ASSET PURCHASE AGREEMENT

ASSET PURCHASE AGREEMENT, dated as of April 20, 2011 (this “Agreement”) by and between HOBOKEN MUNICIPAL HOSPITAL AUTHORITY, a New Jersey body corporate and politic (“Seller”), and HUMC HOLDCO, LLC (“Holdco”), a New Jersey limited liability company and HUMC OPCO, LLC (“Opco”), a Delaware limited liability company, (collectively, “Purchaser”).

WITNESSETH:

WHEREAS, Seller owns and operates the Hoboken University Medical Center, an acute care hospital located in Hoboken, New Jersey (the “Hospital”) and provides hospital services and other health care programs and services at the Hospital (the Hospital and the services and programs provided thereat collectively referred to as the “Business”);

WHEREAS, upon the terms and subject to the conditions contained in this Agreement, Seller desires to sell to Purchaser and Purchaser desires to purchase from Seller substantially all of the assets with respect to the Hospital including real, tangible and intangible property associated therewith, in exchange for the payment to the Seller of the Purchase Price and the assumption by the Purchaser of the Assumed Liabilities;

WHEREAS, certain terms used in this Agreement are defined in Article I below; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1 Certain Definitions.

For purposes of this Agreement, the following terms shall have the meanings specified in this Section 1.1.

“Accounts Receivable” means (a) all of Seller’s present and future accounts, payment intangibles, instruments, chattel paper and all other rights of Seller to receive payments, including, without limitation, all rights to receive any payment, refund or credit in connection with any audit appeal, litigation, action, award, or other recovery, whether administrative or judicial, including, but not limited to, those pertaining to or in connection with Medicaid, Medicaid Managed Care, Medicare, Medicare Advantage or other Medicare managed care program, insurance company, managed care company, or other third-party insurance payments or
reimbursements or private payor payments or reimbursements or any future or pending appeal before the Provider Reimbursement Review Board, and all amounts, including, but not limited to, the third party reimbursable portion of accounts receivable owing to Seller arising out of the delivery by the Business of medical, surgical, diagnostic, treatment or other professional or medical or healthcare related services or any other service and/or the supply of goods related to any of such services (whether such services are supplied by the Business in an inpatient or outpatient setting, whether on-site or offsite at the Hospital or by a third party), including, without limitation all health care insurance receivables, and all other rights to payment or reimbursement under any memoranda, letters of understanding or agreements (whether private or governmental), (b) all accounts, accounts receivable (including, subject to Section 2.1, any and all EMR Funds), general intangibles, rights, remedies, guarantees, supporting obligations, letter-of-credit rights, deposit accounts, collection accounts and security interests in respect of the foregoing (including bills of lading, warehouse receipts and other documents of title, whether negotiable or non-negotiable), and all rights of enforcement and collection and all books and records evidencing or related to the foregoing, (c) all information and data compiled or derived by Seller in respect of such accounts receivable (other than any such information and data subject to legal restrictions of patient confidentiality), and (d) all proceeds of any of the foregoing, whether received or accruing before or after the Closing Date. For avoidance of doubt, (i) “Accounts Receivable” shall not include cash received by Seller in the Ordinary Course of Business prior to the Closing Date for services rendered by Seller prior to the Closing Date (including payments of charity care and other Subsidies received prior to the month in which Closing occurs, other than advances), and (ii) charity care and other Subsidies received in the month in which the Closing occurs shall be prorated at Closing in accordance with Section 3.4(ii).

“Affiliate” means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise.

“Approvals” mean all approvals required or necessary for the City, the Seller and any other requisite governmental body to enter into, execute and deliver the Parking Agreement and the Parking Garage Bond Re-Financing, including, without limitation, (a) approval of an applicable ordinance by the Hoboken City Council, and (b) approval of the Local Finance Board within the New Jersey Department of Community Affairs, in each case such that the Parking Agreement does not jeopardize the tax exempt status of any 501(c)(3) tax-exempt bond financing relating to the Garage.

“Bond Financing” means those certain $40,465,000 City of Hoboken Guaranteed Hospital Revenue Bonds, Series 2007A (Federally Taxable) (Convertible to Tax Exempt) and $11,170,000 City of Hoboken Guaranteed Hospital Revenue Bonds, Series 2007B (Federally Taxable) and $9,720,000 City of Hoboken Guaranteed Hospital Revenue Bonds, Series 2009 (Federally Taxable) which are secured, inter alia, by a guaranty of the City of Hoboken.
“Business Day” means any day of the year on which national banking institutions in New Jersey are open to the public for conducting business and are not required or authorized to close.

“Charity Care Subsidy” means the Charity Care Subsidy defined in N.J.S.A. 26:2H-18.52.

“CMS” means the Centers for Medicare and Medicaid Services within HHS.


“CON Application” means the Certificate of Need application with respect to the transfer of the license of the Hospital to be submitted by Purchaser to the applicable government entity of the State of New Jersey.

“CON Approval” means the approval by the applicable government entity of the State of New Jersey of Purchaser’s CON Application without contingencies or conditions that have not been satisfied, other than contingencies or conditions acceptable to Purchaser that may be satisfied in accordance with their terms after the Closing.

“Contract” means any written contract, indenture, note, bond, lease, license or other agreement, other than a real property lease, a personal property lease or an Intellectual Property License.

“Copyrights” means all copyrights and registrations and applications therefor and works of authorship, and mask work rights.

“Cost Reports” means all cost and other reports filed pursuant to the requirements of Medical Reimbursement Programs for payment or reimbursement of amounts due from such programs for services provided.

“DEP” means the New Jersey Department of Environmental Protection.

“DHS” means the New Jersey Department of Human Services.

“DMAHS” means the New Jersey Department of Medical Assistance for Health Services.

“DHSS” means the Department of Health and Senior Services of the State of New Jersey.

“Documents” means all files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, budgets, forecasts, ledgers, journals, title policies, customer lists, regulatory filings, operating data and plans, technical documentation (design specifications, functional requirements, operating instructions, logic manuals, flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.), and other similar materials related to the Business or the Purchased Assets in each case whether or not in electronic form, other than Patient Records.
“Employees” means all individuals, as of any date specified herein, whether or not actively at work as of such date, who are employed by Seller or Manager in the conduct of the Business (including, without limitation, employees of Manager whose employment is governed by collective bargaining agreements), together with individuals who are hired in respect of the conduct of the Business after the date hereof and prior to the Closing; provided, however, that “Employees” shall not include (i) any trustee, director or officer of Seller or (ii) individuals who regularly perform executive functions for Seller relating to the Business.


“ERISA Affiliate” means any entity that would be deemed to be a “single-employer” with Seller under Section 414(b), (c), (m) or (o) of the Code or Section 4001 of ERISA.

“Excluded Contracts” means every Contract that is not an Assigned Contract or not otherwise specifically identified in Schedule 2.1(d).

“Facilities” means the healthcare facilities utilized in the Business and included among the Purchased Assets as further identified on Schedule A and in Section 2.1, but excluding any asset defined in Section 2.2(f)(ii) as an Excluded Asset or on Schedule A as not being included.

“Furniture and Equipment” means all furniture, fixtures, furnishings, machinery, appliances and other equipment (including medical equipment) and leasehold improvements owned by Seller, used by Seller in the conduct of the Business and located in the Ordinary Course of Business at the Purchased Real Property including, without limitation, all such desks, chairs, tables, Hardware, copiers, telephone lines, telecopy machines and other telecommunication equipment (and, to the extent assignable by Seller, the telephone numbers
associated therewith), cubicles and miscellaneous office furnishings.

“GAAP” means generally accepted accounting principles in the United States as of the date hereof.

“Governmental Body” means any government or governmental or regulatory body thereof, or political subdivision thereof, whether foreign, federal, state, or local, or any agency, instrumentality or authority thereof, or any court or arbitrator (public or private).

“Hardware” means any and all computer and computer-related hardware, including computers, file servers, facsimile servers, scanners, color printers, laser printers and networks.

“Hazardous Material” means any substance, material or waste which is regulated by any Governmental Body including petroleum and its by-products, asbestos, biomedical waste, medical waste and any chemical, material or substance which is defined as a “hazardous waste,” “hazardous substance,” “hazardous material,” “restricted hazardous waste,” “industrial waste,” “solid waste,” “contaminant,” “pollutant,” “toxic waste” or “toxic substance” under any provision of Environmental Law.

“Healthcare Program Liabilities” means all Liabilities under any Medical Reimbursement Program Laws, including but not limited to (a) any obligations for settlement and retroactive adjustments under the Medicare and Medicaid programs for open periods ending on or before the Closing Date, (b) any obligations or liabilities of Seller by reason of any failure to comply with the rules and regulations of any Medical Reimbursement Program which is attributable to the delivery by the Business of medical, surgical, diagnostic, treatment or other professional or medical or healthcare related services or any other service and/or the supply of goods related to any of such services (whether such services are supplied by the Business or a third party) (“Service Delivery”) during any period of time ending on or before the Closing Date, (c) all obligations of Seller now existing or which may hereafter exist with respect to any payment or reimbursement owed by Seller to any Medical Reimbursement Program or other payor which is attributable to the Service Delivery during any period of time ending on or before the Closing Date, and (d) any obligations or liabilities to any Medical Reimbursement Program for overpayments and other financial obligations arising from adjustments or reductions in reimbursement attributable to events, transactions, circumstances, or conditions occurring or existing on or before the Closing Date.

“Healthcare Regulatory Consents” means in respect of Seller or Purchaser, as the case may be, such consents, approvals, authorizations, waivers, Orders, licenses or Permits of any Governmental Body as shall be required to be obtained and such notifications to any Governmental Body as shall be required to be given by such party in order for it to consummate the transactions contemplated of it by this Agreement in compliance with all applicable Law relating to health care or healthcare services of any kind and shall include obtaining any such consents, approvals, authorizations, waivers, Orders, licenses or Permits of, or notices to, the Superior Court of New Jersey, the Attorney General of the State of New Jersey and the public in accordance with the New Jersey Community Healthcare Asset Protection Act (“CHAPA”), CMS, DHSS, DHS, DMAHS, and all applicable New Jersey statues.
laws, codes, regulations and ordinances and shall include Purchaser obtaining a Certificate of Need from DHSS with respect to its operation of the Business and the parties obtaining any consents, approvals, authorizations, waivers, Orders, licenses or Permits of any Government Body needed for Seller or Purchaser to consummate the transactions contemplated hereby and for Purchaser to operate the Business.

“HHS” means the United States Department of Health and Human Services.

“Hired Employees” means the Employees hired by Purchaser effective as of the Closing Date in accordance with Section 8.20 of this Agreement.

“Intellectual Property License” means (i) any grant by Seller to a third Person of any right to use any of the Purchased Intellectual Property owned by Seller and (ii) any grant to Seller of a right to use in connection with the Business any Intellectual Property Rights owned by any other Person (other than Seller Marks).

“Intellectual Property Rights” means all intellectual property rights that Seller have the authority or legal ability under applicable law to assign in respect of Copyrights, Marks, Software, trade secrets and Patents, whether registered or unregistered, and whether owned or licensed.

“IRS” means the Internal Revenue Service.

“Inventory” means all medical supplies, drugs, medications, food, janitorial, maintenance shop, housekeeping and office supplies and other consumables located in the Hospital, the Facilities or used in connection with the operation of the Business.

“Knowledge” means the actual knowledge, as of or prior to the Closing, as applicable, of those officers of Purchaser or of those officers, directors, trustees or board members of Seller or the Manager or the senior managers of the Business identified on Schedule 1.1.

“Law” means any federal, state, local or foreign law, statute, code, ordinance, rule or regulation.

“Legal Proceeding” means any judicial, administrative or arbitral actions, suits, alternative dispute resolution, proceedings (public or private) or claims or any proceedings by or before a Governmental Body.

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

“Lien” means any lien, encumbrance, pledge, mortgage, deed of trust, security interest, claim, lease, charge, option, right of first refusal, easement, servitude, proxy, voting trust or agreement, adverse claim, and transfer restriction under any agreement, of any kind or nature, known or unknown.
"LOI" means that certain Letter of Intent dated December 27/28, 2010 and countersigned by Seller January 4, 2011 pursuant to which the parties thereto agreed, inter alia, to pursue discussions and negotiation of a Definitive Agreement (as defined in the LOI) for the sale from Seller to Purchaser of substantially all of the assets related to the Hospital and the Business.

"Manager" means Hudson Healthcare, Inc. or its successor or assigns, as manager pursuant to the Management Agreement.

"Management Agreement" means that certain Master Manager and Operator Agreement between Manager and Seller dated February 1, 2007.

"Marks" means all trademarks, service marks, trade names, service names, brand names, all trade dress rights, logos, Internet domain names and corporate names and general intangibles of a like nature, together with the goodwill associated with any of the foregoing, and all applications, registrations and renewals thereof.

"Material Adverse Effect" means with respect to any Person, any change, event(s), occurrence(s) or effect(s), whether direct or indirect, that, both before and after giving effect to the transactions contemplated by this Agreement, could, individually or in the aggregate, have a material adverse effect on (i) the business, properties, results of operations, assets, revenue, income, prospects or condition (financial or otherwise) of, or the ability to timely satisfy the obligations or liabilities (whether absolute or contingent) of, such Person, (ii) such Person’s business or assets, (iii) the ability of such Person to perform its obligations under, and/or consummate the transactions contemplated by, this Agreement within the time periods specified herein, or (iv) the ability of such Person to operate the Hospital or the Business after the Closing Date including, but not limited to, regulatory changes, the failure to obtain any approval from any Governmental Body or the imposition of conditions or restrictions for the issuance or transfer of any Permits or approvals. Notwithstanding the foregoing, in no event shall any of the following constitute Material Adverse Effect: (a) any occurrence, condition, change, event or effect resulting from or relating to changes in general economic or financial market conditions except in the event, and only to the extent, that such occurrence, condition, change, event or effect has had a disproportionate effect on such Person, as compared to other Persons engaged in the business of owning and operating an acute care hospital facility; or (b) any occurrence, condition, change, event or effect that affects the ownership and operation of acute care hospitals generally (including changes of a regulatory nature) except in the event, and only to the extent, that such effect has had a disproportionate effect on such Person, as compared to other Persons engaged in the ownership and operation of acute care hospitals.

"Medicaid" means any state program for medical assistance administered under Title XIX of the Social Security Act.

"Medical Reimbursement Program" means Medicare, Medicaid, any other federal health care program (as defined in 42 U.S.C. § 1320a-7b(f)), and any other state sponsored reimbursement program.

“Medicare” means the health insurance program administered under Title XVIII of the Social Security Act.

“Order” means any order, injunction, judgment, decree, ruling, consent, approval, writ, assessment or arbitration award of a Governmental Body.

“Original Parking Agreement” means that certain Lease and Parking Access Agreement dated December 21, 2000, as amended by a June 2010 Agreement Amending HUMC Parking Privileges at Midtown Parking Garage.

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

“Parking Agreement” means the Parking Agreement as defined in Section 10.1(q).

“Parking Garage” means the Midtown Parking Garage located at 330 Clinton Street, Hoboken, New Jersey.

“Parking Garage Bond Financing” means those certain $17,515,000 Bonds issued by the City of Hoboken, 2002 Series A, which are secured, inter alia, by the full faith and credit of the City of Hoboken, relating to the Parking Garage.

“Parking Garage Bond Re-Financing” means the refinance of the Parking Garage Bond Financing so that the Parking Garage and the operation and use of the Parking Garage are no longer subject to 501(c)(3) tax-exempt financing rules, regulations and obligations.

“Patents” means all patents and applications therefor, including continuations, divisionals, continuations-in-part, or reissues of patent applications and patents issuing thereon.

“Patient Records” means any Documents containing information concerning medical, health care or behavioral health services provided to, or the medical, health care or behavioral health of any individual, or that are otherwise subject to regulation under applicable Law, including the Health Insurance Portability and Accountability Act of 1996 (“HIPPA”), the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) and all regulations promulgated pursuant thereto, including the Transaction Code Set Standards, the Privacy Rules and the Security Rules set forth at 45 C.F.R. Parts 160 and 164.
“Permits” means any approvals, authorizations, consents, licenses, permits, provider numbers, certificates of need, certificates of exemption, franchises, accreditations, registrations or certificates of a Governmental Body or other regulatory entity.

“Permitted Exceptions” means (i) all exceptions, restrictions, easements, encroachments, covenants, reservations, declarations and rights of way disclosed in commitments of title insurance, surveys and other documentation described in such commitments and surveys identified on Schedule 1.1; (ii) statutory liens for current Taxes, assessments or other governmental charges not yet due and payable or the amount or validity of which is being contested in good faith by appropriate proceedings, provided the same could not reasonably be expected to result in a loss of the property and an appropriate reserve is established therefor; and (iii) zoning, entitlement and other land use and environmental regulations or designations by any Governmental Body provided that such regulations or designations have not been violated, which, in each case, do not materially interfere with the operation of the Business as currently conducted at the applicable site.

“Person” means any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, association, estate, Governmental Body or other entity.

“Plan” means any material “employee benefit plan” within the meaning of Section 3(3) of ERISA and any other material bonus, profit sharing, pension, severance, deferred compensation, fringe benefit (as described in Code Section 132), insurance, welfare, post-retirement, health, life, tuition refund, service award, company car, scholarship, relocation, disability, accident, sick, vacation, holiday, unemployment, incentive, commission, retention, change in control, non-competition, and other plans, agreements, policies, trust funds (a) established, maintained, sponsored or contributed to (or with respect to which any obligation to contribute has been undertaken) by Seller or any ERISA Affiliate or (b) with respect to which Seller or any ERISA Affiliate have or have had any obligation, in each case, under which any Transferred Employee may receive benefits or may otherwise be subject.

“Purchased Intellectual Property” means all Intellectual Property Rights owned by Seller and/or used by Seller, including any in the form of or arising from or in respect of Patents, Marks, Copyrights, Software or Technology, except for any that is an Excluded Asset, that Seller have the authority or legal ability under applicable law to assign.

“Release” means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, or leaching of Hazardous Material into the indoor or outdoor environment, or into or out of any property.

“Remedial Action” means any and all actions as required by a Governmental Body to (i) investigate, monitor, clean up, remove, remediate, treat or in any other way address any Hazardous Material; (ii) prevent any Release so it does not endanger or threaten to endanger public health or welfare or the indoor or outdoor environment or any natural resources; (iii) perform pre-remedial studies and investigations or post-remedial monitoring and care concerning
Hazardous Material; or (iv) to correct a condition of noncompliance with, or in violation of, Environmental Law.

“Representatives” means with respect to any Person, any of its Affiliates, directors, trustees, officers, members, employees, consultants, agents, advisors, and other representatives.

“Software” means, except to the extent generally available for purchase from a third Person, any and all (i) computer programs, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code, (ii) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise, (iii) descriptions, flow-charts and other work product used to design, plan, organize and develop any of the foregoing, screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons, and (iv) all documentation including user manuals and other training documentation related to any of the foregoing, in each case, that are used in, incorporated in, embodied in, displayed by or relate to, or are used or useful in the Business. That portion of the Software that is owned by Seller is referred to herein as the “Proprietary Software,” and that portion of the Software that is owned by any Person other than Seller is referred to herein as the “Third-Party Software.”

“Tax Authority” means any federal, state or local government, or agency, instrumentality or employee thereof, charged with the administration of any law or regulation relating to Taxes.

“Taxes” means (i) all federal, state, local or foreign taxes, charges or other assessments, including all net income, gross receipts, capital, sales, use, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, stamp, occupation, property, excise taxes under Section 4358 of the Code, unrelated business income taxes, and estimated taxes, whether disputed or not, and (ii) all interest, penalties, fines, additions to tax or additional amounts imposed by any taxing authority in connection with any item described in clause (i).

“Tax Return” means all returns, declarations, reports, estimates, information returns and statements required to be filed in respect of any Taxes.

“Technology” means, collectively, all designs, formulae, algorithms, procedures, methods, techniques, ideas, know-how, research and development, technical data, programs, subroutines, tools, materials, specifications, processes, inventions (whether patentable or unpatentable and whether or not reduced to practice), apparatus, creations, improvements, works of authorship and other similar materials, and all recordings, graphs, drawings, reports, analyses, and other writings, and other tangible embodiments of the foregoing, in any form whether or not specifically listed herein, and all related technology, that are used in, incorporated in, embodied in, displayed by or relate to, or are used or useful in the Business, other than any in the form of Software.

“WARN Act” means the Worker Adjustment and Retraining Notification Act of 1988, as amended, and the rules and regulations promulgated thereunder.
1.2 **Terms Defined Elsewhere in This Agreement.** For purposes of this Agreement, the following terms have meanings set forth in the Sections indicated:

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1.3 Other Definitional and Interpretive Matters.

(a) Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

Calculation of Time Periods. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

Dollars. Any reference in this Agreement to $ shall mean U.S. dollars.
Exhibits/Schedules. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Schedule or Exhibit but not otherwise defined therein shall be defined as set forth in this Agreement. To the extent there is a conflict between the terms of this Agreement and a Schedule or Exhibit, the terms of this Agreement shall control.

Gender and Number. Any reference in this Agreement to gender shall include all genders, and words imparting the singular number only shall include the plural and vice versa.

