.

(c) Arbitrator. The Parties agree to use a single arbitrator. Selection of the arbitrator shall be made on or before ten (10) business days from the date Respondent (or Claimant if applicable) receives the demand for arbitration. In

the event the Parties cannot agree on the selection of the arbitrator within this time, the arbitrator shall be selected pursuant to the AAA Commercial Arbitration Rules; provided, however, the arbitrator shall be familiar with the health care services industry.

(d) Cost of Arbitration. The cost of arbitration proceedings, including without limitation the arbitrator's compensation and expenses, hearing room charges, court reporter transcript charges, and AAA fees and costs shall be borne by the Parties equally or otherwise as the arbitrator may determine. The arbitrator may award the prevailing Party its reasonable attorneys fees and costs incurred in connection with the arbitration, and shall award reasonable attorneys fees and costs for instances of abuse in the discovery process.

(e) Location of Proceedings. The arbitration proceedings shall be held in Tampa, Florida, unless the Parties agree otherwise.

(f) Hearings. The arbitration hearing shall be held on consecutive business days without interruption to the maximum extent practicable.

(g) Preliminary Hearing. A preliminary hearing shall be held pursuant to Rule 10 of the AAA Commercial Arbitration Rules.

(h) Governing Law. All Subject Disputes between the Parties shall be construed and interpreted in accordance with the laws of the State of Florida. No conflict-of-laws rules or law that might refer such construction or interpretation to the laws of another jurisdiction shall be considered.

(i) Discovery. Discovery shall be limited as follows. Each Party shall be allowed to serve one production request, not exceeding twenty-five (25) in number including all discrete subparts. Each Party may depose the other Parties' expert witnesses, if any, and two fact witnesses only. Additional depositions may only be taken with approval by the arbitrator upon a showing of good cause. The Parties shall not serve requests to admit. There shall be no other discovery allowed.

(j) Consolidation. No arbitration shall include, by consolidation, joinder, or in any other manner, any additional person not a party to the Agreement, except by written consent of the Parties.

(k) Award. The arbitrator is empowered to render an award of general compensatory damages and equitable relief (including, without limitations, injunctive relief), but is not empowered to award exemplary, special or punitive damages.

(l) Waiver of Any Right to Punitive or Exemplary Damages. The Parties WAIVE ANY RIGHT OR CLAIM TO PUNITIVE OR EXEMPLARY DAMAGES of any kind, whether this right or claim could accrue NOW OR IN THE FUTURE under applicable law.

(m) Confidentiality. The Parties shall maintain the substance of any proceedings hereunder in confidence unenforceable for any reason, the remainder of this Article XII shall survive and is deemed severable, such that the Parties' express purpose to arbitrate any Subject Dispute shall be recognized and given effect.

(n) Severability. In the event any portion of this Article XII is declared void or otherwise unenforceable for any reason, the remainder of this Article XII shall survive and is deemed severable, such that the Parties' express purpose to arbitrate any Subject Dispute shall be recognized and given effect.

(o) AGREEMENT/WAIVER. THE PARTIES HAVE CAREFULLY READ THIS AGREEMENT AND UNDERSTAND THAT BY SIGNING THIS AGREEMENT, THEY ARE AGREEING TO SUBMIT ALL SUBJECT DISPUTES TO NEGOTIATION, MEDIATION AND FINAL BINDING ARBITRATION IN LIEU OF FILING A LAWSUIT. THE PARTIES KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY AGREE TO WAIVE ANY RIGHT TO A TRIAL AND AGREE THAT PRIVATE ADJUDICATION THROUGH NEGOTIATION, MEDIATION AND FINAL BINDING ARBITRATION IS THE EXCLUSIVE MEANS FOR RESOLVING ANY AND ALL SUBJECT DISPUTES.

ARTICLE XIII

MISCELLANEOUS

13.1 Captions. The captions of the Articles and Sections hereof have been inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

13.2 Covenants Considered Material. All covenants made by Lessor and Lessee contained herein shall be considered to be material to this Agreement and the relationship between and among Lessor and Lessee.

13.3 Amendment of Agreement. This Agreement may only be amended by written agreement duly executed by Lessee and Lessor.

13.4 Florida Law Controlling. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

13.5 Consents and Approvals. Whenever the written consent or approval of Lessor or Lessee or any officer thereof shall be

required under the provisions of this Agreement, such consent or approval shall not be unreasonably withheld or delayed, except as may be set forth to the contrary herein.

