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STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF THE COMMISSIONER

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Lori A. Weaver  
Commissioner

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Deputy Commissioner

November 25, 2024

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

- (1) Authorize the Department of Health and Human Services, Office of the Commissioner, to enter into a **Sole Source** operations transfer and asset purchase agreement and execute all necessary closing documents with Mary Hitchcock Memorial Hospital (VC# 177651), Lebanon, NH, in the amount of \$631,000, and execute all necessary closing documents, for the purpose of selling assigning, and transferring furniture, fixtures, and assets necessary for Hampstead Hospital & Residential Treatment Facility operations, effective upon Governor and Council approval and execution of all necessary closing documents, as applicable. 100% Other Funds.
- (2) Authorize the Department of Health and Human Services, Office of the Commissioner, to enter into a **Sole Source** joint operating agreement with Mary Hitchcock Memorial Hospital (VC# 177651), Lebanon, NH, at no cost to the Department, for the purpose of establishing a public-private partnership via a joint operating committee for oversight of Hampstead Hospital and Residential Treatment Facility operations, effective upon Governor and Council approval and execution of all necessary closing documents, as applicable.
- (3) Authorize the Department of Health and Human Services, Office of the Commissioner, to enter into a **Sole Source** lease for Hampstead Hospital & Residential Treatment Facility, comprised of approximately 89,038 square feet, in the town of Hampstead, to Mary Hitchcock Memorial Hospital (VC# 177651), Lebanon, NH, for seven (7) years, with the option to renew up to three (3) times in five (5) year increments, with an annual base rent of \$1,157,494 in year one, and subsequent year amounts to be increased by an annual base rent escalator of 2.5%, effective upon Governor and Council approval and execution of all necessary closing documents, as applicable. 100% Other Funds.
- (4) Authorize the Department of Health and Human Services, Office of the Commissioner, to enter into a **Sole Source** Transition Services Agreement with Mary Hitchcock Memorial Hospital (VC# 177651), Lebanon, NH, for a maximum period of one (1) year following the effective date, to allow the Department to continue to manage services, pass through costs and collect an administrative fee, up to a maximum amount of \$5,000,000, effective upon Governor and Council approval and execution of all necessary closing documents, as applicable. 100% Other Funds.

Funds received as a result of this request will be deposited into the following account and budgeted, pending Fiscal Committee approval of the additional revenue for State Fiscal Year 2025 and approval of future biennial operating budgets.

**05-95-98-980010-2648 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVCS, HAMPSTEAD HOSPITAL, HAMPSTEAD HOSPITAL OPERATIONS**

State Fiscal Year	Class / Account	Class Title	Revenue Code	Total Amount
2025	007	Contracts for Opr Svc	TBD	\$4,705,160.67
2026	007	Contracts for Opr Svc	TBD	\$3,269,764.68
2027	007	Contracts for Opr Svc	TBD	\$1,216,092.13
2028	007	Contracts for Opr Svc	TBD	\$1,246,494.44
2029	007	Contracts for Opr Svc	TBD	\$1,277,656.80
2030	007	Contracts for Opr Svc	TBD	\$1,309,598.22
2031	007	Contracts for Opr Svc	TBD	\$1,342,338.17
			<b>Total</b>	<b>\$15,495,276.11</b>

**EXPLANATION**

This request is **Sole Source** because Mary Hitchcock Memorial Hospital (MHMH) is uniquely qualified to provide this service, as New Hampshire's sole nonprofit academic medical center and current provider of behavioral health services across the continuum of behavioral health 24/7 public campuses of Hampstead Hospital and Residential Treatment Facility (HHRTF), New Hampshire Hospital, and the Youth Development Center.

The purpose of this request is to enter into a public-private partnership with MHMH to operate Hampstead Hospital and Residential Treatment Facility. MHMH will provide inpatient psychiatric care, partial hospitalization services, and Psychiatric Residential Treatment Center (PRTF) services to children and young adults in alignment with the NH Children's Behavioral Health System of Care. This request includes three interrelated components, which include:

**Joint Operating Agreement:** DHHS and MHMH seek to enter into a Joint Operating Agreement to ensure vulnerable children and young adults have access to acute psychiatric and residential treatment services in alignment with the State's mental health needs and vision. The agreement provides for the establishment of a Joint Operating Committee (JOC), comprised of DHHS and MHMH representatives, to oversee and make recommendations regarding the management and operations of HHRTF.

**Operations Transfer & Asset Purchase Agreement:** Through this agreement, MHMH will pay the State \$631,000 for the transfer of certain assets, functions, and liabilities, as necessary for MHMH to operate the hospital. This includes transfer of equipment, books, records, inventory and other assets.

**Lease Agreement:** This agreement will lease HHRTF to MHMH for an initial period of 7 years at a Base Rate of \$1,157,494 in year one, increased by an annual base rent escalator of 2.5%. The rental rate paid to the State by MHMH is based on an objective qualified appraiser based on Fair Market Rental Rates. MHMH will use the site as an inpatient and outpatient behavioral

health and substance abuse treatment facility. If capital investments are needed, the parties have agreed to cost-share other improvements up to amounts specified in the agreement.

**Transition Services Agreement:** Under this agreement, the Department will continue to manage existing contracts for a maximum period of one (1) year, with MHMH reimbursing the Department all such costs and supply an administrative fee. This temporary approach is designed to ensure continuity of services important to the steady operation of the facility and care of its patients as the Department works with MHMH to transfer services to MHMH over time, avoiding any interruption of services. Anticipated contractual services may include grounds maintenance, laundry and food services, or fire alarm or kitchen equipment maintenance.

The Operations Transfer & Asset Purchase Agreement includes provisions detailing how DHHS and MHMH will work to transition staff to MHMH employment prior to closing. DHHS intends to transfer any executive or support staff not transitioned to MHMH employment to other DHHS employment as allowable under existing personnel rules. DHHS will terminate existing agreements with other providers/contractors providing services to HHRTF on behalf of the State upon closing. Further, DHHS will amend the existing MHMH agreement to remove the psychiatric behavioral health services provided to HHRTF, last approved on May 15, 2024 (#18A).

If approved, MHMH would assume the operating costs of the hospital and pay the State rent in the amounts detailed in the table above. Consequently, DHHS' Agency Budget submission, which included a \$34 million operating budget, would be greatly reduced. Instead, DHHS would receive annual revenue and only need to continue funding the basic operations and other related positions. This is anticipated to result in a long-term financial benefit to the State.

In 2021, after nearly five decades of operation as a for-profit hospital, Hampstead Outlook, Inc. announced it was selling its psychiatric hospital in Hampstead, NH. In 2022, to ensure the State did not lose this critical part of the mental health system for young people, the State purchased the Hospital and took responsibility for oversight of the facility's psychiatric inpatient services, as well as the establishment of NH's first PRTF. That year, as part of a Request for Information (RFI) process, the State also invited stakeholders to provide in-depth feedback on how to ensure the facility would meet the needs of NH youth and families while contributing to a comprehensive and integrated behavioral health system. In 2023, the State determined that it would locate its future Youth Development Center on the same campus, maximizing the therapeutic offerings and clinical training opportunities of this Children's Center of Excellence.

DHHS has operated HHRTF for two years. During that time, DHHS has witnessed the benefits of partnering with other health care and clinical partners to improve delivery of care at HHRTF. Earlier this year, MHMH was awarded a contract to provide psychiatric services at HHRTF, and most employees were transferred to State employment under temporary positions.

As such, this model will allow MHMH to provide the highest quality of care to young residents, in alignment with the State's mental health priorities, values, and principles. MHMH is a nonprofit teaching hospital and health care provider whose charitable purposes include improving the health of the communities it serves and the residents of the State of New Hampshire. MHMH is a member of the Dartmouth Health System, New Hampshire's largest provider of mental and behavioral health services and a national leader in innovative mental health programming. DHHS and MHMH believe that MHMH's assumption of greater responsibility regarding the management and operation of HHRTF will further improve the services offered to patients seeking care and treatment at HHRTF. Both parties also believe that it will strengthen the facility's ability to attract, retain, and train a robust workforce; HHRTF has a skilled and

dedicated workforce, and MHMH will offer positions to the workforce in accordance with the terms of the agreement.

The Department will monitor services by participating with MHMH in a Joint Operating Committee (JOC) and ensuring that HHRTF is managed and operated consistent with the standards and guidelines set forth in the lease and JOC agreement. This includes significant requirements to maintain HHRTF's core commitments to vulnerable patients and families—and to cultivate strong community networks around youth to support long-term thriving in community settings after discharge.

As referenced in Section 2, Renewal, of the attached lease agreement, the parties have the option to extend the agreement for up three (3) successive renewal terms of five (5) years each, contingent upon agreement of the parties and Governor and Council approval.

Should the Governor and Council not authorize this request, the State could miss a crucial opportunity to keep HHRTF operating effectively after its temporary staffing authority expires on June 30, 2025, and sustain this hospital for the well-being of New Hampshire youth and families for generations to come.

Respectfully submitted,



Lori A. Weaver  
Commissioner

## OPERATIONS TRANSFER AND ASSET PURCHASE AGREEMENT

**THIS OPERATIONS TRANSFER AND ASSET PURCHASE AGREEMENT** (this “**Agreement**”) is made this 25<sup>th</sup> day of November, 2024 (the “**Effective Date**”), by and between Mary Hitchcock Memorial Hospital, a New Hampshire nonprofit corporation (“**Buyer**”), and The State of New Hampshire, acting through the New Hampshire Department of Health and Human Services (“**Seller**”).

### RECITALS

- A. Seller owns and operates a specialty hospital, under the name Hampstead Hospital and Residential Treatment Facility, which is involved in the delivery and management of pediatric and adolescent psychiatric and residential treatment services, from its facility located at 218 East Road, Hampstead, New Hampshire 03841 (the “**Hospital**”).
- B. Buyer is a nonprofit teaching hospital and health care provider whose charitable purposes include improving the health of the communities it serves and the residents of the State of New Hampshire and with experience in the delivery and management of psychiatric and residential treatment services.
- C. Buyer currently performs certain psychiatric and medical services for Seller at the Hospital pursuant to that certain Agreement approved by the Governor and Executive Council on March 23, 2022, as amended on December 21, 2022 and as amended by that certain Amendment #2 to the Psychiatric and Medical Services Contract dated May 9, 2024 by and between Seller and Buyer (the “**Existing Services Agreement**”).
- D. Seller wishes to sell, assign, and transfer to Buyer, and Buyer wishes to purchase and assume from Seller, the operations, certain assets, and certain specified liabilities, of Seller and the Hospital, subject to the terms and conditions set forth herein.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **DEFINITIONS.** Capitalized terms used but not otherwise defined in this Agreement shall have the following meaning:
  - 1.1 “**Action**” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.
  - 1.2 “**Contract**” means all contracts, leases, deeds, mortgages, licenses, instruments, notes, commitments, undertakings, indentures, joint ventures and all other agreements, commitments and legally binding arrangements, whether written or oral.
  - 1.3 “**Disclosure Schedules**” or “**Schedules**” means the Disclosure Schedules delivered by Seller and Buyer concurrently with the execution and delivery of this Agreement.

- 1.4 **“Encumbrance”** means any charge, claim, community property interest, pledge, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.
- 1.5 **“Fraud”** means common law fraud pursuant to the laws of the State of New Hampshire.
- 1.6 **“Healthcare Laws”** means all statutes, regulations, rules, orders, ordinances and other laws of any governmental entity, to which they are subject, with respect to healthcare legal or regulatory matters applicable to the parties, the Hospital or the Transferred Assets, including, but not limited to: (a) the laws and policies of the United States Department of Health and Human Services and any unit, bureau, or division thereof, and state health departments or other state agencies or local jurisdictions having authority over the business of the Seller; (b) Title XVIII of the Social Security Act (the Medicare statute), including specifically, the Ethics in Patient Referrals Act, as amended, 42 U.S.C. § 1395nn (known as the “Stark Law”); (c) Title XIX of the Social Security Act (the Medicaid statute); (d) the Federal Health Care Program Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b) (the “Anti-Kickback Statute”); (e) the “False Claims Act”, 31 U.S.C. §§ 3729-3733 (as amended); (f) the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; (g) the Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58; (h) the Civil Monetary Penalties Law, 42 U.S.C. §§ 1320a-7a and 1320a-7b; (i) the Exclusion Laws, 42 U.S.C. § 1320a-7; (j) the Eliminating Kickbacks in Recovery Act of 2018 (“EKRA”), 18 U.S.C. § 220; (k) any other law relating to Medicare, Medicaid, TRICARE, CHAMPVA or any other third-party payor program, including laws relating to the billing, coding, or submission of claims or collection of accounts receivable or refund of overpayments; (l) medical records and patient privacy and security laws, including, without limitation, (i) HIPAA; (ii) HITECH; and (iii) the confidentiality provisions related to alcohol and drug abuse patient records under 42 U.S.C. Section 290dd-2 (known as “Part 2”) and the regulations promulgated thereunder; (m) the Patient Protection and Affordable Care Act (Pub. L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152); (n) any law relating to the licensure or regulation of health care providers, suppliers, professionals, facilities, pharmacies, or payors, including state pharmacy laws and any other requirements of federal and state law relating to the provision of opioid treatment services and pharmacy or physician services, including the Federal Controlled Substance Act, 21 U.S.C. § 801 et seq.; (o) the Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. § 263a); (p) any state and local laws, rules or regulations comparable to the foregoing, including but not limited to the and related regulations; (q) all other laws relating to the provision of, or billing or payment for health care items or services, or relating to health care information; (r) any law relating to patient health care, including any quality, safety, certification, and accreditation standards and requirements; (s) all applicable federal, state, and local licensing and reimbursement, fee-splitting, and corporate practice of medicine regulations, rules, ordinances, orders, and judgments applicable to the Seller; and (t)

any law and all applicable implementing regulations, rules, ordinances, judgments, and orders promulgated pursuant to each of the foregoing laws.

- 1.7 **"Healthcare Professional"** means any physician, physician assistant, psychologist, psychiatrist, therapist, advance practice nurse, nurse, social worker, pharmacist, pharmacist technician, counselor, clinician or other clinical personnel employed or otherwise retained by Seller to perform health care services for which a health care license, certificate, or permit is required under applicable law.
- 1.8 **"HIPAA"** means the Health Insurance Portability and Accountability Act of 1996 and all laws promulgated pursuant thereto or in connection therewith, including but not limited to the HIPAA Privacy Rule (45 C.F.R. § 164.500 et seq.) and the Health Information Technology for Economic and Clinical Health Act, found in the American Recovery and Reinvestment Act of 2009 ("**HITECH**").
- 1.9 **"Independent Valuation"** means the fair market value analysis of the Hospital and the Transferred Assets, performed by VMG Health engaged by Buyer.
- 1.10 **"Knowledge of Seller"** or **"Seller's Knowledge"** or any other similar knowledge qualification, means the actual knowledge of those persons listed on Schedule 1.9 after reasonable inquiry.
- 1.11 **"Liabilities"** means, with respect to any Person, any liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured or otherwise, including any liability for taxes.
- 1.12 **"Licenses"** means all licenses, permits, franchises, approvals, authorizations, registrations, applications, certificates (including, but not limited to, certificates of exemption and certificates of need), variances and similar rights obtained, or required to be obtained, from governmental authorities.
- 1.13 **"Person"** means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.
- 1.14 **"Transaction Documents"** means this Agreement and all other agreements, documents and instruments delivered by the parties at the Transfer pursuant to either Section 4.1 or Section 4.2.