Headings. The provision of a Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. All references in this Agreement to any “Section” are to the corresponding Section of this Agreement unless otherwise specified.

Herein. The words such as “herein,” “hereinafter,” “hereof,” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

Including. The word “including” or any variation thereof means “including, without limitation” and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

Made available to Purchaser. The phrase “made available to Purchaser” shall mean made available to Purchaser through posting in Seller’s electronic data room, via email, facsimile or other electronic transfer or through other written means for purposes of this Agreement.

Survival of Certain Covenants. Any covenant which by its terms is to be performed after the Closing shall survive the Closing, notwithstanding the fact that the provision does not explicitly provide that the covenant shall survive the Closing.

(b) The parties hereto have been advised by experienced counsel, and have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted in its entirety by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

ARTICLE II

PURCHASE AND SALE OF ASSETS; ASSUMPTION OF LIABILITIES

2.1 Purchase and Sale of Assets; Agreement Concerning EMR Incentives. On the terms and subject to the conditions set forth in this Agreement, at the Closing, Purchaser shall purchase, acquire and accept from Seller (or Manager, as the case may be,) and Seller shall sell,
transfer, assign, convey and deliver to Purchaser, or cause to be sold, transferred, assigned, conveyed and delivered all right, title and interest, direct and indirect, in, to and under the Purchased Assets, free and clear of any and all existing Liens, other than Permitted Exceptions (the “Contemplated Transactions”). For purposes of this Section 2, references to “Seller” shall include Manager and any Affiliate of Manager to the extent of any interest, direct or indirect, in any of the Purchased Assets, Excluded Assets, the Assigned Liabilities or the Excluded Liabilities, as the case may be. “Purchased Assets” means all assets, rights and properties pertaining to or used in connection with the Business as existing on the Closing Date wheresoever located and whether or not carried or reflected on the books and records of Seller, or owned by Seller, Manager or other related party, or to which Seller has rights, directly or indirectly, through the Management Agreement or otherwise, other than the Excluded Assets, including:

(a) all right, title and interest of Seller in and to the Owned Properties set forth in Schedule 2.1(a)(i)(A), together with all improvements and fixtures thereto and other appurtenances and rights in respect thereof, including Seller’s interest in any leases of portions of the Owned Properties which leases are listed and described in Schedule 2.1(a)(i)(B) (the “Purchased Owned Properties”) and the Real Property Leases, if any, set forth in Schedule 2.1(a)(ii) (the “Purchased Real Property Leases” and together with the Purchased Owned Properties, the “Purchased Real Property”);

(b) (i) the Furniture and Equipment; (ii) the tools, spare parts, supplies (including all of Seller’s Inventory) and all other tangible personal property owned by Seller and used by Seller in the Ordinary Course of Business and whether or not located at the Purchased Real Property ((i) and (ii) collectively, “Purchased Personal Property”); and (iii) any additional Personal Property Leases primarily pertaining to or used in connection with the Business that are entered into after the date hereof but prior to the Closing with the consent of the Purchaser in accordance with Section 8.2(b), the “Purchased Personal Property Leases”;

(c) (i) the Purchased Intellectual Property; and (ii) the rights of Seller as licensees under the Intellectual Property Licenses identified in Schedule 2.1(c) used by Seller primarily in connection with the Business and (along with any additional Intellectual Property Licenses primarily pertaining to or used in connection with the Business that are entered into after the date hereof but prior to the Closing with the consent of Purchaser in accordance with Section 8.2(b)) to the extent assignable (the “Purchased Intellectual Property Licenses”);

(d) subject to the provisions of Section 2.6, the Assigned Contracts set forth on Schedule 2.1(d) and all rights including, but not limited to, all causes of action, setoffs or other claims arising out of or with respect to the foregoing;

(e) subject to any valid right of setoff or recoupment by the applicable creditor, all deposits (including customer deposits and security deposits for rent, electricity, telephone or other utilities and deposits posted under any Assigned Contract) and prepaid charges and expenses of Seller paid in connection with the Assigned Contracts;
(f) all other advance payments, prepayments, prepaid expenses, deposits and the like which exist as of the Closing Date, subject to normal proration in the manner customarily prorated upon the sale of assets of a going concern, which were made with respect to the operation of the Business or any of the Purchased Assets, the current categories and amounts of which are set forth on Schedule 2.1(f);

(g) all insurance proceeds arising in connection with property damage to the Purchased Assets occurring after the execution of this Agreement and prior to the Closing Date, to the extent not expended on the repair or restoration of the Purchased Assets;

(h) subject to the provisions of Section 8.7, all Documents that are primarily used in, held for use in or intended to be used in, or that arise primarily out of, the Business, including Documents relating to the services provided by the Business, the marketing of the Business's services (including advertising and promotional materials and marketing brochures), Purchased Intellectual Property, personnel files for Transferred Employees and files including credit information and supplier lists, to the extent physically located at the Facilities, and including all Patient Records;

(i) all Permits used by Seller in the Business that Seller has the authority or legal ability to assign, except in connection with the provider numbers as agreed to by the parties pursuant to Section 8.12 hereof;

(j) all rights of Seller under non-disclosure or confidentiality, non-compete, or non-solicitation agreements with employees and agents of Seller or with third parties to the extent relating to the Business or the Purchased Assets (or any portion thereof);

(k) all rights of Seller under or pursuant to all warranties, representations and guarantees made by suppliers, manufacturers and contractors to the extent relating to services provided to Seller after the Closing or to the extent affecting any Purchased Assets;

(l) all goodwill and other intangible assets owned by Seller and associated with the Business, including customer and supplier lists and the goodwill associated with the Purchased Intellectual Property;

(m) all plans and surveys, including without limitation, those related to utilities, easements and roads, "as-built" plans, plans, specifications, engineers' drawings and architectural renderings and similar items owned by Seller and in Seller's possession relating to the Purchased Real Property;

(n) the name "HOBOKEN UNIVERSITY MEDICAL CENTER" and any variation thereon or derivative thereof and any service marks, trademarks, trade names, domain names, identifying symbols, logos, emblems, signs or insignia related thereto or containing any of the foregoing;

(o) all telephone numbers and facsimile numbers, and domain names and email addresses;
(p) claims, rights, credits, causes of action and rights of set off of Seller and
Manager against third parties whether known or unknown, contingent or not contingent,
including all rights of indemnification by or through any other Person relating to the Business or
the Hospital to the extent same are assignable by their terms or under applicable law;

(q) all of the assets of any foundation affiliated with the Seller;

(r) all Accounts Receivable (other than Seller’s EMR Funds as defined and
described at the end of this Section 2.1); and

(s) all other assets owned by Seller, Manager or their Affiliates and used in
connection with the Hospital or the Business other than the Excluded Assets.

In addition, with respect to payments received and expected to be received from
governmental sources in connection with the Hospital’s implementation of electronic medical
records prior to the Closing Date (“EMR Funds”), the parties agree as follows:

(1) Seller is entitled to Fifty Percent (50%) of the EMR Funds up to an amount
not to exceed, in the aggregate, One Million Nine Hundred Thousand ($1,900,000) Dollars
(“Seller’s EMR Funds”) which shall be payable pursuant to subsections (2) and (3) below,

(2) To the extent Seller’s EMR Funds are received by the Seller prior to the
Closing, Seller is entitled to retain said payments. All EMR Funds in excess of Seller’s EMR
Funds received by Seller prior to the Closing are Purchased Assets and are to be turned over to
Purchaser at Closing,

(3) To the extent that all the Seller’s EMR Funds are not received by the Seller
prior to the Closing, Purchaser shall pay to the Seller an amount equal to the aggregate Seller’s
EMR Funds minus the amount of Seller’s EMR Funds received by Seller prior to the Closing
(such payment shall be made by Purchaser after the Closing within ten (10) Business Days after
Purchaser’s actual receipt of the EMR Funds, and

(4) Purchaser is entitled to all EMR Funds, other than the Sellers EMR Funds,
whether received prior to or after Closing.

2.2 Excluded Assets. Nothing herein contained shall be deemed to sell, transfer,
assign or convey the Excluded Assets to Purchaser, and Seller shall retain all right, title and
interest to, in and under the Excluded Assets. “Excluded Assets” shall mean the following
assets, properties, interests and rights of Seller:

(a) the Excluded Contracts including, without limitation, any union contract,
collective bargaining agreement or other labor agreement that is not an Assigned Contract;

(b) any Contract to which either Seller is a party or under which it has rights
that is not used primarily in the Business, unless included in Schedule 2.1(d) (as may be
revised pursuant to Section 2.6) among the Assigned Contracts including, but not limited to,
those Contracts included in Schedule 2.2(b);
(c) any Plan established, sponsored or maintained by the Seller;

(d) the Personal Property Leases identified on Schedule 2.2(c) (the “Excluded Personal Property Leases”);

(e) all cash and cash equivalents of Seller as of the Closing Date; and

(f) Seller’s EMR Funds as described in Section 2.1 and Seller’s right to receive a portion of the Subsidies for the month of the Closing as described in Section 3.4(ii).

2.3 Assumption of Liabilities. On the terms and subject to the conditions set forth in this Agreement, at the Closing, Purchaser shall assume, effective as of the Closing, and shall timely pay, perform and discharge in accordance with their respective terms, only the Liabilities accruing from and after the Closing with respect to the Purchased Assets, liabilities under the Medicare and Medicaid programs and the liabilities described in Section 8.20 (the “Assumed Liabilities”).

2.4 Excluded Liabilities. Except for the Assumed Liabilities, Purchaser shall not assume or become liable for the payment or performance of any Liability of Seller or otherwise related to the Business of any nature whatsoever, whether accrued or unaccrued, known or unknown, fixed or contingent ("Excluded Liabilities"), including the following, which shall remain Liabilities of Seller:

(a) any Liability based upon any wrongful or negligent act or omission of Seller prior to the Closing;

(b) except as otherwise provided in Article XI, any and all Liabilities and obligations of Seller for Taxes including, but not limited to, any Liability of Seller arising from the operation of the Business for periods prior to the Closing or any Taxes in the nature of income tax imposed upon Seller in connection with the sale of the Purchased Assets contemplated hereby;

(c) any Liability associated with any Excluded Assets;

(d) any Liability relating to any breach of contract, breach of warranty, tort, infringement, or violation of Law by Seller;

(e) any Liability arising out of events or omissions occurring prior to the Closing Date from or relating to any overpayment, duplicate payment, refunds, discounts or adjustments due to any commercial health insurance carrier, health maintenance organization, managed care plan, self-insured health plan or any other similar private sector healthcare cost reimbursement program or insurance coverage;

(f) any Liability related to claims of medical malpractice and/or other professional Liability of Seller, or any of its employees, attending physicians, agents or independent contractors to the extent incurred prior to the Closing Date arising out of events or omissions occurring prior to the Closing Date;
(g) all Healthcare Program Liabilities (other than those Medicare and Medicaid program liabilities expressly assumed by Purchaser pursuant to Section 2.3 above) incurred prior to or relating to or arising from a period prior to the Closing Date, whether assessed or demanded before or after the Closing Date including any amounts advanced for charity care or other Subsidies prior to their normally scheduled payment date which liabilities shall remain with and be the sole obligation of Seller.

(h) any Liability arising out of or in connection with any Legal Proceedings (whether instituted prior to or after Closing) to the extent arising from acts or omissions which occurred prior to the Closing Date;

(i) any Liability related to Cost Report settlement payables arising from Cost Report periods ending on or before the Closing Date, whether assessed or demanded before or after the Closing Date;

(j) any mortgage debt not specifically included in the Assumed Liabilities;

(k) any Liability related to penalties, fines, settlements, interest, costs and expenses to the extent arising out of or incurred as a result of any violation by Seller prior to the Closing Date of any Law or Order, whether assessed or demanded before or after the Closing Date;

(l) all Liabilities relating to amounts required to be paid by Seller hereunder;

(m) except as otherwise specifically agreed by Purchaser, all Liabilities under Seller’s Medicare and Medicaid provider number(s) and related provider agreements, whether assessed or demanded before or after the Closing Date pertaining to services rendered by or on behalf of Seller prior to Closing;

(n) all claims, demands, liabilities or obligations of the Business of any nature whatsoever which are based on events occurring on or before the Closing Date, or which are based upon products sold or services performed by the Business on or before the Closing Date, notwithstanding that the date on which such claim, demand, liability or obligation arose was after the Closing Date;

(o) Seller’s obligations and liabilities to any Employee of the Business or any other Person affiliated with the Business for any employee benefit plan or pension plan;

(p) all claims, demands, liabilities or obligations arising out of any duty or violation of any applicable Environmental Laws, rules, regulations or obligations by Seller or the Business, or related to the Purchased Assets, occurring on or prior to the Closing Date including, but not limited to, any Release of Hazardous Materials occurring after the Closing Date if the Hazardous Materials were disposed of by or for Seller prior to the Closing Date, whether assessed or demanded before or after the Closing Date;
(q) any liability or obligation under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and regulations promulgated thereunder (collectively, "COBRA"), to any Employee of the Business or any other Person affiliated with the Business covered by Seller’s health plans who is not offered, or is offered but does not accept, employment with Purchaser, and any liability or obligation under COBRA to any family member of such employee of Business or any other Person affiliated with the Business covered by Seller’s health plans who is not offered, or is offered but does not accept, employment with Purchaser;

(r) all of Seller’s liabilities or obligations arising out of any violation of any laws, rules or regulations by Seller before, on or after the Closing Date or relating to the Business on or prior to the Closing Date;

(s) any other liability or obligation of Seller that does not relate to or arise from the Business or the Purchased Assets;

(t) all of Seller’s liabilities or obligations arising out of any collective bargaining agreements or other agreements with any labor union or other employee representative for a group of employees.

(u) all of Seller’s liabilities or obligations to employees including, without limitation wages, benefits and paid time off (except for those employee liabilities that are expressly assumed by Purchaser pursuant to Section 8.20 of this Agreement).

(v) all of Seller’s liabilities or obligations to any Plan which Seller has established, sponsors or maintains, or to which Seller contributes, including any obligation to any “multiemployer plan” within the meaning of Section 3(37) of ERISA, including any obligation which could arise as a result of the Contemplated Transactions, including but not limited to withdrawal liability, if any, pursuant to Sections 4201 et seq. of ERISA.

(w) all liabilities and obligations of Seller to Purchaser under this Agreement or with respect to or arising out of the Contemplated Transactions; and

(x) any other liabilities of Seller which are not Assumed Liabilities, including without limitation, any liabilities of Seller to unsecured creditors and all liabilities and obligations under the Bond Financing.

2.5 Allocation of Purchased Assets and Assumed Liabilities. (i) Holdco, or an assignee as permitted pursuant to Section 13.9, shall purchase, acquire and accept all of Seller’s respective right, title and interest in, to and under the Purchased Owned Properties and/or Purchased Real Property Leases and shall assume the Assumed Liabilities related thereto; and (ii) Opco shall purchase, acquire and accept from Seller all of Seller’s respective right, title and interest in, to and under all Purchased Assets other than the Purchased Owned Properties and shall assume the Assumed Liabilities related thereto.
2.6 **Assigned Contracts.**

Seller shall assign, or cause to be assigned by the Manager, to Purchaser all right, title and interest in and to the Contracts set forth on Schedule 2.1(d) (the "Assigned Contracts"). Under no circumstances shall Purchaser be liable under any contract executed by the Seller or Manager (or to which either or both are a party or have any liability or obligation) not designated as an Assigned Contract and listed on Schedule 2.1(d) or Revised Schedule 2.1(d) (as such Revised Schedule 2.1(d) may be further changed as described below). Any and all Contracts that are not listed on Schedule 2.1(d) (or Revised Schedule 2.1(d)) shall be Excluded Contracts. Purchaser shall have the right, but not the obligation, from and after the date of this Agreement until the commencement of the Seller's solicitation of creditors pursuant to Section 10.3(c) (which solicitation shall not commence until Seller's receipt of Revised Schedule 2.1(d) described below), to further review the Excluded Contracts. Purchaser is authorized by Seller, from and after execution of this Agreement to call, write or otherwise contact and communicate with the other parties to any or all of the Excluded Contracts (but not otherwise in violation of the non-disclosure agreement between the Seller and Purchaser dated August 9, 2010 or otherwise in violation of any other agreements between Purchaser and Seller), discuss the respective Excluded Contract(s) with such parties including discussions for possible terms for assumption of the lease or contract, a new contract, or modification of the terms of the Contract(s) after the Closing Date. Within thirty (30) days after the execution and delivery of this Agreement by both parties and prior to the commencement of the Seller's solicitation of creditors pursuant to Section 10.3(c), Purchaser shall advise Seller in writing whether Purchaser desires, in its sole discretion and without any obligation to do so, to amend or modify Schedule 2.1(d) (Assigned Contracts) to include any of the Contracts that were previously categorized as Excluded Contracts (in which instance such Contract formerly categorized as an Excluded Contract shall be re-categorized and treated for purposes of this Agreement as an Assigned Contract and, in such instance, a revised Schedule 2.1(d) ("Revised Schedule 2.1(d)") shall be prepared by Purchaser and attached to this Agreement in place of Schedule 2.1(d)). After receipt of such Revised Schedule 2.1(d), Purchaser shall have the right to continue communications with the counterparties to various Contracts provided that Purchaser shall not remove any Contract from Revised Schedule 2.1(d), but may, in accordance with the terms of this Section 2.6, add additional Contracts (i.e., during Seller's solicitation period) to such Revised Schedule 2.1(d). Purchaser shall periodically update and provide to Seller Revised Schedule 2.1(d) to the extent Purchaser elects to add Contracts as described in the preceding sentence. Seller covenants to use its best efforts under the circumstances to facilitate Purchaser's communications and discussions as provided herein with the other parties to the Excluded Contracts including having designated representatives of Seller available upon the request of Purchaser to confirm Purchaser's rights to conduct discussions and communications with the parties to the Excluded Contracts, provided that all such communications are in accordance with the Purchaser's other non-disclosure obligations as described above. Purchaser and Seller agree to use their respective best efforts to attempt to reduce Seller's liabilities under Excluded Contracts with vendors and lessors with whom Purchaser wishes to continue to do business after the Closing but Seller and Purchaser acknowledge and agree that the failure to have the obligations of Seller under any Excluded Contract reduced shall not result in any liability or obligation owed by Purchaser to Seller or any third party. Without limiting the foregoing, in the event Purchaser reaches agreement, prior to the commencement of the Seller's solicitation of creditors pursuant to Section 10.3(c), with a
vendor or lessor with respect to an Excluded Contract to have that vendor or lessor provide goods or services to Purchaser after the Closing Date, Purchaser and Seller agree that with respect to the respective Excluded Contract (i) any and all termination charges, rejection damages and claims for future payments under the Excluded Contract must be treated in the same manner and receive the same dividend (i.e. cents on the dollar, timing and form of payment) as the unsecured creditors referenced in Section 10.3(c) (unless the vendor or lessor agrees in writing to lesser treatment), (ii) unless otherwise agreed by Seller, in writing, Seller will not be liable for the cure of any amounts accrued and unpaid as of the Closing under the respective Excluded Contract in excess of the dividend (i.e. cents on the dollar, timing and form of payment) that is to be paid to unsecured creditors pursuant to Section 10.3(c); and (iii) subsequent to the commencement of the Seller’s solicitation of unsecured creditors pursuant to Section 10.3(c), Purchaser shall not remove Assigned Contracts from Schedule 2.1(d) or Revised Schedule 2.1(d) or otherwise designate or re-characterize Contracts or Assigned Contracts as Excluded Contracts, but may, as described above, add Contracts to Revised Schedule 2.1(d) at which point they shall become Assigned Contracts.

2.7 Further Conveyances and Assumptions. From time to time following the Closing, each party shall, and shall cause their respective Affiliates to, execute, acknowledge and deliver all such further conveyances, notices, assumptions, releases and other instruments, and shall take such further actions, as may be reasonably necessary or appropriate to assure fully to Purchaser and its respective successors or assigns, all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be conveyed to Purchaser under this Agreement and to assure fully to Seller and its Affiliates and their successors and assigns, the assumption of the liabilities and obligations intended to be assumed by Purchaser under this Agreement, and to otherwise make effective the Contemplated Transactions.