13.6 Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original constituting but one and the same instrument.

13.7 Severability. If any one or more of the sentences, sections or other portions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, the invalidity of any such sentence, section or other portion of this Agreement shall in no way affect the validity or effectiveness of the remainder of this Agreement, and this Agreement shall continue in force to the fullest extent permitted by law, but only so long as no material benefit to either of the parties would be adversely affected thereby and no burden on either of the parties would be substantially increased thereby.

13.8 Lessee's Remedies. In the event Lessor shall fail to perform any of its obligations under this Agreement, Lessee may institute such action against Lessor as Lessee may deem necessary to compel performance. In addition, Lessee shall have all of the rights and remedies conferred in this Agreement or now or hereafter conferred at law or in equity, which rights and remedies are cumulative.

13.9 Assignments. Except as otherwise provided herein, neither Lessor nor Lessee shall give, assign or pledge its rights under this Agreement without the consent of the other parties.

13.10 Recording. The parties agree that a short form memorandum of this Agreement, in customary form, but including the substance of Articles II and VI, shall be recorded in such office in the State as may be at the time provided by law as the proper place for recordation of a deed conveying the Facilities.

13.11 Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by Lessee or Lessor shall be in writing and shall be deemed to be properly given or made (i) when received if given in person, (ii) on the date of acknowledgment of receipt if sent by telex, facsimile or other wire transmission, (iii) one business day after being sent by overnight delivery service, or (iv) two business days after being properly deposited in the United States mail, certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

(a) As to Lessor



Attn: _____

Copy to

[REDACTED]

(b) As to Lessee

[REDACTED]

Copies to

[REDACTED]

ATTN: [REDACTED]

Any of such addressees and addresses may be changed at any time upon written notice of such changes sent by United States certified or registered mail, return receipt requested, postage prepaid, to the other party by the party effecting the change. Any time periods commencing with the notice by registered or certified mail prescribed by the terms of this Agreement shall commence with the date of receipt of written notice as evidenced by the return receipt.

13.12 No Personal Liability. Notwithstanding anything to the contrary contained herein or in any other instrument or document executed by or on behalf of Lessor or Lessee in connection herewith, no stipulation, covenant, agreement or obligation contained herein or therein shall be deemed or construed to be a stipulation, covenant, agreement or obligation of any present or future member, director, trustee, affiliate, officer, employee or agent of Lessor or Lessee or of any incorporator, member, affiliate, director, trustee, officer, employee or agent of any successor to Lessor or Lessee, in any

such person's individual capacity, and no such person, in his individual capacity, shall be liable personally for a breach or nonobservance of or for any failure to perform, fulfill or comply with any such stipulations, covenants, agreements or obligations, nor shall any recourse be had for the payment of any of the Rental Payments due hereunder or for any claim based thereon or on any such stipulation, covenant, agreement or obligation, against any such person, in his individual capacity, either directly or through Lessor or Lessee or any successor to Lessor or Lessee under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such person, in his individual capacity, is hereby expressly waived and released.

13.13 Payments. All payments to be made under Section 2.4 by Lessee shall be made in immediately available funds (by wire transfer or otherwise) on or before the day on which such payments are due.

13.14 Survival of Covenants, Representations and Warranties. All covenants, representations and warranties set forth herein shall survive the execution of this Agreement.

13.15 Entire Agreement. This Agreement, together with the schedules attached hereto, contains the entire understanding of the parties with respect to the transactions contemplated hereby and supersedes all other agreements and undertakings, oral or written, between or among the parties.

13.16 Good Faith. Good faith is the essence of this Agreement. Lessor and Lessee shall each exercise good faith and commercial reasonableness in the interpretation, performance and enforcement of this Agreement, except as may be set forth to the contrary herein.

13.17 Relationship of Parties. Nothing contained in this Agreement shall be construed or deemed by the parties hereto or by any third party to create a relationship or partnership or of joint venture or of any association whatsoever between Lessor and Lessee.