## 2. TRANSFER OF OPERATIONS AND ASSETS.

- 2.1 **Statement of Intent.** The intent of this Agreement, and the other agreements and documents referred to herein, is to transfer those functions of the Hospital, along with certain assets and certain liabilities, from Seller to Buyer as are necessary and appropriate to permit Buyer to operate the Hospital in compliance with applicable law and in a manner that offers access to (a) psychiatric and residential treatment services, (b) medication assisted withdrawal management, and (c) participation in the statewide



involuntary treatment network, including as a designated receiving facility, by the most vulnerable children and young adults in the State of New Hampshire, including in compliance with the terms and conditions of the Committee Agreement (as defined below).

**2.2 Charity Care.** The parties understand and agree that Seller has a duty and commitment to ensure that the well-being of its vulnerable patients is being promoted and protected. Buyer is committed to continuing to offer psychiatric and residential treatment to the State of New Hampshire's most vulnerable children and young adults. For New Hampshire patients unable to pay for services at the Hospital, the Hospital will continue to offer services in accordance with Buyer's charity care and community benefit policies, in effect from time to time. The parties have set forth certain more detailed agreements with regard to the matters referred to in Section 2.1 and this Section 2.2 in that certain Committee Agreement (as defined below).

**2.3 Purchase and Sale of Assets.** As of the Transfer Date (defined below) and subject to the terms and conditions set forth herein, Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall acquire from Seller, free and clear of any Encumbrances, all of Seller's right, title and interest in and to all of the assets, properties and rights of every kind and nature, whether real, personal or mixed, tangible or intangible (including goodwill), wherever located and whether now existing or hereafter acquired (other than the Excluded Assets (defined below)), which primarily or exclusively relate to, or are used or held for use in connection with operation of the Hospital (the "Transferred Assets"), including but not limited to the following:

2.3.1 Tangible Personal Property. All of the tangible personal property, equipment, furniture, and other fixed assets used at the Hospital and all rights in all warranties of any manufacturer associated therewith.

2.3.2 Books and Records. To the extent permitted by applicable law, any documents, information, records or materials necessary to continue the day-to-day operations of the Hospital.

2.3.3 Medical Records. To the extent permitted by applicable law, all of Hospital's medical records and patient lists.

2.3.4 Telephone and Facsimile Numbers. The telephone and facsimile numbers used by Hospital.

2.3.5 Licenses. All of the rights of the Seller and the Hospital, to the extent assignable or transferable, to all Licenses, accreditations, registrations, or approvals of Seller, with respect to the operation, development, or expansion of the Hospital set forth on Schedule 2.3.5.

2.3.6 Insurance Proceeds. All insurance proceeds relating to the physical condition of the Transferred Assets on or prior to the Transfer Date, to the extent not expended on the repair or restoration of the Transferred Assets.



- 2.3.7 Trade Names, Service Marks, Etc. The names, assumed names, and symbols used exclusively by Seller with respect to the operation of Hospital, all abbreviations and variations thereof, all domain names, social media accounts (including login information), trademarks, trade names, service marks, copyrights and any applications therefor, symbols and logos related thereto, together with any promotional material, stationery, supplies or other items of inventory bearing such names or symbols or abbreviations or variations thereof.
- 2.3.8 Inventory. All inventories of supplies, drugs, food, janitorial and office supplies, and other disposables and consumables located at the Hospital or designated for use in the Hospital's operations.
- 2.3.9 Contracts. All rights and interests of Seller in and to the Contracts to which Seller is a party and which primarily or exclusively relate to the operation of the Hospital and that are listed on Schedule 2.3.9 (collectively, the "Assigned Contracts").
- 2.4 **Excluded Assets.** The Transferred Assets shall not include the following assets (collectively the "Excluded Assets"):
- 2.4.1 all cash, accounts or notes receivable, revenues, claims, reimbursements (whether current or non-current) of the Hospital, and any security, claim, remedy or other right related to any of the foregoing, in all cases solely related to the period of time prior to the Transfer;
- 2.4.2 the assets of Seller listed on Schedule 2.4.2;
- 2.4.3 all contracts that are not Assigned Contracts, including, but not limited to, those contracts listed on Schedule 2.4.3 (the "Excluded Contracts");
- 2.4.4 all employee benefit plans and assets attributable thereto, including, but not limited to, any employment, consulting, independent contractor, termination, severance, deferred compensation, retirement, welfare-benefit, bonus, incentive, saving, retention, change-of-control, fringe-benefit, vacation, disability, death benefit, hospitalization, medical, non-competition, non-solicitation, restrictive covenant, union agreement, collective bargaining agreement or other similar plan, program, agreement, policy or arrangement; and
- 2.4.5 all of Seller's non-transferable Licenses used in connection with the Hospital.
- 2.5 **Allocation of Liabilities.** Subject to the terms and conditions of this Agreement, as of the Transfer, Buyer shall assume and agree to pay, perform and discharge only (a) those Liabilities arising out of or related to the Assigned Contracts after the Transfer, but only to the extent that such Liabilities relate exclusively to the period of time after the Transfer and/or actions taken or not taken by Buyer after the Transfer, and (b) those Liabilities arising out of or related to Buyer's use of the Hospital's Medicare

provider number, assigned pursuant to Section 7.6 of this Agreement, but only to the extent that such Liabilities relate exclusively to the period of time after the Transfer and/or actions taken or not taken by Buyer after the Transfer (the “**Assumed Liabilities**”). Other than the Assumed Liabilities, Buyer will not assume, expressly disclaims, and will not otherwise be responsible for or bear the economic burden of, any Liabilities of Seller or the Hospital arising out of or based upon events and/or Actions occurring prior to the Transfer including, but not limited to, the following (the “**Excluded Liabilities**”):

- 2.5.1 all transaction expenses of Seller related to the Transfer;
- 2.5.2 all Liabilities associated with the ownership or operation of the Hospital, or the ownership or use of the Transferred Assets, prior to the Transfer;
- 2.5.3 all Liabilities associated with the acts or omissions of Seller related to the Hospital prior to the Transfer, including with respect to the Seller’s employees or agents providing services at the Hospital; and
- 2.5.4 all Liabilities and obligations associated with the Excluded Assets.

For the avoidance of doubt, Seller will remain solely responsible for all of the Excluded Liabilities.

**2.6 Purchase Price.** In accordance with the Independent Valuation, the purchase price for the Transferred Assets is an amount equal to \$631,000 (the “**Purchase Price**”).

**3. TRANSFER DATE.** Subject to the terms and conditions of this Agreement, the closing of the transaction contemplated by this Agreement (the “**Transfer**”) shall take place remotely by exchange of documents and signatures (or their electronic counterparts) and shall be effective as of 12:00:01 a.m. on the date that is three (3) days following the satisfaction or waiver of all conditions to the Transfer set forth herein, or such other date and time as the parties may mutually agree in writing (the “**Transfer Date**”). Buyer and Seller each desire, and agree to use good faith efforts, to close the transactions contemplated by this Agreement and effect the Transfer on or before February 3, 2025.

**4. TRANSFER DELIVERABLES.**

**4.1 Transfer Deliverables by Seller.** At the Transfer, the Seller shall deliver to the Buyer, the following:

- 4.1.1 a bill of sale, assignment and assumption agreement, substantially in the form of Exhibit A (the “**Bill of Sale**”), duly executed by Seller;
- 4.1.2 a joint operating committee agreement, substantially in the form of Exhibit B (the “**Committee Agreement**”), duly executed by Seller;
- 4.1.3 a hospital lease agreement for the Leased Real Property, substantially in the form of Exhibit C (the “**Lease Agreement**”), duly executed by Seller;

- 4.1.4 a transition services agreement, substantially in the form of Exhibit D (the “**Transition Services Agreement**”), duly executed by Seller;
  - 4.1.5 evidence of receipt of the consents and approvals of the governmental authorities set forth on Schedule 4.1.5 (the “**Required Governmental Approvals**”);
  - 4.1.6 evidence of the third-party consents and approvals set forth on Schedule 4.1.6 (“**Required Third-Party Consents**”);
  - 4.1.7 agreement to terminate or amend that portion of the Existing Services Agreement related to the provision of services by Buyer to Seller at the Hospital (the “**Services Amendment**”), between Buyer and Seller, duly executed by Seller;
  - 4.1.8 Documentation required for the assignment of the provider number, as set forth in Section 7.6;
  - 4.1.9 the Seller Closing Certificate; and
  - 4.1.10 such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Buyer, as may be required to give effect to the transactions contemplated by this Agreement.
- 4.2 Transfer Deliverables by Buyer.** At the Transfer, the Buyer shall deliver to the Seller, the following:
- 4.2.1 the Purchase Price, by wire transfer of immediately available funds to an account designated by Seller at least two business days prior to the Transfer Date;
  - 4.2.2 the Bill of Sale, duly executed by Buyer;
  - 4.2.3 the Committee Agreement, duly executed by Buyer;
  - 4.2.4 the Lease Agreement, duly executed by Buyer;
  - 4.2.5 the Transition Services Agreement, duly executed by Buyer;
  - 4.2.6 the Services Amendment, duly executed by Buyer;
  - 4.2.7 the Buyer Closing Certificate; and
  - 4.2.8 such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Seller, as may be required to give effect to the transactions contemplated by this Agreement.

**5. REPRESENTATIONS OF SELLER.** Seller hereby represents and warrants to Buyer as follows:

- 5.1 Authority and Validity of the Contemplated Transactions.** Seller is a New Hampshire state agency with full authority to own, operate, or lease the Transferred Assets and to carry on the Hospital's operations as such operations are currently being conducted. Subject to Section 11.12, Seller has full authority to enter into this Agreement and the Transaction Documents, to which Seller is party pursuant to this Agreement, to carry out the obligations hereunder and thereunder, and to consummate the transactions contemplated hereby and thereby. Subject to Section 11.12, the execution and delivery by Seller of this Agreement and the Transaction Documents, to which Seller is a party, the performance by Seller of its obligations hereunder and thereunder, and the consummation by Seller of the transactions contemplated hereby and thereby have been duly authorized. Subject to Section 11.12, this Agreement and the Transaction Documents constitute legal, valid and binding obligations of the Seller enforceable against Seller in accordance with their respective terms.
- 5.2 No Conflicts; Consents.** The execution, delivery and performance by Seller of this Agreement and the other Transaction Documents to which Seller is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) except as set forth in Schedule 5.2 and subject to Schedule 7.5, violate or conflict with any provision of any law or governmental order applicable to Seller, the Hospital, or the Transferred Assets; (b) except as set forth in Schedule 5.2 and subject to Schedule 7.5, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Contract or License to which the Seller or the Hospital is party or by which the Seller or the Hospital is bound or to which any of the Transferred Assets are subject (including any Assigned Contract); or (c) result in the creation or imposition of any Encumbrance on the Transferred Assets.
- 5.3 Title to the Transferred Assets.** Except as set forth in Schedule 5.3, Seller has good and valid title to, or a valid leasehold interest in, all of the Transferred Assets. All such Transferred Assets (including leasehold interests) are free and clear of any and all Encumbrances. There are no tax-related liens or Encumbrances on the Transferred Assets, nor is Seller aware of any basis for the imposition of such liens or Encumbrances.
- 5.4 Condition and Sufficiency of Transferred Assets.** Except as set forth on Schedule 5.4, each item of tangible personal property or equipment included in the Transferred Assets is structurally sound (to the extent such concept is applicable), is in good operating condition and repair, and is adequate for the uses to which it is being put, and no item of tangible personal property or equipment included in the Transferred Assets is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost. Subject to the Lease Agreement, the Required Governmental Approvals, the Required Third Party Consents, Schedule 7.5 and the Excluded Assets, the Transferred Assets are sufficient for the continued conduct of the Hospital's operations after the Transfer in substantially the same

manner as conducted prior to the Transfer and constitute all of the rights, property and assets necessary to conduct the Hospital operations as currently conducted.

## **5.5 Contracts.**

5.5.1 Schedule 5.5.1 sets forth a listing of all Contracts, which relate to the business or operations of the Hospital or the Transferred Assets:

5.5.2 Complete and correct copies of each Assigned Contract set forth on Schedule 2.3.9, and all modifications, amendments and supplements thereto and waivers thereunder, will be made available to Buyer prior to the Transfer. There are no disputes pending or, to the Seller's knowledge, threatened under any Contract with Seller, including any Assigned Contract. Each of the Assigned Contracts is valid and binding on Seller in accordance with its terms and is in full force and effect. None of Seller or, to Seller's knowledge, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under) or has provided or received any notice of intent to terminate, any Assigned Contract. To Seller's knowledge, no event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default by Seller under any Assigned Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder.

5.5.3 Without limiting the generality of the foregoing, Schedule 5.5.1 includes a list of all third party payor Contracts, in which Seller participates or is contracted and which relate to the Hospital or the Hospital's operations. All billing practices by Seller and the Hospital to the third party payors are, and have been during the Look-back Period (as defined below), in compliance in all material respects with all applicable laws, regulations, and policies of all such third party payors. Seller is not in breach or default in any material respect of any third party payor Contract to which it is a party and which relates to the Hospital or the operation of the Hospital, and, to the Knowledge of Seller, the other parties thereto are not in default thereunder.

**5.6 Legal Proceedings.** Except as set forth in Schedule 5.6, there is not currently, and from June 8, 2022 until the date hereof (the "**Look-back Period**"), there have been no Actions pending or, to Seller's Knowledge, threatened against or by the Seller, to the extent related to the Hospital or the Transferred Assets, or the Hospital. To Seller's Knowledge, no event has occurred or circumstances exist that may give rise to, or serve as a basis for, any such Action.

## **5.7 Compliance with Laws; Licenses.**

5.7.1 Except as set forth in Schedule 5.7.1, Seller has during the Look-back Period complied, and is now complying, in all material respects with all laws, regulations, and orders applicable to the Seller and the conduct of the

Hospital, as currently conducted or the ownership and use of the Transferred Assets, including, but not limited to, all applicable Healthcare Laws.

5.7.2 All Licenses, required to conduct the Hospital as currently conducted or for the ownership and use of the Transferred Assets, have been obtained by Seller and are valid and in full force and effect. Schedule 5.7.2 sets forth each such License. Except as set forth on Schedule 5.7.2, (a) such Licenses are valid and in full force and effect, (b) the Seller is not in violation of any such License, and, to the Seller's Knowledge, no basis exists which, with notice or lapse of time or both, would constitute any such violation, and (c) subject to any required approvals, such Licenses will continue to be valid and in full force and effect in all material respects following the Transfer.

