

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT  
Pursuant to Section 13 or 15(d)  
of The Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): February 28, 2023 (February 28, 2023)**

**COMMUNITY HEALTH SYSTEMS, INC.**  
(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**001-15925**  
(Commission  
File Number)

**13-3893191**  
(I.R.S. Employer  
Identification No.)

**4000 Meridian Boulevard  
Franklin, Tennessee 37067**  
(Address of principal executive offices)

**Registrant's telephone number, including area code: (615) 465-7000**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.01 par value	CYH	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

### **Item 1.01 Entry into a Material Definitive Agreement.**

On February 28, 2023, CHS/Community Health Systems, Inc. (“CHS”), a wholly-owned subsidiary of Community Health Systems, Inc. (the “Company”), entered into an Asset Purchase Agreement (“Purchase Agreement”) with Novant Health, Inc., a North Carolina non-profit corporation (“Purchaser”). Pursuant to the Purchase Agreement, and subject to the terms and conditions set forth therein, Purchaser has agreed to acquire substantially all of the assets, and assume certain liabilities, from CHS related to, (i) Lake Norman Regional Medical Center in Mooresville, North Carolina and (ii) Davis Regional Medical Center in Statesville, North Carolina (the transactions contemplated by the Purchase Agreement, the “Transaction”). The total purchase price payable by Purchaser to CHS at the closing of the Transaction is \$320 million in cash, subject to adjustment based on closing net working capital and the amount of any capitalized leases assumed by Purchaser.

The Purchase Agreement contains various representations, warranties and covenants made by the parties. The Purchase Agreement also provides for indemnification by the parties with respect to breaches of representations, warranties and covenants by such parties, as well as with respect to certain other indemnifiable matters specified in the Purchase Agreement.

The closing of the Transaction is subject to the satisfaction or waiver of certain closing conditions set forth in the Purchase Agreement, which includes the expiration or termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended. Consummation of the Transaction is currently expected to occur in the second half of 2023.

The Purchase Agreement may be terminated by either party under certain circumstances set forth in the Purchase Agreement, including if the Transaction is not consummated on or before December 31, 2023.

The Purchase Agreement provides that, at closing, the parties, and/or their respective affiliates, will enter into certain ancillary agreements, including transition services agreements under which CHS and/or an affiliate thereof will provide certain information technology and operational transition services to Purchaser for a period of 12 months following the closing.

The foregoing summary of the Transaction and the terms and conditions of the Purchase Agreement is subject to, and qualified in its entirety by, the full text of the Purchase Agreement, which is attached hereto as [Exhibit 2.1](#) and incorporated herein by reference. The representations, warranties, and covenants contained in the Purchase Agreement were made solely for purposes of such agreement and as of specific dates, were solely for the benefit of the parties to the Purchase Agreement, may have been qualified in the Purchase Agreement by confidential disclosure schedules (which disclosure schedules may contain information that modifies, qualifies and creates exceptions to the representations, warranties and covenants set forth in the Purchase Agreement), may be subject to limitations and contractual risk allocation mechanisms agreed upon by the parties to the Purchase Agreement, and may be subject to standards of materiality that differ from what an investor may view as material, and thus should not be relied upon as necessarily reflecting the actual state of facts or conditions.

### **Item 8.01 Other Events.**

On February 28, 2023, the Company issued a press release announcing CHS’s and Purchaser’s entry into the Purchase Agreement. A copy of this press release is attached hereto as [Exhibit 99.1](#) and is incorporated herein by reference.

### *Forward-Looking Statements*

This Current Report on Form 8-K contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, Section 21E of the Securities Exchange Act of 1934, as amended, and the Private Securities Litigation Reform Act of 1995 that involve risk and uncertainties. These forward-looking statements are based on the Company’s current beliefs, understandings and expectations. These forward-looking statements are neither promises nor guarantees, but are subject to a variety of risks and uncertainties, many of which are beyond the Company’s control, which could cause actual results to differ materially from those contemplated in these forward-looking statements. Factors that could cause actual results to differ materially from those expressed or implied include: (i) the parties to the Purchase Agreement may be unable to complete the Transaction in a timely manner or at all, because, among other reasons,

conditions to the closing of the Transaction set forth in the Purchase Agreement may not be satisfied or waived; (ii) uncertainty as to the timing of completion of the Transaction; (iii) the occurrence of any event, change or other circumstances that could give rise to the termination of the Purchase Agreement; (iv) risks related to disruption of management's attention from the Company's ongoing business operations; (v) the outcome of any legal proceedings to the extent initiated against the parties to the Purchase Agreement or others related to the Transaction; (vi) post-closing risks related to the transition services agreement and ancillary agreements to be entered into at closing as noted above; and (vii) the ability of the Company to execute on its strategy and achieve its goals and other expectations after any completion of the Transaction, as well as the risks set forth in our Annual Report on Form 10-K for the year ended December 31, 2022, filed with the Securities and Exchange Commission on February 17, 2023, and the Company's other filings with the Securities and Exchange Commission. The Company undertakes no obligation to revise or update any forward-looking statements, or to make any other forward-looking statements, whether as a result of new information, future events or otherwise.

**ITEM 9.01 Financial Statements and Exhibits.**

(d) Exhibits

<u>Exhibit Number</u>	<u>Description</u>
2.1	<a href="#">Asset Purchase Agreement, dated as of February 28, 2023, by and between CHS/Community Health Systems, Inc. and Novant Health, Inc.*</a>
99.1	<a href="#">Community Health Systems, Inc. Press Release, dated February 28, 2023</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

\* Schedules and exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Company agrees to furnish, on a supplemental basis, a copy of such omitted schedules and exhibits to the Securities and Exchange Commission upon request.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this Report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: February 28, 2023

COMMUNITY HEALTH SYSTEMS, INC.  
(Registrant)

By: /s/ Tim L. Hingtgen  
Tim L. Hingtgen  
Chief Executive Officer  
(principal executive officer)

**ASSET PURCHASE AGREEMENT**

**BY AND BETWEEN**

**CHS/COMMUNITY HEALTH SYSTEMS, INC.**

**AND**

**NOVANT HEALTH, INC.**

February 28, 2023

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## ASSET PURCHASE AGREEMENT

**THIS ASSET PURCHASE AGREEMENT** (the “Agreement”) is made and entered into as of February 28, 2023, by and between **CHS/COMMUNITY HEALTH SYSTEMS, INC.**, a Delaware corporation (“Seller”), and **NOVANT HEALTH, INC.**, a North Carolina non-profit corporation which is exempt from federal income tax as an organization described in Section 501(c)(3) of the Code (“Buyer”).

### RECITALS:

- A.** Seller owns or controls, directly or indirectly, the organizations listed on Exhibit A attached hereto (each a “Seller Entity” and together the “Seller Entities”).
- B.** Buyer owns or controls, directly or indirectly, the organizations listed on Exhibit B attached hereto (each a “Buyer Entity” and together the “Buyer Entities”).
- C.** The Seller Entities directly or indirectly own and operate Lake Norman Regional Medical Center in Mooresville, North Carolina, and Davis Regional Medical Center in Statesville, North Carolina (each, a “Hospital” and collectively, the “Hospitals”).
- D.** Seller desires to cause the Seller Entities to sell to the Buyer Entities and Buyer desires to cause the Buyer Entities to purchase substantially all of the assets of the Seller Entities which are directly or indirectly related to, necessary for, or used in connection with, the operation of the Hospitals, together with certain related businesses, including but not limited to medical office buildings, outpatient care facilities, physician practices and ancillary services (collectively with the Hospitals, the “Facilities”), on the terms and conditions set forth in this Agreement.
- E.** A Seller Entity owns all of the issued and outstanding membership interests (the “Acquired Company Ownership Interests”) in Piedmont Surgical Center of Excellence, LLC, a Delaware limited liability company (the “Acquired Company”).
- F.** Such Seller Entity desires to sell to a Buyer Entity and the Buyer desires that a Buyer Entity purchase from the applicable Seller Entity the Acquired Company Ownership Interests, on the terms and conditions set forth in this Agreement.

### AGREEMENT:

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

#### 1. PURCHASE OF ASSETS.

**1.1 Assets.** Subject to the terms and conditions of this Agreement, as of the Closing (as defined in Section 2.1 hereof), Seller agrees to cause the Seller Entities to sell, convey, transfer, assign and deliver to the Buyer Entities, and Buyer agrees to cause the Buyer Entities to purchase, all of the assets owned or used by the Seller Entities in connection with the operation of the

Facilities, other than the Excluded Assets (hereinafter defined)(collectively, the “Assets”), which Assets shall include, without limitation, the following:

(a) fee simple title to the real property described in Schedule 1.1(a)(i) hereto, together with all improvements, any construction in progress, any other buildings and fixtures thereon, and all rights, privileges and easements appurtenant thereto (collectively, the “Owned Real Property”), and leasehold title to the real property that is leased, sub-leased or otherwise licensed by the Seller Entities pursuant to the leases, subleases or licenses described in Schedule 1.1(a)(ii) (collectively, the “Leased Real Property”) (the Owned Real Property and the Leased Real Property are collectively referred to herein as the “Real Property”);

(b) all tangible personal property, including, without limitation, all major, minor or other equipment, vehicles, furniture and furnishings of the Seller Entities;

(c) all supplies and inventory used or held for use in respect of the Facilities;

(d) assumable deposits and prepaid expenses that have continuing value to the Buyer Entities;

(e) all claims of the Seller Entities against third parties to the extent such claims relate to the condition of the Assets and, to the extent assignable, all warranties (express or implied) and rights and claims assertable by (but not against) the Seller Entities related to the Assets;

(f) to the extent legally transferable, all right, title and interest in the financial, patient, medical staff and personnel records relating to the Facilities (including, without limitation, all equipment records, medical administrative libraries, medical records, documents, catalogs, books, records, files, operating policies and procedures, manuals and current personnel records);

(g) all rights and interests in the contracts, commitments, leases, licenses and agreements listed in Schedule 1.1(g) hereto and all Immaterial Contracts (hereinafter defined) (the contracts being assigned are referred to herein as the “Contracts”);

(h) all licenses and permits, to the extent legally assignable, held by the Seller Entities relating to the ownership, development, and operation of the Facilities (including, without limitation, any pending or granted governmental approvals);

(i) the trade names, trademarks, service marks (or variations thereof), domain names and copyrights listed in Schedule 3.24, all goodwill associated therewith, and all applications or registration associated therewith;

(j) to the extent legally transferable, all provider numbers listed in Schedule 1.1(j);

(k) all goodwill associated with the Facilities and the Assets;

(l) petty cash;

(m) the telephone numbers used in connection with the business or operation of the Facilities;

(n) all computer hardware and data processing equipment located at the Facilities to the extent assignable or transferable, and all rights in warranties of any manufacturer or vendor with respect thereto;

(o) whether or not reflected in the financial statements, wherever located and whether or not similar to the items specifically set forth, all other businesses and ventures owned by the Seller Entities in connection with the Facilities;

(p) all property and rights of the foregoing types arising or acquired by the Seller Entities between the date hereof and the Closing Date; and

(q) all other property of every kind, character or description owned, leased or licensed by the Seller Entities and used or held for use in the business of the Facilities or the Assets.

**1.2 Excluded Assets.** Those assets of the Seller Entities described below, together with any assets described in Schedule 1.2 hereto, shall be retained by the Seller Entities (collectively, the “Excluded Assets”) and shall not be conveyed to the Buyer Entities:

(a) cash, cash equivalents and marketable securities (except petty cash);

(b) board-designated, restricted and trustee-held or escrowed funds (such as funded depreciation, debt service reserves, working capital trust assets, and assets and investments restricted as to use) and accrued earnings thereon;

(c) all amounts payable to the Seller Entities in respect of third-party payors pursuant to retrospective settlements (including, without limitation, pursuant to Medicare, Medicaid and CHAMPUS/TRICARE cost reports filed or to be filed by the Seller Entities for periods prior to the Effective Time, retrospective payment of claims that are the subject of Centers for Medicare and Medicaid Services (“CMS”) Recovery Audit Contractor appeals, and all payments for periods prior to the Effective Time related to all Medicaid programs including but not limited to Uncompensated Care (UC), Disproportionate Share (DSH), Delivery System Reform Incentive Payment (DSRIP), Uniform Hospitals Rate Increase Program (UHRIP), Hospitals Quality-Based Payment Program for Potentially Preventable Readmissions (PPR) and Potentially Preventable Complications (PPC), and Uncompensated Trauma Care), and all appeals and appeal rights of the Seller Entities relating to such settlements, including cost report settlements, for periods prior to the Effective Time;

(d) all Seller Entity records relating to (i) litigation files and records, cost report records relating to periods of time prior to Closing, tax returns and minute books, and (ii) the Excluded Assets and Excluded Liabilities to the extent that the applicable Buyer Entity does not need the same in connection with the operation of the Facilities, as well as all records which, by law, the Seller Entities are required to maintain in their possession;

(e) prepaid insurance, prepaid assets dedicated to the Seller Entities’ benefit plans and any reserves or prepaid expenses related to Excluded Assets and Excluded Liabilities (such as prepaid legal expenses);



(f) all accounts receivable arising from the rendering of services to patients at the Facilities, billed and unbilled, recorded or unrecorded, with collection agencies or otherwise, accrued and existing in respect of services rendered prior to the Effective Time;

(g) any and all names, symbols, trademarks, logos or other symbols used in connection with the Facilities and the Assets which include the names "CHS," "Community Health Systems" or any variants thereof or any other names which are proprietary to Seller or its Affiliates and are not used exclusively in the connection with the operation of the Facilities (the "Excluded Marks");

(h) any computer software and programs which are proprietary to Seller or its Affiliates;

(i) receivables from or obligations with Seller or its Affiliates;

(j) the Seller Entities' insurance proceeds arising from pre-Effective Time incidents and the Seller Entities' assets held in connection with any self-funded insurance programs and reserves, if any;

(k) any claims of the Seller Entities against third parties to the extent that such claims relate to the operation of the Facilities prior to the Effective Time or to the Excluded Assets or Excluded Liabilities;

(l) all of Seller's or any Affiliate's proprietary manuals, marketing materials, policy and procedure manuals, standard operating procedures and marketing brochures, data and studies or analyses;

(m) all assets and rights related to the Benefit Plans and any other benefit plan, program, or arrangement that is sponsored, maintained, contributed to or required to be contributed to by the Seller Entities' or any of their Affiliates;

(n) all assets solely relating to home health or hospice operations;

(o) all national or regional contracts of Seller or any Affiliate which are made available to any of the Facilities by virtue of the Facilities being an Affiliate of Seller;

(p) the electronic funds transfer accounts of the Facilities;

(q) all rights of the Seller Entities in any contracts, commitments, leases and agreements which are not included in the Contracts; and

(r) any claims against third-party payors relating to underpayments or violation of prompt pay statutes with respect to periods prior to the Effective Time.

**1.3 Assumed Liabilities.** In connection with the conveyance of the Assets hereunder, Buyer shall cause the Buyer Entities to assume, as of the Effective Time, the future payment and performance of the following liabilities (the "Assumed Liabilities") of the Seller Entities:

(a) all obligations accruing from and after the Effective Time with respect to the Contracts;

(b) the finance lease obligations set forth in Schedule 1.3 hereto; and

(c) all obligations and liabilities as of the Effective Time in respect of accrued vacation and holiday benefits of Seller Employees who are hired by the Buyer Entities as of the Effective Time, and related taxes, but only to the extent included in the determination of Net Working Capital.

**1.4 Excluded Liabilities.** Except for the Assumed Liabilities, the Buyer Entities shall not assume and under no circumstances shall the Buyer Entities be obligated to pay or assume, and none of the assets of the Buyer Entities shall be or become liable for or subject to any liability, indebtedness, commitment, or obligation of the Seller Entities, whether known or unknown, fixed or contingent, recorded or unrecorded, currently existing or hereafter arising or otherwise (collectively, the “Excluded Liabilities”), including, without limitation, the following Excluded Liabilities:

(a) any debt, obligation, expense or liability that is not an Assumed Liability;

(b) claims or potential claims for medical malpractice or general liability relating to acts or omissions asserted to have occurred prior to the Effective Time;

(c) those claims and obligations (if any) specified in Schedule 1.4 hereto;

(d) any liabilities or obligations associated with or arising out of any of the Excluded Assets;

(e) liabilities and obligations of the Seller Entities in respect of periods prior to the Effective Time arising under the terms of the Medicare, Medicaid, CHAMPUS/TRICARE, Blue Cross, or other third-party payor programs, as well as under the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. 116-136), as amended (the “CARES Act”), including, without limitation, in respect of any cost report, any audit under the Medicare RAC program or any noncompliance with applicable law or contractual obligations related to the billing or collection of services, CARES Act funding and any liability arising pursuant to the Medicare, Medicaid, CHAMPUS/TRICARE, Blue Cross, or any other third-party payor programs as a result of the consummation of any of the transactions contemplated under this Agreement;

(f) federal, state or local tax liabilities or obligations of the Seller Entities in respect of periods prior to the Effective Time or resulting from the consummation of the transactions contemplated herein including, without limitation, any income tax, any franchise tax, any tax recapture, any sales and/or use tax, and any FICA, FUTA, workers’ compensation, and any and all other taxes or amounts due and payable as a result of the exercise by the employees at the Facilities of such employees’ right to vacation, sick leave, and holiday benefits accrued while in the employ of the Seller Entities (provided, however, that this clause (f) shall not apply to any and all taxes payable with respect to any employee benefits constituting Assumed Liabilities under Section 1.3(c) hereof);

(g) liability for any and all claims by or on behalf of the Seller Entities' employees relating to periods prior to the Effective Time including, without limitation, liability for any compensation-related payments, pension, profit sharing, deferred compensation, equity or equity-related compensation, incentive compensation, fringe benefit, tuition reimbursement, severance, termination pay, change in control or retention payments, bonuses or any other employee benefit plan of whatever kind or nature or any employee health and welfare benefit plans, liability for any EEOC claim, ADA claim, FMLA claim, wage and hour claim, unemployment compensation claim, or workers' compensation claim, and any liabilities or obligations to former employees of the Seller Entities under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (provided, however, that this clause (g) shall not apply to any and all employee benefits constituting Assumed Liabilities under Section 1.3(c) hereof);

(h) any obligation or liability accruing, arising out of, or relating to any federal, state or local investigations of, or claims or actions against, the Seller Entities or any of their Affiliates or any of their employees, medical staff, agents, vendors or representatives with respect to acts or omissions prior to the Effective Time;

(i) any civil or criminal obligation or liability accruing, arising out of, or relating to any acts or omissions of the Seller Entities, their Affiliates or, to the extent related to their services to the Seller Entities, their directors, officers, employees and agents claimed to violate any constitutional provision, statute, ordinance or other law, rule, regulation or order of any governmental entity;

(j) liabilities or obligations arising out of any breach by the Seller Entities prior to the Effective Time of any Contract;

(k) liabilities or obligations arising as a result of any breach by the Seller Entities at any time of any contract or commitment that is not expressly assumed by the Buyer Entities in this Agreement;

(l) any debt, obligation, expense, or liability of the Seller Entities arising out of or incurred solely as a result of any transaction of the Seller Entities occurring after the Effective Time;

(m) any liability of the Seller Entities relating to violations of law, including but not limited to violations of federal or state laws regulating fraud such as the federal Anti-Kickback Law (42 U.S.C. § 1320(a)-7(b) et seq.) (the "Anti-Kickback Law"), the Ethics in Patient Referrals Act (42 U.S.C. § 1395mm et seq.) (the "Stark Law"), and the False Claims Act (31 U.S.C. § 3729 et seq.) (the "False Claims Act"); and

(n) all liabilities and obligations relating to any oral agreements, oral contracts or oral understandings with any referral sources including, but not limited to, physicians, unless reduced to writing, identified in Schedule 1.1(g) hereto, and expressly assumed as part of the Contracts.