13.18 Attorneys' Fees and Costs. If any legal action is brought by any party hereto to enforce, defend or interpret its rights under this Agreement, the prevailing party in such action shall be entitled to receive as additional damages all court costs, all reasonable costs incurred in enforcing or defending its rights under this Agreement (including, but not limited to, copying costs, long distance telephone charges, and court reporter costs and fees) and reasonable attorneys' fees incurred by the prevailing party, whether out of court, in the trial court, on appeal or in bankruptcy proceedings.

13.19 Time is of the Essence. Time is of the essence in the performance by each party of its obligations hereunder.

13.20 Specific Performance. This Agreement and each and every provision hereof shall be specifically enforceable. Each party hereto upon the introduction and presentation to the applicable court having jurisdiction over the matter of evidence showing a material breach by the other party hereto shall be entitled to injunctive relief mandating specific performance.

13.21 Inspection of Books and Records. Upon the written request of the Secretary of Health and Human Services or the Comptroller General, or any of their duly authorized representatives, Lessee shall make available to the Secretary the contract, books, documents and records that are necessary to verify the nature and extent of the cost of providing such services. Such inspection shall be available up to four years after the rendering of such services. The parties agree that any applicable attorney-client, accountant-client, or other legal privileges shall not be deemed waived by virtue of this Agreement.

(a) Until the expiration of four (4) years after the furnishing of any services hereunder and in the event the services provided by the parties hereunder are valued at Ten Thousand Dollars (\$10,000) or more during any 12-month period, the parties shall make available upon written request of the Secretary of the United States Department of Health and Human Services or upon the written request of the United States Comptroller General, or any of their duly authorized representatives, all contracts, books, documents or records that are necessary to certify the nature and extent of any and all charges, costs and payments made or received hereunder.

(b) Each party or its designated representative is granted access at any reasonable time, upon reasonable conditions and notice, to the books and records of the other party insofar as necessary to verify or review accounting records for the purpose of determining compliance with the terms and provisions of this Agreement only.

13.22 Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the Volusia County public health unit.

13.23 Conflicts with Bond Indenture or Financing Documents. To the extent of any conflict between the provisions of the Bond Indenture or the Financing Documents and the provisions of this

Agreement, the provisions of the Bond Indenture and/or the Financing Documents, as the case may be, shall be controlling.

13.24 Successors and Assigns. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

13.25 Bankruptcy Matters. In the event that any voluntary or involuntary petition in bankruptcy is filed by or against Lessee, Lessee agrees, to the extent permitted by applicable law, not to reject this Agreement and not to object to any request by Lessor for relief from the automatic stay provisions. Lessee hereby irrevocably appoints Lessor as its attorney-in-fact to make any and all decisions with respect to this Agreement in the event of the filing of any such petition in bankruptcy.

13.26 Waiver by Jury Trial. To the extent permitted by law, Lessor and Lessee hereby waive any rights they may have to trial by jury on any claim, counterclaim, set off, demand, action or cause of action arising out of or in any way related to this Agreement.

13.27 Legal Compliance. The Parties recognize that this Agreement at all times is subject to applicable state, local and federal law, including but not limited to the Social Security Act, the rules, regulations and policies of the U.S. Department of Health and Human Services, all public health and safety provisions of state law and regulations, and the rules and regulations of state health system agencies. The Parties further recognize that this Agreement shall be subject to amendments in such laws and regulations and to new legislation such as economic stabilization programs or health insurance programs. Any provisions of law that invalidate or otherwise are inconsistent with the terms of this Agreement or that would cause one or both of the parties to be in violation of law shall be deemed to supersede the terms of this Agreement; provided, however, that the Parties shall exercise their reasonable best efforts to accommodate or agree to amendments to this Agreement to satisfy the terms and intent of this Agreement to the greatest extent possible within the requirements of law.

13.28 Dissolution of Lessor. In the event of a merger, consolidation, dissolution, or other cessation of existence of the Lessor, any notice, consent, or waiver that any party is required to obtain from the Lessor or that the Lessor is required or permitted to give pursuant to this Agreement may be obtained from or given by the governing body of Sun Coast Hospital Foundation, Inc.

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

Signed, sealed and delivered in the presence of:

Name: _____

Name: _____

Name: _____

Stein _____

President _____

Name: _____

Name: _____

Name: _____

LESSOR:

[Redacted signature]

By: _____

Its President

LESSEE:

[Redacted signature]

By: _____

Name: _____

As Its: _____

[Redacted signature]

By: _____

Name: _____

As Its: _____

[Redacted signature]