**5.8 Governmental Program Participation.** Schedule 5.8 lists all National Provider Identifiers and Medicare, Medicaid and other governmental health program provider numbers, held by Seller and which relate to the Hospital or the operation of the Hospital, and all governmental health program provider-related Contracts, which relate to the Hospital or the operation of the Hospital, as of the date hereof. The governmental health program provider Contracts listed on Schedule 5.8 are current and valid and Seller is in compliance in all material respects with the currently applicable Conditions of Participation of such programs, and is otherwise in compliance in all material respects with the requirements of any such governmental health program provider-related Contracts related to the Hospital or the Hospital's operation. Seller has at all times during the Look-back Period maintained all records required to be maintained by the Medicare and Medicaid programs and other applicable Healthcare Laws related to the Hospital or the Hospital's operations. To the Knowledge of Seller, there are no presently existing circumstances which are reasonably likely to result in violations of the records retention requirements under any such Healthcare Laws related to the Hospital or the Hospital's Operations.

**5.9 Medical Records.** Seller has maintained the medical records of the Hospital in accordance in all material respects with applicable Healthcare Laws, and (a) the medical records of the Hospital are complete, (b) upon the Transfer, Buyer shall receive the entire designated record set of the patients of the Hospital, as such is defined under HIPAA, and (c) the medical records contain documentation necessary to adequately support continuity of care to patients of the Hospital. Seller is a "covered entity" within the meaning of HIPAA. Without limiting the generality of the foregoing, Seller has adopted policies relating to the security and privacy of health information and personal data that comply in all material respects with the applicable requirements of HIPAA, Part 2, and applicable laws regarding patient privacy, privacy of substance use disorder treatment information, and the security, use, or disclosure of medical records and other personal data related to the operation of the Hospital. During the Look-back Period, no information security or privacy breach event has occurred that would require notification under applicable federal or state law related to the Hospital.

**5.10 Third Party Payor Cost Reports.** Seller has duly filed all required cost reports in connection with its operations at the Hospital and such reports have been filed either on a timely basis or prior to the time any penalty could be incurred for failure to file on a timely basis. To Seller's Knowledge, all of such cost reports accurately reflect the information to be included thereon and do not claim, and Seller has not received, reimbursement in excess of the amount provided by law. Schedule 5.10 indicates which of such cost reports during the Look-back Period have been audited and finally settled, the status of the cost reports that have not been audited and finally settled and a brief description of any and all notices of program reimbursement, proposed or pending audit adjustments, disallowances, appeals of disallowances and any and all other unresolved claims or disputes with respect to such cost reports. Except as set forth on Schedule 5.10, there are no facts or circumstances that may reasonably be expected to give rise to any material disallowance under any such cost reports.

**5.11 Submission of Claims.** As of the Transfer Date, Seller has utilized its commercially reasonable efforts to ensure that all reimbursement claims for services provided by the Hospital prior to the Transfer Date have been submitted for payment to the applicable payor including, but not limited to, Medicare and Medicaid, prior to the Transfer Date.

**5.12 Employees.**

5.12.1 Schedule 5.12.1 contains a list of all current employees of Seller (other than the Retained Employees (as defined below)), engaged primarily in the provision of services to or on behalf of the Hospital (the "**Current Employees**") as of the Effective Date, including any such employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized, and sets forth for each such individual the following: (a) name; (b) title or position (including whether full-time or part-time); (c) hire or retention date; (d) current annual base compensation rate or contract fee; (e) commission, bonus or other incentive-based compensation; and (f) a description of the fringe benefits provided to each such individual as of the Effective Date. None of the Current Employees has any understanding or agreement (written or otherwise) with Seller other than Seller's employee handbook or compensation set on Schedule 5.12.1.

5.12.2 The employees set forth on Schedule 5.12.2 are all of the employees of Seller engaged primarily in the provision of services to or on behalf of the Hospital as of the Effective Date who are covered by any collective bargaining or union contract or agreement (the "**Retained Employees**", including any such employee hired after the date hereof and prior to the Transfer Date). Seller has not received notice of any pending or, to Seller's Knowledge, threatened (a) Action under the National Labor Relations Act or before the National Labor Relations Board, (b) Action under any other law applicable to Seller, Seller's workforce, the Current Employees or the Retained Employees, (c) grievances or arbitrations, or (d) organizational drives or union clarification requests, in each case against or affecting the Current Employees, the Retained Employees or the conduct of the Hospital. Seller has been in



material compliance with all applicable employment and labor laws regarding the employment of the Current Employees and the Retained Employees.

**5.13 Healthcare Professionals.** Set forth on Schedule 5.13 is a list of all Healthcare Professionals (a) currently employed by or under contract with Seller, and (b) who provide professional services to or on behalf of the Hospital. Each Healthcare Professional holds all Licenses required to perform such Healthcare Professional's duties to or on behalf of Seller. Except as set forth on Schedule 5.13, Seller does not employ any Healthcare Professional to prescribe and dispense narcotic drugs to patients for maintenance or detoxification treatment.

**5.14 Financial Statements.**

5.14.1 Attached to Schedule 5.14.1 are copies of the Statement of Appropriations for the period from July 1, 2023 to June 30, 2024 and the Statement of Appropriations for the period from July 1, 2024 to October 9, 2024 (the "Statements of Appropriation").

5.14.2 To Seller's Knowledge, Seller has no Liabilities with respect to the Hospital except those which have been incurred in the ordinary course of business.

5.14.3 The Statements of Appropriation are based on the books and records of Seller with regard to the operation of the Hospital, and fairly present in all material respects the results of the operations of the Hospital for the periods indicated.

**5.15 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any Transaction Document on behalf of Seller.

**6. REPRESENTATIONS OF BUYER.**

**6.1 Authority and Validity of the Contemplated Transactions.** Buyer hereby represents and warrants to Seller that the execution, delivery and performance by Buyer of this Agreement and the other Transaction Documents to which Buyer is a party are within the power and authority of Buyer. This Agreement has been duly executed and delivered by Buyer and is a legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

**6.2 No Conflict; Consents.** The execution, delivery and performance by Buyer of this Agreement and the other Transaction Documents to which Buyer is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) upon the receipt of the Required Governmental Approvals and the Licenses to be obtained by Buyer, pursuant to Section 7.5, violate or conflict with any provision of any law or governmental order applicable to Buyer; or (b) except for the applicable approvals to be obtained by Buyer pursuant to Section 7.5, require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the

right to accelerate, terminate, modify or cancel any contract or license to which Buyer is party or by which Buyer is bound. Buyer is a "covered entity" within the meaning of HIPAA. Neither Buyer nor any Person controlled by, controlling, or under common control with Buyer has been listed as excluded or debarred from participation in any federal healthcare program.

**6.3 Sufficiency of Funds.** Buyer has sufficient cash on hand or other sources of immediately available funds to enable it to make payment of the Purchase Price and consummate the transactions contemplated by this Agreement.

## **7. COVENANTS OF THE PARTIES.**

**7.1 Notice to Patients.** Seller shall arrange for any notices required to be published regarding the transfer of the medical records maintained by Hospital, to be published in accordance with applicable laws and regulations. In addition, Seller shall provide notice to patients regarding the transfer of Hospital's operations to Buyer, as required by applicable law.

### **7.2 Seller Employees:**

**7.2.1** Buyer shall, or shall cause an affiliate of Buyer to, make an offer of employment, on an "at will" basis (unless otherwise determined by Buyer, in Buyer's sole discretion), effective on the Transfer Date to all of the Current Employees set forth on Schedule 5.12.1 (which schedule may be updated by Seller following the date of this Agreement until the date that is no less than thirty (30) calendar days before the Transfer Date; provided, that, in any such case, any obligation that Buyer may otherwise have hereunder to consummate the Transfer shall be suspended until Buyer has completed its standard employee screening policies and procedures and employment onboarding requirements) who are otherwise qualified for the position for which they are being hired, including Employees who are absent due to vacation, family leave, short-term disability or other approved leave of absence, subject to Buyer's standard employee screening policies and procedures and to each such employee's satisfaction of Buyer's normal employment onboarding requirements (the Current Employees who accept such employment and commence employment on the Transfer Date, the "**Transferred Employees**"). Prior to the Transfer Date, Buyer will notify Seller of the Current Employees who have been offered and accepted employment effective as of the Transfer Date. Effective on the Transfer Date, Seller shall terminate the employment of all Transferred Employees. Seller shall remain solely responsible for any and all employment-related obligations approved, incurred, earned, or accrued by any Transferred Employee prior to such Transferred Employee's employment by Buyer, or Buyer's affiliate as applicable, and their eligible dependents and beneficiaries, including, but not limited to, obligations related to termination and benefit portability. Buyer shall not be liable for nor assume any obligations, responsibility, or liability for any of the Seller's employment-related obligations relating to Seller's

employment of its employees prior to the Transfer Date or the termination of the Transferred Employees on the Transfer Date. Buyer shall use commercially reasonable efforts to ensure that (a) the compensation offered to Transferred Employees shall be in accordance with Buyer's usual and customary compensation and pay practices for its own employees, which shall not differ from those practices in effect at comparable facilities operated by Buyer or its affiliates, as of the Transfer Date, and (b) subject to the terms and conditions of Section 7.2.3 and the terms and conditions of any applicable employee benefit plan, policy or procedure of Buyer, each Transferred Employee shall be immediately eligible to participate in the employee benefit plans and arrangements made generally available to similarly situated employees of Buyer (collectively, the "**Buyer Benefit Plans**"), and further subject to each Transferred Employee's satisfaction of all terms and conditions required for participation in the Buyer Benefit Plans.

7.2.2 Effective no later than the day immediately preceding the Transfer Date, the Transferred Employees shall cease active participation in Seller's employee benefit plans and Seller shall remain solely liable for all eligible claims for benefits under such plans, incurred by the Transferred Employees prior to the Transfer Date. Moreover, Seller shall be solely responsible, and Buyer shall have no obligation whatsoever for, any compensation or other amounts payable to the Transferred Employees, to the extent such compensation accrued prior to the Transfer. For the avoidance of doubt and to the extent applicable, Seller shall bear any and all obligations and liability under the WARN Act and its state law counterpart at N.H. R.S.A. 282-A:45 resulting from employment losses, if any, prior to the Transfer pursuant to this Section 7.2; provided, that, notwithstanding anything herein to the contrary, Seller intends to and shall be permitted to comply with any requirements of such acts to the extent applicable in connection with the transactions contemplated hereby. Nothing in this Section 7.2 shall create any third-party beneficiary right in any Person (other than the parties to this Agreement), including any Transferred Employee, or any right to continued employment with Buyer.

7.2.3 Subject to Buyer's applicable policies, procedures, the terms of any Buyer Benefit Plans, and Buyer's review of any payroll or plan records of Seller, Buyer or its affiliate shall use commercially reasonable efforts to give all persons who become employees of Buyer or its affiliate under this Agreement past service credit (which shall be based on how the term "years of service" is defined in applicable Buyer Benefit Plans) and seniority for determining participation in Buyer's Benefit Plans, as if they had been employees of Buyer or its affiliate while they were employed by the entity operating Hospital (including but not limited to Seller), as determined based on information provided to Buyer by Seller. Further, Buyer shall credit under the Buyer Benefit Plans any amounts of deductibles, co-insurance, and co-payments paid by Transferred Employees and their eligible dependents under analogous benefit plans maintained by Seller during the same plan year in which the Transfer occurs, to the extent permitted by applicable Seller benefit plans and

Buyer Benefit Plans. Buyer does not guarantee that the benefits offered pursuant to Buyer Benefit Plans will be the same or substantially similar to Seller's benefit plans. Seller and Buyer shall cooperate reasonably with each other in the exchange of information as permitted by applicable law to notify Transferred Employees and to prepare any documentation required to be filed with any governmental entity or other third party as either of them may reasonably request in order to implement this Section 7.2. Further, Seller agrees that Buyer or its employees or representatives may have access to the Transferred Employees after this Agreement is executed but before the Transfer Date as necessary to ensure an orderly transition of employment and benefits without a coverage gap for the Transferred Employees in connection with the consummation of the transactions contemplated by this Agreement; provided, that, such access shall be subject to prior notice by Buyer to Seller and such reasonable restrictions and conditions as Seller may require to maintain its employment relationships and ensure the continued orderly operation of the Hospital and to comply with applicable law.

7.2.4 To the extent applicable, Seller shall be responsible for all liability to provide any continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), to current and former employees of Seller who are entitled to COBRA continuation coverage as of, or as a result of, the Transfer.

7.2.5 Seller desires to continue the employment of the Retained Employees and agrees that such employees shall not be terminated effective as of the Transfer Date and shall remain employees of Seller.

**7.3 Retention of Business and Medical Records.** Buyer agrees to retain, at its expense, all business and medical records that it takes custody of pursuant to this Agreement. Buyer shall retain such records in material accordance with all applicable laws.

**7.4 Access to Personnel, Financial Information, and Other Records.** Each party acknowledges that, subsequent to the Transfer Date, the other party may need access to information, documents or computer data in the control or possession of the other for purposes of its financial reporting obligations, concluding the contemplated transactions, audits, investigations, compliance with legal requirements and requests, and the prosecution or defense of third-party claims. Accordingly, subject to applicable law, each party, upon reasonable notice and during normal business hours, shall grant the other party and its agents, independent auditor, and representatives access to documents and information, related to the Hospital or the Hospital's operation, as may be available and relating to periods prior to the Transfer Date and will permit the other party, at the other party's expense, to make copies of such documents and information.

**7.5 Governmental Approvals and Licenses.** Following the Effective Date and prior to the Transfer Date, Seller shall use its good faith commercially reasonable efforts to (a) obtain all governmental approvals (or exemptions therefrom) necessary or required to

allow Seller to perform its obligations under this Agreement, including, but not limited to, the Required Governmental Approvals and the approvals set forth under Section 11.12; and (b) advise, assist, and cooperate with Buyer and its representatives, at Buyer's reasonable request, in obtaining all Licenses or other governmental approvals set forth on Schedule 7.5. Following the Effective Date and prior to the Transfer Date, Buyer shall in good faith use commercially reasonable efforts, with Seller's assistance, to obtain all Licenses, permits and other governmental approvals (or exemptions therefrom) set forth on Schedule 7.5.