ARTICLE III
CONSIDERATION

3.1 Consideration. The consideration for the Assets shall be comprised of: (a) the assumption by Purchaser of the Assumed Liabilities including, subject to Section 8.20, the assumed Leave Time Benefits and Severance Obligations; (b) the payment by Purchaser of an amount not to exceed Fifty One Million Six Hundred Thousand ($51,600,000.00) Dollars, which shall be paid at Closing and used to defease, purchase or otherwise pay and satisfy in full the Bond Financing including accounting, legal fees and investment banker fees related thereto (but after application of any reserves funds to the defeasance costs under the Bond Financing); (c) subject to Section 8.18, the amount of Two Million ($2,000,000.00) Dollars to be used solely to settle claims of unsecured creditors in accordance with Section 10.3(c); (d) the amount of Eight Million ($8,000,000.00) Dollars for the Accounts Receivable; (e) the amount of up to (but not to exceed) Four Million ($4,000,000.00) Dollars to be used to acquire the insurance tail coverage in accordance with Section 8.30; (f) an amount up to Two Million Five Hundred Thousand ($2,500,000.00) Dollars subject to the terms set forth in Section 8.24, and (g) any and all amounts pertaining to Seller’s EMR Funds in accordance with Section 2.1.
3.2 Deposit. Pursuant to the LOI, on or about January 14, 2011 Purchaser deposited with McElroy, Deutsch, Mulvaney & Carpenter, LLP, 40 West Ridgewood Avenue, Ridgewood, New Jersey 07450 (Attention: Michael G. Keating, Esq.) in its capacity as escrow agent (the "Escrow Agent"), pursuant to that certain Deposit Escrow Agreement, dated as of January 14, 2011, by and among Purchaser, Seller and the Escrow Agent (the "Escrow Agreement") an amount equal to One Million ($1,000,000.00) Dollars (the "Escrowed Funds"), such deposit to be released by the Escrow Agent and delivered to either Purchaser or Seller, in accordance with the provisions of the Escrow Agreement. Pursuant to the Escrow Agreement, the Escrowed Funds have been deposited into an attorney trust account (which together with all accrued investment income thereon is collectively, the "Deposit") and released and delivered as follows:

(a) if the Closing shall occur, the Deposit shall be delivered to Seller and applied to Purchaser’s payment obligations at the Closing;

(b) if this Agreement is terminated by Seller pursuant to Section 4.4(b)(ii), and provided Seller is not then in breach of any of its representations, warranties, covenants or agreements contained in this Agreement to an extent that would give Purchaser the right not to close pursuant to Section 10.2, the Deposit shall be delivered to Seller as liquidated damages in full and final settlement of any and all claims of Seller pursuant to this Agreement; or

(c) if this Agreement is terminated for any reason other than as described in Section 3.2(b) above (including, without limitation, termination pursuant to Section 4.4 (a), 4.4(b)(i) or 4.4(c)) the Deposit shall in all such cases be released and delivered to Purchaser.

(d) the parties to the Escrow Agreement are, contemporaneously with the execution and delivery of this Agreement, entering into an amendment to the Escrow Agreement to reflect the terms for release and delivery of the Escrowed Funds as set forth in this Section 3.2.

3.3 Payment of Consideration. On the Closing Date Purchaser shall (i) assume the Assumed Liabilities including, subject to Section 8.20 (a) and (b), the assumed Leave Time Benefits, and the Severance Obligations with respect to Hired Senior Management, (ii) pay the amount in accordance with Section 3.1(b) in order to defease the Bond Financing, (iii) pay the Two Million ($2,000,000.00) Dollars to be paid by Purchaser pursuant to Section 3.1(c); (iv) pay the amount of up to Four Million ($4,000,000.00) Dollars in accordance with Section 8.30; (v) pay the amount of Eight Million ($8,000,000.00) Dollars for the Accounts Receivable; (vi) pay the first annual payment, if any, pursuant to Section 8.24. Without limiting the foregoing, the consideration to be paid Seller by Buyer for the Seller’s EMR Funds, if any, shall be paid in accordance with the terms set forth in Section 2.1.

3.4 Prorations. (i) At Closing, Purchaser and Seller shall prorate real estate and personal property lease payments, real estate and personal property Taxes and other assessments, plus all other income and expenses (including utilities) with respect to the Hospital and the other operations of Seller which are normally prorated upon a sale of assets of a going concern, and (ii) without limiting the foregoing, at Closing Purchaser and Seller shall also prorate any State
Charity Care subsidy, State Hospital Relief Subsidy, State Mental Health Subsidy, State Stabilization Grants and Graduate Medical Education Grants and Medicaid DSH reimbursements (hereinafter collectively referred to as the “Subsidies”) that are subsidies received in the month in which the Closing occurs, to the extent those Subsidies are received in the Ordinary Course of Business and consistent with the normal payment schedule of the State of New Jersey or other Governmental Body for such payment (iii) Proration shall be calculated on a per diem basis, with Seller responsible for all the above Taxes, payments and other assessments which accrue on and prior to (and entitled to the Subsidies for the period on and prior to) the Closing Date, and Purchaser responsible for all the above Taxes, payments and assessments which accrue after (and entitled to the Subsidies for the period after) the Closing Date.

ARTICLE IV
CLOSING AND TERMINATION

4.1 Closing Date. Subject to the satisfaction of the conditions set forth in Sections 10.1, 10.2 and 10.3 (or the waiver thereof by the party entitled to waive that condition), the closing of the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities provided for in Article II hereof (the “Closing”) shall take place at the offices of McElroy, Deutsch, Mulvaney & Carpenter, LLP, 40 West Ridgewood Avenue, Ridgewood, New Jersey 07450 (or at such other place as Seller and Purchaser may designate in writing) at 10:00 a.m. (Eastern time) on a date that is within ten (10) Business Days following the satisfaction or waiver of the conditions set forth in Article X (other than conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions), unless another time or date, or both, are agreed to in writing by Seller and Purchaser. The date on which the Closing shall be held is referred to in this Agreement as the “Closing Date.” Unless otherwise agreed by Seller and Purchaser in writing, regardless of the time at which the Closing is completed, the Closing shall be deemed effective and all right, title and interest of Seller in any asset to be acquired by Purchaser hereunder, and any Assumed Liability and all risk of loss with respect to the Business, shall be considered to have passed to Purchaser as of 12:01 a.m. (Eastern time) on the Closing Date.

4.2 Deliveries by Seller. At the Closing, Seller shall deliver or cause to be delivered to Purchaser:

(a) a certificate of good standing of Seller from the State of New Jersey or other evidence that the Seller is existing as a New Jersey body corporate and politic;

(b) a true and complete copy of the certificate of incorporation of Seller and all amendments thereto, certified by the State of New Jersey;

(c) true and complete copies of the bylaws of Seller, certified by an authorized officer, director or trustee;

(d) certificates from authorized officers of Seller that the certificate of
incorporation of Seller has not been amended since the date of the certificate described in subsection (b) above, and that nothing has occurred since the date of issuance of the certificate of good standing specified in subsection (a) above, that would adversely affect Seller’s corporate existence or good standing;

(e) true and complete copies of the resolutions of the Seller, certified by its Secretary, authorizing the execution, delivery and performance of this Agreement and all instruments and documents to be delivered in connection herewith, and the Contemplated Transactions by Seller;

(f) certificates from the Secretary of Seller as to the incumbency and signatures of each officer of Seller executing this Agreement and any other documents required under this Agreement;

(g) a duly executed bill of sale in a form reasonably acceptable to Purchaser and Seller:

(h) a duly executed assignment and assumption agreement in a form reasonably acceptable to Purchaser and Seller, and duly executed assignments of the U.S. trademark registrations and applications included in the Purchased Intellectual Property, in a form suitable for recording in the U.S. Patent and Trademark Office, and general assignments of all other Purchased Intellectual Property;

(i) the officer’s certificates required to be delivered pursuant to Sections 10.1(a) and 10.1(b);

(j) (1) a legal opinion from Seller’s counsel, in form reasonably acceptable to Purchaser, confirming Seller’s legal authority to enter into the Contemplated Transactions and such other matters as are customarily encompassed in a legal opinion from a selling company’s counsel in connection with the asset sale of a going concern; and (2) written evidence in a form reasonably satisfactory to Purchaser that the Bond Financing has been properly defeased or otherwise satisfied in full in accordance with the requirements thereof and any and all liens, encumbrances or other interests related thereto effecting any or all of the Purchased Assets have been satisfied, discharged and released of record;

(k) a duly executed Non-Foreign Person Affidavit for Seller in compliance with Section 1445 of the Code;

(l) copies of all consents required by Section 10.3(b) for which Seller is responsible;

(m) duly executed bargain and sale deeds (in the form of deed attached hereto as Schedule 4.2(m)) with respect to each of the Purchased Owned Properties, together with duly executed affidavits of title in customary form;
(n) duly executed assignment and assumption agreements in forms prepared by Purchaser's counsel at Purchaser's expense and reasonably acceptable to Seller for all Assigned Contracts and original counterparts of each Assigned Contract that is in Seller's or Manager's possession, custody or control, to be delivered to Purchaser at Closing;

(o) all other instruments of conveyance and transfer executed by Seller and, as applicable, Manager, in form and substance reasonably acceptable to Purchaser, as may be necessary to convey the Purchased Assets to Purchaser free and clear of all Liens other than Permitted Exceptions;

(p) such other agreements, documents, instruments and certificates as Purchaser may reasonably request and which are necessary to effect the Closing including, without limitation, the Tax Clearance Letter and other documents to be executed and delivered by Seller pursuant to this Agreement; and

(q) a copy of any notification that Seller is required under the Escrow Agreement to deliver to the Escrow Agent in order for the Escrow Agent to release all or a portion of the Deposit to Seller at Closing;

(r) Evidence of the existence of the policies of insurance referred to in Sections 5.17 and 8.2(f);

(s) all the documents that were copied and constitute part of the Data Room or the Contract Management System other than those related to the Excluded Assets and Excluded Liabilities.

4.3 Deliveries by Purchaser. At the Closing, Purchaser shall deliver or cause to be delivered to Seller:

(a) a duly executed assignment and assumption agreement in a form reasonably acceptable to Purchaser and Seller;

(b) the officer's certificates required to be delivered pursuant to Sections 10.2(a) and 10.2(b);

(c) a certificate of good standing of each Purchaser from the States of Delaware or New Jersey, as applicable;

(d) true and complete copies of the certificates of formation of each Purchaser and all amendments thereto, certified by the State of New Jersey or State of Delaware, as applicable, and true and complete copies of the certificates of authority to do business for each Purchaser certified by the State of New Jersey;

(e) certificates from authorized officers of each Purchaser that the certificates of formation of Purchaser have not been amended since the date of the certificate described in
subsection (d) above, and that nothing has occurred since the date of issuance of the certificate of good standing specified in subsection (c) above, that would adversely affect Purchaser's corporate existence or good standing;

(f) true and complete copies of the resolutions of the members, managers or other applicable persons of each Purchaser, certified by its managing member, manager, secretary or other duly authorized person, authorizing the execution, delivery and performance of this Agreement and all instruments and documents to be delivered in connection herewith, and the Contemplated Transactions by Purchaser;

(g) certificates from the managing member, manager, secretary or other duly authorized person of each Purchaser as to the incumbency and signatures of each officer, manager or other duly authorized person of each Purchaser executing this Agreement and any other documents required under this Agreement;

(h) copies of all consents required by Section 10.3(c) for which Purchaser is responsible;

(i) a copy of any notification that Purchaser is required under the Escrow Agreement to deliver to the Escrow Agent in order for the Escrow Agent to release the Deposit to Seller at the Closing;

(j) such other documents, instruments and certificates as Seller may reasonably request and which are necessary to effect the Closing.

4.4 Termination of Agreement. This Agreement may be terminated prior to the Closing as follows:

(a) Termination by Purchaser. Purchaser may terminate this Agreement upon the occurrence of any of the following:

(i) if any of the conditions to the obligations of Purchaser to close that are set forth in Sections 10.1 and 10.3 shall have become incapable of fulfillment other than as a result of a breach by Purchaser of any covenant or agreement contained in this Agreement, and such condition is not waived by Purchaser; or

(ii) if there shall be a material breach by Seller of any material representation, warranty, covenant or agreement contained in this Agreement which breach cannot be or has not been cured within ten (10) Business Days after the giving of written notice by Purchaser to Seller of such breach

(b) Termination by Seller. Seller may terminate this Agreement upon the occurrence of any of the following:

(i) if any of the conditions to the obligations of Seller to close that are set forth in Sections 10.2 and 10.3 shall have become incapable of fulfillment other than as a
result of a breach by Seller of any covenant or agreement contained in this Agreement, and such condition is not waived by Seller; or

(ii) if there shall be a material breach by Purchaser of any material representation, warranty covenant or agreement contained in this Agreement, which breach cannot be or has not been cured within ten (10) Business Days after the giving of written notice by Seller to Purchaser of such breach.

(c) Termination by Purchaser or Seller. Either Purchaser or Seller may terminate this Agreement upon the occurrence of any of the following:

(i) by mutual written consent of Seller and Purchaser;

(ii) upon written notice to the other party if the Closing shall not have occurred by the close of business on July 31, 2011; provided, however, that if (A) the Closing shall not have occurred by the close of such date due to an action or failure to act by a Governmental Body that prevents the consummation of the Contemplated Transactions and (B) the non-terminating party is otherwise capable of satisfying the other conditions to its obligations to consummate the Contemplated Transactions set forth in Article X, a termination under this Section 4.4(c)(ii) shall not be effective for forty-five (45) days after the provision of written notice; provided, further, that such termination shall not be effective if all conditions to the obligations of the non-terminating party to consummate the Contemplated Transactions set forth in Article X shall have been satisfied or otherwise waived and the Closing shall have occurred within such 45-day period.

(d) Extension of Time Periods. The time periods for termination of this Agreement set forth in this Section 4.4 may be extended upon the written agreement of the parties.

4.5 Procedure For Termination. In the event of termination of this Agreement by Purchaser or Seller, or both, pursuant to Section 4.4, written notice thereof shall forthwith be given to the other parties, and upon the giving of such notice (or at such time as specified in the particular termination right set forth in Section 4.4) the Contemplated Transactions shall be abandoned and this Agreement shall terminate to the extent and with the effect provided by Section 4.6, without further action by the parties.

4.6 Effect of Termination.

(a) In the event that this Agreement is validly terminated as provided herein, then each of the parties shall be relieved of its duties and obligations arising under this Agreement after the date of such termination and such termination shall be without liability to any party; provided, however, that the obligations of the parties set forth in the Escrow Agreement and Sections 3.2, 4.6, 8.6 and Article XII of this Agreement, and to the extent necessary to effectuate the foregoing enumerated provisions, Article I of this Agreement, shall survive any such termination and shall be enforceable in accordance with their terms. In addition, if this Agreement is terminated as provided herein, each party shall upon request
redeliver or destroy as soon as practicable any or all documents, work papers and other material of any other party relating to its business or affairs or the Contemplated Transactions, whether obtained before or after the execution hereof, to the party furnishing the same, other than any material which is of public record.

(b) Nothing in this Section 4.6 shall relieve the parties of any liability for a breach of this Agreement prior to the date of termination. Notwithstanding the foregoing, no attorneys' fees reasonably incurred by a party in connection with the Contemplated Transactions, or out-of-pocket expense reimbursement or other fees, shall be payable to any party upon termination of this Agreement pursuant to Section 4.4.

4.7 Risk of Loss.

(a) The risk of loss, damage or condemnation of any of the Purchased Assets from any cause whatsoever shall be borne by Seller at all times prior to the Closing Date. In the event of any material loss, damage or condemnation of any of the Purchased Assets prior to the Closing Date, with the prior written consent of Purchaser, Seller shall have the option, but shall not be required, to expend such funds and take such other actions as are necessary to repair, restore or replace such assets to their prior condition.

(b) If any material loss, damage or destruction of the Purchased Assets occurs, and Seller has commenced but not completed the repair, restoration or replacement of such assets by the original Closing Date, with the prior written consent of Purchaser, the Closing Date shall be postponed for a period of up to twenty (20) days to permit Seller to complete such repair, restoration or replacement.

(c) If the repair, restoration or replacement of damaged Purchased Assets is not completed within the number of days specified in subparagraph (b) above, Purchaser may terminate this Agreement forthwith by written notice to Seller. Alternatively, Purchaser may, at its option, proceed to close the Transaction and complete the repair, restoration and replacement of such damaged Purchased Assets after the Closing Date, in which event Seller shall assign to Purchaser the right to receive all insurance proceeds payable in connection with such damage.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to each Purchaser as follows, Purchaser and Seller having agreed that all of such representations and warranties pertaining to the operations and management of the Hospital and the Business are being made by the Seller in reliance upon the representations and warranties made to the Seller by the Manager as set forth in the letter attached to this Agreement as Exhibit A:

5.1 Organization and Good Standing. Seller is a municipal hospital authority, a body corporate politic created by ordinance of the City of Hoboken pursuant to the New Jersey
Municipal Hospital Authority Law, N.J.S.A. 30:9-23-15 et seq., and has all requisite power and authority to own, lease and operate its properties and to carry on the Business of the Hospital as now conducted.

5.2 Authorization of Agreement. (i) Seller has full corporate power and authority to execute and deliver this Agreement and each other agreement, document, instrument or certificate contemplated by this Agreement or to be executed by it in connection with the consummation of the Contemplated Transactions (the "Seller Documents") and to consummate the Contemplated Transactions. The execution, delivery and performance by Seller of this Agreement and each Seller Document have been duly authorized by all necessary corporate action on behalf of Seller. This Agreement has been, and each Seller Document will be at or prior to the Closing, duly executed and delivered by Seller and (assuming the due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and each Seller Document when so executed and delivered will constitute, the legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity). None of the execution and delivery by Seller of this Agreement and the Seller Documents, the consummation of the Contemplated Transactions or compliance by Seller with any of the provisions hereof or thereof will conflict with or result in any violation of the organizational documents of Seller. Seller has used commercially reasonable efforts to market the Hospital and Business including soliciting proposals from the public regarding the sale of the Hospital and Business pursuant to that certain Request for Proposals for the Privatization of Hoboken University Medical Center dated July 10, 2010 ("RFP"). Seller received several proposals in response to the RFP and after review and evaluation of all responses to the RFP and other inquiries to other marketing efforts selected Purchaser's proposal for the purchase of the Hospital and Business, Purchaser's proposal is the best offer received by Seller for the sale of the Business and Hospital.

5.3 Consents of Third Parties: Contractual Consents.

(a) Except as designated on Schedule 5.3(a), Seller is not required to obtain any consent, approval, or authorization waiver, Order, license or Permit of or from or to make any declaration or filing with, or to give any notification to, any Person (including any Governmental Body) in connection with the execution and delivery of this Agreement or the Seller Documents by Seller, the compliance by Seller with any of the provisions hereof or thereof, the consummation of the Contemplated Transactions or the taking by Seller of any other action contemplated hereby or thereby, except for (i) the Healthcare Regulatory Consents and (ii) such other consents, waivers, approvals, Orders, Permits, authorizations, declarations, filings and notifications that have already been obtained or made.

(b) Except as set forth on Schedule 5.3(b), none of the execution and delivery by Seller of this Agreement or any of Seller Documents, the consummation of the Contemplated Transactions by Seller, or compliance by Seller with any of the provisions hereof or thereof will
conflict with, or result in any violation of or a default (with or without notice or lapse of time, or both) under, or give rise to a right of termination or cancellation under any provision of, any Contract or Permit to which Seller is a party or by which any of the properties or assets of Seller are bound.

(c) As of the date hereof, except as set forth on Schedule 5.3(c), all of the Purchased Assets can be assigned to the applicable Purchaser without the consent of the counterparty or relevant Governmental Body, as applicable.

5.4 Title to Purchased Assets. Other than intellectual property licensed to Seller, the personal property subject to the Personal Property Leases, and the real property subject to the Real Property Leases, Seller owns each of the Purchased Assets, and Purchaser will be vested with good title to such Purchased Assets, free and clear of all Liens (other than the Liens set forth in Schedule 5.4, which shall be discharged at or prior to Closing), other than Permitted Exceptions. At and as of the Closing, Seller will convey the Purchased Assets to Purchaser by the Bill of Sale and such other certificates of title and instruments of assignment and transfer sufficient to vest in Purchaser, and Purchaser will have good and marketable title of record to all of the Purchased Assets, free and clear of all Liens, other than the Permitted Exceptions.

5.5 Taxes. Seller is an entity exempt from federal income tax under Section 501(c)(3) of the Code and exempt from New Jersey income, corporate or franchise tax under the comparable provisions of the Tax Law of the State of New Jersey and there is no action pending by any Tax Authority to revoke its tax-exempt status. Except as set forth on Schedule 5.5, Seller has duly filed all federal, state and local Tax Returns required to be filed by it (all of which are true and correct 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 due and payable, whether or not in connection with such Tax Returns. Except as set forth on Schedule 5.5, Seller (with respect to the operation of the Business) has withheld proper and accurate amounts from its employees' compensation, and made deposits of all such withholdings, in material compliance with all applicable withholding and similar provisions of the Code and any and all other applicable laws. There are no liens for Taxes upon the Purchased Assets, except for statutory liens for current Taxes not yet due and payable or which may hereafter be paid without penalty or which are being contested in good faith by appropriate proceedings. No claim by any Tax Authority with respect to the Business (or operation thereof) or any of the Purchased Assets is pending in a jurisdiction where Seller does not file Tax Returns.

5.6 Real Property. Schedule 5.6 sets forth a true, correct and complete list of (i) all real property and interests in real property owned in fee by Seller including all real property and interests in real property used in the Business or to which Seller has rights to acquire (the "Owned Properties"), and (ii) all real property and interests in real property leased, licensed or otherwise possessed by Seller or Manager or to which Seller or Manager has a right to possess including all real property leased, licensed or otherwise possessed and used in the Business, as lessee, lessor, licensee, licensor or otherwise (the "Real Property Leases"). Seller has good and marketable fee title to all Purchased Owned Properties, free and clear of all Liens of any nature.
whatsoever except Liens set forth on Schedule 5.6 and Permitted Exceptions. The Purchased Real Property and Purchased Real Property Leases include all the real property interests necessary to permit Seller and Manager to conduct the Business as it is being conducted as of the date of this Agreement. Seller has not received any written notice of any default or event that with notice or lapse of time, or both, would constitute a default by Seller or Manager under any of the Purchased Real Property Leases or any contract or agreement affecting Owned Properties which remains uncured, except as set forth on Schedule 5.6.