**1.5 Sale of the Acquired Company Ownership Interests.** Subject to the terms and conditions of this Agreement, at the Closing, a Seller Entity shall sell, convey, transfer and deliver to a Buyer Entity, free and clear of all encumbrances, and the Buyer Entity shall purchase from the Seller Entity, the Acquired Company Ownership Interests.

**1.6 Purchase Price.** The purchase price (the “Purchase Price”) for the Assets and the Acquired Company Ownership Interests shall be Three Hundred Twenty Million Dollars (\$320,000,000), plus or minus the amount by which the Net Working Capital (as defined in Section 1.7(a)) of the Seller Entities as of the Effective Time exceeds or is less than Five Million Six Hundred Eighty-Nine Thousand Dollars (\$5,689,000), respectively, and minus the amount of the capitalized leases set forth in Schedule 1.3 that are assumed by the Buyer Entities. The Purchase Price shall be calculated as of the Closing based upon the estimated Net Working Capital (as determined in accordance with Section 1.7(b)). The Purchase Price shall be adjusted after the Closing in accordance with Section 1.7(a) to reflect the actual Net Working Capital as of the Effective Time (as determined in accordance with Section 1.7(b)). The Purchase Price shall be due and payable on the Closing Date by wire transfer of immediately available funds to an account designated by Seller.

**1.7 Net Working Capital, Estimates and Audits.**

**(a) Net Working Capital.** As used herein, the term “Net Working Capital” shall mean the aggregate current assets of the Seller Entities conveyed to the Buyer Entities pursuant to Section 1.1 hereof (excluding those Excluded Assets which would otherwise be included in current assets), minus the aggregate current liabilities of the Seller Entities assumed by the Buyer Entities pursuant to Section 1.3 hereof (excluding those Excluded Liabilities which would otherwise be included in current liabilities), all as determined in accordance with United States generally accepted accounting principles in effect from time to time in accordance with standards established by the Financial Accounting Standards Board (“GAAP”). In any case, with respect to the computation of Net Working Capital (i) the following shall be included in current assets: petty cash, prepaid expenses and deposits, and supplies and inventory, and (ii) the following shall be included in current liabilities: accrued liabilities for vacation and holiday benefits for employees of the Seller Entities who are hired by the Buyer Entities. For the avoidance of doubt, the computation of Net Working Capital shall not include any of the foregoing as they relate to the Partial Subsidiary.

**(b) Estimates and Adjustments.** Attached hereto as Schedule 1.7 is a schedule of the mutually agreed upon Net Working Capital as of December 31, 2022, together with the principles, specifications and methodologies used in determining such Net Working Capital. At least ten (10) business days prior to Closing, Seller shall deliver to Buyer a reasonable estimate of Net Working Capital as of the end of the most recently ended calendar month prior to the Closing Date for which financial statements are available and containing reasonable detail and supporting documents showing the derivation of such estimate. The Net Working Capital shall be estimated following the same mutually agreed upon principles, specifications and methodologies used to determine the Net Working Capital as of December 31, 2022, as specified in Schedule 1.7, and shall be used for purposes of calculating the Purchase Price as of the Closing. Within ninety (90) days after the Closing, Seller shall deliver to Buyer its determination of the Net Working Capital as of the Closing (following the same principles, specifications and methodologies used to determine the Net Working Capital as set forth in Schedule 1.7 and the estimated Net Working Capital as of the Closing). Each party shall have full access to the financial books and records pertaining to the Facilities to confirm or audit Net Working Capital computations. Should Buyer

disagree with Seller's determination of Net Working Capital, it shall notify Seller within sixty (60) days after Seller's delivery of its determination of Net Working Capital. If Seller and Buyer fail to agree within thirty (30) days after Buyer's delivery of notice of disagreement on the amount of Net Working Capital, such disagreement shall be resolved in accordance with the procedure set forth in Section 1.7(c), which shall be the exclusive remedy for resolving accounting disputes relative to the determination of Net Working Capital. The Purchase Price shall be increased or decreased based on actual Net Working Capital as of the Closing, and within five (5) business days after determination thereof any increase shall be paid in cash by Buyer to Seller, and any decrease shall be paid in cash to Buyer by Seller.

**(c) *Dispute of Adjustments.*** In the event that Seller and Buyer are not able to agree on the actual Net Working Capital within thirty (30) days after Buyer's delivery of notice of disagreement, Seller and Buyer shall each have the right to require that such disputed determination be submitted to such independent certified public accounting firm as Seller and Buyer may then mutually agree upon in writing (the "Accounting Firm") for computation or verification in accordance with the provisions of this Agreement. The Accounting Firm shall review the matters in dispute and, acting as arbitrators, shall promptly decide the proper amounts of such disputed entries (which decision shall also include a final calculation of Net Working Capital). The submission of the disputed matter to the Accounting Firm shall be the exclusive remedy for resolving accounting disputes relative to the determination of Net Working Capital. The Accounting Firm's determination shall be binding upon Seller and Buyer, and such Accounting Firm's fees and expenses shall be borne equally by Seller and Buyer.

**(d) *Physical Inventory.*** If requested by Buyer, at least ten (10) business days prior to the Closing, Seller shall cause a physical inventory to be taken of the inventory and supplies on hand at the Facilities by employees or representatives of Seller or its Affiliates as near in time as possible to the Closing Date and with the results extended and adjusted through the Closing Date. Seller shall permit representatives or employees of Buyer to observe such inventory process. All inventory items shall be valued at the lower of Seller's cost or market on a first-in first-out basis. The parties acknowledge that the inventory to be taken pursuant to this Section 1.7(d) will not be conducted until immediately prior to the Closing Date and, as such, the results of such inventory may not be available until sometime after the Closing Date. Accordingly, the parties agree that for purposes of determining the estimated Net Working Capital as of the Closing Date, inventory with respect to the operation of the Facilities shall be calculated as reflected by the latest available unaudited balance sheets of the Seller Entities if the results of such inventory are not available. For purposes of determining the actual Net Working Capital, inventory shall be valued as determined pursuant to this Section 1.7(d).

**1.8 *Transition Patients.*** To compensate the Seller Entities for services rendered and medicine, drugs and supplies provided up to the Effective Time with respect to patients who are admitted as inpatients to the Hospitals prior to the Effective Time but who are not discharged until after the Effective Time (such patients being referred to herein as the "Transition Patients" and services rendered to them being referred to herein as the "Transition Services"), the parties shall take the following actions:

**(a)** As soon as practicable after the Closing Date, there shall be delivered to both parties a statement itemizing the Transition Services provided by each of the parties to Transition Patients whose medical care is paid for, in whole or in part, by Medicare, Medicaid,

TRICARE, Blue Cross or any other third-party payor who pays on a DRG, case rate or other similar basis (the “DRG Transition Patients”). The Buyer Entities shall pay to the Seller Entities an amount equal to (i) the total DRG and outlier payments (including capital and any deposits, deductibles or co-payments received by the Buyer Entities or the Seller Entities) per the remittance advice received by the Buyer Entities on behalf of a DRG Transition Patient, multiplied by a fraction, the numerator of which shall be the total charges for the Transition Services provided to such DRG Transition Patient by the Seller Entities, and the denominator of which shall be the sum of the total charges for all services provided to such DRG Transition Patient by the Seller Entities and the Buyer Entities both up to and after the Effective Time, minus (ii) any deposits, deductibles or co-payments made or payable by such DRG Transition Patients to the Seller Entities.

**(b)** As of Effective Time, cut-off billings (“Interim Billings”) for all Transition Patients not covered by Section 1.8(a) shall be prepared and sent following the discharge of the patient from the Hospitals. Any payments received by either the Buyer Entities or the Seller Entities for such Interim Billings are the property of the Seller Entities and shall be paid to the Seller Entities, when and as received by the Buyer Entities, within ten (10) business days of receipt.

**(c)** If the Buyer Entities receive amounts related to any Medicare, Medicaid, Medicaid Managed Care, TRICARE or other third-party payor program (such as the Hospitals Uncompensated Care Fund/Medicaid disproportionate share and Medicaid Managed Care Delivery System, Medicare disproportionate share payments, periodic interim payments (“PIP”), bi-weekly payments for Medicare bad debt, payments for costs paid on a pass-through basis, such as capital costs, and MIPS or other MACRA-based payments), associated with the operation of the Hospitals or the Facilities prior to the Effective Time, the Buyer Entities shall tender the amount applicable to the period prior to the Effective Time to the Seller Entities within ten (10) business days of receipt. If the Seller Entities receive amounts related to any Medicare, Medicaid, Medicaid Managed Care, TRICARE or other third-party payor program (such as Hospitals Uncompensated Care Fund/Medicaid disproportionate share and Medicaid Managed Care Delivery System, Medicare disproportionate share payments, PIP payments, bi-weekly payments for Medicare bad debt, or payments for pass-through costs, such as capital costs, and MIPS or other MACRA-based payments), associated with the operation of the Hospitals or the Facilities relating to periods after the Effective Time, the Seller Entities shall tender the same to the Buyer Entities within ten (10) business days of receipt. It is the intent of the parties that the Buyer Entities and the Seller Entities shall receive any and all amounts related to any other Medicare, Medicaid, Medicaid Managed Care, or other third-party payor program (such as Hospitals Uncompensated Care Fund/Medicaid disproportionate share and Medicaid Managed Care Delivery System, Medicare disproportionate share payments, PIP payments, bi-weekly payments for Medicare bad debt, and pass-through costs payments (including capital costs)) applicable to the period of time the Hospitals or the Facilities were owned by such party, calculated as the payment multiplied by a fraction, the numerator of which shall be the number of days the Hospitals or the Facilities were owned by the party during the period attributable to the payment and the denominator of which shall be the total number of days attributable to the payment. In conjunction with a Medicare cost report, the Medicare Audit Contractor (“MAC”) may apply bi-weekly payments to a party that are not applicable to its period of ownership. If this occurs, the parties agree to make payments to one another so that each party receives third party payments applicable to the period of time it owned the Hospitals or the Facilities in accordance with the methodology delineated above.

(d) All payments required by this Section 1.8 shall be made within ten (10) business days of a party's receipt of payment with respect to a Transition Patient, accompanied by copies of remittances and other supporting documentation as reasonably required by the other party. In the event that the Buyer Entities and the Seller Entities are unable to agree on any amount to be paid under this Section 1.8, then such amount shall be determined through the binding process provided in Section 1.7(c) at the joint equal expense of the Buyer Entities and the Seller Entities.

**1.9 Prorations.** Except as otherwise provided herein (for example, with respect to the determination of Net Working Capital) or as settled at the Closing, within ninety (90) days after the Closing Date (hereinafter defined), the Seller Entities and the Buyer Entities shall prorate as of the Effective Time any amounts which become due and payable on or after the Closing Date with respect to (i) the Contracts, (ii) ad valorem taxes, if any, on the Assets (which shall be prorated as of the Closing), (iii) personal property taxes on the Assets (which shall be prorated as of the Closing), (iv) rent, if any, for the Leased Real Property, and (v) all utilities servicing any of the Assets, including water, sewer, telephone, electricity and gas service. Any such amounts which are not available within ninety (90) days after the Closing Date shall be similarly prorated as soon as practicable thereafter. For purposes of this Section 1.9, the portion of any amount payable for a period that starts before the Effective Time and ends after the Effective Time (a "Straddle Period") that will be prorated and allocable to the Seller Entities shall equal the amount of such amount payable for the entire Straddle Period (or, in the case of such taxes determined on an arrears basis, the amount of such taxes for the immediately preceding period), multiplied by a fraction, the numerator of which is the number of calendar days in the Straddle Period ending prior to the Effective Time and the denominator of which is the number of calendar days in the entire Straddle Period.

## 2. CLOSING.

**2.1 Closing.** Subject to the satisfaction or waiver by the appropriate party of all of the conditions precedent to Closing specified in Sections 7 and 8 hereof, the consummation of the transactions contemplated by and described in this Agreement (the "Closing") shall take place via electronic exchange of closing deliverables on the last business day of the month in which all of the conditions precedent to the obligations of the parties (other than those conditions that by their terms are to be satisfied at the Closing) have been satisfied or waived, or such other date as the parties may mutually designate in writing (the date of consummation is referred to herein as the "Closing Date"). The Closing shall be effective as of 12:00:01 a.m., local time, on the first day of the next calendar month immediately following the Closing Date, or at such other time as the parties may mutually designate in writing (such time, the "Effective Time").

**2.2 Actions of Seller at Closing.** At the Closing and unless otherwise waived in writing by Buyer, Seller shall deliver to Buyer the following:

(a) Deeds containing special warranty of title, fully executed by each applicable Seller Entity in recordable form, conveying to each applicable Buyer Entity fee title to the Owned Real Property (the "Deeds"), and Assignments of Leases, fully executed by each applicable Seller Entity, assigning to each applicable Buyer Entity leasehold title to the Leased Real Property (the "Assignments of Leases"), subject only to the Permitted Encumbrances and the Assumed Liabilities;

**(b)** A General Assignment, Conveyance and Bill of Sale, fully executed by each applicable Seller Entity, conveying to each applicable Buyer Entity all of such Seller Entity's right, title and interest in the Assets, free and clear of all liabilities, claims, liens, security interests and restrictions other than the Assumed Liabilities;

**(c)** An Assignment and Assumption Agreement (the "Assignment and Assumption Agreement"), fully executed by each applicable Seller Entity, conveying to each applicable Buyer Entity such Seller Entity's interest in the Contracts;

**(d)** Copies of corporate resolutions duly adopted by the Board of Directors of Seller and each Seller Entity, authorizing and approving the performance of the transactions contemplated hereby and the execution and delivery of this Agreement and the documents described herein, certified as true and of full force as of the Closing, by the appropriate officers of Seller and each Seller Entity;

**(e)** Certificate of the President or a Vice President of Seller, certifying as to the satisfaction of the condition precedent contained in Section 7.1 of this Agreement;

**(f)** Certificates of incumbency for the respective officers of Seller and each Seller Entity executing this Agreement and any other agreements or instruments contemplated herein or making certifications for the Closing dated as of the Closing Date;

**(g)** Certificates of existence and good standing of Seller and each Seller Entity from the state in which it is incorporated or formed, dated the most recent practical date prior to the Closing;

**(h)** All Certificates of Title and other documents evidencing an ownership interest conveyed as part of the Assets;

**(i)** A standard form owner's affidavit (modified as necessary to make factually accurate) as required by the Title Company (as defined in Section 6.3 hereof) to issue the Title Policy (as defined in Section 6.3 hereof) as described in and provided by Section 7.3 hereof;

**(j)** An Information Technology Transition Services Agreement under which Seller or a Seller Affiliate will provide or arrange for the provision of information technology and related services consistent with historical practice at the Facilities during a transition period of twelve (12) months (the "Information Services Agreement") and a related Business Associate Agreement (the "Business Associate Agreement") fully executed by Seller or an Affiliate of Seller;

**(k)** A Hospitals Transition Services Agreement under which Seller or a Seller Affiliate will provide or arrange for the provision of billing and collection services consistent with historical practice at the Hospitals during a transition period of twelve (12) months (the "Transition Services Agreement"), fully executed by Seller or an Affiliate of Seller;

**(l)** A Clinic Billing and Collection Agreement under which Seller or a Seller Affiliate will provide or arrange for the provision of billing and collection services consistent with historical practice at the Facilities during a transition period of twelve (12) months (the "Billing and Collection Agreement"), fully executed by Seller or an Affiliate of Seller;



(m) A license agreement under which Buyer will be licensed to use the policy and procedure manuals used at the Facilities immediately prior to the Effective Time (the "License Agreement"), fully executed by Seller or an Affiliate of Seller;

(n) A certification (in such form as may be reasonably requested by Buyer) conforming to the requirements of Treasury Regulations 1.1445-2(c)(3) and 1.897-2(h);

(o) An Assignment of Membership Interests representing the Acquired Company Ownership Interests, duly executed by the appropriate Seller Entity;

(p) Resignations of the officers and directors of the Acquired Company;

(q) Minute books of the Acquired Company; and

(r) Such other instruments and documents as the parties reasonably agree are appropriate and necessary to effect the transactions contemplated hereby.

**2.3 Actions of Buyer at Closing.** At the Closing and unless otherwise waived in writing by Seller, Buyer shall deliver to Seller the following:

(a) An amount equal to the Purchase Price in immediately available funds;

(b) The Assignment of Leases, fully executed by each applicable Buyer Entity, pursuant to which the Buyer Entities shall assume the future payment and performance of the leases of the Leased Real Property as provided in this Agreement;

(c) The Assignment and Assumption Agreements, fully executed by each applicable Buyer Entity, pursuant to which the Buyer Entities shall assume the future payment and performance of the Contracts and the Assumed Liabilities as provided in this Agreement;

(d) Copies of resolutions duly adopted by the Board of Directors of Buyer and each Buyer Entity authorizing and approving their respective performance of the transactions contemplated hereby and the execution and delivery of this Agreement and the documents described herein, certified as true and in full force as of the Closing, by the appropriate officers of Buyer and each Buyer Entity;

(e) Certificate of the President or a Vice President of Buyer, certifying as to the satisfaction of the condition precedent contained in Section 8.1 of this Agreement;

(f) Certificates of incumbency for the respective officers of Buyer and each Buyer Entity executing this Agreement and any other agreements or instruments contemplated herein or making certifications for the Closing dated as of the Closing Date;

(g) Certificates of existence and good standing of Buyer and each Buyer Entity from the state in which each is incorporated or formed, dated the most recent practical date prior to Closing;

(h) The Information Services Agreement and the Business Associate Agreement attached thereto, fully executed by Buyer or its Affiliates(s), as applicable;

- (i) The Transition Services Agreement, fully executed by Buyer or its Affiliates, as applicable;
- (j) The Billing and Collection Agreement, fully executed by Buyer or its Affiliates, as applicable;
- (k) The License Agreement, fully executed by Buyer or its Affiliates(s), as applicable; and

(l) Such other instruments and documents as the parties reasonably agree are appropriate and necessary to effect the transactions contemplated hereby.