- 7.6 Assignment of Provider Number.** Without limiting the generality of Section 7.5, the parties intend that the transfer of the Transferred Assets pursuant to this Agreement will qualify as a change of ownership with automatic assignment of the Hospital's provider agreement under 42 C.F.R. § 489.18 and Program Integrity Manual Chapter 10, Section 10.6.22 as a purchase of substantially all the Hospital's assets. Therefore, subject to approval of CMS and on the Transfer Date, Seller agrees to assign to Buyer, and Buyer agrees to accept assignment of, the Hospital's Medicare provider agreement. Seller and Buyer shall work jointly to take any actions reasonably necessary to accomplish this assignment, including filing Form CMS-855A Change of Ownership.
- 7.7 Further Assurances.** In addition to the actions, documents and instruments specifically required to be taken or delivered under this Agreement, each of the parties will use all reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things permitted under applicable laws and regulations to fulfill its obligations under this Agreement and to consummate and make effective the transfer of the Hospital's operations pursuant to this Agreement. Without limiting the generality of the foregoing, the parties will cooperate with each other and proceed as promptly as reasonably practicable to obtain all necessary consents and approvals from lenders, landlords, governmental bodies and any other third parties, including, but not limited to, the Required Third-Party Consents, Required Governmental Approvals and the Licenses and authorizations set forth on Schedule 7.5. The parties shall also use commercially reasonable efforts to complete the transactions contemplated herein and to do so without interrupting Hospital's operations.
- 7.8 Insurance.** Seller shall maintain adequate insurance coverage (whether self-insured or through third party commercial insurers) for all claims arising from events or incidents taking place prior to the Transfer Date.
- 7.9 Confidentiality.** Seller agrees to, and shall take reasonable measures to cause its representatives and affiliates to, treat and hold as confidential all of Buyer's and the Hospital's confidential and proprietary information and trade secrets, and refrain from using any information or trade secrets except in connection with this Agreement and the transactions and other actions contemplated hereby. For the avoidance of doubt, the parties acknowledge and agree that Seller shall be permitted to seek the New Hampshire Attorney General's, Governor's and Executive Council's approval of this Agreement, the Transaction Documents and such other agreements, instruments, documents and filings as may be required hereunder. Further, Seller shall be

permitted to disclose this Agreement and any other agreements, documents or information related hereto to the extent required by any valid judicial or administrative process or by other requirements of applicable law.

**7.10 Shared Services In the Event of a Youth Development Center.** Seller anticipates developing a youth development center on the real property adjacent to the Hospital (the "YDC"). The parties agree to certain matters regarding the YDC as set forth in the Lease Agreement.

**7.11 Supplement to Disclosure Schedules.** From time to time up until ten (10) business days prior to the Transfer, Seller shall have the right (but not the obligation) to supplement or amend the Disclosure Schedule or any other Schedule hereto with respect to any matter which would have been required to be set forth or described in the Disclosure Schedule or any other Schedule in order to correct any inaccuracy in or breach of the representations or warranties made by Seller in this Agreement (a "**Disclosure Schedule Supplement**"); provided, however, that in the event Seller delivers any Disclosure Schedule Supplement to Buyer (for the avoidance of doubt, regardless of the content thereof), Buyer shall have a period of thirty (30) days following the date of its receipt of such Disclosure Schedule Supplement to elect, in its sole discretion, whether to (x) accept all items set forth therein, in which case Buyer shall not be required to take any further action; (y) terminate this Agreement by delivering written notice of such termination to Seller prior to the expiration of such thirty (30) day period (in which case neither party shall have any liability hereunder to each other in connection with such termination); or (z) deliver a written notice to Seller (a "**Discussion Notice**") indicating that Buyer desires to receive additional information or documentation from Seller with respect to such Disclosure Schedule Supplement and to discuss with Seller any or all of the items set forth therein and the treatment thereof under this Agreement (including potential adjustments to the Purchase Price in connection therewith), in which case the parties shall use their reasonable best efforts to cooperate in good faith to reach written resolution of such matters within thirty forty-five (45) days following Buyer's delivery of such Discussion Notice, and if the parties are not able to reach such written resolution within such forty-five (45) day period, then Buyer may elect, in its sole discretion, to terminate this Agreement by delivering written notice of such termination to Seller (in which case neither party shall have any liability hereunder to each other in connection with such termination); provided, further, that in the event Buyer has the right to, but does not elect to, terminate this Agreement by the later to occur of (A) the expiration of the thirty (30) day period set forth in the foregoing clause (y), if no Discussion Notice is timely delivered, or (B) the expiration of the forty-five (45) day period set forth in the foregoing clause (z), if a Discussion Notice is timely delivered, then, following the expiration of such thirty (30) or forty-five (45) day period (as applicable), and in either such case Buyer and Seller do not reach agreement as to how to treat such Disclosure Schedule Supplement and the items set forth therein under this Agreement, then Buyer shall be deemed to have terminated this Agreement (in which case neither party shall have any liability hereunder to each other in connection with such termination). Any obligation that Buyer may otherwise have hereunder to consummate the Transfer shall be suspended for the duration of such thirty (30) day

period or forty-five (45) day period (as applicable), regardless of whether the conditions set forth in Section 8 are otherwise satisfied during such period. In the event that Seller delivers any Disclosure Schedule Supplement to Buyer pursuant to this Section, then, upon the request of Buyer, Seller shall, and shall cause its employees, managers, members, officers and agents to, promptly afford Buyer and its representatives access to all information relating to the matters set forth in such Disclosure Schedule Supplement as Buyer may reasonably request in order for Buyer to evaluate whether to exercise its rights under this Section. Notice of any Disclosure Schedule Supplement must be delivered to Buyer pursuant to the provisions of Section 11.3.

#### **7.12 Option to Purchase and Maintain Hospital Operations.**

- 7.12.1 Upon the expiration or earlier termination of the Lease Agreement, Seller shall have the right to repurchase the Transferred Assets and any other assets subsequently acquired by the Buyer which primarily or exclusively relate to, or are used or held for use in connection with, the operation of the Hospital at fair market value as determined by VMG Health or another independent appraiser mutually agreed upon by Seller and Buyer.
- 7.12.2 The terms and conditions of any such transaction will be substantially the same as the terms and conditions of this Agreement *mutatis mutandis* and the parties will negotiate any such transaction in good faith so that following the closing, Seller can continue to offer the services then-provided at the Hospital to the State of New Hampshire's most vulnerable children and young adults. In anticipation of and through the date of the closing of any such repurchase by Seller, the Parties will plan and work together in good faith to ensure an orderly transition of assets and employees and to ensure that there is no interruption of the services provided at the Hospital.
- 7.12.3 In connection with any such repurchase, Seller shall be permitted to make an offer of employment effective on the closing to all employees of Buyer or an affiliate thereof providing services at or for the benefit of the Hospital, including employees who are absent due to vacation, family leave, short-term disability or other approved leave of absence, subject to each such employee's satisfaction of Seller's normal employment onboarding requirements. Buyer will use commercially reasonable efforts to maintain the employment of any such employee through the date of closing. Effective on the closing, Buyer shall terminate the employment of all employees who Seller agrees to hire. Seller and Buyer shall cooperate reasonably with each other in the exchange of information as permitted by applicable law to notify affected employees and to prepare any documentation required to be filed with any governmental entity or other third party as one of them may reasonably request of the other in order to implement this Section 7.12.3. Further, Buyer consents that Seller or its employees or representatives may have access to the employees Seller anticipates hiring before the closing to ensure an orderly transition of employment and benefits.



- 7.13 Access to Books and Records.** Each party shall make available to the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States, or any of their duly authorized representatives, upon request, at any time within four (4) years following the expiration or termination of this Agreement, any of such party's books, documents, or records that may be necessary to certify the nature and extent of the costs incurred by the other party pursuant to this Agreement, and shall include a like provision in any subcontract with a related party hereunder for items or services having a value of more than \$10,000 over a twelve-month period. Each party shall notify the other party within three (3) business days of any such governmental request for books or records.
- 7.14 Operation of Hospital Prior to Transfer.** Between the Effective Date and the Transfer Date, unless Buyer shall otherwise provide its prior written consent, Seller shall cause the Hospital to only conduct its business in the ordinary course of business in all material respects, and shall cause the Hospital to preserve intact in all material respects the business organization and assets of the Hospital, and preserve in all material respects the present commercial relationships with those employees, contractors, customers, suppliers, and other key Persons with whom the Hospital does business.
- 7.15 Third Party Consents.** To the extent that Seller's rights under any Assigned Contract or License constituting a Transferred Asset, or any other Transferred Asset, may not be assigned to Buyer without the consent of another Person which has not been obtained, this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof or be unlawful, and Seller, at its sole expense, shall use its commercially reasonable efforts to obtain any such required consent(s) as promptly as possible. If any such consent shall not be obtained or if any attempted assignment would be ineffective or would impair Buyer's rights under the Transferred Asset in question so that Buyer would not in effect acquire the benefit of all such rights, Seller, to the maximum extent permitted by law or regulation and the Transferred Asset, shall act after the Transfer as Buyer's agent in order to obtain for it the benefits thereunder and shall cooperate, to the maximum extent permitted by law and regulation and the Transferred Asset, with Buyer in any other reasonable arrangement designed to provide such benefits to Buyer.
- 7.16 Access to Information; Diligence.** From the Effective Date until the Closing, Seller shall, subject to applicable law, (a) afford Buyer and its representatives access to and the right to inspect the Hospital and its properties, assets, and premises; provided, that Seller has provided prior consent to any in-person inspection or visit, such consent not to be unreasonably conditioned, withheld or delayed, and Buyer shall not conduct any invasive testing or the like without Seller's prior written consent; (b) furnish Buyer and its representatives (i) copies of the books and records related to the Hospital's operations, (ii) copies of Contracts and other documents and data related to the Hospital and its operations, and (iii) such financial, operating and other data and information related to the Hospital and its operations, as Buyer or any of its representatives may reasonably request; and (c) cooperate with Buyer in its investigation of the Hospital and its operations. Any investigation pursuant to this

Section 7.16 shall be conducted in such manner (y) not to unduly interfere with the normal business operations of the Hospital, and (z) in material accordance with all applicable laws and regulations and the parties' and their respective affiliates' applicable confidentiality obligations.

## 8. CONDITIONS TO TRANSFER.

**8.1 Buyer's Conditions to Transfer.** All of the obligations of Buyer hereunder are subject to the fulfillment, prior to or at the Transfer, of the following conditions (compliance with which or the occurrence of which may be waived, to the extent permitted by applicable law, in whole or in part by Buyer in writing):

- 8.1.1 The representations and warranties of Seller in this Agreement, the Transaction Documents and any certificate or other writing delivered pursuant hereto shall be true and correct in all material respects on and as of the Transfer Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects);
- 8.1.2 Seller shall have performed and complied in all material respects with all the terms, provisions, and conditions of this Agreement and the other Transaction Documents to be complied with and performed by Seller at or before the Transfer Date;
- 8.1.3 Seller shall have delivered a certificate ("**Seller Closing Certificate**"), dated as of the Transfer Date and signed on behalf of Seller by a duly authorized individual (in such Person's capacity as such and not individually), certifying (a) that each of the conditions set forth in Section 8.1.1 and Section 8.1.2 have been satisfied; (b) the due authorization of the transactions contemplated by this Agreement by Seller, in accordance with applicable law; and (c) the names and signatures of the individuals authorized by Seller to sign this Agreement, the Transaction Documents and the other documents to be delivered in connection therewith;
- 8.1.4 Seller shall have delivered evidence satisfactory to Buyer, in Buyer's sole discretion, of Seller's receipt of all Required Third-Party Consents;
- 8.1.5 Seller shall have delivered evidence satisfactory to Buyer, in Buyer's sole discretion, of Seller's receipt of all Required Governmental Approvals;
- 8.1.6 Buyer's completion, to Buyer's reasonable satisfaction, of its due diligence review of the Hospital;
- 8.1.7 Buyer shall have obtained those Licenses and approvals set forth on Schedule 7.5.

- 8.1.8 Buyer shall be satisfied, in Buyer's sole discretion, that substantially all of the qualified employees and staff of Seller, primarily engaged in the provision of services to or on behalf of the Hospital (other than the Retained Employees), shall continue their employment with Buyer or an affiliate of Buyer after the Transfer.
- 8.1.9 Seller shall have delivered to Buyer duly executed counterparts to the Transaction Documents (other than this Agreement) and such other documents and deliveries set forth in Section 4.1.
- 8.2 Seller's Conditions to Transfer.** All of the obligations of Seller hereunder are subject to the fulfillment, prior to or at the Transfer, of the following conditions (compliance with which or the occurrence of which may be waived, to the extent permitted by applicable law, in whole or in part by Seller in writing):
- 8.2.1 The representations and warranties of Buyer in this Agreement, the Transaction Documents and any certificate or other writing delivered pursuant hereto shall be true and correct in all material respects on and as of the Transfer Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects);
- 8.2.2 Buyer shall have performed and complied in all material respects with all the terms, provisions and conditions of this Agreement and the other Transaction Documents to be complied with and performed by Buyer at or before the Transfer Date;
- 8.2.3 The Attorney General, the Governor and the Executive Council of the State of New Hampshire shall have approved this Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby;
- 8.2.4 Seller shall have obtained all Required Governmental Approvals;
- 8.2.5 Buyer shall have obtained those Licenses and approvals set forth on Schedule 7.5;
- 8.2.6 Buyer shall have delivered a certificate ("**Buyer Closing Certificate**"), dated as of the Transfer Date and signed on behalf of Buyer by a duly authorized officer (in such Person's capacity as such and not individually), certifying (a) that each of the conditions set forth in Section 8.2.1 and Section 8.2.2 have been satisfied; (b) that attached thereto is an authorizing certificate authorizing the execution, delivery and performance of this Agreement and the Transaction Documents and the consummation of the transactions contemplated hereby and thereby; and

8.2.7 Buyer shall have delivered to Seller duly executed counterparts to the Transaction Documents (other than this Agreement) and such other documents and deliveries set forth in Section 4.2.

9. **TERMINATION.** Notwithstanding anything contained herein to the contrary, this Agreement may be terminated, and the transactions contemplated hereby abandoned any time prior to the Transfer Date:

- 9.1 by written, mutual consent of the parties;
- 9.2 by a party by written notice to the other party, if such party is not then in a material breach of its obligations under this Agreement, if the other party materially breaches its obligations under this Agreement or fails to perform in any respect any of its representations, warranties, or covenants contained in this Agreement after notice of such material breach and/or failure to perform and reasonable opportunity to cure; *provided, that* no opportunity to cure shall exceed a period of thirty (30) days, unless otherwise agreed to by the parties;
- 9.3 without limiting the generality of the foregoing, by Buyer, in the event that (a) Buyer has been unable, despite good faith efforts, to obtain all Licenses or other governmental approvals set forth on Schedule 7.5 by the Outside Date (defined below), or (b) upon the occurrence, fact, condition or change that is, or could reasonably be expected to become, individually or in the aggregate, materially adverse to Buyer's ability to maintain the Hospital's operation in substantially the same manner as it is presently operated;
- 9.4 without limiting the generality of the foregoing, by Seller, in the event that Seller has been unable, despite good faith efforts, to obtain all Required Governmental Approvals necessary to transfer operation of the Hospital by the Outside Date; -
- 9.5 by either party, if a court of competent jurisdiction or any governmental authority shall have issued a governmental order (which governmental order the parties shall use their best efforts to lift), in each case permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or any applicable law permanently restrains, enjoins or otherwise prohibits the transactions contemplated by this Agreement; or
- 9.6 by either party, if the Transfer does not occur by March 1, 2025 (the "**Outside Date**"); provided, that such failure to close is not due to the failure of the terminating party to perform or comply with any of obligations, covenants, agreements or conditions hereof to be performed or complied with by it prior to the Transfer.