5.7 Tangible Personal Property. Schedule 5.7 sets forth all leases of personal property, including Equipment, used by Seller and the Manager in the Business ("Personal Property Leases") copies of which have been made available to Purchaser by providing Purchaser with access to an electronic data room (the "Data Room") and the contract management system (the "Contract Management System") maintained by Manager in connection with its management of the Hospital. Except as set forth on Schedule 5.7, neither Seller nor Manager has received any written notice of any default or event that with notice or lapse of time or both would constitute a default by Seller or Manager, as applicable, under any of such Personal Property Leases. All of the tangible Purchased Assets are currently utilized by Seller and/or Manager in the Ordinary Course of Business and operation of the Business and is in good operating condition and repair (with the exception of normal wear and tear), free from any defects.

5.8 Intellectual Property.

(a) Schedule 5.8(a) lists all registered Intellectual Property Rights and those that are the subject of an application for registration, in each case, that are owned by Seller and included in the Purchased Intellectual Property.

(b) Except as set forth on Schedule 5.8(b), Seller owns or licenses all Intellectual Property Rights used by it and the Manager in the Ordinary Course of Business; provided, however, that Seller make no representation or warranty as to the ownership by the licensor of any Intellectual Property Rights that are licensed to it or to the Manager. Complete and accurate copies of all Intellectual Property Leases have been made available to Purchaser by providing access to the Data Room and the Contract Management System.

(c) Except as set forth on Schedule 5.8(c), neither Seller nor Manager has received notices with respect to violations, actual or alleged, of any agreements which Seller or Manager has with any third party regarding Intellectual Property Rights, nor with respect to infringement of any patent, trademark, copyright, trade secret, or any other intellectual property rights of any third party. No claim is pending or to Seller's or Manager's Knowledge, threatened against Seller or Manager, nor has Seller or Manager received any notice or claim from any Person asserting that any of Seller's or Manager's present or contemplated activities infringe or may infringe any intellectual property rights of such Person. Neither Seller nor Manager is aware of any infringement by any other Person of any Intellectual Property Rights.

5.9 Contracts.
(a) Schedule 5.9(a) contains a complete list of all Contracts (including without limitation oral contracts and agreements) (and further including, without limitation, Real Property Leases, Personal Property Leases and Intellectual Property Licenses) relating to or necessary for the operation of the Business, complete and accurate copies of which have been made available to Purchaser by providing access to the Data Room and Contract Management System. Schedule 5.9(a) includes all the contracts, agreements and instruments of the following types to which Seller or Manager is a party or by which one or both of them are bound relating to the Business or the operation thereof, or to which any of the Purchased Assets is subject:

(i) collective bargaining agreements or other agreements with any labor union or other employee representative for a group of employees;

(ii) commitments or arrangements pursuant to which Seller has made or will make loans or advances, or have or will have incurred debts or become a guarantor or surety or pledged its credit on or otherwise become responsible with respect to any undertaking of another (except for the negotiation or collection of negotiable instruments in transactions in the Ordinary Course of Business);

(iii) indentures, credit agreements, loan agreements, notes, mortgages, security agreements, leases of real property or material leases of personal property and agreements for financing;

(iv) commitments or arrangements involving a partnership, joint venture or other cooperative undertaking, or involving any restrictions of the geographical area of operations or scope or type of business of Seller;

(v) powers of attorney or agency agreements or arrangements with any party pursuant to which such party is granted the authority to act for or on behalf of Seller;

(vi) agreements which are not cancelable by Seller without penalty on not less than sixty (60) days notice;

(vii) agreements containing covenants limiting in any respect the freedom of Seller to compete in any line of business or with any Person or entity, including, without limitation, any non-solicitation agreements;

(viii) employment agreements, service agreements, independent contractor agreements or any other agreements with any employee, officer, director or contractor;

(ix) pension, profit sharing, retirement or stock option plans or agreements;

(x) agreements which involve a sharing of revenues, profits, losses, costs or liabilities with any other Person;
(xi) acquisition, merger or similar agreements;

(xii) agreements for the purchase or lease of real or personal property;

(xiii) agreements with companies, governmental agencies or their contractors or other employment units for the Hospital to provide medical services;

(xiv) agreements not executed in the Ordinary Course of Business; and

(xv) all other contracts, agreements, or other arrangement of any kind not made in the Ordinary Course of business which are to be performed at or after the date of this Agreement.

(b) Except as set forth in Schedule 5.9(b), (i) Seller has not breached any provision of, nor is it in default under the terms of, any Assigned Contract (including, without limitation, Purchased Real Property Leases, Purchased Personal Property Leases, Purchased Intellectual Property Licenses and any other contract or agreement which is included in the Purchased Assets) to which Seller is a party or under which Seller has any rights or by which Seller is bound and (ii) Seller is not in any violation or default of, or with respect to, any law, governmental regulation or rule or order of any Governmental Body that is applicable in any way to the Business or operation of the Business.

(c) Seller has delivered to Purchaser true and complete copies of each Contract or made complete and accurate copies thereof available to Purchaser by providing access to the Data Room and the Contract Management System.
5.10 Employee Benefits.

(a) Schedule 5.10(a) hereto sets forth a true and complete list of all Plans, complete and accurate copies of which have been made available to Purchaser by providing access to the Data Room and the Contract Management System.

(b) Except as set forth in Schedule 5.10(b), neither Seller nor Manager or any ERISA Affiliate, nor any of their respective predecessors has within the last six (6) years contributed to, contributes to, has been required to contribute to, has otherwise participated in, or has any liability with respect to any “multiemployer plan” within the meaning of Section 3(37) of ERISA or Section 414(f) of the Code or any single-employer pension plan (within the meaning of Section 4001(a)(15) of ERISA) which is subject to Sections 4063 and 4064 of ERISA with respect to Employees.

(c) Except as set forth on Schedule 5.10(c), Seller and Manager are, and have been at all times during Seller’s existence and Manager’s existence, in material compliance with the terms and conditions of all Laws applicable to the Plans. Except as set forth on Schedule 5.10(c), neither Seller nor Manager have any direct or indirect, actual or contingent liability with respect to the Plans, other than to make payments for contributions, premiums or benefits when due in the ordinary course, all of which payments that are due having been made, and any payments due at or before closing will be made. Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (either alone or in conjunction with any other event) result in, cause the vesting, funding, exercisability or delivery of, or increase in the amount or value of, any payment, right or other benefit to any Employee or Plan for which Purchaser would be liable.

Neither the Business nor any of the Purchased Assets are subject to any lien under ERISA or the Code. Each Plan sponsored, established or maintained by Seller or Manager under which any Employee benefits has been operated in all material respects by Seller and Manager in conformity with the terms of such plan and in conformity with ERISA and the Internal Revenue Code, as amended ("IRC") and regulations and other published rulings or guidance of the U.S. Department of Labor, the Internal Revenue Service ("IRS"), or the Pension Benefit Guarantee Corporation ("PBGC"), as applicable. Neither Seller, Manager nor any other "disqualified person" or "party in interest" as defined in Section 4975 of the IRC and Section 3(14) of ERISA, respectively, has engaged in any "prohibited transaction" as defined in Section 4975 of the IRC or Section 406 of ERISA, with respect to any Plan, nor have there been any fiduciary violations under ERISA, which in either case could subject Seller, Manager or any officer, director or employee thereof to any material Taxes under Section 502(i) of ERISA or Sections 4971 and 4975 of the IRC. There is no filing, application or other matter pending with the IRS, the PBGC, or the U.S. Department of Labor or any other governmental body regarding any such Plan. No "reportable event" (as such term is used in Section 4043 of ERISA) or "accumulated funding deficiency" (as such term is used in Section 412 or 4971 of the IRC) has heretofore occurred with respect to any Plan.

(d) Except as listed on Schedule 5.10(e), neither Seller nor Manager is a party to, and nor does either sponsor or maintain any plan, program or agreement applicable to any
Employee that constitutes a non-qualified deferred compensation plan under Section 409A of the IRC, nor does it sponsor or maintain any plan fund or program that provides health insurance benefits for retirees, except to the extent required by COBRA.

5.11 Employment and Labor.

(a) Schedule 5.11(a) hereto sets forth a true and complete list of all Employees as of the date set forth therein. All Employees of the Hospital are employed by the Manager and not the Seller. With respect to each Employee the following information concerning each Employee has been made available to Purchaser by providing Purchaser with access to the Data Room and the Contract Management System: (i) position; (ii) date of hire; (iii) current annual salary or hourly wage; (iv) average number of hours worked per week; (v) date of last salary increase; (vi) accrued vacation, holidays and/or sick leave as a result of the individual’s employment with Manager; and (vii) to the Knowledge of Manager, the union, if any, of which the individual is a member.

(b) Manager has made available to Purchaser by providing Purchaser with access to the Data Room and the Contract Management System complete and accurate copies of each employment, consulting and similar agreement pertaining to the Business to which Seller or Manager is a party, all of which are listed on Schedule 5.11(b). Except as disclosed on Schedule 5.11(b), Seller or Manager is not party to or bound by any written agreement, employment manual, employment handbook, employment practice or policy constituting a contractual obligation, or any consent decree, court order or statutory obligation pertaining to the Business (i) for the employment of any individual, or the provision of services by any individual, who is not terminable by Seller or Manager at will and without penalty upon thirty (30) days notice or less or (ii) relating to the payment of any severance or termination payment, bonus or death benefit to any employee or former employee or his or her estate or designated beneficiary.

(c) Schedule 5.11(c) identifies the labor or collective bargaining agreements applicable to Employees (“CBAs”). Prior to the date hereof, Manager has made available to Purchaser by providing Purchaser with access to the Data Room and the Contract Management System, a true and complete copy of each CBA. Except as described in Schedule 5.11(c), in connection with Seller’s or Manager’s operation of the Business, (i) no labor union or employee association has been certified as exclusive bargaining agent for any group of Employees and (ii) there are no current, outstanding or, to the Knowledge of Seller or Manager, threatened attempts to organize or establish any labor union, employee association or bargaining unit with respect to any Employees, nor have there been any such attempts in the past two years.

(d) Except as set forth on Schedule 5.11(d), neither Seller nor Manager is delinquent in payments to any of its employees or independent contractors for any wages, salaries, commissions, bonuses or other direct compensation for any services performed as of the date hereof or any reimbursable amounts (except for reimbursement of expenses incurred in the Ordinary Course of Business, which shall be reimbursed by Manager in the Ordinary Course of Business and in all events prior to or at Closing) and neither is delinquent in any payments due pursuant to any CBA.
5.12 Litigation. Except for Legal Proceedings as set forth on Schedule 5.12, there are no Legal Proceedings pending or, to the Knowledge of Seller or Manager, threatened against Seller or Manager or involving the Business or the Purchased Assets before any Governmental Body.

5.13 Government Reimbursement Participation; Health Care Law Compliance.

(a) Seller is eligible to receive payment without restriction under Medicare and is a “provider” with valid and current provider agreements with one or more provider numbers with Medical Reimbursement Programs administered by a Governmental Body or its contractors, listed by Medical Reimbursement Program and enrollment number(s), and national provider numbers on Schedule 5.13(a). Seller is in compliance with the conditions of participation for the Medical Reimbursement Programs in all material respects.

(b) Except as described on Schedule 5.13(b), there are no pending or threatened Legal Proceedings or investigations under the Medical Reimbursement Programs involving Seller, nor is there any basis for such Legal Proceedings or investigations. The Cost Reports of Seller, as applicable, for the Medical Reimbursement Programs referred to above, and for payment and reimbursement of any other cost report settlements, filed or required to be filed prior to the Closing Date, have been or will be properly filed and are or will be complete and correct in all material respects. Without limiting the foregoing, a complete and correct Cost Report of Seller dated May 27, 2010 for the period January 1, 2009 through December 31, 2009 has been filed. The Cost Reports filed or required to be filed by Seller do not and will not claim, and Seller has not received and will not receive any payment or reimbursement in excess of, the amount provided by Law or any applicable agreement, except where excess reimbursement was noted on the cost report. Except as described on Schedule 5.13(b), there are no claims, actions or appeals pending or to the Knowledge of Seller or Manager threatened before any commission, board or agency, including any Governmental Body or its contractors or the Administrator of the Centers for Medicare and Medicaid Services, with respect to any Medical Reimbursement Program Cost Reports or claims filed on behalf of Seller referred to above or any disallowances by any commission, board or agency in connection with any such Cost Reports.

(c) Neither Seller nor any trustee, partner, member, director, officer or employee of Seller, nor any agent acting on behalf of or for the benefit of any of the foregoing, has directly or indirectly in connection with the Business or the Purchased Assets in violation of any Law: (i) offered or paid any remuneration, in cash or in kind, to, or made any financial arrangements with, any past, present or potential customers, past or present suppliers, patients, medical staff members, contractors or third party payors of Seller; (ii) given or agreed to give, or is aware that there has been made or that there is any agreement to make, any gift or gratuitous payment of any kind, nature or description (whether in money, property or services) to any customer or potential customer, supplier or potential supplier, contractor, third party payor or any other Person; (iii) made or agreed to make, or is aware that there has been made or that there is any agreement to make, any contribution, payment or gift of funds or property to, or for the private use of, any governmental official, employee or agent where either the contribution, payment or gift or the purpose of such contribution, payment or gift is or was illegal under the Laws of the United States or under the Law of any state or any other Governmental Body having
jurisdiction over such payment, contribution or gift; (iv) established or maintained any unrecorded fund or asset for any purpose or made any misleading, false or artificial entries on any of its books or records for any reason; or (v) made, or agreed to make, or is aware that there has been made or that there is any agreement to make, any payment to any Person with the intention or understanding that any part of such payment would be used for any purpose other than that described on the documents supporting such payment.

(d) Neither Seller nor any trustee, partner, member, director, officer or employee of Seller is a party to any Contract (including any joint venture or consulting agreement) related to Seller, its Business or the Purchased Assets with any physician, health care facility, hospital, nursing facility, home health agency or other Person who is in a position to make or influence referrals to or otherwise generate business for Seller with respect to the Business or the Purchased Assets, to provide services, lease space, lease equipment or engage in any other venture or activity, to the extent that any of the foregoing is prohibited by Law.

(e) The Hospital is fully accredited by The Joint Commission ("Joint Commission"), and Seller has made available to Purchaser by providing Purchaser with access to the Data Room and the Contract Management System, true and complete copies of the most recent Joint Commission accreditation survey report and deficiency list for the Hospital, if any, and the Hospital’s plan of correction, if any. Except as set forth on Schedule 5.13(e), the Company has not received any notices of deficiency from Joint Commission with respect to the Hospital’s current accreditation period which require or request any action or response by Seller or the Hospital, and any such deficiencies have been corrected or otherwise remedied.

(f) Seller is in compliance with the Medicare Fraud and Abuse Amendments of 1977, as amended by the Medicare Patient and Program Protection Act of 1987 (the “Anti-Kickback Statute”), federal prohibitions on physician “self-referrals” (the “Stark Law”), the administrative simplification provisions of HIPPA and the amendments thereto under the HIT TECH Act, the civil monetary penalties law, 42 U.S.C. § 1320a-7a(b) (“CMP”), Federal False Claims Act, 42 U.S.C. §§ 3729 - 3733 (“FCA”), and all applicable New Jersey and local municipal statutes, laws, codes, ordinances, and regulations.

(f) At no time during the past five years has the Hospital, Seller or any of Seller’s trustees, members, directors or officers or, to the Knowledge of Seller or Manager, any of Seller’s or Manager’s employees, residents, fellows, interns or medical service providers (i) been indicted or convicted of a crime or adjudicated to have liability for civil monetary penalty, (ii) been suspended or excluded from any Medical Reimbursement Programs, (iii) had a professional license suspended or revoked, (iv) been a party to any corporate integrity or similar agreement, (v) received notice (or have knowledge) of any reviews, audits, or other actions from any Governmental Body including any attorneys general or other governmental enforcement office pertaining to the Hospital, Business, Seller or such Person, or (vi) had a Certificate of Need application denied, nor is there any indictment, conviction, suspension, exclusive revocation or denial threatened.
5.14 Compliance with Laws: Permits,

(a) Hospital is duly licensed and authorized by all applicable Governmental Bodies including, but not limited to, the State of New Jersey, to operate all of its health care and medical services, with 350 licensed beds.

(b) Seller is duly licensed and authorized by all applicable Governmental Bodies to own and operate the Hospital and its related health care and medical services.

(c) Seller has all Permits that are necessary to enable it to own, lease or otherwise hold the Purchased Assets and to enable it to operate the Business as currently conducted. Schedule 5.14(c)(i) lists all Permits of Seller material to the operation of the Business. Schedule 5.14(c)(ii) lists other Permits of Seller not material to the operation of the Business. Except as set forth on Schedule 5.14(c)(iii), the Permits on Schedule 5.14(c)(i) and Schedule 5.14(c)(ii) are in full force and effect and no proceedings are pending or to the Knowledge of Seller or Manager threatened that would have the effect of revoking, limiting or affecting the transfer or renewal of the Permits.

(d) Except as set forth on Schedule 5.14(d), Seller and Manager are in compliance in all material respects with all applicable Laws respecting the Business. There are no charges of a violation of a Law pending or to the Knowledge of Seller and Manager threatened against or involving Seller or Manager.

(e) Seller is in compliance with all applicable zoning ordinances of the City of Hoboken.

(f) Neither Seller, Manager nor any of Seller’s or Manager’s Affiliates are involved in any litigation, proceeding, or investigation by or with any Governmental Body which, if determined or resolved adversely, would have an adverse impact on the ability of Seller, Manager or Purchaser to obtain or maintain any governmental qualifications, registrations, filings, licenses, permits, orders, approvals or authorizations necessary for Seller, Manager or Purchaser to conduct the Business and to own or use the Purchased Assets, as the Business is conducted and the Purchased Assets are owned and used on the date hereof, where the failure to have such qualifications, registrations, filings, licenses, permits, orders, approvals or authorizations could reasonably be expected to prevent or materially delay the consummation of the Contemplated Transactions by Seller or Purchaser or the performance by either such party of any of its material obligations under this Agreement.

(g) [Reserved]

(h) With respect to the operation of the Business, Seller does not have any outstanding loan, grant or loan guarantee or other obligation pursuant to the Hill-Burton Act, 42 U.S.C. § 291a et seq.
Except as set forth on Schedule 5.14(i), there are no pending or, to the Knowledge of Seller or Manager, threatened disciplinary or corrective actions or appeals therefrom involving physician applicants, active medical staff members or affiliated health professionals under the medical staff bylaws at the Hospital or the State of New Jersey.

5.15 Environmental Matters. Except as set forth on Schedule 5.15 hereto:

(a) With respect to the Hospital and the Business, the Seller is in compliance with all applicable federal, state and local laws, statutes, rules, regulations, ordinances, codes, licenses or permits of any Governmental Bodies regulating Hazardous Materials or generally relating to the environment or environmental matters;

(b) The Seller has obtained and is in compliance with all permits, consents, authorizations, certificates, approvals, permissions, waivers, importation licenses and other licenses that are required pursuant to any Environmental Law for the operation of the Facilities and the operation of the Business;

(c) The Seller has operated the Hospital and at all times has received, stored, handled, used, treated and disposed of all Hazardous Materials in compliance with the Environmental Laws;

(d) Seller has not Released, deposited, discharged, placed or disposed of Hazardous Materials in or on the Hospital or any of the Purchased Real Property except in compliance with the Environmental Laws, nor have the Hospital or any of the Purchased Real Property been used as a landfill or waste disposal site;

(e) There are no underground storage tanks, asbestos-containing material, or monitoring wells located at the Hospital or any of the Purchased Real Property;

(f) Seller has not received any written notice from any Governmental Body of any alleged violation, inquiry or request for information relating to the Hospital or any of the Purchased Real Property as to matters which are the subject of this Section 5.15;

(g) Seller has not, either expressly or by operation of law, assumed or undertaken any liability, including any obligation for corrective or Remedial Action, of any other person relating to any Environmental Laws; and

(h) To Seller’s knowledge, no facts, events or conditions relating to the past or present facilities, properties or operations of Seller will prevent, hinder or limit continued compliance with any Environmental Laws, give rise to any investigatory, remedial or corrective obligations pursuant to any Environmental Laws, or give rise to any other liabilities pursuant to any Environmental Laws, including any relating to onsite or offsite Releases or threatened Releases of Hazardous Materials, personal injury, property damage or natural resources damage.
5.16. Medicare and Medicaid Certification; Cost Reports.

(a) The Business is certified under the conditions of coverage and participation in the Medicare and Medicaid programs. Seller has made available to Purchaser by providing Purchaser with access to the Data Room and the Contract Management System true and complete copies of all surveys, reports and deficiency notices concerning the Business by the Medicare and Medicaid programs, any state survey agency, and all applicable New Jersey Medicaid programs. The Medicare and Medicaid certifications of the Business are in full force and effect.