**3. REPRESENTATIONS AND WARRANTIES OF SELLER.** As of the date hereof, and, when read in light of any Schedules which have been updated in accordance with the provisions of Section 12.1 hereof, as of the Closing Date, Seller represents and warrants to Buyer and the Buyer Entities the following:

**3.1 Existence and Capacity.**

(a) Seller is a corporation, duly organized and validly existing in good standing under the laws of the State of Delaware. Seller has the requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to conduct its business as now being conducted. Each Seller Entity is a limited partnership, limited liability company or corporation, duly organized and validly existing in good standing under the laws of the state of its formation or incorporation, as the case may be. Each Seller Entity has the requisite power and authority to conduct its business as now being conducted.

(b) The Acquired Company (i) is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, and (ii) has the limited liability company power and authority to own or lease and to operate its assets and to conduct its business as currently conducted. The Acquired Company has not engaged in any business other than certain actions taken in connection with filing a Certificate of Need Application with the North Carolina Department of Health and Human Services with respect to a specialty ambulatory surgical facility.

(c) Statesville HMA, LLC owns all of the Acquired Company Ownership Interests. The Acquired Company Ownership Interests have been duly authorized, validly issued, fully paid and non-assessable. There are no outstanding equity securities of the Acquired Company, including (i) securities which are convertible into or exchangeable for any membership interests of the Acquired Company, (i) contracts, arrangements, commitments or restrictions relating to the issuance, sale, transfer, purchase or obtaining of capital stock or other equity securities of the Acquired Company, or (iii) options, warrants, rights, calls or commitments of any character granted or issued by the Acquired Company governing the issuance of its membership interests.

(d) Statesville HMA, LLC has good and marketable title to, and owns, the Acquired Company Ownership Interests, beneficially and of record. The Acquired Company Ownership Interests are held free of any liens, claims, security interests or other encumbrances.

Statesville HMA, LLC has full voting power over the Acquired Company Ownership Interests, subject to no proxy, shareholders' agreement, voting trust or other agreement relating to the voting of any of the Acquired Company Ownership Interests. Other than this Agreement, there is no agreement between Statesville HMA, LLC and any other person with respect to the disposition of the Acquired Company Ownership Interests.

**3.2 Powers; Consents; Absence of Conflicts With Other Agreements, Etc.** The execution, delivery, and performance of this Agreement by Seller and all other agreements referenced herein, or ancillary hereto, to which Seller is a party, and the consummation by Seller and each Seller Entity of the transactions contemplated by this Agreement and the documents described herein, as applicable:

(a) are within its corporate powers, are not in contravention of corporate law or of the terms of its organizational documents, and have been duly authorized by all appropriate corporate action;

(b) except as provided in Sections 5.4 and 5.5, do not require any approval or consent required to be obtained by Seller of, or filing required to be made by Seller with, any governmental agency or authority bearing on the validity of this Agreement which is required by law or the regulations of any such agency or authority;

(c) assuming the receipt of any consents required pursuant to the Contracts, will neither conflict with, nor result in any breach or contravention of, or the creation of any lien, charge, or encumbrance under, any indenture, agreement, lease, instrument or understanding to which it is a party or by which it is bound;

(d) will not violate any statute, law, rule, or regulation of any governmental authority to which it or the Assets may be subject; and

(e) will not violate any judgment, decree, writ or injunction of any court or governmental authority to which it or the Assets may be subject.

**3.3 Binding Agreement.** This Agreement and all agreements to which Seller or any of the Seller Entities will become a party pursuant hereto are and will constitute the valid and legally binding obligations of Seller and/or such Seller Entities, respectively, and are and will be enforceable against it or them in accordance with the respective terms hereof or thereof.

**3.4 Financial Statements.** Seller has delivered to Buyer copies of the following financial statements of the Seller Entities and the Partial Subsidiary ("Financial Statements"), which Financial Statements are maintained on an accrual basis:

(a) Unaudited Balance Sheet dated as of September 30, 2022 (the "Balance Sheet Date");

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

(c) Unaudited Balance Sheets and Income Statements for the fiscal years ended December 31, 2021 and 2020.

Except as set forth in Schedule 3.4, such Financial Statements have been (and the monthly financial statements delivered pursuant to Section 5.6 will be) prepared in accordance with GAAP, applied on a consistent basis throughout the periods indicated. Such Balance Sheets present fairly in all material respects (and, in the case of financial statements delivered pursuant to Section 5.6, will present fairly in all material respects) the financial condition of each Seller Entity and the Partial Subsidiary as of the dates indicated thereon, and such Income Statements present fairly in all material respects (and, in the case of financial statements delivered pursuant to Section 5.6, will present fairly in all material respects) the results of operations of each Seller Entity and the Partial Subsidiary for the periods indicated thereon.

**3.5 Absence of Certain Changes.** Except as set forth in Schedule 3.5 hereto, since the Balance Sheet Date there has not been any:

- (a) event, change or circumstance that, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect (hereinafter defined);
- (b) material damage, destruction, or loss (whether or not covered by insurance) affecting the Facilities or the Partial Subsidiary;
- (c) actual or threatened employee strike, work stoppage, or labor dispute pertaining to the Facilities or the Partial Subsidiary;
- (d) sale, assignment, transfer, or disposition of any item of property, plant or equipment included in the Assets having a value, individually or in the aggregate, in excess of Fifty Thousand Dollars (\$50,000) (other than supplies), except in the ordinary course of business consistent with past practices;
- (e) increases in the compensation payable by the Seller Entities or the Partial Subsidiary to any of their employees or independent contractors outside of the ordinary course of business, or any increase in, or institution of, any bonus, retention, severance, insurance, pension, profit-sharing or other employee benefit plan, remuneration or arrangements made to, for or with such employees;
- (f) adjustments or write-offs in accounts receivable or reductions in reserves for accounts receivable outside the ordinary course of business;
- (g) changes in the accounting methods or practices employed by the Seller Entities or the Partial Subsidiary, or changes in depreciation or amortization policies;
- (h) material changes in the scope of patient care services or a reduction in staffed or licensed bed count at any of the Facilities; or
- (i) material transaction pertaining to any of the Facilities by any Seller Entity or the Partial Subsidiary outside the ordinary course of business.

**3.6 Licenses.** Each Facility is duly licensed pursuant to the applicable laws of the State of North Carolina and is in compliance in all material respects with all state and local licensure rules and regulations. The pharmacies, laboratories, and all other ancillary departments owned or operated by the Seller Entities and located at the Facilities or operated for the benefit of the

Facilities which are required to be specially licensed are duly licensed by the appropriate licensing agency (the "State Health Agency"). The Seller Entities and the Partial Subsidiary have all material licenses, registrations, permits, and approvals which are needed to operate the businesses owned or operated by them at the Facilities as currently operated. Seller has delivered to Buyer an accurate list (Schedule 3.6) of all such licenses, registrations, permits and approvals owned or held by the Seller Entities and the Partial Subsidiary relating to the ownership, development, or operation of the Facilities or the Assets, all of which are now and as of the Closing shall be in good standing.

**3.7 Medicare Participation/Accreditation.** Each of the Seller Entities and the Partial Subsidiary are qualified for participation in the Medicare, Medicaid and CHAMPUS/TRICARE programs, has current and valid provider contracts with such programs, is and for the past six (6) years has been, in compliance in all material respects with the conditions of participation in such programs. The Hospitals have received all approvals or qualifications necessary for capital reimbursement for the Hospitals. Except as set forth in Schedule 3.7, the Hospitals are duly accredited, with no contingencies, by The Joint Commission. Copies of the most recent accreditation letters from The Joint Commission pertaining to the Hospitals have been made available to Buyer. All billing practices of the Seller Entities and the Partial Subsidiary with respect to the Facilities to all third-party payors, including the Medicare, Medicaid and CHAMPUS/TRICARE programs and private insurance companies, have been in compliance with all applicable laws, regulations and policies of such third-party payors and the Medicare, Medicaid and CHAMPUS/TRICARE programs, and neither the Seller Entities nor the Facilities or the Partial Subsidiary have billed or received any payment or reimbursement in excess of amounts allowed by law. Neither the Seller Entities, the Partial Subsidiary nor any of their officers, directors, managing employees, service providers or controlling shareholders are excluded from participation in the Medicare, Medicaid or CHAMPUS/TRICARE programs, nor to Seller's knowledge is any such exclusion threatened. Except as set forth in Schedule 3.7, the Seller, the Seller Entities, or the Partial Subsidiary have not received any written notice from any of the Medicare, Medicaid or CHAMPUS/TRICARE programs, or any other third-party payor programs of any pending or, to Seller's knowledge, threatened investigations or surveys relating to the Facilities. Except as set forth in Schedule 3.7, no Seller Entity or Partial Subsidiary (i) is a party to a Corporate Integrity Agreement with the Office of Inspector General of the United States Department of Health and Human Services, (ii) has any reporting obligations pursuant to any settlement agreement entered into with any governmental entity, (iii) has been, to Seller's knowledge, within the past six (6) years the subject of any governmental payer program investigation conducted by any federal or state enforcement agency, (iv) is and has been, to Seller's knowledge, within the past six (6) years a defendant in any qui tam/False Claims Act litigation, (v) during the past six (6) years has been served with or received any search warrant, subpoena, civil investigative demand, or, to Seller's knowledge, contact letter or telephone or personal contact by or from any federal or state enforcement agency, and (vi) has to Seller's knowledge, during the past six (6) years received any written complaints from any employee, independent contractor, vendor, physician or other person or organization that would indicate that such Seller Entity or Partial Subsidiary have violated any material healthcare law or regulation. The Seller Entities required to be registered have registered with the QNet Exchange ("QNet") as required by The Centers for Medicare and Medicaid Services ("CMS") under its Hospitals Quality Initiative Program (the "HQI Program") and are listed in Schedule 3.7. The Seller Entities have submitted all quality data required under the HQI Program to CMS or its agent, and all quality data required under the ORYX Core Measure Performance Measurement System ("ORYX") to The Joint

Commission, for all calendar quarters concluded prior to the date of this Agreement, except for any quarter for which the respective reporting deadlines have not yet expired. All such submissions of quality data have been made in accordance with applicable reporting deadlines and in the form and manner required by CMS and The Joint Commission, respectively. The Seller Entities have not received notice of any reduction in reimbursement under the Medicare program resulting from their failure to report quality data to CMS or its agent as required under the HQI Program. Seller has provided Buyer with the HQI Program "validation results" for all calendar quarters concluded prior to the date of this Agreement, except for any quarter for which the respective reporting deadlines have not yet expired.

**3.8 Regulatory Compliance.** Except as set forth in Schedule 3.8, the Seller Entities and the Partial Subsidiary are and during the past six (6) years have been in compliance in all material respects with all applicable statutes, rules, regulations, and requirements of the Government Entities having jurisdiction over the Facilities and the operations of the Facilities. As used herein, "Government Entity" means any government or any agency, bureau, board, directorate, commission, court, department, official, political subdivision, tribunal or other instrumentality of any government, whether federal, state or local. The Seller Entities and the Partial Subsidiary have timely and accurately filed all reports, data, and other information required to be filed with the Government Entities. Neither the Seller Entities, the Partial Subsidiary, nor any of their employees have committed a material violation of federal or state laws regulating fraud, including but not limited to the federal Anti-Kickback Law, the Stark Law, and the False Claims Act. The Seller Entities' and the Partial Subsidiary's contracts and other arrangements with physicians are and during the past six (6) years have been in compliance in all material respects with all applicable state corporate practice of medicine and fee-splitting laws and regulations, as well as the federal Anti-Kickback Law and Stark Law. Except as set forth in Schedule 3.8, the Seller Entities and the Partial Subsidiary are and during the past six (6) years have been in compliance in all material respects with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and all rules and regulations promulgated pursuant to HIPAA, and the requirements of the federal Health Information Technology for Economic and Clinical Health Act enacted on February 17, 2009, and all other applicable United States federal and state laws and regulations as presently existing or later adopted, and as amended from time to time, which govern the confidentiality, privacy and security (including gathering, use, transmission, processing, receipt, reporting, disclosure, maintenance and storage) of patient information.

**3.9 Equipment.** Seller has delivered to Buyer a schedule as of the Balance Sheet Date which takes into consideration all the material equipment associated with, or constituting any part of, the Facilities and the Assets.

**3.10 Real Property.** For purposes of the representation provided in this Section 3.10, that certain real property that is leased by the Partial Subsidiary pursuant to the that certain Medical Office Space Lease, by and between Langtree Endoscopy Center, LLC and 309 Alcove, LLC dated December 07, 2018, as amended by Addendum to Medical Office Space Lease dated December 07, 2018, as amended by First Amendment to Medical Office Space Lease dated July 1, 2020 (106 Alexander Drive (f/k/a 309 Alcove Road), Suite 101, Mooresville, NC) (the "Partial Subsidiary Leased Real Property") shall be deemed to be included in the "Real Property" as a "Leased Real Property." Except as set forth in Schedule 3.10, the Seller Entities or the Partial Subsidiary own good and indefeasible fee simple and/or good and valid leasehold title, as the case

may be, to the Real Property. The Real Property will be conveyed to the Buyer Entities (except for the Partial Subsidiary Leased Real Property, which will remain with the Partial Subsidiary) free and clear of any and all liens, encumbrances or other restrictions except (i) any lien for taxes not yet due and payable, (ii) any lease obligations under the Contracts assumed by the Buyer Entities, (iii) easements, restrictions and other matters of record, so long as such matters do not, collectively or individually, materially interfere with the operations of the Facilities in a manner consistent with the current use by the Seller Entities or the Partial Subsidiary, (iv) zoning regulations and other governmental laws, rules, regulations, codes, orders and directives affecting the Real Property, (v) unrecorded easements, discrepancies, boundary line disputes, overlaps, encroachments and other matters that would be revealed by an accurate survey or inspection of the Real Property, so long as such matters do not, collectively or individually, materially interfere with the operations of the Facilities in a manner consistent with the current use by the Seller Entities or the Partial Subsidiary, (vi) any encumbrances or defects that do not materially interfere with the operations of the Facilities in a manner consistent with the current use by the Seller Entities or the Partial Subsidiary, (vii) the matters described in Schedule 3.10, and (viii) with respect to the Leased Real Property, any encumbrances which encumber the fee interest in such property (collectively, the "Permitted Encumbrances"). With respect to the Real Property:

**(a)** Except as set forth in Schedule 3.10(a), neither Seller nor any of the Seller Entities or the Partial Subsidiary has received during the past three (3) years written notice from any Government Entity of a violation of any applicable ordinance or other law, order or regulation with respect to the Owned Real Property, which violation has not been corrected;

**(b)** Except as set forth in Schedule 3.10(b), to the knowledge of Seller, the Owned Real Property and its operation are in material compliance with all applicable zoning ordinances (or is considered legally nonconforming or "grandfathered" thereunder);

**(c)** There are no tenants or other persons or entities occupying any space in the Real Property, other than pursuant to tenant leases described in Schedule 3.10(c), and no tenants have paid rent in advance for more than one month and no improvement credit or other tenant allowance of any nature is owed to any tenant, nor is any landlord improvement work required, nor do any rent abatements or other incentives exist, except as disclosed in Schedule 3.10(c);

**(d)** Attached to Schedule 3.10(d) is a "rent roll" which sets forth for those leases where a Seller Entity is landlord: (i) the address of the property; (ii) the names of then current tenants; (iii) the square footage leased; (iv) the expiration date of the lease; (v) the rental payments for the then current month under each of the leases; (vi) a list of all then delinquent rental payments; (vii) a list of all tenant deposits and a description of any application thereof; and (viii) a list of all uncured material defaults under the leases known to Seller;

**(e)** Except as set forth in Schedule 3.10(e), neither Seller nor any of the Seller Entities nor the Partial Subsidiary has received during the past three (3) years any written notice from any Governmental Entity of any existing, proposed or contemplated plans to modify or realign any street or highway, or any existing, proposed or contemplated eminent domain proceeding that would result in the taking of all or any part of the Owned Real Property or that would materially and adversely affect the current use of any part of the Owned Real Property; and

(f) Except as set forth in Schedule 3.10(f), there are no outstanding options, including rights of first offer or rights of first refusal, granted by the Seller Entities to any party to purchase any Owned Real Property or any interest in any Owned Real Property.

(g) Seller has delivered to Buyer copies of all title insurance policies and surveys relating to the Owned Real Property in the possession of any Seller Entity. Buyer acknowledges and agrees that Seller has not made and is not making any representations or warranties relating to such items, Buyer shall have no right to rely on such items, and Buyer utilizes such items at its own risk.

**3.11 Title to Other Assets.** As of the Closing, the Seller Entities shall own and hold good and valid title or leasehold interests, as the case may be, to all of the tangible Assets other than the Real Property, and at the Closing the Seller Entities will assign and convey to the Buyer Entities such title or leasehold interests, as the case may be, to all of such Assets, subject only to the Permitted Encumbrances and the Assumed Liabilities.

**3.12 Employee Benefit Plans.**

(a) Schedule 3.12 sets forth a true, complete and correct list of all “employee benefit plans,” as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 (“ERISA”) (whether or not subject to ERISA), all fringe benefit plans as defined in Section 6039D of the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder (the “Code”), and all other bonus, incentive compensation, deferred compensation, profit sharing, stock option, severance, supplemental unemployment, layoff, salary continuation, retirement, pension, health, life insurance, disability, group insurance, vacation, holiday, sick leave, welfare plan or employment, change in control, confidentiality or non-competition agreement or any other similar plan, program, agreement, arrangement, policy or understanding (whether oral or written, qualified or non-qualified) and any trust, escrow or other funding arrangement related thereto (collectively, the “Benefit Plans”), which is sponsored, maintained or contributed to (or required to be contributed to) for or on behalf of the employees, former employees, independent contractors or directors (or any of their dependents) of Seller, the Seller Entities or the Partial Subsidiary or pursuant to which Seller, the Seller Entities or the Partial Subsidiary or reasonably could be expected to have any liability or obligation (including contingent liability). With respect to each Benefit Plan, the Seller has provided to Buyer (to the extent applicable) accurate and complete copies of: (i) the summary plan description and all summaries of material modifications thereto and (ii) the most recent determination letter or pre-approved plan advisory or opinion letter, if any, issued by the Internal Revenue Service. The Acquired Company and the Partial Subsidiary do not currently and have not at any time in the past sponsored or maintained any Benefit Plan.