In the event of the termination of this Agreement in accordance with this Section 9, this Agreement shall immediately become null and void and there shall be no liability or obligation on the part of any party following such termination; provided, that (a) nothing herein shall relieve any party from liability for any breach of this Agreement prior to the date of such termination and each party shall be entitled to any and all remedies at law and in equity for such breach, and (b) the provisions of this Section 9 (Termination),

Section 7.9 (Confidentiality), and Section 11 (Miscellaneous) shall survive any such termination.

## 10. INDEMNIFICATION.

**10.1 Indemnification by the Seller Parties.** Subject to the limitations and other provisions of this Agreement, Seller shall indemnify and defend each of Buyer, its affiliates, and its and their directors, officers and employees (collectively, the “**Buyer Indemnitees**”) against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all losses, damages, liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys’ fees (collectively, “**Losses**”) incurred or sustained by, or imposed upon, the Buyer Indemnitees based upon, arising out of, with respect to or by reason of:

- 10.1.1 any inaccuracy in or breach of any of the representations or warranties of the Seller contained in this Agreement, the Transaction Documents associated with this Agreement or in any certificate or instrument delivered by or on behalf of Seller pursuant to this Agreement;
- 10.1.2 any breach or non-fulfillment of any covenant, agreement or obligation to be performed by the Seller pursuant to this Agreement, the Transaction Documents or any certificate or instrument delivered by or on behalf of the Seller pursuant to this Agreement;
- 10.1.3 any Fraud on the part of the Seller in connection with the Transfer;
- 10.1.4 any indebtedness of Seller and any transaction expenses of Seller related to the Transfer;
- 10.1.5 any Excluded Asset or any Excluded Liability;
- 10.1.6 the operation or use of the Hospital or any Transferred Asset by Seller, or any affiliate of Seller, prior to the Transfer;
- 10.1.7 for avoidance of doubt and without limiting the foregoing, any Liability associated with Hospital’s Medicare provider number, assigned to Buyer, and arising out of or related to Seller’s or Hospital’s operations or use of the Medicare provider number prior to the Transfer; and
- 10.1.8 except for any Assumed Liability, any third-party claim based upon, resulting from or arising out of the business, operations, properties, assets or obligations of Seller, the Hospital or any of Seller’s affiliates conducted, existing or arising on or prior to the Transfer.

**10.2 Indemnification by Buyer.** Buyer shall indemnify and defend each of Seller and its employees and agents (collectively, the “**Seller Indemnitees**”) against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for,

any and all Losses incurred or sustained by, or imposed upon, the Seller Indemnitees based upon, arising out of, with respect to or by reason of:

- 10.2.1 any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement, the Transaction Documents associated with this Agreement or in any certificate or instrument delivered by or on behalf of Buyer pursuant to this Agreement;
- 10.2.2 any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Buyer pursuant to this Agreement, the Transaction Documents or any certificate or instrument delivered by or on behalf of the Buyer pursuant to this Agreement;
- 10.2.3 (a) the operation or use of any Transferred Asset by Buyer after the Transfer (but only to the extent arising out of or related to facts or circumstances occurring after the Transfer and not due to the actions or inactions of Seller, or any affiliate of Seller, prior to the Transfer), or (b) any Assumed Liability;
- 10.2.4 for avoidance of doubt and without limiting the foregoing, any Liability associated with Hospital's Medicare provider number, assigned to Buyer, and arising out of or related to Buyer's or Hospital's operations or use of the Medicare provider number after the Transfer, to the extent not Seller's obligation pursuant to Section 10.1.7; or
- 10.2.5 except for any Excluded Asset or Excluded Liability, any third-party claim based upon, resulting from or arising out of the business, operations, properties, assets or obligations of Buyer, the Hospital or any of Buyer's affiliates conducted or arising after the Transfer.

**10.3 Survival.** The representations and warranties of each party shall survive the Transfer and shall remain in full force and effect until the date that is the eighteen-month (18) month anniversary of the Transfer Date; *provided, however*, that the representations and warranties set forth in Sections 5.1, 5.3, and 5.8 and Section 6.1 shall survive the Transfer in accordance with the applicable statute of limitations (if longer than eighteen (18) months) plus sixty (60) days after the expiration thereof.

**10.4 Certain Limitations.** Except in the case of Fraud, the party making a claim under this Section 10 is referred to as the "**Indemnified Party**," and the party against whom such claims are asserted under this Section 10 is referred to as the "**Indemnifying Party**". The indemnification provided for in Section 10.1 and Section 10.2 shall be subject to the following limitations:

- 10.4.1 The Indemnifying Party shall not be liable to the Indemnified Party for indemnification under Section 10.1.1 or Section 10.2.1, as the case may be, until the aggregate amount of all Losses in respect of indemnification under Section 10.1.1 or Section 10.2.1 exceeds 5% of the Purchase Price (the "**Deductible**"), in which event the Indemnifying Party shall only be required to pay or be liable for Losses in excess of the Deductible.

- 10.4.2 The aggregate amount of all Losses for which an Indemnifying Party shall be liable pursuant to Section 10.1.1 or Section 10.2.1, as the case may be, shall not exceed the Purchase Price. The aggregate amount of all Losses for which an Indemnifying Party shall be liable under this Section 10 shall not exceed the Purchase Price; *except*, notwithstanding the foregoing, for Seller's indemnification obligations under Sections 10.1.3 through 10.1.8 or Buyer's indemnification obligations under Sections 10.2.3 through 10.2.5, respectively, which shall not be subject to the provisions of this Section 10.4.2.
- 10.4.3 Payments by an Indemnifying Party pursuant to Section 10.1.1 or Section 10.2.1 in respect of any Loss shall be limited to the amount of any liability or damage that remains after deducting therefrom any insurance proceeds and any indemnity, contribution or other similar payment received by the Indemnified Party in respect of any such claim, reduced by any increase in premiums or similar costs. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses prior to seeking indemnification under this Agreement.
- 10.4.4 In no event shall any Indemnifying Party be liable to any Indemnified Party for any punitive, incidental, consequential, special, or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple; *provided, however*, any such punitive, incidental, consequential, special, or indirect damages may be recovered by the Indemnified Party if and to the extent any of the foregoing are payable to a third party by the Indemnified Party.
- 10.4.5 Each Indemnified Party shall take, and cause its Affiliates to take, all commercially reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss.
- 10.4.6 The limitations set forth in this Section 10.4 shall not apply to any claims of Fraud against a party.
- 10.5 Exclusive Remedies.** The parties acknowledge and agree that from and after the Transfer their sole and exclusive remedy with respect to any and all claims (other than claims of Fraud against a party hereto committing Fraud) for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Section 10. In furtherance of the foregoing, each party hereby waives, from and after the Transfer, to the fullest extent permitted under applicable law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth



herein or otherwise relating to the subject matter of this Agreement it may have against the other party hereto and its affiliates and each of their respective representatives arising under or based upon any law, except as permitted or otherwise pursuant to the indemnification provisions set forth in this Section 10. Nothing in this Section 10.5 shall limit any Person's right to seek and obtain any equitable relief to which any Person shall be entitled pursuant to this Agreement or to pursue a claim of Fraud against a party hereto committing Fraud.

**10.6 Sovereign Immunity.** Except for claims or Actions by a Buyer Indemnitee against Seller under this Section 10, no provision of this Agreement shall be deemed to constitute a waiver of the sovereign immunity of Seller, which immunity is hereby reserved to Seller.

## **11. MISCELLANEOUS PROVISIONS.**

**11.1 Amendment and Modification.** This Agreement may be amended, modified or supplemented only by written agreement signed by both parties.

**11.2 Waiver.** Failure to insist upon full performance of the obligations or to exercise the rights under this Agreement shall not constitute a waiver as to future defaults or exercise of rights.

**11.3 Notices.** All notices and other communications which may be or are required under this Agreement shall be in writing and shall be deemed given if delivered personally or by email, or 48 hours after being mailed, postage prepaid, to the parties at the following addresses (or at such other address as either party may designate by written notice to the other party):

if to Seller to:

New Hampshire Department  
of Health and Human Services  
129 Pleasant Street  
Concord, NH 03301  
Attn: Commissioner Lori Weaver  
Email: lori.a.weaver@dhhs.nh.gov

With copy to, which shall not  
constitute notice:

Pierce Atwood LLP  
One New Hampshire Avenue, Suite #350  
Portsmouth, NH 03801  
Attn: James Baker  
Email: jbaker@pierceatwood.com

if to Buyer to:

Mary Hitchcock Memorial Hospital  
One Medical Center Drive  
Lebanon, New Hampshire 03756  
Attn: General Counsel  
Email: John.P.Kacavas@hitchcock.org

With copy to, which shall not  
constitute notice:

Hall, Render, Killian, Heath & Lyman, PC  
500 N Meridian St #400  
Indianapolis, IN 46204  
Attn: Andrew Dick  
Email: ADick@hallrender.com

- 11.4 Binding Agreement.** This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
- 11.5 Assignment.** This Agreement or any of the rights, interests or obligations hereunder shall not be assigned by either party hereto without the prior written consent of the other party; provided, that Buyer may assign this Agreement to a wholly owned subsidiary of Buyer, without the consent of Seller.
- 11.6 Governing Law.** This Agreement is governed by the laws of the State of New Hampshire, notwithstanding the conflicts of laws provisions.
- 11.7 Jurisdiction.** ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE INSTITUTED ONLY IN THE COURTS OF THE STATE OF NEW HAMPSHIRE, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- 11.8 Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together constitute one and the same instrument.
- 11.9 Captions; Construction.** The section headings contained in this Agreement are solely for the purpose of reference, and are not part of the agreement of the parties and may not in any way affect the meaning or interpretation of this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The disclosure schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.
- 11.10 Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable by any governmental authority with valid jurisdiction over Agreement and the subject matter hereof, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

**11.11 Entire Agreement.** This Agreement supersedes all previous agreements and understandings and contains the entire agreement and understandings between the parties regarding the subject matter of this Agreement.

**11.12 Attorney General, Governor and Executive Council Approval.** Notwithstanding any provision of this Agreement to the contrary, this Agreement, the Transaction Documents and all obligations of the parties hereunder and thereunder, shall become effective only upon the approval of the Attorney General, the Governor and the Executive Council of the State of New Hampshire, as evidenced by appropriate signatures and/or stamps below.

*[Signatures On Following Page]*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date: November 25, 2024

**BUYER:**

Mary Hitchcock Memorial Hospital

By: Joanne Conroy MD

Name: Joanne M. Conroy, M.D.

Title: Chief Executive Officer and President

**SELLER:**

The State of New Hampshire, Department of Health and Human Services

By: \_\_\_\_\_

Name: Lori Weaver

Title: Commissioner

**Approved by the Attorney General of the State of New Hampshire (Form, Substance and Execution):**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Approved by the Governor and Executive Council of the State of New Hampshire:**

\_\_\_\_\_

G&C Item Number: \_\_\_\_\_

G&C Meeting Date: \_\_\_\_\_

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**BUYER:**

**Mary Hitchcock Memorial Hospital**

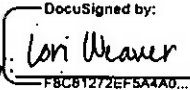
By: \_\_\_\_\_

Name: Joanne M. Conroy, M.D.

Title: Chief Executive Officer and President

**SELLER:**

**The State of New Hampshire, Department of Health and Human Services**

By:  \_\_\_\_\_  
F8C61272EF5A4A0...

Name: Lori Weaver

Title: Commissioner

**Approved by the Attorney General of the State of New Hampshire (Form, Substance and Execution):**

By: Christopher Bond

Name: Christopher Bond

Title: Associate Attorney General

**Approved by the Governor and Executive Council of the State of New Hampshire:**

\_\_\_\_\_

G&C Item Number: \_\_\_\_\_

G&C Meeting Date: \_\_\_\_\_

## EXHIBIT A

### BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT

**THIS BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT** (this “Assignment”), dated as of [•], is by and between Mary Hitchcock Memorial Hospital, a New Hampshire nonprofit corporation (“Buyer”), and The State of New Hampshire, acting through the New Hampshire Department of Health and Human Services (“Seller”).

#### WITNESSETH:

WHEREAS, Buyer and Seller have entered into that certain Operations Transfer and Asset Purchase Agreement, dated as of November 25, 2024, by and among Buyer and Seller (the “Asset Purchase Agreement”); and

WHEREAS, pursuant to the Asset Purchase Agreement (and in each case upon the terms and subject to the conditions set forth therein), (i) Seller has agreed to sell, convey, transfer, assign and deliver to Buyer, and Buyer has agreed to purchase and acquire from Seller, all of Seller’s right, title and interest in, to and under the Transferred Assets, and (ii) Buyer has agreed to assume the Assumed Liabilities.

NOW, THEREFORE, pursuant to and in accordance with the terms and provisions of the Asset Purchase Agreement, and for the consideration set forth therein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement.
2. Upon and subject to the terms and conditions set forth in the Asset Purchase Agreement, Seller does hereby sell, convey, transfer, assign and deliver to Buyer all of Seller’s right, title and interest in, to and under the Transferred Assets.
3. Upon and subject to the terms and conditions set forth in the Asset Purchase Agreement, Buyer does hereby accept the foregoing assignment and assumes and agrees to perform the Assumed Liabilities. Buyer does not assume, and shall have no liabilities or obligations with respect to, the Excluded Liabilities, and Buyer and Seller agree that all Excluded Liabilities will remain the sole responsibility of Seller.
4. This Assignment shall be subject to the terms and conditions set forth in the Asset Purchase Agreement (including without limitation Seller’s and Buyer’s representations, warranties, covenants, agreements, and indemnities), which are hereby incorporated herein by reference, and nothing contained in this Assignment shall be construed to limit, terminate or expand the representations, warranties, covenants, agreements, or indemnities set forth in the Asset Purchase Agreement. Seller and Buyer acknowledge and agree that the representations, warranties, covenants, agreements, and indemnities contained in the Asset Purchase Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided

therein. In the event of any conflict or inconsistency between the terms of the Asset Purchase Agreement and the terms hereof, the terms of the Asset Purchase Agreement shall govern.

5. This Assignment shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the State of New Hampshire without regard to the conflicts of law rules of such state.

6. This Assignment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Any signature page delivered via fax or electronic mail shall be binding to the same extent as an original signature page.