(b) Seller has made available to Purchaser by providing Purchaser with access to the Data Room and the Contract Management System true and correct copies of all Cost Reports which Seller has filed with the Medicare and Medicaid programs for the last six (6) years. Except as set forth on Schedule 5.16(b), Seller has made all filings of Cost Reports due prior to the Closing Date.

(c) Notices of program reimbursement have been issued by the applicable Governmental Body or its contractor with respect to the Cost Reports of the Hospital for Medicare and Medicaid through the periods set forth on Schedule 5.16(c) (the “Audit Periods”). Seller has not received any notice of reopening with respect to any Medicare or Medicaid cost report relating to the Audit Periods. Seller has not received notice of any material dispute between the Hospital and the applicable Governmental Body or its contractor regarding any Medicare or Medicaid Cost Report relating to the Audit Periods or relating to any other periods. There are no pending or, to the Knowledge of Seller or Manager, threatened material claims or investigations by the Medicare or Medicaid programs or any other Medical Reimbursement Program against the Hospital with respect to the Audit Periods or any other periods.

5.17 Insurance. Schedule 5.17 lists all of the insurance policies maintained by Seller relating to the Business, all of which policies remain in full force and effect, and shall subject to the terms of this Agreement remain in full force and effect through the Closing Date, and indicates the insurer’s name, policy number, expiration date and amount and type of coverage. Seller has made available to Purchaser certificates evidencing such insurance policies and complete copies of such insurance policies by providing Purchaser with access to the Data Room and the Contract Management System. The properties and operations of Seller, including the Purchased Assets, that are of an insurable nature and are of a character usually insured by similar businesses, have been continuously insured by Seller since the date of their acquisition by Seller, with the types and amounts of insurance that are customary to protect Seller, the Purchased Assets and their respective financial conditions against the risks involved in the Business and ownership of the Purchased Assets, either through the purchase of insurance from a reputable third party insurance company or through a self-insurance trust established by Seller. Seller is not presently delinquent with respect to any insurance premium payments nor is Seller in default or breach with respect to any material provision contained in any such insurance policies. Seller has not received and has no Knowledge of any notice or request, formal or informal, from any insurance company identifying any defects in any of the Purchased Assets that would have a material adverse effect on the insurability of the Purchased Assets. Seller has not been refused any insurance, nor has its coverage been limited by an insurance carrier to which it has applied.
5.18 Financial Advisors. No Person has acted, directly or indirectly, as a broker, finder or financial advisor for Seller in connection with the Contemplated Transactions and no Person is entitled to any fee or commission or like payment from Seller or Purchaser in respect thereof.

5.19 Transactions with Affiliates. Except as set forth on Schedule 5.19, (a) except for loans, leases, accounts receivable, accounts payable or other agreements or transactions between and among Seller and its Affiliates' constituent entities, there are no loans, leases, accounts receivable, accounts payable or other agreements or transactions between Seller, Manager and any present or former equity interests holder, officer or employee of Seller or Manager, or any Affiliate of any of the foregoing Persons and (b) no equity interests holder, officer or employee of Seller or Manager or any of their respective Affiliates, owns directly or indirectly, on an individual or joint basis, any interest in, or is an officer, director or employee or serves in another similar capacity of, any competitor, customer or supplier of Seller or Manager, or any organization which has a material contract or arrangement with Seller except for ownership by any such Persons of less than 3% of a publicly-traded company).

5.20 Financial Statements. The following have been or will be prepared from the books and records of Seller: (a) the unaudited financial statements of Seller with respect to the operation of the Hospital as of February 28, 2011 and for the fiscal year ended December 31, 2010, and (b) the audited financial statements of Seller with respect to the operation of the Hospital for the years ended 2008, 2009 and 2010 (collectively, the “Financial Statements”). The Financial Statements, as well as all other financial information concerning the operation of the Hospital furnished by or on behalf of Seller to Purchaser in connection with the Contemplated Transactions, fairly present, or will fairly present, the financial position and results of operations, as applicable, including, without limitation, with respect to Accounts Receivable, of Seller with respect to the operation of the Hospital as of and for the periods then ended. The Financial Statements, as well as all other financial information concerning the operation of the Hospital furnished by or on behalf of Seller to Purchaser in connection with the Contemplated Transactions, are in conformity with generally accepted accounting principles consistently applied during such periods.

5.21 Condition and Sufficiency of Certain of the Purchased Assets. The operating condition of the Purchased Assets is sufficient to operate the Business as currently conducted. The Purchased Assets (together with Purchasers’ rights under this Agreement) include all tangible and intangible property and assets necessary for the continued conduct of the Business after Closing in substantially the same manner as conducted prior to Closing.

5.22 Inventories. To Seller’s and Manager’s Knowledge, all items included in the Inventory are useable in accordance with the Ordinary Course of Business. At Closing, all Inventory will be located at the Hospital or will be in the possession of contractors or shippers engaged by Seller or Manager or will be in shipment from or among such locations. Schedule 5.22 lists all locations at which Inventory is or may be located.
5.23 Medical Staff; Physician Relations. Seller has delivered to Purchaser complete and genuine copies of the bylaws, rules and regulations of the medical staff and medical executive committees of the Hospital. Schedule 5.23 sets forth (a) the name and age of each member of the medical staff of the Hospital (active, associate, consulting, courtesy or other); and (b) the degree (M.D., D.O., etc.), title, specialty and board certification, if any, of each Hospital medical staff member. Except as set forth on Schedule 5.23 there are no pending, or to Seller’s Knowledge, threatened disputes with Hospital medical staff members or applicants or allied health professionals, and all appeal periods in respect of any medical staff member or applicant against whom an adverse action has been taken have expired.

5.24 Disclosure. No representation or warranty contained in this Article V and no statement in any Schedule referenced in this Article V contains any untrue statement of material fact or omits to state any material fact necessary to make the statements therein not misleading. To the Knowledge of Seller or Manager, there is no impending change in the Business, relations with Employees, suppliers or third party payors, that (i) has not been disclosed in Article V or in the Schedules to the representations and warranties in this Article V and (ii) has resulted in or is reasonably likely to result in any Material Adverse Effect on Seller or the Business.

5.25 Parking Garage/Parking Garage Bond Financing. Notwithstanding that the Parking Garage Bond Re-Financing will not close prior to the Closing, neither the entering into of the Parking Agreement at Closing, nor the operation of the Parking Garage pursuant to the Parking Agreement thereafter will violate any provisions of or constitute a default under the terms, provisions or conditions of the Parking Garage Bond Financing relating to the tax-exempt limitation of private use of the Parking Garage.

5.26 No Other Representations'or Warranties; Schedules. Except for the representations and warranties contained in this Agreement, including Article V (as modified by the Schedules hereto), neither Seller, Manager nor any other Person makes any other express or implied representation or warranty with respect to Seller, the Business, the Purchased Assets, the Assumed Liabilities or the Contemplated Transactions, and Seller disclaims any other representations or warranties, whether made by Seller, Seller’s Affiliates (if any) or any of their respective officers, directors, Employees, agents or other Representatives. The representations and warranties of Seller in this Agreement shall survive the Closing. Except for the representations and warranties contained in this Article V, (as modified by the Schedules hereto), Seller disclaims all liability and responsibility for any representation, warranty, projection, forecast, statement, or information made, communicated, or furnished (orally or in writing) to Purchaser or Purchaser’s Representatives (including any opinion, information, projection, or advice that may have been or may be provided to Purchaser by any manager, director, officer, employee, agent, consultant, or other Representative of Seller or any of its Affiliates). The disclosure of any matter or item in any schedule hereto shall not be deemed to constitute an acknowledgement that any such matter is required to be disclosed or is material.

**ARTICLE VI**

**REPRESENTATIONS AND WARRANTIES OF PURCHASER**
Purchaser hereby represents and warrants to Seller that:

6.1 Organization and Good Standing. Each Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the state of its formation and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now conducted.

6.2 Authorization of Agreement. Purchaser has full corporate power and authority to execute and deliver this Agreement and each other agreement, document, instrument or certificate contemplated by this Agreement or to be executed by it in connection with the consummation of the Contemplated Transactions (the “Purchaser Documents”), and to consummate the Contemplated Transactions. The execution, delivery and performance by Purchaser of this Agreement and each Purchaser Document have been duly authorized by all necessary corporate action on behalf of Purchaser. This Agreement has been, and each Purchaser Document will be at or prior to the Closing, duly executed and delivered by Purchaser, and (assuming the due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and each Purchaser Document when so executed and delivered will constitute, the legal, valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

6.3 Conflicts: Consents of Third Parties.

(a) Except as described on Schedule 6.3(a), Purchaser is not required to obtain any consent, approval, authorization, waiver, Order, license or Permit of or from, or to make any declaration or filing with, or to give any notification to, any Person (including any Governmental Body) in connection with the execution and delivery of this Agreement or the Purchaser Documents by Purchaser, the compliance by Purchaser with any of the provisions hereof or thereof; the consummation of the transactions contemplated hereby or thereby or the taking by Purchaser of any other action contemplated hereby or thereby, except for (i) the Healthcare Regulatory Consents and (ii) such other consents, waivers, approvals, Orders, Permits, authorizations, declarations, filings and notifications (A) that have already been obtained or made or (B) of which the failure to have obtained or made would not have a Material Adverse Effect or would not reasonably be expected to prevent or materially delay the ability of Purchaser to perform or consummate the Contemplated Transactions.

(b) Except as set forth on Schedule 6.3(b), none of the execution and delivery by Purchaser of this Agreement or any of the Purchaser Documents, the consummation of the Contemplated Transactions by Purchaser, or compliance by Purchaser with any of the provisions hereof or thereof will conflict with, or result in any violation of or a default (with or without notice or lapse of time, or both) under, or give rise to a right of termination or cancellation under any provision of, any Contract or Permit to which Purchaser is a party or by which any of the properties or assets of Purchaser are bound, other than any such conflicts, violations, defaults,
terminations or cancellations that would not have a material adverse effect on the ability of Purchaser to consummate the Contemplated Transactions.

6.4 Financial Advisors. No Person has acted, directly or indirectly, as a broker, finder or financial advisor for Purchaser in connection with the Contemplated Transactions and no Person is entitled to any fee or commission or like payment in respect thereof.

6.5 Healthcare Regulatory Compliance Status.

To the Knowledge of Purchaser, except, as described on Schedule 6.5, neither Purchaser nor any of its Affiliates is involved in any litigation, proceeding, or investigation by or with any Governmental Body which, if determined or resolved adversely, would have a material adverse impact on the ability of Purchaser to obtain or maintain any governmental qualifications, registrations, filings, licenses, permits, orders, approvals or authorizations necessary for Purchaser to conduct the Business and to own or use the Purchased Assets, as the Business is conducted and the Purchased Assets are owned and used on the date hereof, where the failure to have such qualifications, registrations, filings, licenses, permits, orders, approvals or authorizations could reasonably be expected to prevent or materially delay the consummation of the Contemplated Transactions by Purchaser or the performance by Purchaser of any of its material obligations under this Agreement.

6.6 Financing. Purchaser has, or by the Closing date will have, adequate funds to perform its obligations hereunder including, without limitation, the payment of the consideration for the Purchased Assets in the manner described herein and the acquisition of financing by Purchaser is not a condition precedent to Purchaser's obligations hereunder (provided, however, the foregoing does not, and shall not be deemed to, alter, supersede, modify, qualify or amend any other condition to Closing provided in this Agreement).

6.7 Litigation. Except for Legal Proceedings set forth in Schedule 6.7, there are no Legal Proceedings pending, or, to the Knowledge of Purchaser, threatened against Purchaser before any Governmental Body.

6.8 Disclosure. No representation or warranty contained in this Article VI and no statement in any schedule referenced in this Article VI contains any untrue statement of material fact or omits to state any material fact necessary to make the statements therein not misleading.

6.9 No Other Representations or Warranties; Schedules. Except for the representations and warranties contained in this Article VI (as modified by the Schedules hereto), neither Purchaser nor any other Person makes any other express or implied representation or warranty with respect to Purchaser or the Contemplated Transactions, and Purchaser disclaims any other representations or warranties, whether made by Purchaser, any Affiliate of Purchaser or any of their members, managers, officers, directors, employees, agents or other Representatives. Except for the representations and warranties contained in this Article VI, (as modified by the Schedules hereto), Purchaser disclaims all liability and responsibility for any representation, warranty, projection, forecast, statement, or information made, communicated, or furnished (orally or in writing) to Seller or Seller's Representatives (including any opinion,
information, projection, or advice that may have been or may be provided to Seller by any manager, director, officer, employee, agent, consultant, or other Representative of Purchaser or any of its Affiliates). The disclosure of any matter or item in any schedule hereto shall not be deemed to constitute an acknowledgment that any such matter is required to be disclosed or is material. The representations and warranties of Purchaser are for diligence purposes only and do not survive the Closing, however, its disclaimers survive.

ARTICLE VII

[RESERVED]

ARTICLE VIII

COVENANTS

8.1 Access to Information, Employees and Properties. Subject to the other provisions of this Section 8.1, Seller agrees that, prior to the Closing Date:

(a) Purchaser and any permitted assignee pursuant to Section 13.9 shall be entitled, through their Representatives, to make such investigation of the assets, properties and operations of the Business and such examination of the books and records of Seller pertaining to the Business, the Purchased Assets and the Assumed Liabilities as they reasonably request and to make extracts and copies of such books and records; it being understood, however, that the foregoing shall not entitle Purchaser or any such permitted assignee to access (i) any books, records or Documents that Seller reasonably determines that access to which by Purchaser or such permitted assignee would be competitively disadvantageous to Seller in any material respect or (ii) any books, records or Documents the disclosure of which by Seller to Purchaser or such permitted assignee would (A) violate any patient confidentiality obligation of Seller or (B) any other agreement or any obligation of confidentiality to which Seller is a party or are bound prior to the date hereof or (C) any obligation of confidentiality by which Seller is bound under applicable Law. Any such investigation and examination shall be conducted during regular business hours upon reasonable advance notice and under reasonable circumstances, any request for such examination shall be made to one of the Persons identified on Schedule 8.1 and any access to any of the Facilities by Purchaser or any such permitted assignee must be approved by one of such Persons, and Purchaser's and any such permitted assignee's access to such information shall be subject to any restrictions on disclosure by Seller to Purchaser and/or such permitted assignee or use of the information contained therein by Purchaser or such permitted assignee applicable pursuant to any agreement to which Seller is a party or are bound prior to the date hereof or under applicable Law. Prior to Closing Seller shall provide office space reasonably acceptable to Purchaser at the Hospital for Purchaser, such permitted assignee and their Representatives to review information pursuant to this Section 8.1 and provide access to key management personnel in connection with Purchaser's and such permitted assignee's due diligence review. Seller shall cause its Representatives to cooperate with Purchaser, such permitted assignee and their Representatives in connection with such investigation and
examination, and Purchaser, such permitted assignee and their Representatives shall cooperate with Seller and their Representatives and shall use its commercially reasonable efforts to minimize any disruption to Seller’s business and operations, including the Business. Notwithstanding anything herein to the contrary, Seller shall not be required to permit any such investigation or examination if, and to the extent that, Seller, upon advice of counsel, determines that such investigation or examination by Purchaser or any permitted assignee would or is reasonably likely to result in a loss of any attorney-client or attorney work product privilege available to Seller.

(b) Without limiting the foregoing, Seller shall, and shall cause the Manager to, grant Purchaser’s and any permitted assignee’s respective Representatives reasonable access to Seller’s and Manager’s employees for the purpose of administering the hiring process as to such employees. Thus, by way of example and without limitation, Seller will grant reasonable access to enable Purchaser and its permitted assignees to disseminate information to such employees; interview such employees and their supervisors and managers; investigate the backgrounds, experience, education, qualifications and work records of such employees; offer employment to such employees; hire such employees; and obtain necessary information from such employees.

(c) Without limiting the foregoing, Purchaser and any permitted assignee pursuant to Section 13.9 and their respective representatives and consultants, shall have the right to inspect, at reasonable hours, the Purchased Assets and all books, records, contracts and other documents or data pertaining to the Purchased Assets including, without limitation, the ownership, operation, environmental and other condition and the maintenance thereof and to perform tests with respect thereto; provided however, in conducting its inspection Purchaser, its assignee, and their respective consultants or representatives, as the case may be, shall not unreasonably interfere with the Business and operation of the Hospital.

8.2 Conduct of the Business.

(a) Prior to the Closing Date, except (1) as set forth on Schedule 8.2(a), (2) as required by applicable Law, (3) as otherwise expressly contemplated by this Agreement or (4) with the prior written consent of Purchaser (which consent shall not be unreasonably withheld, delayed or conditioned), Seller shall:

(i) conduct the Business only in the Ordinary Course of Business;

(ii) use its commercially reasonable efforts to retain the provider numbers for the Hospital’s Medicare and Medicaid programs and other major payors and, without limiting the foregoing, Seller covenants to advise Purchaser in advance of any correspondence between or among Seller, Manager or other Seller representative on the one hand, and Medicare and/or Medicaid (or their representatives) on the other, and any settlements, prospective settlements, compromises or other agreements between those parties; and all such settlements, prospective settlements, compromises or other agreements must be reasonably acceptable to Purchaser;

(iii) use its commercially reasonable efforts to (A) maintain the Purchased Assets in good working order and condition consistent with past practices, ordinary wear and
tack excepted and (B) maintain the insurance coverage currently in place with respect to the Purchased Assets (or comparable replacement coverage);

(iv) perform when due all obligations under the Assigned Contracts, Purchased Intellectual Property Licenses, Real Property Leases and Personal Property Leases;

(v) comply in all material respects with all Laws and Orders pertaining to the Business;

(vi) accurately maintain the books and records of the Business consistent with past practice;

(vii) operate the Business, including collecting the Accounts Receivable, consistent with past practices in substantially the same manner as presently conducted, using commercially reasonable efforts consistent with past practices to preserve the goodwill thereof and Seller’s relationships with the patients, suppliers and others with whom it deals; and

(viii) perform when due all obligations under Excluded Contracts and timely pay, perform and discharge in accordance with their respective terms the Excluded Liabilities.

(ix) repay, prior to the Closing Date, any and all advances received by Seller under charity care or other Subsidies, prior to the normal schedule for payment thereof (subject to any proration, if any, of such Subsidies pursuant to Section 3.4(ii)).

(x) Notwithstanding any other provision in this Agreement to the contrary, Seller shall continue to comply with the terms set forth in paragraph 8(b) of the LOI during the period from execution of this Agreement through the Closing Date including not soliciting or engaging in discussions with any other person or entity regarding a sale of all or any portion of the Purchased Assets, the Hospital or the Business.

(b) Except (1) as set forth on Schedule 8.2(b), (2) as required by applicable Law, (3) as otherwise contemplated by this Agreement or (4) with the prior written consent of Purchaser (which consent shall not be unreasonably withheld, delayed or conditioned), Seller shall not, and shall not permit, solely as it relates to the Business:

(i) other than in the Ordinary Course of Business, (A) increase the annual level of compensation of any Employee or other Person who works in the Business, (B) grant any bonus, benefit or other direct or indirect compensation to any Employee or other Person who works in the Business, (C) with respect to any Employee or other Person who works in the Business, increase the coverage or benefits available under any (or create any new) Plan or (D), enter into any employment, deferred compensation, severance, consulting, non-competition or similar agreement (or amend any such agreement) with any Employee or other Person who works in the Business, except, in each case, as required by applicable Law from time to time in effect or by any of the Plans or the employee pension plans maintained by Seller;

(ii) subject any of the Purchased Assets to any Lien, except for Permitted
Exceptions;

(iii) acquire or lease any material properties or assets that would be Purchased Assets or sell, assign, license, transfer, convey, lease or otherwise dispose of any of the Purchased Assets (except pursuant to an existing Contract for fair consideration in the Ordinary Course of Business or for the purpose of disposing of obsolete or worthless assets);

(iv) cancel or compromise any material debt or claim or waive or release any material right of Seller that constitutes a Purchased Asset except in the Ordinary Course of Business;

(v) enter into, modify or terminate any labor or collective bargaining agreement or, through negotiation or otherwise, recognize, make any commitment or incur any liability to any labor organization;

(vi) permit or allow relocation of (other than within the Facilities or onto the Facilities from other locations), or changes in, or disposition of, any services or programs of the Business;

(vii) other than in the Ordinary Course of Business, remove from the Purchased Real Property any Furniture and Equipment or other tangible personal property used in the Ordinary Course of Business without replacing such property with substantially, equivalent or better property; or

(viii) agree to do anything prohibited by this Section 8.2(b).

(c) Seller shall notify Purchaser of any written notice given by Seller, Manager, or other party thereto prior to Closing to any other party to a Contract listed on Schedule 2.1(d) that such party is in default thereunder or in breach thereof, which default or breach remains uncured, or any notice of termination thereof.