(b) (i) Each of the Benefit Plans is and has been maintained and administered in all material respects in compliance with its terms and applicable legal requirements (including ERISA), (ii) there have been no prohibited transactions, breaches of fiduciary duty or other breaches or violations of any law applicable to the Benefit Plans that could subject Buyer to any liability, (iii) each Benefit Plan intended to be qualified under Section 401(a) of the Code is so qualified and has a current favorable determination letter (or, in the case of a master and prototype or regional prototype plan, a favorable opinion or notification letter, as applicable) or an



application therefore is pending with the IRS, (iv) no event has occurred that would reasonably be expected to adversely affect the qualified status of such Benefit Plan under Sections 401(a) of the Code, or that would otherwise cause a distribution therefrom that is otherwise eligible for rollover treatment under Section 408 of the Code to be ineligible to be rolled into an individual retirement account or a plan that is qualified under Section 401(a) of the Code.

(c) Except as set forth in Schedule 3.12, for the past six (6) years, neither Seller, the Seller Entities, the Partial Subsidiary nor any ERISA Affiliate of Seller, the Seller Entities or the Partial Subsidiary sponsors, has maintained, contributed to, or been required to contribute to an employee benefit plan that is (i) a “multiemployer plan,” as such term is defined in Section 3(37) of ERISA, (ii) any defined benefit pension plan (as defined in Section 3(35) of ERISA) that is or was at any time subject to Title IV of ERISA, Sections 302 or 303 of ERISA or Sections 412 or 436 of the Code, (iii) a multiple employer plan as defined in Section 413(c) of the Code, or (iv) a multiple employer welfare arrangement (as defined in Section 3(40) of ERISA). ERISA Affiliate shall mean any entity that at any relevant time would be treated as a single employer with Seller, the Seller Entities or any of their subsidiaries (including without limitation the Partial Subsidiary) under Section 414 of the Code.

(d) None of the Benefit Plans listed in Schedule 3.12 that are “welfare benefit plans,” within the meaning of Section 3(1) of ERISA, provide for continuing benefits or coverage after termination or retirement from employment, except for COBRA rights under a “group health plan” as defined in Section 4980(B)(g) of the Code and Section 607 of ERISA or any similar applicable state law.

(e) Neither the execution, delivery or performance of this Agreement nor the consummation of the transactions contemplated by this Agreement (whether alone or in combination with any other event, including, but not limited to, a termination of employment) shall (i) entitle any current or former employee, independent contractor, officer, director or other service provider to any payment or any increase in payment under any Benefit Plan, (ii) accelerate the time of payment, funding or vesting of any benefit under any Benefit Plan, or (iii) result in any payments or benefits under any agreement with the Seller or the Seller Entities, the Company that, individually or in combination with any other payment or benefit, could constitute the payment of an “excess parachute payment” within the meaning of Section 280G of the Code or in the imposition of an excise Tax under Section 4999 or Section 409A of the Code. Notwithstanding any other provision of this Section 3.12(e), it is expressly understood that all of the employees of the Facilities will, following their termination of employment with the Seller Entities, (i) be entitled to elect any distribution available under the terms of any of the Benefit Plans that are available to former employees of the Seller Entities, (ii) shall have any rights to continuation coverage under any of the Benefit Plans pursuant to the terms of those plans and applicable law, and (iii) be entitled to receive any other benefits payable to former employees of the Seller Entities; all of which are Excluded Liabilities.

**3.13 *Litigation or Proceedings.*** Schedule 3.13 sets forth an accurate list of all currently pending litigation or legal proceedings with respect to the Facilities, the Partial Subsidiary and the Assets. Except as set forth in Schedule 3.13, there are no claims, actions, suits, proceedings, or investigations pending, or to the knowledge of Seller, threatened, against the Seller Entities, the Partial Subsidiary, the Facilities or the Assets (or against Seller or any of its other Affiliates and relating, in whole or in part, to the Facilities or the Assets) at law or in equity, or before or by any

federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality wherever located. There are no judgments, orders, decrees, citations, fines or penalties heretofore assessed against the Seller Entities, the Partial Subsidiary, or their Affiliates affecting the Assets or the Assumed Liabilities under any federal, state or local law.

**3.14 Environmental Laws.** Except as set forth in Schedule 3.14 hereto, (i) the Owned Real Property is not, to the knowledge of Seller, subject to any material environmental hazards, risks, or liabilities, (ii) the Seller Entities and the Partial Subsidiary are not in violation of any federal, state or local statutes, regulations, laws or orders pertaining to the protection of human health and safety or the environment (collectively, "Environmental Laws"), including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act, as amended ("CERCLA"), and the Resource Conservation and Recovery Act, as amended ("RCRA"), and (iii) neither Seller, any Seller Entity, nor any Partial Subsidiary has received any notice alleging or asserting either a violation of any Environmental Law or an obligation to investigate, assess, remove, or remediate any property, including but not limited to the Owned Real Property, under or pursuant to any Environmental Law. No Hazardous Substances (which for purposes of this Section 3.14 shall mean and include polychlorinated biphenyls, asbestos, and any substances, materials, constituents, wastes, or other elements which are included under or regulated by any Environmental Law, including, without limitation, CERCLA and RCRA) have been disposed of on or released or discharged from or onto, or threatened to be released from or onto, the Owned Real Property (including groundwater) by the Seller Entities, or to Seller's knowledge, any third party, in violation of or which could give liability under any applicable Environmental Law. Neither the Seller Entities, nor to Seller's knowledge, any prior owners, operators or occupants of the Owned Real Property, have allowed any Hazardous Substances to be discharged, possessed, managed, processed, released, or otherwise handled on the Owned Real Property in a manner which is in violation of or which could give liability under any Environmental Law, and the Seller Entities have complied with all Environmental Laws applicable to any part of the Owned Real Property. True, correct and complete copies of each environmental site assessment, environmental audit, environmental investigation report, soil or groundwater report, tank closure report, notice of noncompliance, order, citation and other material environmental report concerning the Owned Real Property in the possession or control of Seller or any of the Seller Entities has been provided to Buyer. This Section 3.14 contains the exclusive representations and warranties of Seller with respect to environmental matters.

**3.15 Taxes.** Except as set forth in Schedule 3.15, each Seller Entity and the Partial Subsidiary has timely filed all federal, state and local Tax Returns required to be filed by it (all of which are true, correct and complete in all material respects) and has duly paid or made provision for the payment of all Taxes (including any interest or penalties and amounts due state unemployment authorities) which are owed by it (whether or not shown on any Tax Return) to the appropriate tax authorities. Except as set forth in Schedule 3.15, neither Seller Entity nor the Partial Subsidiary is the beneficiary of any extension of time within which to file a Tax Return. Except as set forth in Schedule 3.15, no deficiencies for any of such Taxes have been asserted or to the knowledge of Seller or any Seller Entity, as applicable, threatened, and no audit or other administrative proceedings or court proceedings with respect to Taxes is currently pending or under way or to the knowledge of Seller or any Seller Entity, as applicable, threatened. Except as set forth in Schedule 3.15, there are no outstanding agreements by any Seller Entity or the Partial Subsidiary for the extension of time for the assessment of any Taxes. There are no tax liens on

any of the Assets and no basis exists for the imposition of any such liens. No claim has even been made by an authority in a jurisdiction where any Seller Entity or the Partial Subsidiary does not file Tax Returns that it is or may be subject to taxation by that jurisdiction. There is no dispute or claim concerning any Tax liability of any Seller Entity or the Partial Subsidiary either (a) claimed or raised by a tax authority in writing or (b) as to which any of the directors and officers of Seller or any Seller Entity, as applicable, has knowledge. As used herein, "Tax" or "Taxes" means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Code § 59A), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, whether computed on a separate or consolidated, unitary or combined basis or in any other manner, relating to the Partial Subsidiary, the Assets, the Facilities or the operation of the Facilities, including any interest, penalty or addition thereto, whether disputed or not and including any obligation to indemnify or otherwise assume or succeed to the Tax liability of any other person. "Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof. The Seller Entities and the Partial Subsidiary have (i) to the extent applicable, properly complied with all applicable laws in order to defer the amount of the employer's share of any "applicable employment taxes" under Section 2302 of the CARES Act, (ii) to the extent applicable, properly complied with all applicable laws and duly accounted for any available Tax credits under Sections 7001 through 7005 of the Families First Coronavirus Response Act and Section 2301 of the CARES Act and (iii) not deferred any payroll Tax obligations (including those imposed by Section 3101(a) and 3201 of the Code) (for example, by failure to timely withhold, deposit or remit such amounts in accordance with the applicable provisions of the Code and the Treasury Regulations promulgated thereunder) pursuant to or in connection with any U.S. presidential memorandum or executive order.

### **3.16 Employee Relations.**

(a) Neither the Acquired Company nor the Partial Subsidiary have or have ever had any direct employees and all employees who currently perform or have in the past performed services on behalf of the Partial Subsidiary or the Acquired Company are or were employed by a Seller Entity. To Seller's knowledge, there is no threatened employee strike, work stoppage, or labor dispute pertaining to the Facilities. Except as set forth in Schedule 3.16, no union representation question exists respecting any employees of the Seller Entities. No collective bargaining agreement exists or is currently being negotiated by the Seller Entities, no written demand has been received for recognition by a labor organization by or with respect to any employees of the Seller Entities, no union organizing activities by or with respect to any employees of the Seller Entities are, to the knowledge of Seller, taking place, and none of the employees of the Seller Entities is represented by any labor union or organization. There is no written unfair practice claim against the Seller Entities before the National Labor Relations Board, nor any strike, dispute, slowdown, or stoppage pending or threatened against or involving the Facilities, and none has occurred within the last three (3) years.

(b) Except as set forth in Schedule 3.16, the Seller Entities have, to the knowledge of Seller, complied in all material respects with all legal requirements relating to

employment, employment practices, terms and conditions of employment, equal employment opportunity, nondiscrimination, immigration, wages, hours, benefits, payment of employment, social security, and similar taxes, occupational safety and health, and plant closing. No Seller Entity is liable for the payment of any compensation, damages, taxes, fines, penalties, interest, or other amounts, however designated, for failure to comply with any of the foregoing legal requirements. Except as set forth in Schedule 3.16, there are no pending or, to the knowledge of Seller, threatened claims before the Equal Employment Opportunity Commission (or any comparable state civil or human rights commission or other entity), complaints before the Occupational Safety and Health Administration (or any comparable state safety or health administration or other entity), wage and hour claims, or the like. Each Seller Entity has correctly classified those individuals performing services for the applicable Seller Entity as common law employees, leased employees, independent contractors or agents of the applicable Seller Entity.

(c) Schedule 3.16 states or will state the number of employees terminated by each Seller Entity within six (6) months prior to the Closing Date, laid off by each Seller Entity within the six (6) months prior to the Closing Date, or whose hours of work have been reduced by more than fifty percent (50%) by a Seller Entity in the six (6) months prior to the Closing Date, and contains a complete and accurate list of the following information for such employees: (i) the date of termination, layoff, or reduction in work hours; (ii) the reason for termination, layoff, or reduction in work hours; and (iii) the location to which the employee was assigned. In relation to the foregoing, except as set forth in Schedule 3.16, no Seller Entity has violated the Worker Adjustment and Retraining Notification Act (the "WARN Act") or any similar state or local legal requirements.

**3.17 The Contracts.** Seller has made available to Buyer true and correct copies of the Contracts (including the Immaterial Contracts), and has given, and will give, the agents, employees and representatives of Buyer access to the originals of the Contracts to the extent originals are available. "Immaterial Contracts" are commitments, contracts, leases and agreements which individually involve future payments, performance of services or delivery of goods or materials, to or by any Seller Entity of any amount or value less than Fifty Thousand Dollars (\$50,000) on an annual basis, and that are not with physicians or other referral sources. Seller represents and warrants with respect to the Contracts that:

(a) The Contracts constitute legal, valid and binding obligations of the Seller Entities and, to the knowledge of Seller, the other parties with respect thereto, and are enforceable against the Seller Entities and, to the knowledge of Seller, the other parties with respect thereto in accordance with their terms;

(b) Each Contract constitutes the entire agreement by and between the respective parties thereto with respect to the subject matter thereof;

(c) Assuming the receipt of any consents required in connection with the assignment of the Contracts, all obligations required to be performed by the Seller Entities and, to the knowledge of Seller, the other parties with respect thereto prior to the date hereof under the terms of the Contracts have been performed, and no acts or omissions by the Seller Entities and, to the knowledge of Seller, the other parties with respect thereto have occurred or failed to occur which, with the giving of notice, the lapse of time or both would constitute a default by the Seller Entities and, to the knowledge of Seller, the other parties with respect thereto under the Contracts;

(d) Except as expressly set forth in Schedule 1.1(g), none of the Contracts requires consent to the assignment and assumption of such Contracts by the Buyer Entities, and Seller will use commercially reasonable efforts to obtain any required consents prior to the Closing; and

(e) Except as expressly set forth in Schedule 1.1(g), the assignment of the Contracts to and assumption of such Contracts by the Buyer Entities will not result in any penalty or premium, or variation of the rights, remedies, benefits or obligations of any party thereunder.

**3.18 Supplies.** All the inventory and supplies constituting any part of the Assets are substantially of a quality and quantity usable and salable in the ordinary course of business of the Facilities. Obsolete items have been written off the Financial Statements. Inventory and supplies are carried at the lower of cost or market, on a first-in, first-out basis and are properly stated in the Financial Statements. The inventory levels are based on past practices of the Seller Entities at the Facilities and, as of the Effective Time, each inventory item has not reached its expiration date as established by the manufacturer or vendor from whom the Seller Entity acquired the item.

**3.19 Insurance.** Schedule 3.19 includes a true, complete and correct list of the current insurance policies covering the ownership and operations of the Facilities, the Partial Subsidiary and the Assets, which list reflects the policies' numbers, identity of insurers, amounts, and coverage. All of such policies are in full force and effect with no premium arrearage. The Seller Entities and the Partial Subsidiary have given, in a timely manner, to their insurers all notices required to be given under their insurance policies with respect to all of the claims and actions covered by insurance, and no insurer has denied coverage of any such claims or actions. The Seller Entities and the Partial Subsidiary have not (a) received any written notice or other communication from any such insurance company canceling or materially amending any of such insurance policies, and, to Seller's knowledge, no such cancellation or amendment is threatened or (b) failed to give any written notice or present any claim which is still outstanding under any of such policies with respect to the Facilities, the Partial Subsidiary or any of the Assets.

**3.20 Third-Party Payor Cost Reports.** Each Seller Entity has duly filed all required cost reports for all the fiscal years through and including the fiscal year specified in Schedule 3.20. All of such cost reports accurately reflect in all material respects the information required to be included thereon and such cost reports do not claim, and neither the Facilities nor the Seller Entities have received, reimbursement in any amount in excess of the amounts provided by law or any applicable agreement. Schedule 3.20 indicates which of such cost reports have not been audited and finally settled and a brief description of any notices of program reimbursement, proposed or pending audit adjustments, disallowances, appeals of disallowances, and any and all other unresolved inquiries, claims or disputes in respect of such cost reports. The Seller Entities have established adequate reserves to cover any potential reimbursement liabilities that the Seller Entities may have under such cost reports and such reserves are set forth in the Seller Entities' Financial Statements.

**3.21 Medical Staff Matters.** Seller has provided to Buyer true, correct, and complete copies of the bylaws and rules and regulations of the medical staff of and those holding clinical privileges at each Hospital, as well as a list of all current members of the medical staff of each Hospital. Except as set forth in Schedule 3.21, (i) there are no adverse actions or disciplinary actions with respect to any medical staff member, individual holding clinical privileges, or any

applicant for membership and/or privileges for which the medical staff member, individual holding clinical privileges, or applicant has requested an appeal which has not been scheduled or has been scheduled but has not been completed; (ii) there are no pending or, to the knowledge of Seller, threatened disputes with applicants, medical staff members, or individuals holding clinical privileges; and (iii) all appeal periods in respect of any medical staff member, individual holding clinical privileges or applicant against whom an adverse action has been taken have expired and there are no pending investigations of a member of the medical staff or an individual holding clinical privileges..

**3.22 Condition of Assets.** Other than with respect to the representations and warranties herein provided, the Seller Entities shall transfer the Assets to the Buyer Entities and the Buyer Entities shall accept the Assets from the Seller Entities AS IS WITH NO WARRANTY OF A HABITABILITY OR FITNESS FOR HABITATION, WITH RESPECT TO THE LAND, BUILDINGS AND IMPROVEMENTS, AND WITH NO WARRANTIES, INCLUDING WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE EQUIPMENT, INVENTORY, AND SUPPLIES, AND ANY AND ALL OF WHICH WARRANTIES SELLER HEREBY DISCLAIMS. Except as set forth in Schedule 3.22, neither Seller nor the Seller Entities have received during the past three (3) years written notice indicating or asserting that the Facilities are not in compliance with the Americans with Disabilities Act. All of the Assets shall be further subject to normal wear and tear on the land, buildings, improvements and equipment and normal and customary use and disposal of inventory and supplies in the ordinary course of business up to the Closing Date.

**3.23 Experimental Procedures.** The Seller Entities have not performed or permitted the performance of any experimental or research procedures or studies involving patients of any Hospital not authorized and conducted in accordance with the procedures of the Institutional Review Board of the relevant Hospital

**3.24 Intellectual Property.** Schedule 3.24 lists and briefly describes all trademarks, service marks, trade names, domain names, copyrights and applications therefor (whether registered or common law) currently owned by the Seller Entities and used in connection with the Facilities that will be transferred to the Buyer Entities (collectively, the "Intellectual Property"). Except as set forth in Schedule 3.24, the Seller Entities' use and ownership (or possession of licenses or other rights to the use) of all Intellectual Property used in the conduct of their business does not, to the knowledge of Seller, infringe any right of any person and neither the Seller nor the Seller Entities have received written notice that any proceedings have been instituted or are pending which challenge the validity of the use or ownership by Seller or the Seller Entities of the Intellectual Property. Neither Seller nor the Seller Entities have licensed anyone to use the Intellectual Property and Seller has no knowledge of the use or the infringement of the Intellectual Property by any other person. Seller and/or the Seller Entities own (or possess enforceable licenses or other rights to use) all the Intellectual Property.

**3.25 Compliance Program.** Each Seller Entity and the Partial Subsidiary has in place a compliance program that includes the elements of an effective compliance program set forth in the OIG's compliance program guidance for hospitals, including the related provisions of the Federal Sentencing Guidelines relating to corporate compliance programs. Seller has provided to Buyer a copy of its current compliance program materials, including without limitation, all program

descriptions, compliance officer and committee descriptions, ethics and risk area policy materials, training and education materials, auditing and monitoring protocols, reporting mechanisms, and disciplinary policies. Schedule 3.25 includes a description of each audit and investigation conducted by the Seller Entities or the Partial Subsidiary pursuant to their compliance program during the last three (3) years relating to material healthcare regulatory issues involving the Seller Entities or the Partial Subsidiary. For purposes of this Agreement, the term “compliance program” refers to provider programs of the type described in the compliance guidance published by the Office of Inspector General of the Department of Health and Human Services.