7. This Assignment may not be amended except by an instrument in writing signed on behalf of each of the Parties.

*[signature page follows]*



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

**BUYER:**

**Mary Hitchcock Memorial Hospital**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SELLER:**

**The State of New Hampshire, Department of  
Health and Human Services**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT B**  
**Committee Agreement**  
**(See attached)**

## JOINT OPERATING COMMITTEE AGREEMENT

**THIS JOINT OPERATING COMMITTEE AGREEMENT** (this “**Agreement**”) is entered into on [●], 2024 (the “**Effective Date**”), by and between The State of New Hampshire, acting through the Department of Health and Human Services (“**DHHS**”), and Mary Hitchcock Memorial Hospital (“**MHMH**”). DHHS and MHMH are sometimes referred to, individually, as a “**Party**” and, collectively, as the “**Parties.**”

### RECITALS:

A. DHHS is a state agency whose mission is to join communities and families in providing opportunities for citizens to achieve health and independence.

B. In order to ensure that the state’s most vulnerable children and young adults continue to have access to acute psychiatric and residential treatment services, on or around June 8, 2022, DHHS acquired ownership of Hampstead Hospital and Residential Treatment Facility (“**HHRTF**”).

C. DHHS operated HHRTF for two years, and during that time, DHHS partnered with other health care and clinical providers to improve the delivery of care at HHRTF.

D. MHMH is a nonprofit teaching hospital and health care provider whose charitable purposes include improving the health of the communities it serves and the residents of the State of New Hampshire.

E. MHMH is a member of the Dartmouth Health System, New Hampshire’s largest provider of mental and behavioral health services and a national leader in innovative mental health programming.

F. DHHS and MHMH contracted for MHMH to provide clinical services at HHRTF commencing on July 1, 2024.

G. In the months since MHMH assumed responsibility for the delivery of clinical care at HHRTF, the relationship between DHHS and MHMH has strengthened.

H. DHHS and MHMH believe that MHMH’s assumption of greater responsibility regarding the management and operation of HHRTF will further improve the services offered to the children and young adults seeking care and treatment at HHRTF.

I. On November 25, 2024, DHHS and MHMH entered into an Operations Transfer and Asset Purchase Agreement (the “**OTA**”), where, among other things, DHHS agreed to transfer and sell and MHMH agreed to assume and purchase substantially all of the assets of HHRTF and enter into a lease for the real property associated with HHRTF’s facilities (the “**Lease**”).

J. The Parties believe that the Parties’ entry into the OTA and the Lease will facilitate continued improvement in care and treatment at HHRTF by utilizing the experienced leadership and high-quality clinical services offered by MHMH together with direct responsibility for personnel and relevant facilities.

K. The Parties share the understanding that HHRTF plays a major role in the NH Children's Behavioral Health System of Care and both parties will support a treatment landscape consistent with the standards, core principles and values set forth in Exhibits B and C.

L. As a condition to entering into the OTA, DHHS and MHMH have agreed (i) to establish a joint operating committee for HHRTF, in order to ensure that the services offered at HHRTF align with the psychiatric needs of the adolescents, young adults, and children in the state and DHHS's ultimate responsibility for those patients and (ii) that MHMH will manage and operate HHRTF consistent with certain standards and guidelines set forth herein.

M. DHHS and MHMH now desire to memorialize the terms associated with the operation of the joint operating committee for HHRTF, pursuant to the terms of this Agreement.

NOW THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**I. JOINT OPERATING COMMITTEE.**

1.1 MHMH Delegation of Certain Responsibilities to the Joint Operating Committee. Similar to any other MHMH division, HHRTF will be subject to the ultimate control and direction of MHMH's executive administrators and Board of Trustees, and MHMH's Board of Trustees shall be the governing body of HHRTF for all purposes. However, MHMH hereby agrees to delegate certain responsibilities with respect to HHRTF to a committee composed of representatives of MHMH and DHHS (the "Joint Operating Committee" or "JOC"). The specific structure, procedures and responsibilities of the JOC are set forth in this Section I and Exhibit A of this Agreement. MHMH may not rescind any of the delegated JOC responsibilities, except through amendment of this Agreement. In addition, the JOC shall serve in an advisory capacity to MHMH for all matters relating to HHRTF over which it does not have specific delegated responsibility.

1.2 Joint Operating Committee Structure. The JOC shall be an eight (8)-person committee composed of individuals appointed by DHHS and MHMH. DHHS and MHMH shall each appoint four (4) individuals to serve as members of the JOC. At least one (1) person appointed by each of DHHS and MHMH shall be a senior vice president or higher-level executive of MHMH and DHHS, respectively. The initial JOC members shall be identified by each of DHHS and MHMH and communicated to the other Party prior to the first meeting of the JOC. Each JOC member shall serve at the pleasure of their respective appointing organization. The JOC shall have a Chair and Vice Chair who are appointed by the JOC to two (2) year terms. The Chair position will be filled by a DHHS committee member and the Vice Chair position will be filled by a MHMH committee member. MHMH and DHHS may also each designate additional persons to support the activities of the JOC, who will not be voting members of the JOC. It is the express intent of DHHS and the Parties to this Agreement that the members of the JOC appointed by DHHS are acting only

in their official capacities and shall retain any and all protections provided as a state officer, official or employee, including those provided by NH RSA 99-D.

- 1.3 Joint Operating Committee Procedures. The JOC shall adopt procedures and guidelines not inconsistent with the terms of this Agreement for conducting its business. The quorum requirement for the JOC meeting shall be six (6) members. At any meeting at which a quorum is present, the affirmative vote of a majority of the JOC members constitutes an action of the JOC, provided that at least two (2) DHHS representatives and at least two (2) MHMH representatives vote in such majority. Approval of reasonable recommendations of DHHS representatives on the JOC shall not be unreasonably withheld by the MHMH representatives on the JOC; approval of reasonable recommendations of the MHMH representatives on the JOC shall not be unreasonably withheld by DHHS representatives on the JOC; and approval of recommendations of the JOC shall not be unreasonably withheld by MHMH management or its Board of Trustees. The JOC may act outside of a meeting by a written consent signed by all of the JOC members (which consent may be signed in multiple counterparts and delivered via email attachments). JOC members cannot act through proxies. The JOC shall meet at least quarterly and keep minutes of its meetings. The JOC may change the frequency of its meetings with prior consent of MHMH's Board of Trustees. Members of the JOC may participate in a meeting of the JOC by or through the use of electronic communication through which each participating member is able to hear and immediately respond to all other participating members. A member participating through such electronic communication is deemed to be present in person at the meeting.
- 1.4 Joint Operating Committee Responsibilities. The JOC shall be responsible for overseeing and making recommendations to MHMH regarding the management and operations of HHRTF. The JOC shall be expected to exercise its responsibilities in good faith and with due care. The specific responsibilities of the JOC are outlined in Exhibit A of this Agreement.
- 1.5 Appointment and Removal. For avoidance of doubt, a Party may remove any one of its appointed representatives upon delivery of written notice to the other Party. Any representative appointed by a Party may resign at any time by delivering written notice to the Party appointing such representative, which notice shall be effective upon delivery unless a different date is stated in the notice. A representative employed by a Party or a Party's affiliate shall automatically be deemed to have resigned as a representative effective upon the termination of such representative's employment by a Party or one of its affiliates, or the death of such representative. A representative may only be removed, and a successor selected, by the Party with authority to appoint such representative. The Party appointing a replacement representative shall promptly notify the other Party in writing of the identity of such substituted representative.
- 1.6 Control Retained by MHMH Board. DHHS recognizes that MHMH, through MHMH's Board of Trustees and officers, shall at all times exercise ultimate control over the assets and operations of HHRTF, and DHHS and the JOC shall only

perform the functions described in this Agreement. MHMH's Board of Trustees shall be the governing body of HHRTF for all purposes. Further, by entering into this Agreement, MHMH hereby delegates to DHHS and the JOC that authority necessary to fulfill the responsibilities of the JOC outlined in **Exhibit A** of this Agreement. However, MHMH cannot delegate to DHHS or the JOC any of the powers, duties, or responsibilities required to be retained by MHMH under applicable law (including all certificates and licenses issued under authority of law for operation of HHRTF). MHMH shall be the holder of all licenses, accreditation certificates, and contracts that MHMH obtains, and shall be the "provider" within the meaning of all third-party contracts applicable to HHRTF. If there is any dispute as to the extent of such authority, such dispute shall be resolved in accordance with Section II.

## II. DISPUTE RESOLUTION.

- 2.1 In General. Any dispute or disagreement arising out of or relating to this Agreement, including a deadlock of the JOC, allegations of breach, termination, validity, interpretation and performance thereof (each, a "**Dispute**") will be resolved in accordance with the procedures specified in this Section II.
- 2.2 Meet and Confer. To initiate resolution of the Dispute, the affected Party shall give written notice to the other Parties setting forth the nature of such Dispute and request that the Parties meet and confer to discuss the Dispute (the "**Notice**"). Not later than fifteen (15) business days after the other Parties' receipt of the Dispute Notice, the management representatives designated by each Party (the "**Initial Dispute Representatives**") shall meet at a mutually acceptable time and place to exchange information and attempt to resolve the Dispute in good faith through negotiation. If the Initial Dispute Representatives are unable to resolve the Dispute within such 15-day period or such longer period as they mutually agree upon, the Commissioner, or designee, and the Chief Executive Officer of MHMH, or designee (the "**Final Dispute Representatives**") shall meet at a mutually-acceptable time and place to exchange information and attempt to resolve the Dispute in good faith through negotiation.
- 2.3 Mediation. If the Final Dispute Representatives are unable to resolve the Dispute within fifteen (15) business days following escalation from the Initial Dispute Representatives or such longer period as the Final Dispute Representatives mutually agree, then any Party may, but shall not be obligated to, submit the Dispute to non-binding mediation. Mediation will occur within twenty (20) business days after the Parties jointly submit the Dispute to mediation, and the duration of the mediation shall be limited to five (5) business days or less, unless the mediator reasonably requests a longer duration. The Parties mutually shall select an independent mediator experienced in health system transactional disputes, and each Party shall designate one or more representatives to meet with the mediator in good faith in an effort to resolve the Dispute. The specific format for the mediation shall be in the discretion of the mediator and the designated Party representative(s) to select, and may include the preparation of agreed-upon

statements of fact or written statements of position furnished to the other Parties. The Parties shall engage in a good faith effort to resolve the Dispute following the appointment of the mediator. The Parties shall bear their own expenses associated with mediation but each shall share equally the fees and expenses of the mediator and such other costs and expenses as they shall mutually agree upon.

- 2.4 **Additional Remedies.** If the Parties are unable to resolve a Dispute pursuant to this Section II, then the Parties may pursue binding arbitration or any other remedies available to them at law or in equity, subject to the terms of this Agreement.

### III. TERM AND TERMINATION.

This Agreement shall become effective as of the Effective Date and shall terminate upon (a) the termination or expiration of that certain Hospital Lease Agreement, of even date herewith, between the Parties, which relates to HHRTF's facilities located at 218 East Road, Hampstead, New Hampshire 03841 (the "Facility"), (b) in the event DHHS sells any portion or all of the Facility or (c) by notice to a Party if such Party materially breaches this Agreement, and such breach is incapable of cure, or with respect to a breach capable of cure, such Party does not cure such breach within thirty (30) days after receipt of written notice of such breach.

### IV. CONFIDENTIALITY.

Subject to applicable law, each Party agrees to use all Confidential Information (as defined below) solely for the purpose of performing its obligations under this Agreement and to maintain all such Confidential Information in the strictest confidence. "Confidential Information" means all non-public proprietary or confidential information disclosed by either Party on or after the Effective Date in connection with the Parties responsibilities under this Agreement; provided, however, that Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of a Party's or its representatives' breach of this Agreement; (b) is obtained by a Party or its representatives on a non-confidential basis from a third party that was not legally or contractually restricted from disclosing such information; or (c) was in a Party's or its representatives' possession prior to the other Party's disclosure hereunder.

### V. MISCELLANEOUS.

- 5.1 **Entire Agreement.** This Agreement supersedes all previous agreements and understandings and contains the entire agreement and understandings between the Parties regarding the subject matter of this Agreement. This Agreement may be amended, modified or supplemented only by written agreement signed by both Parties.
- 5.2 **Governing Law.** This Agreement is governed by the laws of the State of New Hampshire, notwithstanding the conflicts of laws provisions.
- 5.3 **Notices.** All notices and other communications which may be or are required under this Agreement shall be in writing and shall be deemed given if delivered personally

or by email, or 48 hours after being mailed, postage prepaid, to the Parties at the following addresses (or at such other address as either Party may designate by written notice to the other Party):

if to DHHS to:

New Hampshire Department  
Health and Human Services  
129 Pleasant Street  
Concord, NH 03301  
Attn: Commissioner Lori Weaver  
Email: [lori.a.weaver@dhhs.nh.gov](mailto:lori.a.weaver@dhhs.nh.gov)

if to MHMH to:

Mary Hitchcock Memorial Hospital  
218 East Road  
Hampstead, NH 03841  
Attn: General Counsel  
Email: [John.P.Kacavas@hitchcock.org](mailto:John.P.Kacavas@hitchcock.org)

- 5.4 Intentionally Omitted.
- 5.5 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together constitute one and the same instrument.
- 5.6 Captions; Construction. The section headings contained in this Agreement are solely for the purpose of reference, and are not part of the agreement of the Parties and may not in any way affect the meaning or interpretation of this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted.
- 5.7 Assignment. Neither Party shall assign, transfer, delegate, or subcontract any of its rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any purported assignment or delegation in violation of this Section 7.7 shall be null and void.
- 5.8 Sovereign Immunity. Except for breach of contract claims by MHMH against DHHS under this Agreement, no provision of this Agreement shall be deemed to constitute a waiver of the sovereign immunity of DHHS, which immunity is hereby reserved to DHHS.
- 5.9 Attorney General, Governor and Executive Council Approval. Notwithstanding any provision of this Agreement to the contrary, this Agreement and all obligations of the parties hereunder, shall become effective only upon the approval of the Attorney General, the Governor and the Executive Council of the State of New Hampshire, as evidenced by appropriate signatures and/or stamps below.

*[Signature Page Follows]*



**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**Mary Hitchcock Memorial Hospital**

**State of New Hampshire, Department of Health and Human Services**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**Attorney General of the State of New Hampshire**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Approval by the Governor and Executive Council of the State of New Hampshire**

\_\_\_\_\_

G&C Item Number: \_\_\_\_\_

G&C Meeting Date: \_\_\_\_\_

**EXHIBIT A**

**JOINT OPERATING COMMITTEE  
RIGHTS AND RESPONSIBILITIES**

Joint Operating Committee Rights and Responsibilities. Subject to the terms of this Agreement, the JOC is responsible for overseeing and making recommendations to MHMH regarding the operation and management of HHRTF. Specific responsibilities include the following:

- Ensure that HHRTF is managed and operated consistent with the standards and guidelines set forth on Exhibit B.
- Establish a vision and set of goals for HHRTF aligned with Exhibit C.
- Advise on the scope of inpatient and outpatient psychiatric services offered at HHRTF based on community and/or state-wide behavioral health needs assessments.
- Review patient satisfaction data and advise on ways to improve patient satisfaction scores.
- Advise on ways HHRTF and its clinical providers can collaborate with community mental health providers and state agencies to improve the level and quality of care offered at HHRTF.
- Review and make recommendations on any appropriate or necessary changes to the Administrator or Executive Director or senior most executive at HHRTF.
- Review and provide input on clinical staff turnover rates.
- Approve and recommend approval of the annual operating and capital budgets for HHRTF by the MHMH Board of Trustees in conjunction with, and as part of, the MHMH overall budget approval process.
- Determine space and renovation needs, and prepare recommendations and justifications for budgeting process.
- Review and provide MHMH with input on any capital expenditures in excess of \$250,000 for HHRTF.
- Provide MHMH with input on any signage and marketing plans for HHRTF.
- Adopt procedural guidelines for the JOC to facilitate the conduct of business consistent with the terms and conditions of this Agreement.