(d) Seller shall fully disclose to Purchaser and its permitted assigns all information in connection with, and consult and coordinate with Purchaser and its permitted assignees, and keep Purchaser and its permitted assigns fully informed regarding the proposed defeasance, tender for or other payoff of the Bond Financing including the selection of the replacement securities in connection with any defeasance thereof and provide a detailed schedule of all the amounts claimed and all the Authority’s defeasance costs associated with the proposed defeasance within sixty (60) days after the date hereof, such schedule to be attached hereto as Schedule 8.2(d). A revised Schedule 8.2(d) updated through a date not later than the date two (2) days prior to the Closing Date shall be provided by Seller to Purchaser two (2) days prior to the Closing Date and a final accounting of the actual amounts paid and costs incurred in connection with defeasance of the Bond Financing shall be provided by Seller to Purchaser no later than thirty (30) days after the Closing Date.
(e) Seller shall consult and coordinate with Purchaser regarding the manner and structure for the settlement and release of the claims of the unsecured creditors referenced in Section 10.3(c).

(f) From and after the Closing Date, Seller shall:

(i) Remain responsible to perform, when due all obligations under Excluded Contracts and Excluded Liabilities.

(ii) To the extent permitted by applicable law, maintain the existence of Seller in good standing under the laws of the State of New Jersey and not to dissolve, liquidate, reorganize or otherwise file for bankruptcy or similar protection until at least the date that is eighteen (18) months after the Closing Date.

(iii) Maintain the existence of such group health policy that covers non-union employees of the Business for a period of up to eighteen (18) months after the Closing for all persons who were receiving COBRA coverage under such policy as of the date of Closing and for any Non-Hired Employees (as defined in Section 8.20(a)) who are eligible for, and who elect, COBRA coverage under such policy; provided however that the obligation to maintain such group health policy shall expire in the event that the insurance carrier that issued such policy cancels, terminates or otherwise discontinues such policy.

(iv) Not, through and including the date that is eighteen (18) months after the Closing Date, sell, transfer, assign, pledge, hypothecate or otherwise encumber directly or indirectly any assets of any kind, real or personal, tangible or intangible, provided, however, that Seller may use its assets to satisfy creditors' claims as described in Section 10.3(c) and to pay for reasonable expenses related to maintaining the legal existence of the Seller for such eighteen (18) month period, the costs of which are estimated by Seller to be as set forth on Schedule 8.2(f)(iv), which assets shall be excluded from the assets available to satisfy indemnification claims of Purchaser.

(v) Intentionally omitted.

(vi) Seller shall pay any and all pension withdrawal liabilities for which it is ultimately determined to be liable by the requisite parties related to the District 1199J New Jersey Health Care Employers Pension Plan ("1199J Pension Fund") and the Central Pension Fund of the International Union of Operating Engineers and Participating Employers ("UNESCO Pension Fund").

8.3 Consents and Permits; Insurance.

(a) Seller shall use their commercially reasonable efforts, and Purchaser shall cooperate with Seller, including, without limitation, by taking the actions referred to in Section 8.4, to obtain at the earliest practicable date all consents, approvals, authorizations, waiver and Orders required to be obtained by Seller (including all consents listed in Schedule 5.3(a), and to give at the earliest practicable date any notices required to be given by Seller, in order for Seller
to consummate the Contemplated Transactions on the terms and in the manner provided hereby; provided, however, that Seller shall not be obligated to pay any consideration therefor to any third party from whom any such item is requested (other than filing or application fees payable to any Governmental Body) or to initiate any litigation or legal proceedings to obtain any such item except as otherwise provided by Section 8.4. Purchaser shall use its commercially reasonable efforts, and Seller shall cooperate with them, including by taking the actions referred to in Section 8.4, to obtain at the earliest practicable date all consents, approvals, authorizations, waivers, Orders, licenses and Permits required to be obtained by Purchaser (and Seller shall provide reasonable assistance and cooperation with respect to the foregoing at no cost to Seller), and to give at the earliest practicable date any notices required to be given by Purchaser, in order for Purchaser to consummate the Contemplated Transactions on the terms and in the manner provided hereby and to operate the Business after the Closing; provided, however, that Purchaser shall not be obligated to pay any consideration therefor to any third party from whom any such item is requested (other than filing or application fees payable to any Governmental Body) or to initiate any litigation or legal proceedings to obtain any such consent or approval except as otherwise provided by Section 8.4. Without limiting the foregoing, Seller shall cooperate with Purchaser to ensure prior to Closing the transfer of all Permits that are assignable to Purchaser necessary for the operation of the Hospital and Business as currently conducted, Nothing contained herein shall require Seller to expend any funds in order to remove or eliminate any Lien on any Purchased Asset in order to deliver such Purchased Asset to Purchaser pursuant to this Agreement free of such Lien; provided, however, in respect of any such Lien, Purchaser nevertheless shall not be required to consummate the Contemplated Transactions unless the conditions referred to in Section 10.1 are satisfied (such that the Purchased Assets shall be free and clear of such Liens) or waived by Purchaser.

(b) As of the Closing, Purchaser shall have appropriate insurance coverage in place for the Business consistent with what would be maintained under good industry business practices.

8.4 Regulatory Approval

(a) Seller has, prior to the date of this Agreement, reviewed the CON Application proposed to be submitted in connection with the Contemplated Transactions and acknowledged that the CON application is in acceptable form for submission to the applicable governmental entities of the State of New Jersey. Accordingly, within one (1) Business Day after the execution of this Agreement by Purchaser and Seller, Purchaser and Seller shall formally submit the CON Application agreed to by the parties to the applicable government entity of the State of New Jersey, and Seller and Purchaser shall promptly submit to all applicable government entities of the State of New Jersey and any other Governmental Body all other applications for any Healthcare Regulatory Consents required in order for Purchaser to consummate the Contemplated Transactions and to operate the Business in accordance with Law (collectively with the CON Application, the “Healthcare Applications”). Seller shall cooperate with Purchaser and facilitate the completion and submission of the Healthcare Applications and pursue the approval thereof. Purchaser shall provide Seller with an opportunity to review the Healthcare Applications (other than the CON Application which is specifically addressed above) concurrently with filing, and both parties shall cooperate in the preparation and prosecution of
the Healthcare Applications. Purchaser shall diligently prosecute the Healthcare Applications and shall timely submit all information and documents requested in connection therewith by any Government Body. Without limiting the generality of the foregoing, Purchaser shall take such actions as may be reasonably necessary to cure any character or competency objection that the applicable government entity of the State of New Jersey may raise to the CON Application, including removing or replacing any officer or director that fails to obtain character and competency approval from the applicable government entity of the State of New Jersey. Purchaser shall provide Seller with prompt written notice of Purchaser’s submission of a Healthcare Application. Within five (5) Business Days of its submission or receipt, Purchaser shall deliver to Seller a complete copy of all correspondence to or from any applicable Governmental Body having jurisdiction concerning a Healthcare Application. Purchaser shall provide Seller with periodic reports of Purchaser’s efforts to obtain all Healthcare Regulatory Approvals. In addition, Purchaser shall provide Seller with notice as promptly as practicable of its receipt of approval from the applicable government entity of the State of New Jersey, contingent approval or a rejection of the CON Application, along with a copy of any documentation related thereto. Purchaser shall not knowingly take any action prior to the Closing likely to disqualify Purchaser as an established and licensed operator of the Business.

(b) Each Purchaser and Seller shall use its reasonable best efforts to furnish to each other all information required for any application or other filing to be made pursuant to any applicable Law in connection with the Contemplated Transactions. Each such party shall promptly inform the other through counsel of any material oral communication with, and provide copies of written communications with, any Governmental Body regarding any such filings or any such transaction. No such party shall independently participate in any formal meeting with any Governmental Body in respect of any such filings, investigation, or other inquiry without giving the other parties prior notice of the meeting and, to the extent permitted by such Governmental Body, the opportunity to attend and/or participate.

(c) Subject to applicable law, Purchaser and Seller will consult and cooperate with one another in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of any party hereto relating to proceedings under Antitrust Laws. Each such party may, as each deems advisable and necessary, reasonably designate any competitively sensitive material provided to the other under this Section 8.4 as “outside counsel only.” Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient and will not be disclosed by such outside counsel to employees, officers, or directors of the recipient, unless express written permission is obtained in advance from the source of the materials.

(d) The CON Approval shall approve the transfer of the Hospital to Purchaser, and the continuation of the services for which the Hospital currently holds a certificate of need, subject only to contingencies that are acceptable to Purchaser in its sole discretion, and the Healthcare Applications shall disclose to the Governmental Bodies identified in Section 8.4(a) and 8.4(b) Purchaser’s plans as described in the operating plan attached hereto as Exhibit A. The parties acknowledge that obtaining the CON Approval in the timeframes contemplated by this Agreement may call for action by entities of the State of New Jersey that are not part of the normal certificate of need application and approval process, and that non-contingent
unconditional CON Approval is a condition to Purchaser's obligation to consummate the Contemplated Transactions.

8.5 Further Assurances. Each party shall use its commercially reasonable efforts to (i) take all actions necessary or appropriate to consummate the Contemplated Transactions, and (ii) cause the fulfillment at the earliest practicable date of all the conditions to their respective obligations to consummate the Contemplated Transactions. Without limiting the generality of the foregoing, promptly after the discovery by Seller or any of Seller's Affiliates after the Closing of any item included within the definition of Purchased Assets but not transferred, conveyed or assigned to Purchaser, (i) Seller will deliver written notice to Purchaser of the existence and non-transfer, non-conveyance or non-assumption of such item and provide Purchaser with all the information in Seller's possession about, and with access to such item as Purchaser may reasonably request, and (ii) if requested by Purchaser, Seller shall and shall cause their respective Affiliates to, use commercially reasonable efforts to transfer, convey or assign to Purchaser such item in the manner and on the terms and conditions as applicable to a Purchased Asset. The provisions of this Section 8.5 shall survive the Closing.

8.6 Confidentiality.

(a) From and after the date hereof, Purchaser shall, and shall cause its Representatives to, maintain in confidence, not disclose to any third party without the prior written consent of Seller, and not use to the detriment of Seller, any Seller Confidential Information relating to or obtained from Seller or its Representatives. For purposes of this Section 8.6, "Seller Confidential Information" shall mean any information that is confidential or proprietary in nature that is related to the Purchased Assets, the Assumed Liabilities, the Business, the Excluded Assets, or the Excluded Liabilities, including methods of operation, patient information, prices, fees, costs, Technology, Software, know-how, marketing methods, plans, personnel, suppliers, competitors, markets or other specialized information or proprietary matters; provided, however, that Seller Confidential Information does not include, and there shall be no obligation hereunder with respect to, information that (i) becomes generally available to the public other than as a result of a disclosure by Purchaser or any of its Representatives, (ii) becomes available to Purchaser on a non-confidential basis from a source other than Seller or its Representatives, provided that such source is not known by Purchaser to be bound by a confidentiality agreement with, or other obligation of secrecy to, Seller, (iii) is lawfully received by Purchaser from a third party having the right to disseminate Seller Confidential Information without restriction on disclosure or (iv) can be shown by Purchaser through written documents or evidence maintained by Purchaser to have been independently developed by Purchaser; and provided further, that upon the Closing, the restrictions contained in this Section 8.6 shall not apply to confidential or proprietary information related primarily to the Purchased Assets, the Assumed Liabilities or the Business. Purchaser may disclose Seller Confidential Information to its Representatives who need to know it for the purpose of effectuating the Contemplated Transactions and who agree to keep it confidential. Purchaser shall instruct its Representatives having access to Seller Confidential Information of such obligation of confidentiality. If Purchaser or anyone to whom it has transmitted Confidential Information subject to the confidentiality obligations herein becomes legally compelled to disclose any of such Confidential Information, Purchaser shall provide Seller with prompt notice prior to making any
disclosure so that Seller may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, or such Seller waives compliance with the provisions of this Section 8.6(a), Purchaser shall furnish only that portion of Seller Confidential Information that it is advised by written opinion of counsel is legally required to be disclosed.

(b) From and after the date hereof, Seller shall, and shall cause its Representatives to, maintain in confidence, not disclose to any third party without the prior written consent of Purchaser, and not use to the detriment of Purchaser, any Business Confidential Information, other than in connection with (i) operating the Business in the Ordinary Course of Business prior to the Closing Date, (ii) any investigations by Governmental Bodies, (iii) compliance activities prior to or after the Closing related to periods occurring prior to the Closing Date; (iv) any Legal Proceedings; (v) enforcing any rights or other claims of Seller under this Agreement; (vi) performing any obligations of Seller under this Agreement or (vii) as otherwise may be required by applicable law. For purposes of this Section 8.6(b), “Business Confidential Information” shall mean any information that is confidential or proprietary in nature that is related to the Purchased Assets, the Assumed Liabilities or the Business, other than information primarily pertaining to the Excluded Assets, or the Excluded Liabilities, including methods of operation, patient information, prices, fees, costs, Technology, Software, know-how, marketing methods, plans, personnel, suppliers, competitors, markets or other specialized information or proprietary matters; provided, however, that Business Confidential Information does not include, and there shall be no obligation hereunder with respect to, information that (i) becomes generally available to the public other than as a result of a disclosure by Seller or any of its Representatives, (ii) becomes available to Seller on a non-confidential basis from a source other than Purchaser or its Representatives, provided that such source is not known by Seller to be bound by a confidentiality agreement with, or other obligation of secrecy to, Purchaser or (iii) is lawfully received by Seller from a third party having the right to disseminate the Business Confidential Information without restriction on disclosure. Seller may disclose Business Confidential Information to their Representatives who need, to know it for the purpose of effectuating the Contemplated Transactions and who agree to keep it confidential. Seller shall instruct their Representatives having access to Business Confidential Information of such obligation of confidentiality. If Seller or anyone to whom they have transmitted Business Confidential Information subject to the confidentiality obligations herein becomes legally compelled to disclose any of such Business Confidential Information, Seller shall provide Purchaser with prompt notice prior to making any disclosure so that Purchaser may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, or Purchaser waives compliance with the provisions of this Section 8.6(b), Seller shall furnish only that portion of the Business Confidential Information that it is advised by written opinion of counsel is legally required to be disclosed.

(c) The obligations contained in this Section 8.6 shall survive the Closing and are in addition to any separate confidentiality agreements between Seller and Purchaser.

8.7 Preservation of Records. Seller and Purchaser agree that each of them shall preserve and keep the records held by them or their Affiliates relating to the operation of the Business prior to the Closing Date for a period of seven (7) years from the Closing Date or the maximum period of time required by law, whichever is longer, and shall, make such records and
personnel available to the other as may be reasonably required by such party in connection with, among other things, (i) Purchaser's operation of the Business, (ii) any insurance claims by, Legal Proceedings, tax audits or other governmental or healthcare payor investigations or audits of Seller or Purchaser or any of their Affiliates or (iii) enabling Seller or Purchaser to comply with their respective obligations under this Agreement and each other agreement, document or instrument contemplated hereby. In the event Seller or Purchaser wish to destroy such records before that time, such party shall first give ninety (90) days prior written notice to the other party, and such other party shall have the right at its option and expense, upon prior written notice given to such party within such ninety (90) day period, to take possession of the records within one hundred and eighty (180) days after the date of such notice.

8.8 Supplementation and Amendment of Schedules. The Schedules and Exhibits to this Agreement are to be completed and attached hereto as more fully described in Section 13.5. Any amendments or modifications to the Schedules and Exhibits after they are attached hereto pursuant to Section 13.5 shall require the mutual consent of Seller and Purchaser which consents shall not be unreasonably withheld.

8.9 Final Cost Report. Seller shall file or cause to be filed the final Cost Reports for the period prior to the Closing required to be filed with the Medicare or Medicaid programs or any other third party payor or Governmental Body as a result of the consummation of the Contemplated Transactions. Seller shall assume and be responsible for any and all liabilities incurred as a result of the filing of any of said reports or as a result of filing any previous Cost Report for periods prior to the Closing and shall be entitled to receive any refund or other benefit which may result from the filing of said reports or otherwise allocable to periods prior to the Closing. Such reports shall be prepared in accordance with applicable Law and consistent with past practices. Seller shall provide Purchaser with copies of said reports within a reasonable period of time prior to the filing thereof in order for Purchaser to review and provide Seller with comments thereon solely regarding reimbursement issues for periods after the Closing. Seller shall consider Purchaser's changes and shall incorporate Purchaser's comments into any such Cost Report, by amendment or otherwise to the extent said comments are applicable. Seller shall provide to Purchaser copies of all such documents promptly after filing.

8.10 Cooperation. Seller and Purchaser agree to reasonably cooperate with each other in good faith from the date hereof up through and following the Closing Date, in an effort to satisfy all further conditions, undertakings and agreements contemplated by this Agreement.

8.11 Surrender of License. Following Closing and in accordance with the timing and other requirements of applicable Law, Seller shall surrender all licenses and operating certificates issued to them by DHSS relating to the Business.

8.12 Application for Assignment of Existing Medicare Provider Agreement and Obtaining New Medicaid Provider Agreement. After the date hereof, (a) Purchaser shall apply to CMS for the assignment of Seller's existing Medicare Provider Agreement and all corresponding Medicare provider numbers for the Hospital or shall apply to CMS for a new Medicare Provider Agreement and corresponding provider numbers for the Hospital, (b) Purchaser shall apply to the applicable government entity of the State of New Jersey for the
assignment of Seller's existing Medicaid Provider Agreement and all corresponding Medicaid provider numbers for the Hospital or shall apply to the applicable government entity of the State of New Jersey for a new Medicaid Provider Agreement and corresponding provider number for the Hospital, and (c) Purchaser shall diligently prosecute such applications including confirmation that Purchaser shall be entitled to participate in any and all State programs for payments and subsidies available to Seller prior to Closing. Seller shall cooperate with Purchaser in prosecuting all of such applications; provided, however, that Seller shall not be required to expend any funds in enabling Purchaser to acquire new Provider Agreements and provider numbers. Purchaser and Seller shall report to each other frequently on their progress in prosecuting such applications and any communications with CMS, any applicable government entity of the State of New Jersey or any other Governmental Body in connection therewith.

8.13 Non-Competition Obligation on Seller. Effective as of the Closing Date, and for the shorter of Seller's existence or a period of five (5) years following the Closing Date, Seller shall not offer, build, assist in the development of, operate, invest in, or have any management role in, any Competing Business within twenty-five (25) miles of the Hospital. For the avoidance of doubt, the prohibitions in the preceding sentence apply to the Seller only, and not to any person serving as a Commissioner of the Seller. For purposes hereof, "Competing Business" shall mean any health care facility, including, without limitation, any acute care hospital, behavioral health hospital, inpatient or outpatient rehabilitation facility, skilled nursing facility, outpatient surgery center, outpatient medical facility, ambulatory care facility, or diagnostic imaging center. In the event of violation of this Section 8.13, Purchaser shall be entitled to interim restraints and permanent injunctive relief against Seller for the enforcement thereof in addition to an award of damages or other remedies to which Purchaser may be entitled. Moreover, if Purchaser prevails in a proceeding for damages or injunctive relief arising out of this Section 8.13, Purchaser, in addition to any other relief to which it may be entitled, shall be entitled to reimbursement of reasonable attorneys' fees, costs and the expenses of litigation incurred by Purchaser in securing the relief granted by the court. This Section 8.13 shall survive the Closing.

8.14 Post-Closing Date Matters. Any asset that is determined by this Agreement, or, absent such agreement, determined by litigation, to be an Excluded Asset, and that is or comes into the possession, custody or control of Purchaser shall forthwith be transferred, assigned or conveyed by Purchaser to Seller, and until such transfer, assignment and conveyance, Purchaser shall not have any right, title or interest in such Excluded Asset but instead shall hold such Excluded Asset in trust for the benefit of Seller. Any asset that is determined by this Agreement or, absent such agreement, determined by litigation, to be or otherwise relate to a Purchased Asset and that is or comes into the possession, custody or control of Seller shall forthwith be transferred, assigned and conveyed by Seller to Purchaser, and until such transfer, assignment and conveyance, Seller shall not have any right, title or interest in such Purchased Asset, but instead shall hold such Purchased Asset in trust for the benefit of Purchaser.

8.15 Strategic Planning: Provider Agreement. After the Closing, Purchaser will (i) initiate a strategic planning process to determine opportunities in the market place for the purpose of developing and expanding centers of excellence for acute care services, out-patient hospital services, and outreach community programs; and (ii) use reasonable efforts to preserve
and not make major changes to the services offered as of the date hereof at the current location of the Hospital. The Purchaser shall negotiate in good faith to enter into agreements prior to the Closing with the City of Hoboken, the Hoboken Board of Education, the Hoboken Housing Authority and the Hospital (collectively, the “Entity Agreements”) so that after the Closing, the employees of such entities shall be permitted to use the Hospital and obtain its services as though the Hospital were in-network. In addition, the Purchaser will use its commercially reasonable best efforts to negotiate in-network hospital agreements between the Purchaser and various health insurers, including Horizon Blue Cross. The Purchaser shall cooperate in any mediation (with a mediator to be selected by a mutually agreed third party) or alternative procedure reasonably suggested by the Seller to facilitate reaching such an agreement.

8.16. Continuation of Services. For a period of not less than seven (7) years following the Closing, Purchaser shall continue, in all material respects, to operate the Hospital as a general acute care facility and the clinics operated by the Hospital as of the date of this Agreement, subject to changes in governmental policy.