**3.26 Certificates of Need.** Except as set forth in Schedule 3.26 hereto, no application for any Certificate of Need, Exemption Certificate (each as defined below) or declaratory ruling has been made by any Seller Entity or the Partial Subsidiary with the State Health Agency or other applicable agency which is currently pending or open before such agency, and no such application (collectively, the “Applications”) filed by any Seller Entity or the Partial Subsidiary within the past three (3) years has been ultimately denied by any commission, board or agency or withdrawn by such Seller Entity or Partial Subsidiary. No Seller Entity or the Partial Subsidiary has prepared, filed, supported or presented opposition to any Applications filed by another hospital or health agency within the past three (3) years. Except as set forth in Schedule 3.26 hereto, no Seller Entity or the Partial Subsidiary has any Applications pending or any approved Applications which relate to projects not yet completed. As used herein, “Certificate of Need” means a written statement issued by the State Health Agency evidencing community need for a new, converted, expanded or otherwise significantly modified health care facility, health service or hospice, and “Exemption Certificate” means a written statement from the State Health Agency stating that a health care project is not subject to the Certificate of Need requirements under applicable state law.

**3.27 Certain Representations with Respect to the Hospitals.**

(a) No Seller Entity has made any misrepresentations or false attestations to any Government Entity under or in connection with Promoting Interoperability reporting under the Merit-based Incentive Payment System or predecessor meaningful use payments under the HITECH Act.

(b) Except as set forth in Schedule 3.27, at all times since March 23, 2010, Mooresville Hospital Management Associates, LLC has been in compliance with the requirements of the “whole hospital exception” under the Stark Law, as set forth in 42 U.S.C. §1395nn(d)(3) and 42 C.F.R., Subpart J, §§411.356(c)(3) and 411.362.

(c) The Seller Entities have repaid in full to the appropriate Government Entity any amounts due, including any accrued and unpaid interest, under all payments made to the Seller Entities under the Medicare Hospital Accelerated Payment Program as defined under Section 3719 of the CARES Act. The Seller Entities have utilized any Provider Relief Funds in accordance with all applicable laws and the applicable terms and conditions. The Seller Entities maintain appropriate accounting records associated with such funds, including tracking the costs and other expenses for which stimulus funds are used and quantifying the lost revenue incurred in connection with the operation of the Facilities during the COVID-19 Pandemic.

### **3.28 Partial Subsidiary.**

(a) For purposes of this Agreement, the term “Partial Subsidiary” means Langtree Endoscopy Center, LLC of which Statesville HMA, LLC owns 53% of the total outstanding membership interests and which membership interests will be assigned by Statesville HMA, LLC to the appropriate Buyer Entity as part of the Assets.

(b) Schedule 3.28 sets forth for the Partial Subsidiary: (1) its name and jurisdiction of incorporation or organization; (2) the number of issued and outstanding shares of each class of its capital stock or other equity or non-equity interests and percentage ownership held by the appropriate Seller Entity and which will be assigned to the appropriate Buyer Entity; and (3) its directors and officers, general partners or managers, as the case may be.

(c) The Seller Entities have delivered to the Buyer Entities accurate and complete copies, as applicable of the articles of incorporation, charter, bylaws, operating agreement, partnership agreement, or shareholders or membership agreement, as amended to date, of the Partial Subsidiary.

(d) Statesville HMA, LLC has good and marketable title to all shares of the stock or other equity or non-equity interests of the Partial Subsidiary set forth in Schedule 3.28 and except as set forth on Schedule 3.28, have the absolute right to sell, assign, transfer and deliver the same to the appropriate Buyer Entity, free and clear of all claims, security interests, liens, pledges, charges, escrows, options, proxies, rights of first refusal, preemptive rights, mortgages, hypothecations prior assignments, title retention agreements, indentures, security agreements or any other limitation, encumbrance or restriction of any kind, except those arising under applicable federal or state securities laws.

**4. REPRESENTATIONS AND WARRANTIES OF BUYER.** As of the date hereof, and, when read in light of any Schedules which have been updated in accordance with the provisions of Section 12.1 hereof, as of the Closing Date, Buyer represents and warrants to Seller and the Seller Entities the following:

**4.1 Existence and Capacity.** Buyer is a non-profit corporation, duly organized and validly existing in good standing under the laws of the State of North Carolina. Buyer has the requisite power and authority to enter into this Agreement, to perform its obligations hereunder, and to conduct its business as now being conducted. Each Buyer Entity is a North Carolina limited liability company, duly organized and validly existing in good standing under the laws of the State of North Carolina. Each Buyer Entity has the requisite power and authority to conduct its business as now being conducted.

**4.2 Powers; Consents; Absence of Conflicts With Other Agreements, Etc.** The execution, delivery, and performance of this Agreement by Buyer and all other agreements referenced herein, or ancillary hereto, to which Buyer is a party, and the consummation by Buyer and each Buyer Entity of the transactions contemplated by this Agreement and the documents described herein, as applicable:

(a) are within its corporate powers, are not in contravention of corporate law or of the terms of its organizational documents, and have been duly authorized by all appropriate corporate action;



(b) except as provided in Sections 6.1 and 6.2, do not require any approval or consent required to be obtained by Buyer of, or filing required to be made by Buyer with, any governmental agency or authority bearing on the validity of this Agreement which is required by law or the regulations of any such agency or authority;

(c) will neither conflict with, nor result in any breach or contravention of, or the creation of any lien, charge or encumbrance under, any indenture, agreement, lease, instrument or understanding to which it is a party or by which it is bound;

(d) will not violate any statute, law, rule, or regulation of any governmental authority to which it may be subject; and

(e) will not violate any judgment, decree, writ, or injunction of any court or governmental authority to which it may be subject.

**4.3 Binding Agreement.** This Agreement and all agreements to which Buyer or any of the Buyer Entities will become a party pursuant hereto are and will constitute the valid and legally binding obligations of Buyer and/or such Buyer Entities, respectively, and are and will be enforceable against it or them in accordance with the respective terms hereof and thereof.

**4.4 Availability of Funds.** Buyer has the ability to obtain funds in cash in amounts equal to the Purchase Price by means of credit facilities or otherwise and will at the Closing have immediately available funds which will be sufficient to enable Buyer to pay the Purchase Price.

**5. COVENANTS OF SELLER PRIOR TO CLOSING.** Between the date of this Agreement and the Closing:

**5.1 Information.** Seller shall afford to the officers and authorized representatives and agents (which shall include accountants, attorneys, bankers, and other consultants) of Buyer full and complete access to and the right to inspect the plants, properties, books, and records of the Facilities, and will allow Buyer reasonable access to the medical staff and personnel of the Facilities to confirm and establish relationships, and will furnish Buyer with such additional financial and operating data and other information as to the business and properties of Seller which pertains to the Facilities or their operations as Buyer may from time to time reasonably request. Buyer's right of access and inspection shall be exercised in such a manner as not to interfere unreasonably with the operations of the Facilities. Buyer agrees that no inspections shall take place and no employees or other personnel of the Facilities shall be contacted by Buyer without Buyer first providing reasonable notice to Seller and coordinating such inspection or contact with Seller. Seller shall promptly make available to Buyer any surveys, reports, site plans, engineering plans and drawings or similar material related to the Facilities and/ or the Assets as Seller or the Seller Entities may acquire at any time prior to the Closing Date.

**5.2 Operations.** Seller will not, and will cause the Seller Entities, the Acquired Company, and the Partial Subsidiary not to, engage in any practice, take any action, or enter into

any transaction outside the ordinary course of business. Without limiting the generality of the foregoing, Seller shall cause the Seller Entities, the Acquired Company, and the Partial Subsidiary to:

- (a) use commercially reasonable efforts to carry on their business pertaining to the Facilities in substantially the same manner as presently conducted and not make any material change in personnel, operations, finance, accounting policies, or real or personal property pertaining to the Facilities;
- (b) use commercially reasonable efforts to maintain the Facilities and all parts thereof in good operating condition, ordinary wear and tear excepted;
- (c) use commercially reasonable efforts to perform all of their obligations under agreements relating to or affecting the Facilities or the Assets;
- (d) use commercially reasonable efforts to keep in full force and effect present insurance policies or other comparable insurance pertaining to the Facilities;
- (e) continue to pay all Taxes in the ordinary course of business, consistent with past practice; and
- (f) use commercially reasonable efforts to maintain and preserve their business organizations intact, retain their present employees at the Facilities and maintain their relationships with physicians, medical staff members, suppliers, customers, and others having business relations with the Facilities.

**5.3 Negative Covenants.** Seller shall cause the Seller Entities, the Acquired Company, and the Partial Subsidiary not to, with respect to the business or operation of the Acquired Company, the Facilities or the Partial Subsidiary or otherwise regarding the Assets, without the prior written consent of Buyer:

- (a) amend, modify, terminate or cancel any of the Contracts, or enter into any new contract or commitment, except as provided herein or in the ordinary course of business;
- (b) increase compensation payable or to become payable or make any bonus payment to or otherwise enter into one or more bonus agreements with any employee at the Facilities, except in the ordinary course of business or in accordance with existing personnel policies;
- (c) increase severance or termination obligations to any employee of a Seller Entity;
- (d) adopt, amend, modify or terminate any Benefit Plan except as required under applicable law or as applies uniformly to all employees and other service providers of the Seller and the Seller Entities;
- (e) acquire (whether by purchase or lease) or sell, assign, lease, or otherwise transfer or dispose of any property, plant, or equipment except in the normal course of business with comparable replacement thereof when appropriate;

(f) sell any of the Owned Real Property;

(g) materially alter any Owned Real Property, including the buildings, fixtures and other improvements located thereon, other than budgeted capital expenditures or routine replacement, maintenance or repairs;

(h) purchase capital assets or incur costs in respect of construction-in-progress in excess of Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate;

(i) make any material change in the scope of patient care services offered at the Facilities or reduce the staffed or licensed bed count at the Facilities; or

(j) take any material action outside the ordinary course of business of the Facilities, except as may be required in order to consummate the transactions contemplated by this Agreement.

**5.4 Governmental Approvals.** Seller shall (i) use reasonable efforts to obtain all governmental approvals (or exemptions therefrom) necessary or required to allow Seller to perform its obligations under this Agreement; and (ii) assist and cooperate with Buyer and its representatives and counsel in obtaining all governmental consents, approvals, and licenses which Buyer deems necessary or appropriate and in the preparation of any document or other material which may be required by any governmental agency as a predicate to or as a result of the transactions contemplated herein.

**5.5 Antitrust Matters.** Seller shall (a) file and cause its Affiliates to file, within four (4) weeks of the date hereof or such other date as the Parties agree based on the advice of antitrust counsel, all reports, filings and other documents required or requested of it or its Affiliates by the Federal Trade Commission ("FTC"), the United States Department of Justice ("Justice Department") or any other Government Entity, in connection with the transactions contemplated by this Agreement, under the Sherman Act, the Clayton Act, the Hart-Scott Rodino Antitrust Improvements Act of 1976 (the "HSR Act"), or the Federal Trade Commission Act, each as amended, or any other federal, state or other statutes, laws, rules, regulations, orders, decrees, administrative or judicial doctrines that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade (collectively, the "Antitrust Laws"), (b) comply at the earliest practicable date with any request received by Seller or any of its Affiliates from the FTC, the Justice Department or any such other Government Entity under any applicable Antitrust Laws for additional information concerning the transactions contemplated by this Agreement, (c) cooperate with Buyer in connection with any filing under applicable Antitrust Laws with respect to the transactions contemplated by this Agreement and in connection with resolving any investigation or other inquiry concerning such transactions that is commenced by any of the FTC, the Justice Department or any other Government Entity pursuant to any applicable Antitrust Laws, (d) promptly inform Buyer of any material communication made to or received by Seller from the FTC, the Justice Department or any other Government Entity regarding any of the transactions contemplated hereby, (e) use commercially reasonable efforts to obtain all licenses, permits, consents, approvals, exemptions, authorizations or waivers necessary or appropriate under the Antitrust Laws from the FTC, the Justice Department and any other Government Entity in order to avoid or terminate any action or proceeding by any of them with respect to, and to permit the consummation of in the most expeditious manner practicable, the

transactions contemplated by this Agreement, and (f) promptly furnish to Buyer such information concerning Seller as Buyer needs to perform its obligations under Section 6.2 of this Agreement. Without limiting the foregoing, Seller shall not (i) withdraw and re-file its Premerger Notification and Report Form, (ii) extend any waiting period or comparable period or (iii) enter into any agreement not to consummate the Contemplated Transactions, except, in each case, with the prior written consent of Buyer. The foregoing covenants in this Section 5.5 do not require Seller or any of its Affiliates to (A) defend against or oppose any formal administrative complaint, lawsuit, motion for preliminary or permanent injunction, temporary restraining order or other actions brought by any Governmental Authority or private party seeking to block the Transaction under the Antitrust Laws, or (B) propose, negotiate, offer to commit to enter into or effect, by consent decree, hold separate order or otherwise, sell, offer to sell or otherwise dispose of, any acute care hospital of the Seller Entities or hold separate such acute care hospital properties pending such sale or other disposition.

**5.6 Additional Financial Information.** Within thirty (30) days following the end of each calendar month prior to Closing, Seller shall deliver to Buyer true and complete copies of the unaudited balance sheets and the related unaudited statements of income of, or relating to, each Seller Entity and the Partial Subsidiary for each month then ended, together with a year-to-date compilation and the notes, if any, related thereto, which shall have been prepared from and in accordance with the books and records of the Seller Entity and the Partial Subsidiary, and shall fairly present in all material respects the financial position and results of operations of the Seller Entity, the Partial Subsidiary, and of the related Facility as of the date and for the period indicated.

**5.7 No-Shop Clause.** Seller agrees that, from and after the date of the execution and delivery of this Agreement by Seller until the termination of this Agreement, Seller will not, and will cause the Seller Entities to not, without the prior written consent of Buyer or except as otherwise permitted by this Agreement: (i) offer for sale or lease all or any material portion of the Assets or any ownership interest in the Acquired Company, the Partial Subsidiary, or any entity owning any of the Assets, (ii) solicit offers to buy all or any material portion of the Assets or any ownership interest in any entity owning any of the Assets, (iii) initiate, encourage or provide any documents or information to any third party in connection with, discuss or negotiate with any person regarding any inquires, proposals or offers relating to any disposition of all or any material portion of the Assets or ownership interests in the Acquired Company or the Partial Subsidiary or a merger or consolidation of the Acquired Company, the Partial Subsidiary, or any entity owning any of the Assets, or (iv) enter into any agreement or discussions with any party (other than Buyer) with respect to the sale, assignment, or other disposition of all or any material portion of the Assets or any ownership interest in the Acquired Company, the Partial Subsidiary or any entity owning any of the Assets or with respect to a merger or consolidation of any entity owning any of the Assets.

**5.8 Efforts to Close.** Seller shall use its reasonable commercial efforts to satisfy all of the conditions precedent set forth in Section 7 to the extent that Seller's action or inaction can control or influence the satisfaction of such conditions, so that the Closing will occur as promptly as practicable.

**5.9 Estoppels and Contract Consents.** Seller shall use commercially reasonable efforts to obtain, prior to the Closing Date, (a) estoppel letters, in a form reasonably acceptable to Buyer, under those leases of the Leased Real Property that are among the Contracts, and (b) consents from third parties under each Contract which, by the terms of such Contract, requires such consent to convey and assign such Contract to a Buyer Entity.

**5.10 Employee List.** No later than forty-five (45) days prior to Closing, Seller shall provide to Buyer, to one or more identified individuals for the sole purpose of preparing for the transition of payroll (and to no other persons or for any other purposes), a true, complete and correct list of all persons who are employees, independent contractors or consultants of the Seller Entities, including any employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, setting forth for each individual the following: (i) name; (ii) classification as employee, independent contractor or consultant; (iii) if an employee, the individual's title or position (including whether full or part time, and exempt or non-exempt status); (iv) hire date; (v) current base compensation rate on an annual, monthly, bi-weekly or hourly basis as appropriate to the individual's status; (vi) commission, bonus or other incentive-based compensation; (vii) the number of such employee's accrued vacation and holiday hours; and (viii) a description of the fringe benefits provided to each such individual.

**6. COVENANTS OF BUYER PRIOR TO CLOSING.** Between the date of this Agreement and the Closing:

**6.1 Governmental Approvals.** Buyer shall (i) use reasonable efforts to obtain all governmental approvals (or exemptions therefrom) necessary or required to allow Buyer to perform its obligations under this Agreement; and (ii) assist and cooperate with Seller and its representatives and counsel in obtaining all governmental consents, approvals, and licenses which Seller deems necessary or appropriate and in the preparation of any document or other material which may be required by any governmental agency as a predicate to or as a result of the transactions contemplated herein.

**6.2 Antitrust Matters.** Buyer shall (a) file and cause its Affiliates to file, within four (4) weeks of the date hereof or such other date as the Parties agree based on the advice of antitrust counsel, all reports, filings and other documents required or requested of Buyer or its Affiliates by the FTC, the Justice Department, or any other Government Entity under any applicable Antitrust Laws in connection with the transactions contemplated by this Agreement, (b) comply at the earliest practicable date with any request received by Buyer or any of its Affiliates from the FTC, the Justice Department or any such other Government Entity under any applicable Antitrust Laws for additional information concerning the transactions contemplated by this Agreement, (c) cooperate with Seller in connection with any filing under applicable Antitrust Laws with respect to the transactions contemplated by this Agreement and in connection with resolving any investigation or other inquiry concerning such transactions that is commenced by any of the FTC, the Justice Department or any other Government Entity pursuant to any applicable Antitrust Laws, (d) promptly inform Seller of any material communication made to or received by Buyer or any of its Affiliates from the FTC, the Justice Department or any other Government Entity regarding any of the transactions contemplated hereby, (e) use commercially reasonable efforts to obtain all licenses, permits, consents, approvals, exemptions, authorizations or waivers necessary or appropriate under the Antitrust Laws from the FTC, the Justice Department and any other Government Entity in order to avoid or terminate any action or proceeding by any of them with respect to, and to permit the consummation of in the most expeditious manner practicable, the transactions contemplated by this Agreement, and (f) promptly furnish to Seller such information concerning Buyer or its Affiliates as Seller needs to perform its obligations under Section 5.5 of

this Agreement. Without limiting the foregoing, Buyer shall not (i) withdraw and re-file its Premerger Notification and Report Form, (ii) extend any waiting period or comparable period or (iii) enter into any agreement not to consummate the Contemplated Transactions, except, in each case, with the prior written consent of Seller. The foregoing covenants in this Section 6.2 do not require Buyer or any of its Affiliates to (A) defend against or oppose any formal administrative complaint, lawsuit, motion for preliminary or permanent injunction, temporary restraining order or other actions brought by any Governmental Authority or private party seeking to block the Transaction under the Antitrust Laws, or (B) propose, negotiate, offer to commit to enter into or effect, by consent decree, hold separate order or otherwise, sell, offer to sell or otherwise dispose of, any acute care hospital of Buyer or its Affiliates or hold separate such acute care hospital properties pending such sale or other disposition. Buyer shall be responsible for paying any required filing fees under the HSR Act.