Matters Requiring Approval of MHMH. Notwithstanding the foregoing, there are certain decisions that will be made only with the approval of MHMH. In addition to any decisions prohibited by Dartmouth Health or MHMH policies, no act shall be taken, sum expended, or obligation incurred by DHHS or the JOC on behalf of MHMH with respect to a matter within the scope of any of the following decisions ("**Major Decisions**") affecting HHRTF, unless such Major

Decision has been approved by MHMH's Board of Trustees in advance and in writing, which approval will not be unreasonably withheld. In the usual course, such Major Decisions will be presented first to the JOC for recommendation in accordance with Section 1.3 of the Agreement and will include the following:

- approval of annual operating and capital budgets, and amendments thereto;
- budgeted capital expenditures in excess of \$250,000;
- material deviations from operating and capital budgets; and
- approval of material changes in the scope of services offered at HHRTF.

Budgets. If, prior to the commencement of any contract year, the JOC has not yet recommended a budget for HHRTF for approval by MHMH, then the Parties will work together in good faith to reach resolution on any disputed or unresolved budget items, and until an agreement is reached, with respect to the budget: (A) as to any disputed line items, the budget in the immediately preceding contract year shall be controlling until such time, if any, as agreement is reached on the amounts to be allocated to such disputed line items, subject to the following: (1) non-recurring or extraordinary items shall not be continued from the budget in the immediately preceding contract year; (2) if the previous budget was for a period of less than twelve (12) months, it shall be annualized; and (3) all items subject to an automatic increase, such as rent and taxes, shall be budgeted at the increased rate; and (B) as to line items, which are not in dispute, the revised budget, to the extent recommended by the JOC and approved by MHMH, shall control. In such event, the budget determined in accordance with the foregoing rules will be deemed to be the "approved budget" for the applicable contract year until a budget for such contract year is recommended by the JOC and approved by MHMH, in which event such later budget shall be the "approved budget" for such period.

## **EXHIBIT B**

### **STANDARDS AND GUIDELINES**

#### **1. GENERAL REQUIREMENTS**

MHMH will provide behavioral health services at Hampstead Hospital and Residential Treatment Facility (HHRTF), including those services required in the Hospital Lease Agreement. MHMH must ensure inpatient admissions are accepted at the facility 24 hours per day, 7 days per week.

MHMH must comply with all applicable accreditation standards as well as federal and state legal and regulatory standards in the provision of services at HHRTF. MHMH must utilize practices and deliver services in alignment with the requirements in NH RSA 135-F, System of Care for Children's Mental Health.

MHMH will, with the consent of the individual or the individual's guardian, collaborate with each individual's primary care provider, other behavioral health providers and support agencies to ensure continuity of treatment and appropriate reasonable, and safe discharge plans for the continued treatment of the individual's condition.

#### **2. ADMISSIONS FOR HOSPITAL**

MHMH will consider individuals referred to HHRTF for admission who have a behavioral health necessity for care in accordance with its policies, procedures and applicable laws and regulations, and will prioritize New Hampshire individuals subject to requirements under Federal and State laws and regulations. For any individuals which MHMH determines are not appropriate for admission to HHRTF, such individuals may be considered by the Review Team structure described below. Waitlist data will be provided to DHHS for the purposes of collaboration and reporting, following a process jointly developed between DHHS and MHMH.

**Review Team** - MHMH must collaborate with the Department to develop a "Review Team" for cases identified by the Department where MHMH believes it cannot meet the behavioral and/or medical needs of an individual referred for services. The purpose of the Review Team is to review the clinical situation for patients who are not being admitted to the HHRTF putting together DHHS and MHMH knowledge and expertise to seek a workable high-quality care path for the patient. Admission authority and decisions for the HHRTF remain with MHMH. MHMH must participate in the review process as described:

1. The Review Team consists of five (5) members:
  1. Two (2) MHMH employees with knowledge of the individual, their needs, and the specific reason for the denied admission.
  2. Two (2) Department employees from the Bureau for Children's Behavioral Health and/or the Department as a whole.
  3. A designee chosen by the Commissioner of the Department.

#### **3. DISCHARGES FROM HOSPITAL**

MHMH must develop discharge policies and procedures to ensure no individual is discharged unless the individual is deemed clinically appropriate for discharge and an appropriate location for discharge has been identified, unless otherwise ordered by the court. MHMH will complete a comprehensive discharge and transition plan prior to discharge, which may include collaboration with the individual's primary care provider, community behavioral health provider, and other support agencies; and provide referrals to trauma-informed community-based providers.

#### **4. PRIORITIZING THE INTEREST OF VULNERABLE PATIENTS**

As the only psychiatric facility or unit of its kind for youth in NH, many of whom have experienced significant adversity and hardship in their lives, HHRTF must maintain core commitments to promote and protect wellbeing. MHMH must:

- Design care plans and treatment meetings that engage directly with parents/guardians, primary care providers, other behavioral health providers, support agencies, schools, and other adults and institutions involved in the wellbeing of the patient;
- Serve all clinically appropriate patients regardless of their or their families' abilities to pay;
- Continue its mission to care for the needs of the community and accommodate patients with highly complex behaviors;
- Not discharge any patient without a safe discharge plan even if insurance has stopped reimbursing;
- Apply the MHMH Charity Care / Financial Assistance Policy to patients and services at the HHRTF; and
- Establish a Citizen Advisory Council that engages volunteers with lived experience to enhance quality of life for individuals receiving treatment while promoting communication and offering feedback.

## EXHIBIT C

### PHILOSOPHIES, PRINCIPLES AND VALUES

The Parties share the understanding that HHRTF plays a major role in the NH Children's Behavioral Health System of Care and both parties will support a treatment landscape consistent with the core principles and values set forth below.

#### **Core Principles:**

- Widen access to treatment for all who need it, whether served voluntarily or involuntarily, enabling all children and youth to access necessary services.
- Build and nurture a workforce of skilled clinicians and staff dedicated to healing individuals with complex and acute needs.
- Prioritize short-term treatment with the goal of rapidly reunifying children with their families and/or community support networks.
- Reduce reliance on hospital emergency departments and reduce the need for future psychiatric hospitalization.
- Provide services that are trauma-informed and use evidence-based practices to ensure the highest quality of care and the best possible outcomes for youth and children.
- Ensure treatment is available along a continuum of care that delivers tailored treatment plans for each child according to their individual needs, and at a range of different levels of intensity.
- Coordinate effectively and seamlessly with key partner entities, which may include, but are not limited to, the Care Management Entities (CME), the child's school district, family and permanency teams and the Department's Division for Children, Youth, and Families (DCYF) staff to deliver treatment according to System of Care values (outlined below).
- Adhere to Six Core Strategies for Reducing Seclusion and Restraint Use, a therapeutic framework and a means to reduce the aversive and traumatizing use of restraining and secluding children.
- Cultivate strong community networks around youth and children to support long-term thriving in community settings after discharge.

<b>System of Care Core Values</b>	
<b>Family Driven and Youth Driven</b>	Youth and Family driven, with the strengths and needs of the child and family determining the types and mix of services and supports provided. Family and Youth is the core of the work. Youth and Families take a leadership role at the individual service delivery level as well as policy, planning and system levels.
<b>Community Based</b>	Whenever possible, services are provided at the community level with the youth and family in their home and community. Services provided also include, system management, resting within a supportive, adaptive infrastructure of structures, processes, and relationships at the community level.

<b>Culturally and Linguistically Competent</b>	Culturally and linguistically competent, with agencies, programs, and services that reflect the cultural, racial, ethnic, and linguistic differences of the populations they serve to facilitate access to and utilization of appropriate services and supports.
<b>Trauma Informed</b>	Treatment and support services are delivered in a manner that is Trauma-Informed using the 6 core principles of a trauma-informed approach: 1) Safety; 2) Trustworthiness and Transparency; 3) Peer Support; 4) Collaboration and Mutuality; 5) Empowerment, Voice and Choice; and 6) Cultural, Historical, and Gender Issues.

**EXHIBIT C**

**Lease Agreement**

**(See attached)**



## HOSPITAL LEASE AGREEMENT

This HOSPITAL LEASE AGREEMENT ("Lease") is made and effective this \_\_\_\_ day of \_\_\_\_\_, 2025 ("Effective Date"), by and between the NEW HAMPSHIRE DEPARTMENT OF HEALTH AND HUMAN SERVICES ("Landlord"), and MARY HITCHCOCK MEMORIAL HOSPITAL, a New Hampshire not for profit corporation ("Tenant").

### RECITALS

#### WHEREAS:

A. Landlord is a State of New Hampshire agency whose mission is to join communities and families in providing opportunities for citizens of the State of New Hampshire to achieve health and independence; and

B. In order to ensure that the State of New Hampshire's most vulnerable children and young adults continue to have access to acute psychiatric and residential treatment services, on or around June 8, 2022, Landlord acquired certain land and improvements located at 218 East Road, Hampstead, New Hampshire (the "Land"), as more particularly described on Exhibit A; and

C. The Land includes a hospital building (including without limitation all fixtures, building systems, windows, entrances and exits, stairs, ramps, sidewalks, loading docks, and such other improvements located within or upon or exclusively serving the building) consisting of approximately 89,038 square feet that is depicted on Exhibit B as the "Existing HHRTF" and that is commonly known as Hampstead Hospital and Residential Treatment Facility ("Hospital" or "Premises"); and

D. Landlord operated the Hospital for two years, and during that time, Landlord witnessed the benefits of partnering with other health care and clinical providers to improve the delivery of care at the Hospital; and

E. Tenant is a nonprofit teaching hospital and health care provider whose charitable purposes include improving the health of the communities it serves and the residents of the State of New Hampshire; and

F. Tenant is a member of the Dartmouth Health System, New Hampshire's largest provider of mental and behavioral health services and a national leader in innovative mental health programming; and

G. Landlord and Tenant contracted for Tenant to provide clinical services at the Hospital commencing on July 1, 2024; and

H. In the months since Tenant assumed responsibility for the delivery of clinical care at the Hospital, the quality of psychiatric and mental health services at the Hospital has improved and the relationship between Landlord and Tenant strengthened; and

I. Landlord and Tenant believe that Tenant's assumption of greater responsibility regarding the management and operation of the Hospital will further improve the services offered to the children and young adults seeking care and treatment at the Hospital; and

J. On November 25, 2024, Landlord and Tenant entered into an Operations Transfer and Asset Purchase Agreement (the "OTA"), where, among other things, Landlord agreed to transfer and sell

and Tenant agreed to assume and purchase substantially all of the assets of the Hospital and enter into a lease of the Hospital; and

K. Subject to the terms hereof and pursuant to the OTA, Tenant desires to lease the Hospital from Landlord and Landlord desires to lease the Hospital to Tenant; and

L. Landlord and Tenant desire to establish a rental amount for the Hospital that is consistent with fair market value and does not take into account any referrals or other business between the parties; and

M. Landlord and Tenant intend to comply with the safe harbor provisions under the Medicare Anti-Kickback Statute established by the U.S. Department of Health and Human Services, Office of Inspector General, for space rental agreements, 42 C.F.R. § 1001.952(b).

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, it is agreed:

**1. Grant of Lease.**

- a. Premises. Upon the terms provided herein, Landlord leases to Tenant and Tenant leases from Landlord the Premises. The Premises includes the Hospital building and all of the space therein. The Premises are being leased in their present condition, AS IS, WITHOUT REPRESENTATION OR WARRANTY by Landlord except as otherwise expressly set forth in this Lease or in the OTA. Except as expressly set forth in this Lease, Landlord shall have no obligation to perform any alterations or to make any improvements to the Premises to prepare them for Tenant's occupancy.
- b. Project. The Premises is located on Land that may be improved from time-to-time with other buildings and improvements. The term "Project" means the Premises and any buildings and improvements now or hereafter located upon the Land or its appurtenances, along with the Common Areas. The YDC Facility (defined below), once completed, will be considered part of the Project.
- c. Common Areas. Tenant shall have the non-exclusive right to use in common with Landlord and other tenants in the Project, subject to the rules and regulations referred to in Section 19, those portions of the Project other than the Premises which are provided, from time to time, for Tenant's sole use or for use in common by Landlord, Tenant and any other tenants of the Project including, without limitation, driveways, entrances, exits, parking areas, sidewalks, greenspace, landscaped areas, and recreational areas (such areas are collectively referred to herein as the "Common Areas"). By way of example and not limitation, Common Areas shall include driveways, entrances, exits, parking areas, sidewalks, greenspace, landscaped areas, and recreational areas located outside the Premises used solely by Tenant prior to the operation of the YDC Facility (as defined below). Tenant shall have the right to use portions of the Common Areas (with Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed), to provide outdoor therapy services to patients of the Hospital, to provide employees with an outdoor break area, and for any other purpose that is reasonably necessary for the Hospital to operate in a manner consistent with past practices.