8.17 Capital Commitments. Purchaser may make available, in Purchaser's sole and absolute discretion, (but without any obligation to do so) an amount of up to Twenty Million Nine Hundred Thousand ($20,900,000) Dollars in the aggregate for working capital and capital expenditures for the Hospital.

8.18 Payment of Accounts Payable: List of Unsecured Creditors. Except for those liabilities that are expressly assumed by Purchaser as Assumed Liabilities, Seller shall remain solely liable and responsible for payment of all of its accounts payable related to the Purchased Assets, the Hospital or operation thereof arising or related to the period prior to Closing. Pursuant to Section 10.3(c) Seller is to reach agreement with the unsecured creditors related to the Hospital and the Business with respect to amounts owed to said unsecured creditors prior to the Closing Date (whether incurred directly by Seller or indirectly through Manager or other party). Within thirty (30) days after the signing of this Agreement, Seller shall provide Purchaser with Schedule 8.18, showing Seller's best estimate of the amount of the Seller's unsecured claims and liabilities as of the Closing Date (other than the claims of the holder(s) of the Bond Financing bonds, and the City of Hoboken as the guarantor thereof, which for the purposes of this paragraph shall not be included as unsecured creditors and which claims are to be addressed by Seller through defeasance of the Bond Financing at Closing), divided into the following three categories: payables, leases and contracts. Such Schedule 8.18 shall include the name of each unsecured creditor and the related anticipated amount of the unsecured claims and liabilities as of the Closing Date, including anticipated termination fees.

8.19 Notice of Developments. After the date of this Agreement, each Party will immediately notify the other in writing of (i) any fact or condition existing prior to or on such date that constitutes a breach of any representation or warranty of that respective Party (or, in the case of Seller, any breach of representation or warranty of Seller or Manager) in this Agreement (or other agreement pursuant to which Manager is providing representations and warranties) and (ii) any fact or condition developing after such date that would constitute a breach of any representation or warranty of such party (or, in the case of Seller, a breach of any representation or warranty of Seller or Manager) in this Agreement (or other agreement pursuant to which
Manager is providing representations and warranties) if such representation or warranty were made on the date of the occurrence or discovery of such fact or condition.

8.20 Employment of Certain Employees.

(a) As of the Closing Date, Purchaser shall offer to employ no less than Seventy-five (75%) percent of the Employees of Seller as of the Closing Date (the “Hired Employees”) and to assume Seventy-five (75%) percent of the outstanding amount of accrued vacation and holiday leave time as well as accrued sick time (regardless of whether the number of Hired Employees who accept employment with Purchaser is less than 75% of the Employees) (but expressly excluding, without limitation, any health and welfare obligations including any pension obligations related to any Employee) (hereinafter, collectively “Leave Time Benefits”) as of the Closing Date. Employees that are not employed by Purchaser pursuant to this Agreement shall be referred to as the Non-Hired Employees. Purchaser will offer its standard employee benefits package to the Hired Employees. Purchaser shall provide Seller with a list of the Hired Employees at least twenty (20) days prior to the Closing Date. As of the Closing, the Hired Employees shall become employees of Purchaser unless the designated Hired Employee resigns his or her position prior to Closing or otherwise declines employment with Purchaser. Seller shall provide Purchaser at least ten (10) days prior to Closing with a then current schedule of the Leave Time Benefits for the Hired Employees.

(b) As of the Closing Date, Purchaser shall offer to employ certain Senior Management as of the Closing Date (“Hired Senior Management”) and to assume (i) eighty (80%) percent of the Leave Time Benefits and (ii) eighty (80%) percent of the severance payments (up to an amount not to exceed $677,000) (“Severance Obligations”) related to the Senior Management (regardless of whether the number of Hired Senior Management who are offered or accept employment with Purchaser is less than 80% percent of the Senior Management). For purposes of this Agreement, “Senior Management” shall mean those positions identified on Schedule 8.20(b). Seller has provided true and complete copies of all the senior management contracts for all Senior Management described on Schedule 8.20(b) by providing Purchaser with access to the Data Room and the Contract Management System. Purchaser shall provide Seller with a list of the Hired Senior Management at least twenty (20) days prior to the Closing Date. As of the Closing, the Hired Senior Management shall become employees of Purchaser unless the designated Hired Senior Management resigns his or her position prior to Closing or otherwise declines employment with Purchaser. Seller shall provide Purchaser at least ten (10) days prior to Closing with a then current schedule of the Leave Time Benefits and Severance Obligations for the Hired Senior Management.

8.21 NJ Urban Transit Hub Tax Credit. From the date hereof through the date which is eighteen (18) months following the Closing Date, the Seller shall use its best efforts and cooperate with and assist the Purchaser (or, as applicable, its permitted assignees pursuant to Section 13.9) in connection with Purchaser’s or such permitted assignee’s efforts to obtain a tax credit (“Tax Credit”) pursuant to the NJ Urban Transit Hub Tax Credit Act (NJSA Section 34:1B-207 et seq). The parties acknowledge that after the Closing Date the availability of Seller may be more limited than prior to Closing and that such cooperation and assistance after the Closing Date shall consist of such representatives of Seller as may be available (i) upon at least
two business days’ advance notice, participating in telephone conferences with Purchaser, such permitted assignees and their respective representatives and representatives of the Government Bodies responsible for Tax Credits, and (ii) upon at least five business days’ advance notice, attending meetings with Purchaser, such permitted assignees and their respective representatives and representatives of the Government Bodies responsible for Tax Credits concerning such Tax Credit. For avoidance of doubt, Seller and Purchaser acknowledge and agree that Purchaser’s or such permitted assignee’s inability to obtain a Tax Credit shall not result in any liability or obligation owed by Seller to Purchaser, such permitted assignee, or any third party.

8.22 Tax Clearance. Seller covenants to cooperate with Purchaser, and to cause Manager to cooperate with Purchaser, in order to obtain a tax clearance certificate from the New Jersey Department of Revenue confirming that all state income, franchise, sales, use or other returns that are due in connection with the operation of the Business have been filed and the taxes reflected thereon have been paid (the “Tax Clearance Letters”). The Seller agrees to comply, and to cause Manager to comply, with its obligations under New Jersey bulk sales law, if any, arising out of the sale of the Purchased Assets pursuant to this Agreement. In furtherance of the foregoing and notwithstanding anything to the contrary in this Agreement, the Seller agrees to provide, and to cause the Manager to provide, the Purchaser with all information required by Purchaser needed to notify (the “Bulk Sale Notification”) the New Jersey Division of Taxation Bulk Sales Section (the “Bulk Sales Section”) as to the sale of the Purchased Assets to the Purchaser pursuant to this Agreement (as contemplated under Section 54:50-38, New Jersey Statutes, and any related sections). The Bulk Sale Notification must be delivered to the Bulk Sales Section by Purchaser no less than 10 days prior the Closing Date. The Seller shall, and shall cause Manager to, cooperate with the Purchaser in connection with the Bulk Sale Notification, and the Seller shall comply with all applicable demands, or other applicable escrow requirements, from the Bulk Sales Section. If the Bulk Sales Section suggests or requires a tax escrow, then Seller shall cause an amount equal to the sum required or suggested by the Bulk Sales Section to be withheld from the Purchase Price otherwise payable to Seller to be held in escrow (the “Withheld Amount”) by the Purchaser’s attorney (the “Tax Escrow Agent”) pursuant to an escrow agreement in a form reasonably agreed upon by the parties (the “Tax Escrow Agreement”), pending notification from the Bulk Sales Section as to the disposition of the Withheld Amount (i.e., either payment to the Seller or to the Bulk Sales Section). Should the Seller’s obligations to the Bulk Sales Section exceed the Withheld Amount, the Seller shall remain responsible for the payment of any such outstanding sales tax obligations.

8.23 Union Agreements. Purchaser agrees to negotiate in good faith with existing unions at the Hospital as required by law in an attempt to reach mutually satisfactory CBAs or similar labor agreement with such unions; provided, however, that nothing herein shall be deemed to obligate Purchaser to assume any existing CBA or labor agreement previously entered into by Seller or Manager and/or to enter into any new CBA or labor agreement with existing unions at the Hospital should Purchaser in its sole and exclusive discretion deem the terms of such new or existing CBA or labor agreement to be unacceptable.

8.24 Pension. Purchaser shall pay as additional consideration an amount up to but not to exceed Two Million Five Hundred Thousand ($2,500,000.00) Dollars in the aggregate which amount shall be payable in 20 equal annual installments beginning on the Closing Date. Seller
agrees that this consideration will be used by Seller exclusively to pay any withdrawal liability Seller may have as a result of this transaction pursuant to Section 4201 et seq. of ERISA to either the 1199J Pension Fund or the JNESO Pension Fund.

8.25 Property Tax Abatement. From the date hereof through the date that is eighteen (18) months following the Closing Date, the Seller shall use its best efforts and cooperate with and assist the Purchaser (or its permitted assignee pursuant to Section 13.9) in connection with efforts to obtain a property tax abatement, payment in lieu of taxes, reduced assessment or similar arrangement (“Abatement”) with respect to the Purchased Real Property. The parties acknowledge that after the Closing Date the availability of Seller may be more limited than prior to Closing and that such cooperation and assistance after the Closing Date shall consist of such representatives of Seller as may be available (i) upon at least two business days’ advance notice, participating in telephone conferences with Purchaser and Purchaser’s representatives and representatives of the Government Bodies responsible for Abatements, and (ii) upon at least five business days’ advance notice, attending meetings with Purchaser and Purchaser’s representatives and representatives of the Government Bodies responsible for Abatements. For avoidance of doubt, Seller and Purchaser acknowledge and agree that Purchaser’s (or its permitted assignee pursuant to Section 13.9) failure to obtain an Abatement shall not result in any liability or obligation owed by Seller to Purchaser or any third party.

8.26 911 Calls. From the date hereof through the date that is eighteen (18) months following the Closing Date, Seller shall use its best efforts to cause, and cooperate with and assist in efforts, to have the entity that is the Public Service Dispatch Point (“PSDP”) for 911 calls in the City of Hoboken be the Purchaser or its designee, provided however, all the costs for changing the PSDP to Purchaser or its designee shall be borne solely by Purchaser. The parties acknowledge that after the Closing Date the availability of Seller may be more limited than prior to Closing and that such cooperation and assistance after the Closing Date shall consist of such representatives of Seller as may be available (i) upon at least two business days’ advance notice, participating in telephone conferences with Purchaser and Purchaser’s representatives and representatives of the Government Bodies responsible for PSDP, and (ii) upon at least five business days’ advance notice, attending meetings with Purchaser and Purchaser’s representatives and representatives of the Government Bodies responsible for PSDP. For avoidance of doubt, Seller and Purchaser acknowledge and agree that the failure to have Purchaser or its designee be the PSDP for the City of Hoboken shall not result in any liability or obligation owed by Seller to Purchaser or any third party.

8.27 DSH Applications. The parties acknowledge that the current proposed form of State of New Jersey budget for budget year beginning July 1, 2011 (“Budget”) does not include the approximately Eleven Million ($11,000,000.00) Dollars of DSH (as defined supra) for the Hospital and operation of the Business which Seller has received in the past. Seller covenants from the date hereof through the Closing Date to properly complete and timely submit all necessary applications for the continued receipt of Medicaid Disproportionate Share Hospital (“DSH”) reimbursement adjustments for the Seller and use its best efforts and cooperate with and assist the Purchaser (including meeting with representatives of Government Bodies responsible for approving DSH reimbursement adjustments) to provide that such DSH reimbursement adjustments continue to be received by Purchaser after the Closing Date.
avoidance of doubt, Seller and Purchaser acknowledge and agree that the failure of Purchaser to continue to receive DSH reimbursement adjustments after the Closing Date shall not result in any liability or obligation owed by Seller to Purchaser or any third party.

8.28. Government Reimbursement Programs. Seller covenants and agrees from the date hereof through the Closing Date to complete and timely submit all necessary applications for the continued receipt of all stabilization payments, subsidies, reimbursements and other payments under or pursuant to any Medical Reimbursement Program or other state of federal program.

8.29. UMDNJ Litigation. In the event Seller enters into a settlement and release of all claims related to that certain litigation University of Medicine and Dentistry of New Jersey – New Jersey Medical School vs. Hoboken Municipal Hospital Authority t/a Hoboken University Medical Center and Hudson Healthcare, Inc., Docket No. ESX-L-002155-10 prior to Closing (in form and substance reasonably satisfactory to Purchaser and Seller) with such settlement and release of claims to be effective no later than the Closing Date, Purchaser agrees to pay Seller an amount equal to Seventeen (17%) percent of the settlement amount to be paid by Seller (such amount to be paid by Purchaser pursuant to this Section 8.29 not to exceed in any event Five Hundred Thousand ($500,000.00) Dollars in the aggregate, which amount, if due and payable in accordance with the terms set forth herein, shall be paid to Seller at Closing).

8.30. Tail Insurance. Prior to the Closing, Seller shall keep in effect the policies of insurance or obtain or cause to be obtained the tail insurance coverage as set forth on Schedule 8.30 attached hereto, naming Purchaser (and/or permitted assignees, MPT of Hoboken Real Estate, LLC and MPT of Hoboken TRS, LLC pursuant to Section 13.9, as the case may be) as an additional insured or as owner of the policy evidencing the coverage, as the case may be (“Tail Coverage”). The premium costs and fees required to maintain the referenced insurance coverage shall be paid in full at or prior to the Closing. Purchaser shall pay up to $4.0 million for such Tail Coverage. The Tail Coverage shall be placed through an insurance broker acceptable to Purchaser. Seller shall fully cooperate in the placement of said Tail Coverage including executing broker of record designations for the broker placing the Tail Coverage.

ARTICLE IX
EMPLOYEES AND EMPLOYEE BENEFITS

9.1 Employment Terms: Employee Benefits.

(a) Subject to Section 8.20, Purchaser shall have sole and exclusive discretion to offer employment to individuals previously employed by Seller or Manager. Thus, Purchaser shall not be obligated to offer employment to any specific employees previously employed by Seller or Manager. Seller and/or Manager also shall have sole and exclusive discretion to establish salaries, wages, benefits and all other terms and conditions of employment for its employees. Thus, Purchaser shall not be obligated to continue salaries, wages, benefits or other terms and conditions of employment applicable to employees of Seller or Manager.
(b) Other than with respect to the Leave Time Benefits referenced in Section 8.20, as between Purchaser on the one hand and Seller or Manager on the other, with respect to any Employees whom Purchaser hires, Seller and/or Manager, as the case may be, shall be responsible for all Liabilities attributable to the period prior to the Closing Date (and Purchaser shall not be responsible for such Liabilities) and Seller and/or Manager, as the case may be, also shall be solely responsible for all Liabilities with respect to the Employees whom Purchaser does not hire.

(c) Except to the extent otherwise required by law, Seller and/or Manager shall be responsible for providing and paying for continuation coverage, as required by COBRA or any similar law, to all employees and former employees of Seller and/or Manager who are not retained by Purchaser or who are offered employment but do not accept employment (and other qualified beneficiaries under COBRA with respect to such employees).

(d) Seller and Manager shall be responsible for providing notice of any plant closing or mass layoff in accordance with WARN occurring up to and including the Closing Date and Seller shall indemnify Purchaser and its directors, trustees, officers and employees against such Liability. Purchaser shall be responsible for providing notice of any plant closing or mass layoff in accordance with WARN occurring after the Closing Date. Accordingly, Seller will retain all liability for any failure of Seller, Manager or their Affiliates to comply with any of the requirements of WARN, including applicable notice requirements related to any “plant closing” or “mass layoff” (as defined under WARN), with respect to any and all Employees who are not hired by Purchaser.

(e) Seller or Manager, as the case may be, shall be solely responsible for any obligations or Liabilities to any multiemployer plans to which Seller or Manager contributes pursuant to any CBA’s, including any contributions related to the period prior to the Closing Date, and any Liabilities to such multiemployer plans which may arise as a result of the transaction contemplated by this Agreement, including but not limited to any claims for withdrawal liability pursuant to Sections 4201 et seq. of ERISA.

ARTICLE X

CONDITIONS TO CLOSING

10.1 Conditions Precedent to Obligations of Purchaser. The obligations of Purchaser to consummate the Contemplated Transactions as provided by this Agreement is subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived by Purchaser in whole or in part to the extent permitted by applicable Law):

(a) the representations and warranties of Seller set forth in this Agreement shall be true and correct in all material respects at and as of the Closing, except to the extent such representations and warranties expressly relate to an earlier date (in which case such
representations and warranties shall be true and correct on and as of such earlier date) and Purchaser shall have received a certificate signed by authorized officers of Seller, dated the Closing Date, to the foregoing effect;

(b) Seller shall have performed and complied in all material respects with all obligations and agreements required in this Agreement to be performed or complied with by them prior to the Closing Date and Purchaser shall have received a certificate signed by an authorized officer of Seller, dated the Closing Date, to the foregoing effect;

(c) There shall have been no changes to the Business or prospects of Seller or Purchased Assets that, individually or in the aggregate, could be expected to result in a Material Adverse Effect;

(d) Seller shall have delivered, or caused to be delivered, to Purchaser all of the items set forth in Section 4.2;

(e) Purchaser shall have obtained non-contingent unconditional final CON Approval from the applicable government entity of the State of New Jersey for the CON Application;

(f) Seller shall have provided to Purchaser evidence in writing from the Government Body having final jurisdiction regarding said matter, in form and substance satisfactory to Purchaser, that conversion to “for profit” status is not required under CHAP A or Purchaser has obtained, if applicable, non-contingent unconditional final approval from the Superior Court for the conversion to “for-profit” status required under CHAPA;

(g) Purchaser has either, in Purchaser's sole discretion: (i) accepted the assignment of Seller's existing Medicare and Medicaid Provider Agreements and corresponding provider numbers, which assignments have been authorized and recognized by the Medicare and Medicaid programs, without any restrictions or conditions, except for restrictions or conditions satisfactory to Purchaser in its sole discretion; (ii) entered into new Medicare and Medicaid Provider Agreements and been issued new Medicare and Medicaid provider numbers, without any restrictions or conditions, except for restrictions or conditions satisfactory to Purchaser in its sole discretion; or (iii) received (A) notice from the Medicare and Medicaid fiscal intermediaries and/or applicable State agencies that they have completed the site survey required as for the issuance of new Medicare and Medicaid Provider Agreements and (B) written assurance from the applicable government entities of the State of New Jersey that (I) the only conditions to Purchaser receiving new Medicare and Medicaid Provider Agreements and corresponding provider numbers are the closing of the Contemplated Transactions and the correction of minor deficiencies reflected on the survey that can be corrected by Purchaser without incurring costs exceeding $10,000 in the aggregate, and (II) the new Medicare and Medicaid Provider Agreements to be issued on satisfaction of such conditions shall be without any restrictions or conditions, except for restrictions or conditions satisfactory to Purchaser in its sole discretion.

(h) Each party to the Assigned Contracts shall have consented, in writing, to the assignment to Purchaser of Seller's rights under such party’s contract arising after the
Closing and the assumption by Purchaser of Seller’s obligations under such contract arising after the Closing, and all Assigned Contracts shall be free of any and all existing defaults;

(i) No action, suit, or proceeding before any court or any Governmental Body, pertaining to the Contemplated Transactions or to their consummation, will have been instituted or threatened on or before the Closing Date;

(j) Intentionally Omitted;

(k) Purchaser or its assignee pursuant to Section 13.9, as the case may be, shall have received an ATLA certificate and survey(ies) of the Purchased Owned Properties showing the subject property is free of all easements, restrictions, overlays and encroachments other than those that are expressly referenced as Permitted Exceptions and either (i) an ALTA owner’s policy of title insurance issued by Purchasers’ title company insuring title to the Purchased Owned Properties in an amount and containing such endorsements as Purchaser may require, in Purchaser’s sole discretion, or (ii) the written commitments or binders of the Purchaser’s title company to issue the such policy of title in the aforementioned condition within a reasonable time after the Closing Date.

(l) Insolvency. Neither Seller nor Manager 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 other than as may be referenced in this Agreement, (iv) have been adjudicated a bankrupt, or (v) have filed a petition in bankruptcy, a petition or answer seeking reorganization, or an arrangement with creditors (other than the settlement and release of claims with unsecured creditors pursuant to Section 10.3(c) and as described elsewhere herein) under any federal bankruptcy law or any other similar law or statute of the United States or any state applicable to it.

(m) Environmental Report. Purchaser shall have received, at Purchaser’s expense, a Phase I Environmental Site Assessment Report of the Purchased Owned Property and the Hospital, prepared by a firm selected by Purchaser, and the scope, findings, and conclusions of such report shall have been satisfactory to Purchaser in its sole discretion and, if required by Purchaser, a Phase II Environment Report of the Purchased Owned Property and the Hospital, prepared by a firm selected by Purchaser, at Purchaser’s expense, and the scope, findings and conclusions of such report shall have been satisfactory to Purchaser in its sole discretion.