### **6.3 Title Commitment and Surveys.**

**(a) Title Commitment.** Within sixty (60) days after the date hereof, Buyer, at its expense, shall obtain a current title commitment with respect to the Owned Real Property (the "Title Commitment"), issued by Morehead Title Company, as agent for First American Title Insurance Company (the "Title Company"), together with legible copies of all exceptions to title referenced therein, sufficient for the issuance of an owner's policy of title insurance for the Owned Real Property (the "Title Policy"). Buyer shall promptly upon its receipt provide a copy of the Title Commitment and exception documents to Seller.

**(b) Surveys.** Within sixty (60) days after the date hereof, Buyer may, at its expense, obtain current as-built ALTA/NSPS surveys of the Owned Real Property (the "Surveys") or such portions thereof as Buyer elects. Buyer shall promptly upon its receipt furnish a copy of the Surveys to Seller.

**(c) Title Defects and Cure.** The Title Commitment and the Surveys (in each case, to the extent obtained by Buyer pursuant to Sections 6.3(a) and (b)), are collectively referred to as "Title Evidence". Buyer shall notify Seller within twenty (20) days after its receipt of the last of the Title Evidence of any liens, claims, encroachments, exceptions or defects disclosed in the Title Evidence which do not constitute Permitted Encumbrances (collectively, "Defects"). Seller, at its sole cost and expense, shall cure the objections on or before the Closing or Seller may elect to not cure the objections and shall give written notice to Buyer within twenty (20) days of its receipt of Buyer's objections of its decision, whereupon Buyer may waive such objections and close or may terminate this Agreement, which election by Buyer shall be made within ten (10) business days of its receipt of Seller's written notice. If Seller fails to timely give such notice, Seller shall be deemed to have elected not to cure the objections, whereupon Buyer may waive such objections and close or may terminate this Agreement, which election by Buyer shall be made within twenty (20) days following notice of objection to Seller. Upon termination of this Agreement under the terms of this Section 6.3(c), no party to this Agreement shall have any further claims under this Agreement against any other party. Any matters shown by the Title Evidence to which Buyer does not object or which are waived by Buyer as herein provided shall be deemed to be Permitted Encumbrances. Notwithstanding anything contained in this Section 6.3(c) to the contrary, at the Closing, Seller shall cause all mortgages, deeds of trust, financing statements and other similar liens encumbering the Seller Entities' fee interest in the Owned Real Property, and arising by, through or under the Seller Entities or any of their Affiliates, to be released (other than liens for taxes not yet due and payable and any mechanic's or materialmen's liens relating to the Assumed Liabilities).

(d) **Costs.** Section 12.9 shall govern which party or parties hereto shall bear the costs and expenses of the Title Commitment, the Title Policy and the Surveys.

(e) **Buyer's Environmental Assessment.** Seller shall permit Buyer and its environmental consultants, at Buyer's sole cost and expense, to conduct such investigations (including investigations known as "Phase I" and "Phase II" environmental assessments) of the environmental conditions of the Owned Real Property or the operation thereat as Buyer, in its reasonable discretion, shall deem necessary or prudent ("Buyer's Environmental Assessment") so long as (x) Buyer provides Seller with no less than five (5) business days' advance written notice of any such Buyer's Environmental Assessment, (y) Buyer's Environmental Assessment is conducted by a qualified environmental consulting firm, possessing reasonable levels of insurance, in compliance with all applicable laws and in a manner that minimizes disruption of the operations of the Facilities, and (z) with respect to any Phase II environmental assessment, the environmental consulting firm has determined that there is a recognized environmental condition, and the parties shall have entered into a mutually acceptable right of entry agreement.

**6.4 Efforts to Close.** Buyer shall use its reasonable commercial efforts to satisfy all of the conditions precedent set forth in Section 8 to the extent that Buyer's action or inaction can control or influence the satisfaction of such conditions, so that the Closing will occur as promptly as practicable.

**7. CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER.** Notwithstanding anything herein to the contrary, the obligations of Buyer and the Buyer Entities to consummate the transactions described herein are subject to the fulfillment, on or prior to the Closing Date, of the following conditions precedent unless (but only to the extent) waived in writing by Buyer at the Closing:

**7.1 Representations/Warranties.** The representations and warranties of Seller contained in this Agreement shall be true and correct when made and, when read in light of any Schedules which have been updated in accordance with the provisions of Section 12.1 hereof, as of the Closing Date as though such representations and warranties had been made on and as of such Closing Date (except to the extent such representations and warranties address matters as of particular dates, in which case, such representations and warranties shall be true and correct in all respects on and as of such dates), except to the extent that the failure of any such representations and warranties to be true and correct would not, or would not be reasonably likely to, individually or in the aggregate, have a Material Adverse Effect. Each and all of the terms, covenants, and conditions of this Agreement to be complied with or performed by Seller on or before the Closing Date pursuant to the terms hereof shall have been duly complied with and performed in all material respects.

**7.2 Governmental Approvals.** All material consents, authorizations, orders and approvals of (or filings or registrations with) any Government Entity or other party required in connection with the execution, delivery and performance of this Agreement shall have been obtained or made by Buyer when so required, except as for any documents required to be filed, or consents, authorizations, orders or approvals required to be issued, after the Closing Date.

**7.3 Title Policy.** At the Closing, the Title Company shall be ready, willing and able to issue a pro forma of the Title Policy (or marked Title Commitment containing no additional exceptions to title to the Owned Real Property) to Buyer. The Title Policy shall be issued, at Buyer's expense, on an ALTA Form 2006 Owner's Title Policy in an amount equal to the portion of the Purchase Price being allocated to the Owned Real Property and shall insure to the Buyer Entities good and marketable title to the Owned Real Property subject only to the Permitted Encumbrances and the standard exceptions contained in an owner's title policy prescribed for use in the State of North Carolina, (i) with the standard exception as to taxes and assessments limited to taxes and assessments for the current and subsequent years, not yet due and payable, (ii) with the standard exception as to facts, rights, interests, or claims which are not shown by the public records deleted, and with the standard exception as to discrepancies, conflicts in boundary lines, shortages in area, encroachments, or other facts which a correct survey would disclose modified to except matters shown on the Surveys (in each case, only to the extent that the Surveys are sufficient for the Title Company to delete and/or modify the same), (iii) with the standard exception as to liens, or any right to liens, for services, labor or materials furnished to the Owned Real Property deleted (other than any such liens or rights relating to Assumed Liabilities), and (iv) with the standard exception for unrecorded leases limited to rights of tenants under recorded or unrecorded leases included in the Contracts.

**7.4 Actions/Proceedings.** No action or proceeding before a court of competent jurisdiction shall have been instituted by a Government Entity and be pending that seeks to restrain or prohibit the consummation of the transactions herein contemplated, and no order issued by a court of competent jurisdiction restraining or prohibiting the consummation of the transactions herein contemplated shall be in effect.

**7.5 No Material Adverse Change.** Since the date of this Agreement, there shall not have occurred any event, change or development that has had, or would be reasonably expected to have, a Material Adverse Effect.

**7.6 Insolvency.** Neither Seller nor any Seller Entity shall (i) be in receivership or dissolution, (ii) have made any assignment for the benefit of creditors, (iii) have admitted in writing its inability to pay its debts as they mature, (iv) have been adjudicated a bankrupt, or (v) have filed a petition in voluntary bankruptcy, a petition or answer seeking reorganization, or an arrangement with creditors under the federal bankruptcy law or any other similar law or statute of the United States or any state, nor shall any such petition have been filed against Seller or any Seller Entity.

**7.7 Material Consents.** Buyer shall have obtained all consents of third parties (relating to the assignment of Contracts) that are material to the consummation of the transactions contemplated in this Agreement (collectively, the "Material Consents") as specified in Schedule 7.7. The Material Consents shall be in form and substance reasonably satisfactory to Buyer. Buyer shall cooperate in the assumption of the Contracts.

**7.8 Vesting/Recordation.** Seller shall have furnished to Buyer, in form and substance reasonably satisfactory to Buyer, assignments or other instruments of transfer necessary or appropriate to transfer to and effectively vest in Buyer all right, title, and interest in and to the Assets, in proper statutory form for recording if such recording is necessary or appropriate.



**7.9 Closing Deliveries.** Seller shall have delivered to Buyer, in accordance with the terms of this Agreement, all contracts, agreements, instruments, and documents required to be delivered by Seller to Buyer pursuant to Section 2.2.

**8. CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLER.** Notwithstanding anything herein to the contrary, the obligations of Seller and the Seller Entities to consummate the transactions described herein are subject to the fulfillment, on or prior to the Closing Date, of the following conditions precedent unless (but only to the extent) waived in writing by Seller at the Closing:

**8.1 Representations/Warranties.** The representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects when made and, when read in light of any Schedules which have been updated in accordance with the provisions of Section 12.1 hereof, as of the Closing Date as though such representations and warranties had been made on and as of such Closing Date (except to the extent such representations and warranties address matters as of particular dates, in which case, such representations and warranties shall be true and correct in all material respects on and as of such dates). Each and all of the terms, covenants, and conditions of this Agreement to be complied with or performed by Buyer on or before the Closing Date pursuant to the terms hereof shall have been duly complied with and performed in all material respects.

**8.2 Governmental Approvals.** All material consents, authorizations, orders and approvals of (or filings or registrations with) any Government Entity or other party required in connection with the execution, delivery and performance of this Agreement shall have been obtained or made by Seller when so required, except for any documents required to be filed, or consents, authorizations, orders or approvals required to be issued, after the Closing Date.

**8.3 Actions/Proceedings.** No action or proceeding before a court of competent jurisdiction shall have been instituted by a Government Entity and be pending that seeks to restrain or prohibit the consummation of the transactions herein contemplated, and no order issued by a court of competent jurisdiction restraining or prohibiting the consummation of the transactions herein contemplated shall be in effect.

**8.4 Insolvency.** Buyer shall not (i) be in receivership or dissolution, (ii) have made any assignment for the benefit of creditors, (iii) have admitted in writing its inability to pay its debts as they mature, (iv) have been adjudicated a bankrupt, or (v) have filed a petition in voluntary bankruptcy, a petition or answer seeking reorganization, or an arrangement with creditors under the federal bankruptcy law or any other similar law or statute of the United States or any state, nor shall any such petition have been filed against Buyer.

**8.5 Closing Deliveries.** Buyer shall have delivered to Seller, in accordance with the terms of this Agreement, all contracts, agreements, instruments and documents required to be delivered by Buyer to Seller pursuant to Section 2.3.

**9. SELLER'S COVENANT NOT TO COMPETE.** Seller hereby covenants that at all times from the Closing Date until the second (2nd) anniversary of the Closing Date, Seller and its Affiliates shall not, directly or indirectly, own, operate, lease or manage an acute care hospital or ambulatory or other type of surgery center or any other business or facility that competes with the

Facilities within a forty (40) mile radius of each of the Hospitals without Buyer's prior written consent (which Buyer may withhold in its sole and absolute discretion). In the event of a breach of this Section 9, Seller recognizes that monetary damages shall be inadequate to compensate Buyer and Buyer shall be entitled, without the posting of a bond or similar security, to an injunction restraining such breach, with the costs (including attorneys' fees) of securing such injunction to be borne by Seller. Nothing contained herein shall be construed as prohibiting Buyer from pursuing any other remedy available to it for such breach or threatened breach. All parties hereto hereby acknowledge the necessity of protection against the competition of Seller and its Affiliates and that the nature and scope of such protection has been carefully considered by the parties. Seller further acknowledges and agrees that the covenants and provisions of this Section 9 form part of the consideration under this Agreement and are among the inducements for Buyer entering into and consummating the transactions contemplated herein. The period provided and the area covered are expressly represented and agreed to be fair, reasonable and necessary. The consideration provided for herein is deemed to be sufficient and adequate to compensate for agreeing to the restrictions contained in this Section 9. If, however, any court determines that the foregoing restrictions are not reasonable, such restrictions shall be modified, rewritten or interpreted to include as much of their nature and scope as will render them enforceable.

## **10. ADDITIONAL AGREEMENTS.**

**10.1 Allocation of Purchase Price.** The Purchase Price shall be allocated among the various classes of Assets in accordance with and as provided by Section 1060 of the Code. Within ninety (90) days of the Closing, Seller shall provide Buyer with a preliminary allocation of the Purchase Price for Buyer's review and approval. If Seller and Buyer cannot agree, initially, on an allocation, then the matter shall be submitted to the Accounting Firm for final resolution of all allocation matters. The parties agree that any tax returns or other tax information they may file or cause to be filed with any governmental agency shall be prepared and filed consistently with such agreed upon allocation. In this regard, the parties agree that, to the extent required, they will each properly prepare and timely file Form 8594 in accordance with Section 1060 of the Code.

**10.2 Termination Prior to Closing.** Notwithstanding anything herein to the contrary, this Agreement may be terminated at any time: (i) on or prior to the Closing Date by mutual, written consent of Seller and Buyer; (ii) by Buyer by written notice to Seller if any event occurs or condition exists which causes Seller to be unable to satisfy one or more conditions to the obligations of Buyer to consummate the transactions contemplated by this Agreement as set forth in Section 7; (iii) by Seller by written notice to Buyer if any event occurs or condition exists which causes Buyer to be unable to satisfy one or more conditions to the obligation of Seller to consummate the transactions contemplated by this Agreement as set forth in Section 8; (iv) by Seller or Buyer if the Closing shall not have taken place on or before 5:00 p.m. central time on December 31, 2023 (which date may be extended by mutual agreement of Seller and Buyer), provided that the right to terminate pursuant to this subsection (iv) shall not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur by such date; (v) by either Seller or Buyer pursuant to Section 12.1 hereof; or (vi) by Buyer pursuant to Section 6.3 hereof.

**10.3 Post-Closing Access to Information.** Seller and Buyer acknowledge that subsequent to Closing each party may need access to information or documents in the control or possession of the other party for the purposes of concluding the transactions herein contemplated,

the Buyer Entities' operation of the Facilities, audits, compliance with governmental requirements and regulations, and the prosecution or defense of third party claims. Accordingly, Seller and Buyer agree that for a period of six (6) years after Closing each will, unless prohibited by law or regulation, make reasonably available to the other's agents, independent auditors, counsel, and/or governmental agencies upon written request and at the expense of the requesting party such documents and information as may be available relating to the Assets for periods prior and subsequent to Closing to the extent necessary to facilitate concluding the transactions herein contemplated, the Buyer Entities' operation of the Facilities, audits, compliance with governmental requirements and regulations, and the prosecution or defense of claims. Seller and Buyer shall cause their respective Affiliates to retain their books and records for the periods specified in their respective document retention policies. All reasonable documented out-of-pocket expenses associated with the delivery of the requested documents shall be promptly paid by a requesting party to the other party.

**10.4 Preservation and Access to Records After the Closing.** After the Closing, Buyer shall cause the Buyer Entities to, in the ordinary course of business and as required by law, keep and preserve in their original form all medical and other records of the Facilities existing as of the Closing, and which constitute a part of the Assets delivered to the Buyer Entities at the Closing. For purposes of this Agreement, the term "records" includes all documents, electronic data and other compilations of information in any form. Buyer acknowledges that as a result of entering into this Agreement and operating the Facilities the Buyer Entities will gain access to patient and other information which is subject to rules and regulations regarding confidentiality. Buyer agrees to cause the Buyer Entities to abide by any such rules and regulations relating to the confidential information the Buyer Entities acquire. Buyer agrees to cause the Buyer Entities to maintain the patient and personnel records delivered to the Buyer Entities at the Closing at the Facilities after Closing in accordance with applicable law (including, if applicable, Section 1861(v)(i)(I) of the Social Security Act (42 U.S.C. § 1395(v)(1)(i)), the privacy requirements of HIPAA and applicable state requirements with respect to medical privacy, and requirements of relevant insurance carriers, all in a manner consistent with the maintenance of patient and personnel records generated at the Facilities after the Closing. Upon reasonable notice, during normal business hours, at the sole cost and expense of Seller and upon the applicable Buyer Entity's receipt of any legally required consents and authorizations, such Buyer Entity will afford to the representatives of Seller, including its counsel and accountants, full and complete access to, and copies of, the patient records transferred to the Buyer Entities at the Closing (including, without limitation, access to patient records in respect of patients treated by the Seller Entities at the Facilities). Upon reasonable notice, during normal business hours and at the sole cost and expense of Seller, the Buyer Entities shall also make their officers and employees available to Seller at reasonable times and places after the Closing. Any access to the Facilities, their records or the applicable Buyer Entity's personnel granted to Seller in this Agreement shall be upon the condition that any such access be consistent with applicable law and not materially interfere with the business operations of any Buyer Entity.

**10.5 Tax and Medicare Effect.** None of the parties (nor such parties' counsel or accountants) has made or is making any representations to any other party (nor such party's counsel or accountants) concerning any of the tax or Medicare effects of the transactions provided for in this Agreement as each party hereto represents that each has obtained, or may obtain, independent tax and Medicare advice with respect thereto and upon which it, if so obtained, has solely relied.

**10.6 Reproduction of Documents.** This Agreement and all documents relating hereto, including, without limitation, (a) consents, waivers and modifications which may hereafter be executed, (b) the documents delivered at the Closing, and (c) financial statements, certificates and other information previously or hereafter furnished to Seller or to Buyer may, subject to the provisions of Section 12.10 hereof, be reproduced by Seller and by Buyer by any photographic, photostatic, microfilm, micro-card, miniature photographic or other similar process and Seller and Buyer may destroy any original documents so reproduced. Seller and Buyer agree and stipulate that any such reproduction shall be admissible in evidence as the original itself in any judicial, arbitral or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by the Seller or Buyer in the regular course of business) and that any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence.

**10.7 Cooperation on Tax Matters.** Following the Closing, the parties shall cooperate reasonably with each other and shall make available to the other, as reasonably requested and at the expense of the requesting party, and to any taxing authority, all information, records or documents relating to tax liabilities or potential tax liabilities of Seller for all periods on or prior to the Closing and any information which may be relevant to determining the amount payable under this Agreement, and shall preserve all such information, records and documents (to the extent a part of the Assets delivered to the Buyer Entities at the Closing) until the later of the seventh (7<sup>th</sup>) anniversary of the Closing Date or the expiration of any applicable statute of limitations or extensions thereof.

**10.8 Cost Reports.** Seller, at its expense, shall prepare and timely file all terminating and other cost reports required or permitted by law to be filed under the Medicare and Medicaid or other third-party payor programs and the State Health Agency for periods ending on or prior to the Effective Time, or as a result of the consummation of the transactions described herein ("Seller Cost Reports"). In addition, Buyer shall assist Seller in providing certain information needed by Seller when preparing the terminating cost report, including but not limited to completion of Seller's standard Hospitals data collection template, invoice and general ledger analysis, and other documentation historically prepared by the Hospitals for cost reporting purposes. If requested by the Seller Entities, the applicable Buyer Entity shall include the applicable Seller Entity's Medicare bad debts that are returned from collection agencies subsequent to the Closing Date on the applicable Buyer Entity's cost report for the respective period to which the Medicare bad debt relates. The Seller Entity shall provide detailed supporting information, as required by Medicare regulations, for the Medicare bad debt account amounts to be included on the Buyer Entity's Medicare cost report. The applicable Buyer Entity shall forward to Seller any and all correspondence relating to the Seller Cost Reports within five (5) business days after receipt by such Buyer Entity. The applicable Buyer Entity shall remit any receipts of funds relating to the Seller Cost Reports promptly after receipt by such Buyer Entity and shall forward to Seller any demand for payments within three (3) business days after receipt by such Buyer Entity. Notwithstanding anything to the contrary in this Agreement, Seller shall retain all rights to the Seller Cost Reports including any amounts receivable or payable in respect of such reports or reserves relating to such reports and all liabilities relating thereto. Such rights shall include the right to appeal any Medicare or Medicaid determinations relating to the Seller Cost Reports. Seller shall retain the originals of the Seller Cost Reports, correspondence, work papers and other documents relating to the Seller Cost Reports. Seller will furnish copies of such cost reports to any Buyer Entity upon request.

**10.9 Misdirected Payments, Etc.** Seller and Buyer covenant and agree to remit, with reasonable promptness (within five (5) business days after receipt) to the other any payments received, which payments are on or in respect of accounts or notes receivable owned by (or are otherwise payable to) the other. In addition, and without limitation, in the event of a determination by any governmental or third-party payor that payments to the Seller or the Facilities resulted in an overpayment or other determination that funds previously paid by any program or plan to the Seller or the Facilities must be repaid, Seller shall be responsible for repayment of said monies (or defense of such actions) if such overpayment or other repayment determination was for services rendered prior to the Effective Time and Buyer shall be responsible for repayment of said monies (or defense of such actions) if such overpayment or other repayment determination was for services rendered after the Effective Time. In the event that, following Closing, Buyer or any Buyer Entity suffers any offsets against reimbursement under any third-party payor or reimbursement programs due to Buyer or any Buyer Entity, relating to amounts owing under any such programs by Seller or any of its Affiliates, Seller shall within five (5) business days after notice from Buyer or any Buyer Entity pay to Buyer or such Buyer Entity the amounts so billed or offset.

**10.10 Employee Matters.**

(a) As of the Effective Time, Seller shall cause the Seller Entities to terminate all of the employees at the Facilities, and Buyer shall cause the Buyer Entities to offer or cause to be offered employment (subject to standard drug and related employment screening and background checks) to all active employees (including any employees who are on statutory family or medical leave, military leave, short-term disability, or other short-term leave of up to 90 days) who are in good standing in positions and at salary or base wage levels generally consistent with those provided by the Seller Entities. Nothing herein shall be deemed to affect or limit in any way normal management prerogatives of the Buyer Entities with respect to employees or to create or grant to any such employees third-party beneficiary rights or claims of any nature. All such employees who accept such offers and commence employment with a Buyer Entity (together, the “Buyer Employees”) shall be credited with employment service with the Seller Entities for purposes of eligibility and vesting purposes (but not for purposes of benefit accrual) under Buyer’s or the Buyer Entities’ employee benefit plans or programs (the “Buyer Plans”), unless such service credit is not allowed pursuant to the express terms of any insurance policy (or policies) used to fund the benefits provided under such Buyer Plans, in which case such service credit will not be allowed just for such insured plan(s). Notwithstanding anything contained herein to the contrary, this Section 10.10(a) shall not apply to any physician employee of any Seller Entity who has entered into an employment agreement with any Seller Entity, and such persons shall not be deemed to be Buyer Employees.

(b) Buyer shall cause the Buyer Entities to offer or cause to be offered enrollment in the appropriate Buyer Plan that is a group health plan to any Buyer Employee together with the eligible dependents of such Buyer Employee.

(c) Within the period of ninety (90) days prior to the Closing, the Seller Entities shall not violate the WARN Act, 29 U.S.C. §2101 et seq. and/or the regulations thereunder. With respect to terminations of employees prior to the Closing, the Seller Entities shall be responsible for any legally required notifications. With respect to terminations of employees following the Closing, the Buyer Entities shall be responsible for any legally required notifications.

(d) This Section 10.10 shall be binding upon and inure solely to the benefit of each of the Parties. Nothing contained in this Section 10.10 or any other provision of this Agreement, express or implied: (i) shall be construed to establish, amend, or modify any benefit plan, program, agreement or arrangement, including any Benefit Plan or Buyer Plan; (ii) is intended to confer upon any current or former employee any right to employment or continued employment for any period of time, or any right to a particular term or condition of employment; or (iii) is intended to confer upon any Person (including, for the avoidance of doubt, any current or former employee, director, officer or other service provider or any participant in a Benefit Plan, Buyer Plan or other plan, policy, program, agreement or arrangement providing benefits or compensation) any right as a third-party beneficiary of this Agreement.

**10.11 Indigent Care Policies.** The Buyer Entities shall adopt and maintain reasonable policies for the treatment of indigent patients of the Hospitals. The Buyer Entities shall cause the Hospitals to treat any patient presented to the emergency room who has a medical emergency or who, in the judgment of a staff physician, has an immediate emergency need. No such patient will be turned away because of age, race, gender or inability to pay. The Buyer Entities shall cause the Hospitals to continue to provide services to patients covered by the Medicare and Medicaid programs and those unable to pay for emergent and medically necessary care. This covenant shall be subject in all respects to changes in governmental policy.

**10.12 Use of Controlled Substance Permits.** To the extent permitted by applicable law, each applicable Buyer Entity shall have the right, for a period not to exceed one hundred eighty (180) days following the Closing Date, to operate under the licenses and registrations of the corresponding Seller Entities (and the Partial Subsidiary, if applicable) relating to controlled substances and the operations of pharmacies and laboratories, until such Buyer Entity is able to obtain such licenses and registrations for itself. In furtherance thereof, the Seller Entities (and the Partial Subsidiary, if applicable) shall execute and deliver to the corresponding Buyer Entities at or prior to the Closing limited powers of attorney substantially in the form of Exhibit C hereto. Buyer shall cause the Buyer Entities to apply for all such licenses and permits as soon as reasonably possible before and after the Closing and shall diligently pursue such applications.

**10.13 Medical Staff Matters.** As a result of the acquisition of the Assets by the Buyer Entities, without the consent of the medical staff of the Hospitals, there will be no change or modification to the current staff privileges for physicians on the medical staff of the Hospitals; provided, however, that the consummation of the transactions contemplated hereby will not limit the ability of the Board of Trustees or medical executive committee of the Hospitals to grant, withhold or suspend medical staff appointments or clinical privileges in accordance with the terms and provisions of the medical staff bylaws. The applicable Buyer Entity shall adopt the current medical staff bylaws of the Hospitals as the medical staff bylaws of the Hospitals following the Closing, except to the extent that any modifications thereof are required to comply with accreditation standards or legal or regulatory requirements, and except to the extent that modifications thereto may be proposed by the medical staff and agreed to by such Buyer Entity. Nothing herein shall prohibit the amendment of the Hospitals' medical staff bylaws following the Closing Date to meet any minimum Buyer medical staff standards or to synchronize the Hospitals' medical staff bylaws with the medical staff bylaws of other Hospitals owned by Buyer or its Affiliates in accordance with the same process that applies to such other Hospitals.

**10.14 Information Services Agreement.** At the Closing, an Affiliate of Seller and Buyer will enter into an Information Technology Transition Services Agreement in a form mutually agreeable to Buyer and Seller.

**10.15 Transition Services Agreement.** At the Closing, an Affiliate of Seller and Buyer will enter into a Hospitals Transition Services Agreement in a form mutually agreeable to Buyer and Seller.

**10.16 Billing and Collection Agreement.** At the Closing, an Affiliate of Seller and Buyer will enter into a Clinic Billing and Collection Agreement in a form mutually agreeable to Buyer and Seller.

**10.17 License Agreement.** At the Closing, Seller and Buyer will enter into a License Agreement for Policy and Procedure Manuals in a form mutually agreeable to Buyer and Seller.

**10.18 Access to Records Including as to Recovery and Audit Information.** If any entity, governmental agency or person makes a claim, inquiry or request to any Buyer Entity or Seller Entity relating to the Seller Entities' operation of the Hospitals prior to the Effective Time (including but not limited to a notice to any Buyer Entity or Seller Entity from a person responsible for retroactive payment denials, including recovery audit contractors) of their intent to review the Seller Entities' claims with respect to the operation of the Hospitals prior to the Effective Time, or otherwise seeks information pertaining to the Seller Entities, the Buyer Entities shall: (i) comply with all requests from such entity or person in a timely manner; (ii) comply with all other applicable laws and regulations; (iii) forward to the Seller Entities all communications and/or documents sent to such person or entity or received from such person or entity within five (5) business days of the Buyer Entities' delivery or receipt of such communications and/or documents and (iv) provide the Seller Entities and their agents and attorneys upon reasonable request with reasonable access to records, information and personnel necessary for any appeal or challenge regarding any such retroactive payment denials (with the understanding that the Seller Entities shall be solely responsible for handling any appeals).

**10.19 Continuation of Insurance.** For a period of at least ten (10) years following the Closing, the Seller Entities shall maintain in effect insurance on all claims-made professional and general liability insurance policies of the Hospitals for claims related to the period of the Seller Entities' ownership and operation of the Hospitals. The insurance shall have coverage levels equal to the coverage maintained by Seller for other comparable healthcare facilities operated by Seller. If such insurance is cancelled or terminated during such ten (10) year period, the Seller Entities shall purchase tail insurance with a successor indemnification endorsement and co-defendant endorsement, each in favor of the Buyer Entities.

**10.20 Quality Reporting.** The Seller Entities shall submit all quality data required under the HQI Program to CMS or its agent, and all quality data required under ORYX to The Joint Commission, for any calendar quarter with reporting deadlines between the date of this Agreement and the Closing Date. If a calendar quarter ends prior to the Closing Date, but the reporting deadline for such quarter ends after the Closing Date, the Seller Entities shall prepare and submit

the quality data for the Facilities required under the HQI Program and ORYX in accordance with applicable filing deadlines and in the form and manner required by CMS and The Joint Commission, respectively, or, at the sole option to Buyer, the Seller Entities shall transmit such quality data to Buyer in a form mutually agreeable to Buyer and Seller or allow Buyer access to such data, to enable the Buyer Entities to submit quality data for the Facilities required under the HQI Program and ORYX for such quarter. If the Closing Date falls between the first and last day of a calendar quarter, the Seller Entities shall cooperate with Buyer to ensure that all quality data required to be submitted for the Facilities under the HQI Program and ORYX for the portion of the quarter during which Seller owned the Facilities can be aggregated with the quality data for the portion of the quarter during which Buyer owned the Facilities, to enable the Buyer Entities and/or the Seller Entities to submit quality data for the Facilities required under the HQI Program and ORYX in accordance with applicable filing deadlines and in the form and manner required by CMS and The Joint Commission, respectively.

**10.21 Telephone Access.** The parties shall take all steps necessary to transition over to Buyer or an Affiliate all local and long distance telephone services at the Facilities as of the Closing Date.

**10.22 Guaranties.** To the extent that Seller has guaranteed the obligations of any Seller Entity under any of the Contracts (a "Seller Guaranty"), at the request of Seller, Buyer shall use commercially reasonable efforts to have Seller released as guarantor. If required to obtain a release from a Seller Guaranty, Buyer shall execute a guaranty in the form of the existing Seller Guaranty, or such other form as may be agreed to by Buyer and the beneficiary of such guaranty. If Buyer is unable to obtain a release for any Seller Guaranty as set forth in this [Section 10.22](#), Buyer (i) shall indemnify and hold harmless Seller against any liabilities arising from or relating thereto as if the obligations accruing from and after the Effective Time under such Seller Guaranty were Assumed Liabilities, and (ii) agrees not to amend, modify, supplement, extend or renew (or allow the applicable Buyer Entity to amend, modify, supplement, extend or renew) the underlying Contract in any manner that would reasonably be expected to materially increase the obligations of Seller under the Seller Guaranty, without the prior written consent of Seller.

**10.23 Medicare Transition Agreement.** The parties have agreed to execute and deliver at the Closing a Medicare Transition Agreement in a form mutually agreeable to Seller and Buyer.

## 11. INDEMNIFICATION.

**11.1 Indemnification by Buyer.** Subject to the limitations set forth in [Section 11.3](#) hereof, Buyer shall defend, indemnify and hold harmless Seller and its Affiliates, and its and their respective officers, directors, employees, agents or independent contractors (collectively, "Seller Indemnified Parties"), 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 and fees of expert consultants and witnesses) that such Seller Indemnified Party incurs as a result of, or with respect to (i) any misrepresentation or breach of warranty by Buyer under this Agreement, (ii) any breach by Buyer of, or any failure by Buyer to perform, any covenant or agreement of, or required to be performed by, Buyer under this Agreement, (iii) any of the Assumed Liabilities, or (iv) any claim made by a third party with respect to the operation of the Facilities or acts or omissions of the Buyer Entities following the Effective Time.



**11.2 Indemnification by Seller.** Subject to the limitations set forth in Section 11.3 hereof, Seller shall defend, indemnify and hold harmless Buyer and its Affiliates, and its and their respective officers, directors, employees, agents, or independent contractors (collectively, “Buyer Indemnified Parties”), 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 and fees of expert consultants and witnesses) that such Buyer Indemnified Party incurs as a result of, or with respect to (i) any misrepresentation or breach of warranty by Seller under this Agreement, (ii) any breach by Seller of, or any failure by Seller to perform, any covenant or agreement of, or required to be performed by, Seller under this Agreement, (iii) any of the Excluded Liabilities, (iv) any actual or alleged violation of law by the Seller Entities, including but not limited to violations of federal or state laws regulating fraud such as the federal Anti-Kickback Law, the Stark Law, and the False Claims Act, in connection with which Buyer or its Affiliates incurs liability as a result of Buyer’s assumption of a Seller Entity provider number or provider agreement, (v) any claim made by a third party with respect to the operation of the Facilities or acts or omissions of the Seller Entities prior to the Effective Time, and (vi) any claim made by a third party against Buyer or any of the Buyer Entities with respect to the operation, acts or omissions of the Partial Subsidiary prior to the Effective Time that is not borne by the Partial Subsidiary or covered by the Partial Subsidiary’s insurance policies (not including any diminution in the value of the Partial Subsidiary).

**11.3 Limitations.** Buyer and Seller shall be liable under Section 11.1(i) or Section 11.2(i) (i.e., for misrepresentations and breaches of warranties), as applicable, only when total indemnification claims exceed One Million Six Hundred Thousand Dollars (\$1,600,000) (the “Basket Amount”), after which Buyer or Seller, as applicable, shall be liable only for the amount in excess of the Basket Amount. No party shall be liable for any indemnification pursuant to Section 11.1(i) or Section 11.2(i), as applicable, for any claims for misrepresentations and breaches of warranty which are the basis upon which any other party shall have failed to consummate the transactions described herein pursuant to Section 7.1 or Section 8.1, as applicable, or which are based upon misrepresentations and breaches of warranty which have been waived pursuant to the initial paragraph of Section 7 or Section 8, as applicable. The liability of Buyer and Seller for indemnification under Section 11.1(i) or Section 11.2(i), respectively, shall be limited to an amount equal to 25% of the Purchase Price. Notwithstanding the foregoing provisions of this Section 11.3, the limitation on liability and the Basket Amount shall not apply to claims arising under Section 11.1(i) or Section 11.2(i) and resulting from intentional misrepresentation or fraud by the indemnifying party or from a breach by Seller of the representations and warranties contained in Section 3.27(b) (the Basket Amount shall apply, the limitation of liability shall be limited to an amount equal to the Purchase Price).

**11.4 Notice and Control of Litigation.** If any claim or liability is asserted in writing by a third party against a party entitled to indemnification under this Section 11 (the “Indemnified Party”) which would give rise to a claim under this Section 11, the Indemnified Party shall notify the person giving the indemnity (the “Indemnifying Party”) in writing of the same within fifteen (15) days of receipt of such written assertion of a claim or liability. The Indemnifying Party shall have the right to defend a claim and control the defense, settlement, and prosecution of any litigation. If the Indemnifying Party, within ten (10) days after receipt of such written notice of such claim, fails to agree to defend such claim, the Indemnified Party shall (upon further notice to the Indemnifying Party) have the right to undertake the defense, compromise, or settlement of such

claim on behalf of and for the account and at the risk of the Indemnifying Party, subject to the right of the Indemnifying Party to assume the defense of such claim at any time prior to settlement, compromise, or final determination thereof. Anything in this Section 11.4 notwithstanding, (i) in the event that a proposed settlement requires the Indemnified Party to admit any wrongdoing or take or refrain from taking any action, then the proposed settlement shall not be entered into unless it is reasonably acceptable to both the Indemnifying Party and the Indemnified Party, and (ii) the Indemnifying Party shall not, without the written consent of the Indemnified Party, settle or compromise any claim or consent to the entry of any judgment which does not include as an unconditional term thereof the giving by the claimant to the Indemnified Party of a release from all liability in respect of such claim. The foregoing rights and agreements shall be limited to the extent of any requirement of any third-party insurer or indemnitor. All parties agree to cooperate fully as necessary in the defense of such matters. Should the Indemnified Party fail to notify the Indemnifying Party in the time required above, the indemnity with respect to the subject matter of the required notice shall be limited to the damages that would have resulted absent the Indemnified Party's failure to notify the Indemnifying Party in the time required above after taking into account such actions as could have been taken by the Indemnifying Party had it received timely notice from the Indemnified Party.