(n) Real Estate Matters. Seller shall have obtained and delivered to the Purchaser an estoppel certificate, in form and substance reasonably satisfactory to Purchaser (or its permitted assignee pursuant to Section 13.9), with respect to each of (i) the Purchased Real Property Leases, and (ii) any other leases of portions of the Owned Properties comprising the Purchased Owned Properties, in each case dated not more than 30 days prior to the Closing Date, from the other party to such lease and from each subtenant, if any. In addition, in the event a collateral assignment of any or all of the Purchased Real Property Leases is required in connection with Purchaser or its permitted assignee’s financing related to the Purchased Owned Property then Seller shall obtain and deliver said collateral assignment and any required consent thereto, in each case in form and substance reasonably satisfactory to Purchaser (or its permitted assignee pursuant to Section 13.9).
(o) **Liens and Encumbrances.** All liens and encumbrances (other than Permitted Exceptions) on the Purchased Assets shall have been released and evidence thereof satisfactory to Purchaser in its sole discretion delivered to Purchaser.

(p) **Consent of Unsecured Creditors.** Seller shall have furnished to Purchaser, in form and substance satisfactory to Purchaser, evidence of the settlement and release of the claims of unsecured creditors which represent in the aggregate not less than 90% of the aggregate dollar amount of all claims of the unsecured creditors in accordance with the terms and conditions set forth in Section 8.18 and Section 10.3(c).

(q) **Parking Agreement.** Seller shall have provided or caused to be provided to Purchaser or its permitted assignee pursuant to Section 13.9, (i) an agreement for parking (the "Parking Agreement") executed by the City of Hoboken, the Hoboken Parking Authority, and all other requisite Governmental Bodies, which Parking Agreement is to be executed and delivered at Closing pursuant to and in accordance with the terms, provisions and conditions of that certain Term Sheet attached hereto as Exhibit 10.1(q)-2, (ii) written confirmation from the Hoboken Zoning Authority or other requisite Governmental Body that the Hospital and the Business at the Hospital as conducted as of the Closing Date and the Purchased Owned Properties and other Facilities are in compliance with all applicable zoning and other applicable ordinances (including, without limitation, parking requirements and regulations) such written confirmation to be in the form attached hereto as Exhibit 10.1(q)-3, and (iii) the Approvals.

(r) **Tax Clearance Letter.** Seller shall have fully satisfied its obligations under Section 8.22 of this Agreement.

(s) **Schedules/Exhibits.** The form and content of Schedules and Exhibits to this Agreement shall have been agreed to by the parties in accordance with the timeframes and terms set forth in Section 13.5 (as may be extended or modified by written agreement the parties).

(t) **Manager.** Seller shall have caused the Manager to either (1) be a party to this Agreement for purposes of Article V (Seller’s Representations and Warranties), Article VIII (Seller’s Covenants) and such other provisions as reasonably required by Purchaser (or its permitted assignees, as applicable) in connection with the Contemplated Transactions (including provisions regarding the transfer of title to Purchased Assets in the name of Manager or Affiliate of Manager, and Section 8.13), or (2) in the event Manager does not become a party to this Agreement as set forth in (1) above, execute and deliver prior to or at Closing such other written agreement, in form and substance satisfactory to Purchaser(or its permitted assignees, as applicable) pursuant to which Manager provides such representations and warranties, and covenants to Purchaser (or its permitted assignees, as applicable) and agrees to execute and deliver such documents as may be necessary or appropriate to transfer title to any of the Purchased Assets that are held by Manager or an Affiliate of Manager.

10.2 **Conditions Precedent to Obligations of Seller.** The obligation of Seller to
consummate the Contemplated Transactions as provided by this Agreement are subject to the fulfillment, prior to or on the Closing Date, of each of the following conditions (any or all of which may be waived by Seller in whole or in part to the extent permitted by applicable Law):

(a) The representations and warranties of Purchaser set forth in this Agreement qualified as to materiality shall be true and correct, and those not so qualified shall be true and correct in all material respects, at and as of the Closing Date as though made on the Closing Date, except to the extent such representations and warranties relate to an earlier date (in which case such representations and warranties qualified as to materiality shall be true and correct, and those not so qualified shall be true and correct in all material respects, on and as of such earlier date), and Seller shall have received a certificate signed by authorized officers of Purchaser, dated the Closing Date, to the foregoing effect; provided, however, that in the event any such representation or warranty has been breached, the condition set forth in this Section 10.2(a) shall nevertheless be deemed satisfied unless the effect of all such breaches of representations and warranties taken together would prevent or materially delay the ability of Purchaser to perform their respective obligations under this Agreement or the ability of Purchaser to consummate the Contemplated Transactions;

(b) Purchaser shall have performed and complied in all material respects with all obligations and agreements required by this Agreement to be performed or complied with by them on or prior to the Closing Date, and Seller shall have received a certificate signed by authorized officers of Purchaser, dated the Closing Date, to the foregoing effect; provided, however, that in the event any such obligation or agreement has not been performed or complied with, the condition set forth in this Section 10.2(b) shall be deemed satisfied unless all such failures to so perform or comply taken together prevent or materially delay the ability of Purchaser to perform their respective obligations under this Agreement or the ability of Purchaser to consummate the Contemplated Transactions; and

(c) Purchaser shall have delivered, or caused to be delivered, to Seller all of the items set forth in clauses (a) through (k) of Section 4.3.

10.3 Conditions Precedent to Obligations of Purchaser and Seller. The respective obligations of the parties to consummate the Contemplated Transactions as provided by this Agreement are subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived by both Purchaser and Seller in whole or in part to the extent permitted by applicable Law):

(a) there shall not be in effect any Order by a Governmental Body of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the Contemplated Transactions or which would make the consummation of such transactions unlawful and no action or proceeding shall have been instituted and remain pending before a Governmental Body to restrain or prohibit the Contemplated Transactions;

(b) the parties shall have received the consents, approvals, licenses or Permits, or waivers thereof, as specified on Schedule 10.3(b) and shall have given any notices required thereby; and
(c) Seller shall have obtained at least ten (10) days prior to Closing and provide evidence thereof to Purchaser, in form and substance reasonably satisfactory to Purchaser and Seller, the settlement and release of at least ninety (90%) percent of the aggregate dollar amount of all the claims of the unsecured creditors set forth on Schedule 8.18.

If any of the mutual closing conditions set forth in this Section 10.3 are not satisfied, then each of Seller and Purchaser shall have the right to terminate this Agreement upon three (3) Business Days’ prior written notice to the other. If Seller provides written notice of its intention to terminate this Agreement because the condition set forth in Section 10.3(c) is not satisfied, then the Purchaser shall have the right, but not the obligation, during the next thirty (30) Business Days, to agree to pay or assume (conditioned upon the creditor’s settlement and release of its unsecured claim) the amounts necessary so that the condition set forth in Section 10.3(c) shall be deemed satisfied, provided, however, that all unsecured creditors’ claims (whether or not set forth on Schedule 8.18 and whether or not constituting part of the 90% threshold described in Section 10.3(c)) shall be settled by receipt of the same dividend (cents on the dollar), timing and form of payment, unless the unsecured creditor agrees in writing to lesser treatment. If Purchaser agrees to fund the requisite amount required to satisfy the condition set forth in Section 10.3(c) in accordance with the foregoing, the Seller’s termination notice shall be deemed withdrawn and of no further force or effect.

10.4 Frustration of Closing Conditions. No party may rely on the failure of any condition set forth in Section 10.1, 10.2 or 10.3, as the case may be, to excuse it from consummating the Contemplated Transactions if such failure was caused by such party’s failure to comply with any provision of this Agreement.

ARTICLE XI

TAXES

11.1 Transfer Taxes. Seller shall pay any sales, use, stamp, documentary stamp, filing, recording, transfer or similar fees or taxes or governmental charges (including any interest and penalty thereon) payable in connection with the transactions contemplated by this Agreement, if any (“Transfer Taxes”). The parties shall cooperate and otherwise take commercially reasonable efforts to facilitate Seller’s efforts to obtain any available relief from or refunds for Transfer Taxes.

11.2 Purchase Price Allocation. For tax purposes only, prior to the Closing Date, Seller and Purchaser shall agree in good faith upon an allocation of the purchase price and other consideration delivered hereunder (including the Assumed Liabilities) among the Purchased Assets in accordance with Section 1060 of the Code (provided however, the parties hereto agree that Fifty Million ($50,000,000.00) Dollars of the Purchase Price shall be allocated to the Purchased Owned Properties) and, in accordance with such allocation, Purchaser shall prepare and deliver to Seller copies of Form 8594 and any required exhibits thereto (the “Asset Acquisition Statement”). The parties agree that no portion of the purchase price shall be allocated to the covenant contained in Section 8.13. Purchaser shall prepare and deliver to Seller
from time to time revised copies of the Asset Acquisition Statement (the “Revised Statements”) so as to report any matters on the Asset Acquisition Statement that need updating (including purchase price adjustments, if any) consistent with the agreed upon allocation. To the extent that Seller disagrees with Purchaser's allocation in the Asset Acquisition Statement or the Revised Statements, Seller and Purchaser shall work in good faith to resolve any such disagreements. If Purchaser and Seller cannot reach a final resolution of the matter, Purchaser and Seller will jointly retain an independent financial expert to resolve any remaining disagreements, the cost of which shall be borne equally by the parties. The purchase price for the Purchased Assets shall be allocated in accordance with the Asset Acquisition Statement or, if applicable, the last Revised Statements, provided by Purchaser to Seller, and all income Tax Returns and reports filed by Purchaser and Seller shall be prepared consistently with such allocation.

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

11.4 Tax Reporting. The parties agree that any indemnity payment shall be treated for all Tax purposes as an adjustment to Purchase Price, unless, and then only to the extent, otherwise required by a final determination under applicable law.

ARTICLE XII
INDEMNIFICATION

12.1 Indemnification by Seller. (a) Subject to the limitations set forth in Section 12.2, Seller shall keep and save Purchaser and its Affiliates harmless from and shall indemnify and defend Purchaser and its Affiliates against any and all obligations, judgments, liabilities, penalties, violations, fees, fines, claims, losses, costs, demands, damages, accrued but unpaid interest, liens, assessments, encumbrances and expenses, including reasonable attorneys’ and accountants’ and consultants’ fees and expenses (collectively, “Damages”), whether direct or consequential and no matter how arising, in any way related to, connected with or arising or resulting from any of the following, and regardless of whether and the extent that Seller would be otherwise liable for such Damages if pursued by a third party against Seller directly:

(i) For a period of eighteen (18) months from the Closing Date, any breach of any representation or warranty of Seller under this Agreement or under any other document executed in connection with the Contemplated Transactions, or any breach or default by Seller of any covenant or obligation of Seller under this Agreement or under any other document executed in connection with the Contemplated Transactions; and
(ii) For a period of eighteen (18) months from the Closing Date, the Excluded Assets, the Excluded Liabilities, and any claim or cause of action arising out of or directly or indirectly related to any of the Excluded Assets or any of the Excluded Liabilities.

(iii) Any claims for withdrawal liability pursuant to Section 4201 et seq. of ERISA by any multiemployer plans to which Seller contributed pursuant to the CBA’s, to the extent such claim is related, in whole or in part, to the period before the Closing date, or to the transactions contemplated by this Agreement.

(b) If Purchaser has provided Seller with notice of a claim for which it is entitled to indemnification under this Section 12.1 within the applicable time period for indemnification specified herein, Seller’s obligation to indemnify Purchaser for such claim hereunder shall continue until such claim is settled or discharged in accordance with Section 12.2 below.

(c) If any lien, claim, charge or order for the payment of money shall be filed against the Purchased Assets or any portion thereof or against Purchaser (including against the purchased Hospital), that is based on any act or omission or alleged act or omission of Seller or their agents, representatives or employees prior to the Closing Date, and whether or not such lien, claim, charge or order shall be valid or enforceable, within ten (10) days after notice to Seller of the filing thereof, Seller shall take any and all actions, by bonding, deposit, payment or otherwise, as is reasonably necessary to remove and satisfy such lien, claim, charge or order.

12.2 Procedure for Indemnification. Purchaser shall promptly notify Seller in the event that any claim or proceeding is made against or any Damages have been incurred by Purchaser or its Affiliates and for which Seller have agreed to indemnify as set forth in this Agreement (“Indemnification Claim”), and Seller shall thereupon undertake to defend promptly and hold Purchaser and its Affiliates free and harmless therefrom including promptly filing notice(s) of claims to the extent the claims for which Purchaser seeks indemnification may be covered by insurance policies maintained by Seller after Closing. Purchaser’s failure to give prompt notice or to provide copies of documents or to furnish relevant data shall not constitute a defense (in whole or in part) to any claim for indemnification hereunder, except and only to the extent that such failure shall have caused or increased Seller’s liability or affected the ability of Seller to defend against or reduce its liability. With respect to any third party claims or proceedings as to which Purchaser or its Affiliates are entitled to indemnification, Seller shall use counsel reasonably satisfactory to Purchaser. Once the defense thereof is assumed by Seller, Seller shall keep Purchaser advised of all developments in the defense thereof and in any related litigation, and Purchaser shall be entitled at all times to participate in the defense thereof at its own expense. Purchaser’s prior consent shall be required with respect to the settlement of any claim by Seller that affects any rights or obligations of Purchaser or its Affiliates. Notwithstanding any other provision in this Agreement to the contrary, it is agreed by Purchaser and Seller that Purchaser shall not seek indemnification for claims against Seller arising under this Agreement from either (i) the City of Hoboken, or (ii) the individual members of the Board of Commissioners of Seller. In addition, Purchaser agrees that from and after the Closing Date, Purchaser shall not seek indemnification against from the individual members of the Board of the Manager for claims against Manager arising under this Agreement.
12.3 Additional Remedies Available. Purchaser and its Affiliates' entitlement to indemnification hereunder shall be in addition to any other rights or remedies to which they may be entitled under this Agreement and/or under statutory or common law.

12.4 Investigations. The right to indemnification based upon breaches or inaccuracies of representations, warranties and covenants will not be affected by any investigation conducted with respect to, or knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement or the Closing Date, whether as a result of disclosure by a party pursuant to this Agreement or otherwise, with respect to the accuracy or inaccuracy of or compliance with any such representation, warranty or covenant. The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any covenant, will not affect a party's right to indemnification, payment of damages or other remedies based on such representations, warranties and covenants.

12.5 Treatment of Indemnification Payments. All indemnification payments made pursuant to this Article XII shall be treated by the parties for income Tax purposes as adjustments to the Purchase Price, unless otherwise required by applicable Law.

ARTICLE XIII

MISCELLANEOUS

13.1 Survival of Representations, Warranties and Covenants. The representations, warranties and covenants of the parties contained in this Agreement shall survive the Closing, unless otherwise expressly provided in this Agreement.

13.2 Expenses. Except as otherwise provided in this Agreement, each party shall bear its own expenses incurred in connection with the negotiation and execution of this Agreement and each other agreement, document and instrument contemplated by this Agreement and the consummation of the Contemplated Transactions.

13.3 Injunctive Relief. Damages at law may be an inadequate remedy for the breach of any of the covenants, promises and agreements contained in this Agreement, and, accordingly, any party hereto shall be entitled to injunctive relief with respect to any such breach, including specific performance of such covenants, promises or agreements or an order enjoining a party from any threatened, or from the continuation of any actual, breach of the covenants, promises or agreements contained in this Agreement. The rights set forth in this Section 13.3 shall be in addition to any other rights which a party may have at law or in equity pursuant to this Agreement.

13.4 Submission to Jurisdiction; Consent to Service of Process; Waiver of Jury. The parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the United States District Court for the District of New Jersey sitting in Newark, New Jersey or the Superior Court of the State of New Jersey sitting in Morris County and any appellate court from any
thereof, for the resolution of any such claim or dispute. The parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the parties hereto agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each of the parties hereto hereby consents to process being served by any party to this Agreement in any suit, action or proceeding by delivery of a copy thereof in accordance with the provisions of Section 13.7.

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 WAIVES ITS RIGHT TO DEMAND TRIAL BY JURY.

13.5 Schedules; Exhibits; Entire Agreement; Amendments and Waivers. Except for Schedule 2.1(d), Schedule 2.1(a)(i)(A), Schedule 4.2(m) and Exhibit 10.1(q)-2, the Schedules and Exhibits referenced in this Agreement are not attached hereto as of the date of this Agreement. Except for Schedule 2.1(d), Schedule 2.1(a)(i)(A) and Exhibit 10.1(q)-2, the respective parties shall prepare drafts of the schedules and exhibits for which such party is responsible pursuant to this Agreement and the parties hereto shall have 60 days after execution of this Agreement (the "Schedule Date") to mutually agree in writing as to the form and content of the Schedules and Exhibits. Once completed and agreed to by the parties, each Schedule and Exhibit to this Agreement shall be considered a part hereof as if set forth herein in full. In the event the parties have not agreed, after reasonable efforts, to the form and content of the Schedules and Exhibits by the Schedule Date then Purchaser shall have the right to terminate this Agreement upon written notice to Seller. This Agreement (including the schedules and exhibits) represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof. This Agreement can be amended, supplemented or changed, and any provision hereof can be waived, only by written instrument making specific reference to this Agreement signed by the party against whom enforcement of any such amendment, supplement, modification or waiver is sought. No action taken pursuant to this Agreement, including any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement contained herein. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by law.
13.6 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey applicable to contracts made and performed in such State without regard to conflict of laws principles.

13.7 **Notices.** All notices and other communications under this Agreement shall be in writing and shall be deemed given (i) when delivered personally by hand (with written confirmation of receipt), or (ii) one business day following the day sent by overnight courier (with written confirmation of receipt), in each case at the following addresses (or to such other address as a party may have specified by notice given to the other party pursuant to this provision):

If to **Purchaser to:**

HUMC Holdco, LLC  
% 2000 Market Street, 20th Floor  
Philadelphia, PA 19103  
Attention: Bruce Gilbert, Esq.  
Email: bgilbert@bayonnemedicalcenter.org

with a copy to:  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
40 West Ridgewood Avenue  
Ridgewood, NJ 07450  
Attention: Michael G. Keating, Esq.  
Email: mkeating@mdmc-law.com

If to **Seller:**

Hoboken Municipal Hospital Authority  
312 Clinton Street  
Hoboken, NJ 07030  
Attention: Annette Tomarazzo, Chair  
Email: annette.tomarazzo@ubs.com

with a copy to:  
Lowenstein Sandler, PC  
65 Livingston Avenue  
Roseland, NJ 07068  
Attention: Kenneth A. Rosen, Esq.  
Email: krosen@lowenstein.com

13.8 **Severability.** If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any law or public policy, all other terms or provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal
substance of the Contemplated Transactions is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the Contemplated Transactions are consummated as originally contemplated to the greatest extent possible.

13.9 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. A successor to Seller shall include such Seller as a reorganized debtor. Nothing in this Agreement shall create or be deemed to create any third party beneficiary rights in any Person or entity not a party to this Agreement except as provided below. No assignment of this Agreement or of any rights or obligations hereunder may be made by any party (by operation of law or otherwise) without the prior written consent of Purchaser and Seller and any attempted assignment without the required consents shall be void; provided, however, that (i) Purchaser may assign its right to acquire any or all of the Purchased Assets and its other rights hereunder to an entity wholly owned by it that also assumes all of Purchaser's obligations hereunder (but such assumption shall not relieve Purchaser of its obligations hereunder) with the consent of Seller, which shall not be unreasonably withheld, conditioned or delayed; or (ii) Purchaser may assign its right to acquire any or all of the Purchased Assets (including the Purchased Owned Properties and any or all of the Purchased Real Property Leases) to a third Person at Closing; provided that Purchaser's assignment to a third Person (other than to MPT of Hoboken Real Estate, LLC and MPT of Hoboken TRS, LLC or their respective Affiliates, which assignment(s) is hereby consented to by Seller) of any unexpired Purchased Real Property Leases shall require Seller's consent, which shall not be unreasonably withheld, conditioned or delayed. Upon any such permitted assignment, the references in this Agreement to Purchaser shall also apply to any such assignee unless the context otherwise requires. No permitted assignment of any rights hereunder and/or assumption of obligations hereunder shall relieve the parties hereto of any of their obligations.

13.10 No Personal Liability. In entering into this Agreement, the parties understand, agree and acknowledge that no director, trustee, officer, manager, member, employee, shareholder, attorney, accountant, advisor or agent of any party hereto shall be personally liable or responsible to any other party or its Affiliates, directors, trustees, officers, managers, members, employees, shareholders, attorneys, accountants, advisors or agents for the performance of any obligation under this Agreement of any party to this Agreement or the truth, completeness or accuracy of any representation or warranty contained in, or statement made in, this Agreement or any document prepared pursuant hereto and that all obligations hereunder are those of the named parties only (but nothing contained herein shall limit the liability of any person for his or her fraudulent acts).

13.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.
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.

HOBOKEN MUNICIPAL HOSPITAL AUTHORITY, Seller

By: __________________________
Title: Chair, Hoboken Municipal Authority

HUMC HOLDCO. LLC, Buyer

By: __________________________
Title: __________________________

HUMC OPCO, LLC. Buyer

By: __________________________
Title: __________________________

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]
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.

HOBOKEN MUNICIPAL HOSPITAL AUTHORITY, Seller

By: ____________________________
Title: ____________________________

HUMC HOLDCO, LLC, Buyer

By: ____________________________
Title: Managing Member

HUMC OPCO, LLC, Buyer

By: ____________________________
Title: Managing Member

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]