**11.5 Notice of Claim.** If an Indemnified Party becomes aware of any breach of the representations or warranties of the Indemnifying Party hereunder or any other basis for indemnification under this Section 11 (except as otherwise provided for under Section 12.3), the Indemnified Party shall notify the Indemnifying Party in writing of the same within thirty (30) days after becoming aware of such breach or claim, specifying in detail the circumstances and facts which give rise to a claim under this Section 11. Should the Indemnified Party fail to notify the Indemnifying Party within the time frame required above, the indemnity with respect to the subject matter of the required notice shall be limited to the damages that would have nonetheless resulted absent the Indemnified Party's failure to notify the Indemnifying Party in the time required above after taking into account such actions as could have been taken by the Indemnifying Party had it received timely notice from the Indemnified Party.

**11.6 Mitigation.** The Indemnified Party shall take all reasonable steps to mitigate all liabilities and claims, including availing itself as reasonably directed by the Indemnifying Party of any defenses, limitations, rights of contribution, claims against third parties (other than the Indemnified Party's insurance carriers) and other rights at law, and shall provide such evidence and documentation of the nature and extent of any liability as may be reasonably requested by the Indemnifying Party. Each party shall act in a commercially reasonable manner in addressing any liabilities that may provide the basis for an indemnifiable claim (that is, each party shall respond to such liability in the same manner that it would respond to such liability in the absence of the indemnification provided for in this Agreement). Any request for indemnification of specific costs shall include invoices and supporting documents containing reasonably detailed information about the costs or damages for which indemnification is being sought.

**11.7 Exclusive Remedy.** The representations and warranties contained in or made pursuant to this Agreement shall be terminated and extinguished upon the earlier of the end of the Survival Period (hereinafter defined) or any termination of this Agreement. Thereafter, none of Seller, Buyer or any shareholder, partner, officer, director, principal or Affiliate of any of the preceding shall be subject to any liability of any nature whatsoever with respect to any such

representation or warranty. Moreover, the sole and exclusive remedy for any breach or inaccuracy, or alleged breach or inaccuracy, of any representation and warranty made by Seller or Buyer shall be the remedies provided by this Section 11.

## 12. MISCELLANEOUS.

**12.1 Schedules and Exhibits.** Each Schedule and Exhibit to this Agreement shall be considered a part hereof as if set forth herein in full. From the date hereof until the Closing Date, the Seller Entities or the Buyer Entities may update their Schedules, subject to the other party's approval rights described below. If a party, after having a period of ten (10) business days to review any modification or amendment to a Schedule proposed by another party, determines in its reasonable discretion that it should not consummate the transactions contemplated by this Agreement because the modification or amendment to such Schedule discloses facts or circumstances having a Material Adverse Effect not disclosed in the original Schedules, then such party may terminate this Agreement on or before the Closing by giving a written notice to the other party (a "Termination Notice"), whereupon the other party shall be entitled, for a period of ten (10) business days after its receipt of the Termination Notice, to cure the matter that has triggered such Termination Notice. Notwithstanding anything contained herein to the contrary, the inclusion of new or different information on a Schedule after the date of this Agreement shall not prejudice or otherwise affect a party's right to seek relief for the other party's breach of a representation or warranty or affect the party's right to indemnification under Section 11.1 or Section 11.2 (based upon the Schedule as of the date of this Agreement without taking into account any modification, update or amendment).

**12.2 Additional Assurances.** The provisions of this Agreement shall be self-operative and shall not require further agreement by the parties except as may be herein specifically provided to the contrary; provided, however, at the request of a party, the other party or parties shall execute such additional instruments and take such additional actions as are consistent with this Agreement and are necessary or convenient to consummate the transactions contemplated hereby, with each party bearing its own costs and expenses incurred by such party related thereto. In addition and from time to time after the Closing, Seller and the Seller Entities shall execute and deliver (and shall cause the Acquired Company and the Partial Subsidiary to execute and deliver) such other instruments of conveyance and transfer, and take such other actions as Buyer reasonably may request, more effectively to convey and transfer full right, title, and interest to, vest in, and place the Buyer Entities in legal and actual possession of, any and all of the Facilities and the Assets, as well as the Acquired Company Ownership Interests and Statesville HMA, LLC's ownership interests in the Partial Subsidiary, in a manner consistent with this Agreement with each party bearing its own costs and expenses associated therewith.

**12.3 Consented Assignment.** Anything contained herein to the contrary notwithstanding, this Agreement shall not constitute an agreement to assign any claim, right, contract, license, lease, commitment, sales order, or purchase order if an attempted assignment thereof without the consent of the other party thereto would constitute a breach thereof or in any material way affect the rights of Seller thereunder, unless such consent is obtained.

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

**12.5 Legal Fees and Costs.** In the event a party elects to incur legal expenses to enforce or interpret any provision of this Agreement by judicial proceedings, the prevailing party will be entitled to recover such legal expenses, including, without limitation, reasonable attorneys' fees, costs, and necessary disbursements at all court levels, in addition to any other relief to which such party shall be entitled.

**12.6 Choice of Law.** The parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, without regard to conflict of laws principles.

**12.7 Benefit/Assignment.** Subject to provisions herein to the contrary, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors, and assigns. No party may assign this Agreement without the prior written consent of the other parties, which consent shall not be unreasonably withheld; provided, however, that any party may, without the prior written consent of the other parties, assign its rights and delegate its duties hereunder to one or more Affiliates (as defined in [Section 12.18](#)).

**12.8 No Brokerage.** Buyer and Seller each represent and warrant to the other that it has not engaged a broker in connection with the transactions described herein. Each party agrees to be solely liable for and obligated to satisfy and discharge all loss, cost, damage, or expense arising out of claims for fees or commissions of brokers employed or alleged to have been employed by such party.

**12.9 Cost of Transaction.** Whether or not the transactions contemplated hereby shall be consummated, the parties agree as follows: (i) Seller shall pay the fees, expenses, and disbursements of Seller and its agents, representatives, accountants, and legal counsel incurred in connection with the subject matter hereof and any amendments hereto; (ii) Buyer shall pay the fees, expenses, and disbursements of Buyer and its agents, representatives, accountants and legal counsel incurred in connection with the subject matter hereof and any amendments hereto; (iii) Buyer shall pay for the Title Commitment, the Title Policy, the Surveys, the filing fees required to be paid under the HSR Act, any environmental engineering reports, licensure application fees, recording fees, and mechanical, structural, electrical and roofing engineering costs; and (iv) Seller and Buyer shall each pay one-half of any and all real estate transfer or excise taxes in connection with the transfer of the Assets.

**12.10 Confidentiality.**

(a) It is understood by the parties hereto that the information, documents, and instruments delivered to Buyer by Seller and its agents and the information, documents, and instruments delivered to Seller by Buyer and its agents are of a confidential and proprietary nature. Each of the parties hereto agrees that prior to the Closing it will maintain the confidentiality of all such confidential information, documents, or instruments delivered to it by each of the other parties hereto or their agents in connection with the negotiation of this Agreement or in compliance with the terms, conditions, and covenants hereof and will only disclose such information, documents, and instruments to its duly authorized officers, members, directors, representatives, and agents

(including consultants, attorneys, and accountants of each party) and applicable governmental authorities in connection with any required notification or application for approval or exemption therefrom. Each of the parties hereto further agrees that if the transactions contemplated hereby are not consummated, it will return all such documents and instruments and all copies thereof in its possession to the other parties to this Agreement.

**(b)** Seller acknowledges that the success of transactions contemplated under this Agreement after the Closing depends upon the continued preservation of the confidentiality of certain information possessed by Seller or its Affiliates, agents and representatives, that the preservation of the confidentiality of such information by the Seller is an essential premise of the bargain between Seller and Buyer, and that Buyer would be unwilling to enter into this Agreement in the absence of this Section 12.10. Accordingly, Seller hereby agrees that (i) at the Closing Seller will assign to Buyer all of its rights under confidentiality agreements with other bidders that relate to the proposed sale of the Assets or to the Facilities or any other related information and (ii) Seller will not, and Seller will cause its Affiliates, agents and representatives not to, at any time on or after the Closing Date, directly or indirectly, without the prior written consent of Buyer, disclose or use any confidential or proprietary information involving or relating to the Assets, the Facilities or the operations thereof; provided, however, that the information subject to the foregoing provisions of this sentence will not include any information generally available to, or known by, the public (other than as a result of disclosure in violation hereof); and provided, further, that the provisions of this Section 12.10 will not prohibit any retention of copies of records or disclosure (a) required by any applicable legal requirement so long as reasonable prior notice is given of such disclosure and a reasonable opportunity is afforded to contest the same or (b) made in connection with the enforcement of any right or remedy relating to this Agreement.

**(c)** Each of the parties hereto recognizes that any breach of this Section 12.10 would result in irreparable harm to the other party to this Agreement and its Affiliates (as defined in Section 12.18 below) and that therefore either Seller or Buyer shall be entitled to an injunction to prohibit any such breach or anticipated breach, without the necessity of posting a bond, cash, or otherwise, in addition to all of its other legal and equitable remedies. Nothing in this Section 12.10, however, shall prohibit the use of such confidential information, documents, or information for such governmental filings as in the opinion of Seller's counsel or Buyer's counsel are required by law or governmental regulations or are otherwise required to be disclosed pursuant to applicable state law.

**12.11 Public Announcements.** Seller and Buyer mutually agree that no party hereto shall release, publish, or otherwise make available to the public in any manner whatsoever any information or announcement regarding the transactions herein contemplated without the prior written consent of Seller and Buyer, except for information and filings reasonably necessary to be directed to governmental agencies to fully and lawfully effect the transactions herein contemplated or required in connection with securities and other laws. Nothing contained in this Agreement will limit Seller or its Affiliates from making any disclosures or filing any agreements that they deem necessary or advisable to be made in any filings with the Securities and Exchange Commission or in connection with any future securities offerings of Seller or its Affiliates.

**12.12 Waiver of Breach.** The waiver by any party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to constitute, a waiver of any subsequent breach of the same or any other provision hereof. Any waiver of a breach or violation of any provision of this Agreement must be in writing and signed by the party waiving such breach or violation to be effective.

**12.13 Notice.** Any notice, demand, or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered, when received by receipted overnight delivery, or five (5) days after being deposited in the United States mail, with postage prepaid thereon, certified or registered mail, return receipt requested, addressed as follows:

Seller: CHS/Community Health Systems, Inc.  
4000 Meridian Boulevard  
Franklin, TN 37067  
Attn: Vice President - Development

With a simultaneous copy to:

CHSPSC, LLC  
4000 Meridian Boulevard  
Franklin, TN 37067  
Attn: General Counsel

Buyer: Chief Executive Officer  
Novant Health, Inc.  
2085 Frontis Plaza Boulevard  
Winston-Salem, NC 27103

With a simultaneous copy (which shall not constitute notice) to:

Chief Legal Officer  
Novant Health, Inc.  
2085 Frontis Plaza Boulevard  
Winston-Salem, NC 27103

or to such other address, and to the attention of such other person or officer as any party may designate, with copies thereof to the respective counsel thereof as notified by such party.

**12.14 Severability.** In the event any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason and in any respect, such invalidity, illegality, or unenforceability shall in no event affect, prejudice, or disturb the validity of the remainder of this Agreement, which shall be and remain in full force and effect, enforceable in accordance with its terms.

**12.15 Gender and Number.** Whenever the context of this Agreement requires, the gender of all words herein shall include the masculine, feminine, and neuter, and the number of all words herein shall include the singular and plural.

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

**12.17 Survival.** All of the representations, warranties, covenants, and agreements made by the parties in this Agreement or pursuant hereto in any certificate, instrument, or document shall survive the consummation of the transactions described herein, and may be fully and completely relied upon by Seller and Buyer, as the case may be, notwithstanding any investigation heretofore or hereafter made by any of them or on behalf of any of them, and shall not be deemed merged into any instruments or agreements delivered at the Closing or thereafter. The representations and warranties contained in or made in Sections 3.1, 3.2, 3.3, 4.1, 4.2 and 4.3 shall survive the Closing indefinitely and the representations and warranties contained in Sections 3.7, 3.8, 3.14 and 3.27(a) and (c) shall survive for a period of four (4) years after the Closing; all other representations and warranties made pursuant to this Agreement shall survive the Closing for a period of two (2) years following the Closing Date (the "Survival Period").

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

**12.19 Material Adverse Effect.** As used in this Agreement, the term "Material Adverse Effect" means an event, change or circumstance which, individually or together with any other event, change or circumstance, would reasonably be expected to have a material adverse effect on the business (but not the prospects), financial condition, or results of operations of the Facilities, taken as a whole. Notwithstanding anything to the contrary contained in this Agreement, none of the following occurring after the date hereof shall constitute a Material Adverse Effect or be taken into account in determining whether a Material Adverse Effect has occurred: (a) changes or proposed changes to any law, reimbursement rates or policies of governmental agencies or bodies that are generally applicable to hospitals or health care facilities; (b) changes or proposed changes in requirements, reimbursement rates, policies or procedures of third-party payors or accreditation commissions or organizations that are generally applicable to hospitals or health care facilities; (c) any changes or any proposed changes in GAAP after the date of this Agreement; (d) any hostilities, acts of war, sabotage, terrorism or military actions, or any escalation or worsening of any such hostilities, acts of war, sabotage, terrorism or military actions; (e) changes resulting from the public announcement of this Agreement or the pendency of the transactions contemplated hereby (including, without limitation, changes in private payor agreements or policies and their effects and the departure of employees), or Buyer being the proposed purchaser of the Assets; (f) the effect of physicians or payors moving proposed medical procedures from the Facilities to facilities not owned by the Seller Entities (including, without limitation, facilities owned or operated by Buyer or its Affiliates); (g) compliance with the terms of, or the taking of any action required, by this Agreement or consented to by Buyer; or (h) any failure in and of itself to meet internal or published projections, estimates or forecasts of revenues, earnings, cash flow, or other measures of financial or operating performance for any period.

**12.20 Waiver of Jury Trial.** EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO DEMAND THAT ANY ACTION,

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

**12.21 Accounting Date.** The transactions contemplated hereby shall be effective for accounting purposes as of 12:01 a.m. on the day following the Closing Date, unless otherwise agreed in writing by Seller and Buyer. The parties will use commercially reasonable efforts to cause the Closing to be effective as of a month end, with equitable adjustments made to the Purchase Price necessary to give effect to the foregoing.

**12.22 No Inferences.** Inasmuch as this Agreement is the result of negotiations between sophisticated parties of equal bargaining power represented by counsel, no inference in favor of, or against, either party shall be drawn from the fact that any portion of this Agreement has been drafted by or on behalf of such party.

**12.23 Limited Third Party Beneficiaries.** The terms and provisions of this Agreement are intended solely for the benefit of Buyer, Seller, their Affiliates and their respective permitted successors or assigns, and it is not the intention of the parties to confer, and this Agreement shall not confer, third-party beneficiary rights upon any other person other than the Seller Entities and the Buyer Entities, which the parties agree are express third party beneficiaries of the rights of Seller and Buyer, respectively.

**12.24 Entire Agreement/Amendment.** With the exception of the Agreement for Use and Non-Disclosure of Confidential Information dated as of August 1, 2022, between CHSPSC, LLC and Buyer, this Agreement supersedes all previous contracts, and constitutes the entire agreement of whatsoever kind or nature existing between or among the parties respecting the within subject matter, and no party shall be entitled to benefits other than those specified herein. As between or among the parties, no oral statements or prior written material not specifically incorporated herein shall be of any force and effect. The parties specifically acknowledge that in entering into and executing this Agreement, the parties rely solely upon the representations and agreements contained in this Agreement and no others. All prior representations or agreements, whether written or verbal, not expressly incorporated herein are superseded, and no changes in or additions to this Agreement shall be recognized unless and until made in writing and signed by all parties hereto. This Agreement may be executed in two or more counterparts, each and all of which shall be deemed an original and all of which together shall constitute but one and the same instrument.

**12.25 Risk of Loss.** Notwithstanding any other provision hereof to the contrary, the risk of loss or damage to any of the Assets, the Hospitals and all other property, transfer of which is contemplated by this Agreement, shall be borne by Seller until the Effective Time and by Buyer after the Effective Time.

**12.26 Other Definitions.** “Knowledge of Seller” or “Seller’s knowledge” or any other similar knowledge qualification with respect to any representation, warranty or other statement in



this Agreement means (i) all matters with respect to which Seller or any Seller Entity has received written notice from a governmental authority, governmental entity, or third party; (ii) the actual knowledge of the following officers of the Hospitals or any Seller Entity: Chief Executive Officer, Chief Financial Officer, Chief Compliance Officer, Chief Operating Officer, Chief Medical Officer and/ or Chief Nursing Officer as well as the VP, Senior Acquisitions and Development Officer of Seller, and President, Region 3 Operations and Chief Compliance Officer of Seller, in each case after reasonable inquiry of such person's immediate subordinates. The term "Person" means any individual, partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or other association or entity, including any Government Entity.

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

**CHS/COMMUNITY HEALTH SYSTEMS, INC.**

By: /s/ Terry H. Hendon

Title: Vice President  
("Seller")

**NOVANT HEALTH, INC.**

By: /s/ Carl Armato

Title: Chief Executive Officer  
("Buyer")



**COMMUNITY HEALTH SYSTEMS ANNOUNCES DEFINITIVE AGREEMENT  
TO SELL TWO NORTH CAROLINA HOSPITALS TO NOVANT HEALTH**

FRANKLIN, Tenn. (February 28, 2023) – Community Health Systems, Inc. (NYSE: CYH) announced today that subsidiaries of the Company have signed a definitive agreement to sell 123-bed Lake Norman Regional Medical Center, an acute care hospital in Mooresville, NC, and Davis Regional Medical Center in Statesville, NC, which is in the process of transitioning from a general acute care hospital to an inpatient behavioral health hospital, and their associated assets, to subsidiaries of Novant Health for cash consideration of approximately \$320 million.

The transaction is expected to close later this year, subject to customary regulatory approvals and closing conditions.

The hospitals included in this transaction are among the additional potential divestitures discussed on the Company's fourth quarter and year-end 2022 earnings call.

**About Community Health Systems, Inc.**

Community Health Systems, Inc. is one of the nation's largest healthcare companies. The Company's affiliates are leading providers of healthcare services, developing and operating healthcare delivery systems in 45 distinct markets across 16 states. CHS subsidiaries own or lease 79 affiliated hospitals with approximately 13,000 beds and operate more than 1,000 sites of care, including physician practices, urgent care centers, freestanding emergency departments, occupational medicine clinics, imaging centers, cancer centers and ambulatory surgery centers. Shares in Community Health Systems, Inc. are traded on the New York Stock Exchange under the symbol "CYH." More information about the Company can be found on its website at [www.chs.net](http://www.chs.net).

Investor Contacts: Kevin J. Hammons  
President and Chief Financial Officer  
615-465-7000  
or  
Shelly K. Schussele, CMA  
Senior Director, Investor Relations  
615-465-2732  
or  
Media Contact: Rebecca Ayer Pitt  
Vice President, Corporate Communications  
615-465-2750

-END-