2. **Initial Term; Renewal Terms.**

- a. This Lease shall be for a term (hereinafter referred to as the "Initial Term") of seven (7) years commencing on the Effective Date (the "Commencement Date") and terminating on the day immediately preceding the seventh (7<sup>th</sup>) anniversary of the Commencement Date, at 11:59 p.m., local time.
- b. Tenant shall have the option to renew this Lease for three (3) successive renewal terms of five (5) years each (each a "Renewal Term"), provided that (i) this Lease is in full force and effect, (ii) no default or event of default shall have occurred and be continuing (either at the time of exercise or at the commencement of the Renewal Term), and (iii) Tenant shall be in occupancy of the Premises (any of which conditions described in clauses (i), (ii), and (iii) (collectively, the "Renewal Conditions") may be waived by Landlord at any time in Landlord's sole discretion), and (iv) that the terms applicable to the Renewal Term, including the Base Rent, are approved by the Governor and Executive Council of the State of New Hampshire (collectively, "State Approval"). Tenant shall provide Landlord with written notice of its intent to renew this Lease at least twenty-four (24) months prior to the expiration of the Initial Term, or, if applicable, twelve (12) months prior to the expiration of any Renewal Term then in effect. In the event Tenant exercises a Renewal Term, and provided the Renewal Conditions are satisfied, Landlord shall use good faith efforts to secure State Approval of the Renewal Term and the terms and conditions associated with the Renewal Term. In the event Tenant does not timely exercise a Renewal Term and satisfy the Renewal Conditions, or the State Approval is not secured, Tenant shall forfeit its right to renew this Lease and this Lease shall terminate at the conclusion of the Initial Term or the applicable Renewal Term then in effect. The Initial Term, together with any Renewal Terms shall be referred to herein as the "Term".
- c. Any renewal of this Lease shall be upon the same terms and conditions as are set forth herein, except that Base Rent during any Renewal Term shall be a rate equal to the fair market base rental rate then in effect for facilities similar in design and size and located in similar communities within the United States based upon the current and bona fide market rates being offered in "arm's length" transactions at the time that each Renewal Term is to commence ("Fair Market Rental Rate"). When establishing the Fair Market Rental Rate, the Qualified Appraisers (defined below) shall take into account any Capital Improvements funded by Landlord and Tenant during the Term, along with any capital commitments that will be made by Landlord and Tenant, as contemplated by Section 8. f., during the Renewal Term.
- d. For purposes of determining the Fair Market Rental Rate for the Premises, Landlord and Tenant agree to use the following process. Within fifteen (15) days after receipt of Tenant's notice exercising a Renewal Term, Landlord and Tenant will mutually select a commercial real estate appraiser who holds a Member Appraisal Institute (MAI) designation from American Institute of Real Estate Appraisers and who has no less than five (5) years' experience appraising hospitals or health care facilities ("Qualified Appraiser"). The mutually selected Qualified Appraiser shall be responsible for establishing the Fair Market Rental Rate. If Landlord and Tenant are unable to agree upon a Qualified Appraiser within the time period set forth in this subsection, or if Landlord or Tenant are not satisfied with the opinion of the mutually selected Qualified Appraiser, the parties agree to the process below.

- e. Within fifteen (15) business days after Landlord and Tenant have been unable to agree upon a Qualified Appraiser, or, as applicable, within fifteen (15) days after the selected Qualified Appraiser issues his or her report and Landlord or Tenant objects to the results of the report, Landlord and Tenant shall each appoint a Qualified Appraiser to establish the Fair Market Rental Rate. In the event either party fails to appoint a Qualified Appraiser on or before the day specified in the preceding sentence, the person appointed as the Qualified Appraiser may appoint another Qualified Appraiser to represent the party having failed to appoint an appraiser within ten (10) days after the expiration of such period. The two appraisers appointed in either manner shall then proceed to appraise the Premises and jointly determine the Fair Market Rental Rate, and their decision shall be binding on the parties. In the event of their inability to reach a determination of the Fair Market Rental Rate within fifteen (15) days after their appointment, the two appraisers shall select a third Qualified Appraiser. The third Qualified Appraiser shall appraise the Premises within fifteen (15) days after his or her appointment to determine the Fair Market Rental Rate. In such event, the third Qualified Appraiser shall select the Fair Market Rental Rate determination that is closest to his/her determination. Landlord and Tenant agree to be bound by the determination of the Fair Market Rental Rate of the Premises by the appraisers. The rental rate escalator that will be applied to the Fair Market Rental Rate shall be evaluated simultaneously at the time when the parties attempt to establish the Fair Market Rental Rate using the process described above.
- f. Each party shall be responsible for the fees and disbursements of its appraiser and attorneys, and the parties shall share equally the fees and disbursements of the mutually selected appraiser and the third appraiser.

3. **Rent.**

- a. **Base Rent.** Beginning on the Commencement Date, Tenant shall pay annual Base Rent in the amount of One Million One Hundred Fifty-Seven Thousand Four Hundred Ninety Four Dollars (\$1,157,494) (the "**Base Rent**") in equal monthly installments as set forth in the schedule below, in advance, beginning on the Commencement Date and on the first day of each subsequent month during the Term. Base Rent for any period less than a calendar month shall be prorated according to the fraction which the number of days in such period bears to the actual number of days in such month. Base Rent shall be increased on the anniversary of the Commencement Date in each year of the Term by two- and one-half percent (2 ½ %) in accordance with the following schedule.

<u>Year</u>	<u>Per Square Foot</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>
1	\$13.00	\$1,157,494.00	\$96,457.83
2	\$13.33	\$1,186,431.35	\$98,869.28
3	\$13.66	\$1,216,092.13	\$101,341.01
4	\$14.00	\$1,246,494.44	\$103,874.54
5	\$14.35	\$1,277,656.80	\$106,471.40
6	\$14.71	\$1,309,598.22	\$109,133.18
7	\$15.08	\$1,342,338.17	\$111,861.51

b. Additional Rent. Beginning on the Commencement Date, Tenant shall pay to Landlord during the Initial Term as "Additional Rent," Tenant's Proportionate Share (defined below) of Operating Expenses (defined below), Taxes (defined below) and Insurance (defined below) as set forth below, together with all other sums due to Landlord pursuant to this Lease. The Base Rent and Additional Rent (which term shall mean and include all amounts required to be paid by Tenant to Landlord pursuant to this Lease other than Base Rent) are sometimes referred to herein as "Rent".

i. For the purposes of this Section 3.b and as used elsewhere in this Lease, the following terms are defined as follows:

1. "Tenant's Proportionate Share" means a fraction, the numerator of which is the number of square feet of the Premises leased to the Tenant and the denominator of which is the total number of square feet within the Premises and other buildings constructed on the Project, as reasonably determined by Landlord. Tenant's Proportionate Share is initially 100%, and will remain 100% with respect to any Common Areas dedicated to the sole and exclusive use or benefit of the Premises.
2. "Operating Expenses" means all costs, expenses, and obligations incurred or payable by or on behalf of Landlord in connection with the operation, management, repair, service or maintenance of the Common Areas. There shall be excluded from Operating Expenses (i) the original capital costs of the Common Areas and the original equipment serving the same, (ii) the capital costs of improvements, replacements, additions and alterations of the Common Areas and/or the capital costs for any expansion or remodeling of the Common Areas (except as expressly permitted herein), (iii) the cost of any repairs, replacements or other improvements made for the exclusive use of any other occupant within the Project, (iv) the cost of any repairs, replacements or other improvements made as a result of any damage caused by Landlord, including, without limitation, any damage to the Common Areas caused by Landlord, its agents, employees or contractors performing work on the YDC Facility, (v) the cost of repairs, replacements or other work covered and reimbursed by insurance or warranties, (vi) the cost of any work or services performed prior to the Commencement Date, (vii) administrative charges, and leasing commissions, (viii) expenses related to or reimbursable by an individual occupant of the Project or to a particular occupant's space, (ix) reserves for repairs or replacements, (x) costs incurred for repairs or replacements due to faulty construction or workmanship or due to the utilization of improper equipment or materials, (xi) costs and interest thereon related to violations by Landlord or any other occupant of the Project of any governmental law, rule, regulation or order (including, without limitation, all environmental laws and regulations), unless the violation(s) are caused by Tenant, Tenant's Affiliates, or any of their respective employees, patients, agents, contractors, or invitees, (xii) costs associated with maintaining, repairing, and improving any excess Land that is not reasonably necessary to support the Project, (xiii) advertising and promotional expenditures, and seasonal decorations, (xiv) principal and

interest payments related to any financing of the Project, and (xv) costs incurred in connection with any environmental clean-up or remediation of Hazardous Materials (as defined herein) unless caused by the act or omission of Tenant, Tenant's Affiliates, or any of their respective employees, patients, agents, contractors, or invitees.

3. "Insurance" means the aggregate costs and expenses incurred by Landlord with respect to the insuring of the Premises and the Project.
  4. "Taxes" means all taxes, assessments and fees levied upon the Project by any governmental entity based upon the ownership (other than Property Taxes), leasing, renting or operation of the Project, or any payments made by Landlord in lieu thereof. Taxes shall not include any federal, state or local net income, capital stock, succession, transfer, replacement, gift, estate or inheritance taxes, or Property Taxes (as hereinafter defined), which are specifically addressed in Section 11; provided, however, if at any time during the Term, a tax or excise on income is levied or assessed by any governmental entity in lieu of or as a substitute for, in whole or in part, Property Taxes, such tax shall constitute and be included in Taxes.
- ii. Prior to the Commencement Date, Landlord shall provide Tenant with a written estimate of Tenant's Proportionate Share of Operating Expenses, Taxes and Insurance for the Project for the remaining calendar year. Prior to the commencement of each calendar year of the Term following the Commencement Date, Landlord shall provide Tenant with a written estimate of Tenant's Proportionate Share of Operating Expenses, Taxes and Insurance for the Project for the ensuing calendar year. Tenant shall pay such currently estimated amount to Landlord in equal monthly installments, in advance, on the first day of each month.
  - iii. Landlord may allocate any item of Operating Expenses and Insurance that benefits multiple buildings at the Project among such buildings, in Landlord's reasonable discretion. Landlord may allocate any item of Operating Expenses and Insurance among different portions or occupants of the Project based on use or other considerations as determined by Landlord in Landlord's reasonable discretion. Landlord may allocate Taxes incurred with respect to multiple buildings on the Project among such buildings, in Landlord's reasonable discretion.
  - iv. Upon the commencement of operations of the YDC Facility (defined below), Landlord will equitably adjust Tenant's Proportionate Share in order to reasonably allocate Operating Expenses, Insurance, and Taxes, if any, between the Premises and the YDC Facility.
- c. Financial Reporting. Within one hundred twenty (120) days following the end of each calendar year, Landlord shall reconcile the estimated Operating Expenses, Insurance, and Taxes paid by Tenant throughout the year with the actual amount of Operating Expenses, Insurance, and Taxes incurred by Landlord for the year and issue a written report to Tenant with the results of Landlord's reconciliation. The report will show any overpayment or underpayment by Tenant throughout the year and describe Tenant's estimated Proportionate Share of Operating Expenses, Insurance, and Taxes for the following year.

Tenant may not refrain from payment pending receipt of any such report. If the report reveals an overpayment by Tenant for the previous calendar year, the overpayment shall be promptly refunded to Tenant. If the report reveals an underpayment by Tenant, the underpayment shall be paid by Tenant with the next installment of monthly Base Rent then due. Within thirty (30) days after Tenant's request, Landlord shall provide Tenant with any supporting documentation (e.g., invoices, receipts, etc.) needed to substantiate the cost of any Operating Expenses, Insurance and Taxes listed in any annual report. To the extent that Tenant is unable to substantiate any costs outlined in an annual report, or Tenant discovers a discrepancy in an annual report, Landlord and Tenant will work together in good faith to resolve the issue in a fair and equitable manner.

- d. Triple Net Lease. This Lease is a triple net lease and Tenant's obligations arising or accruing during the Term of this Lease to pay Base Rent and Additional Rent shall be absolute and unconditional (except as otherwise expressly provided in this Lease, including, without limitation, with respect to Landlord's Cost Sharing Commitment for Capital Improvements as described in Section 8), and Tenant shall pay all amounts required to be paid by Tenant under this Lease as set forth in the Lease without notice, demand, counterclaim, set-off, deduction, defense, abatement, suspension, deferment, diminution, or reduction, and free from any charges, assessments, impositions, expenses, or deductions of any and every kind and nature whatsoever, except as expressly provided in this Lease. Except as otherwise expressly provided in this Lease (including with respect to Landlord's Cost Sharing Commitment for Capital Improvements as described in Section 8), throughout the Lease Term, as the same may be extended, one hundred percent (100%) of any and all costs, expenses (operational, or otherwise), and obligations of every kind and nature whatsoever relating to the Premises, and/or the use and occupancy thereof, that may arise or become due during the Term (whether or not such costs, expenses, and obligations shall become payable during the Term or thereafter) shall be paid by Tenant (including, without limitation, all real estate taxes, insurance premiums, electricity, gas, water, sewer, telephone, refuse disposal, security, janitorial, waste disposal, and other charges for any similar utilities and/or services supplied to the Premises, all costs related to complying with and causing the Premises to comply with any and all existing and/or future laws, and all costs of maintaining and repairing the Premises). Except as otherwise expressly provided in this Lease, Tenant assumes the sole responsibility during the Lease Term, as the same may be extended, for the condition, use, operation, repair, maintenance, replacement of the Premises.
- e. Rent Credit for Appraisal. Tenant shall receive a credit against Base Rent in the amount of one-half (1/2) of the VMG Health invoiced costs incurred by Tenant for appraisal and consulting services provided by VMG Health in connection with the valuation of the assets contemplated by the OTA and the lease of the Premises described herein (the "Appraisal Rent Credit"). Tenant shall provide Landlord with copies of all such VMG Health invoices and satisfactory proof of payment thereof, and the Appraisal Rent Credit shall be applied to the monthly installment of Base Rent next due until fully exhausted.

4. Security Deposit. Tenant shall not be required to deposit a security deposit with Landlord.

5. **Use.** Tenant shall use the Premises solely as an inpatient and outpatient behavioral health and substance abuse treatment facility for the provision of behavioral health services and activities related thereto, at all times in strict accordance with the requirements and standards set forth on Exhibit C attached thereto (the "Permitted Use"). Landlord and Tenant agree that the Permitted Use outlines Landlord's expectations on the type of services that will be provided within the Premises, although the parties agree that certain operational decisions have been delegated to a committee made up of representatives from Landlord and Tenant (the "Committee") under that certain Joint Operating Committee Agreement dated on or about the date hereof ("JOC Agreement"). If required by applicable law, Tenant, at Tenant's expense, shall be responsible for obtaining a certificate of occupancy for the entire Premises, in Tenant's name as listed in the first paragraph of this Lease, and any other governmental licenses, certificates, permits and approvals required for Tenant's use and occupancy of the Premises prior to the Commencement Date of this Lease.
6. **Access To the Premises.** Tenant and its employees and agents shall have access to the Premises and be permitted to operate in the Premises on and subject to the terms and conditions set forth herein, on a twenty-four (24) hour / three hundred and sixty-five (365) day basis, except in the case of emergency and/or casualty rendering the Premises or the access thereto unsafe, unadvisable or impractical.
7. **Utilities/Services.** During the Term, all utilities exclusively serving the Premises shall be placed in Tenant's name and Tenant shall pay for all utility services provided to the Premises, including, without limitation, electricity, gas, water, sewer and telephone service, directly to the provider of the utility service. If any utility is not separately metered to the Premises, the cost of such utility consumed on the Premises, as reasonably determined by Landlord, shall be paid by Tenant as Additional Rent. Unless due to the negligence or willful misconduct of Landlord or its agents, employees or contractors, Landlord shall not be liable to Tenant as a result of a disruption of any utility service to the Premises and any such disruption shall not relieve Tenant from its obligations and liabilities under this Lease, and shall not be construed as an eviction of Tenant, actual or constructive; provided if any utility service to the Premises is disrupted due solely to the negligence or willful misconduct of Landlord or its agents, employees or contractors, to such an extent that Tenant cannot, in its reasonable judgment, operate its business in the Premises for a period of more than forty-eight (48) consecutive hours, then Base Rent shall abate during the entire period of such disruption as Tenant's sole and exclusive remedy for such disruption.
8. **Capital Commitments to Modernize and Improve the Hospital.**
  - a. **Statement of Purpose.** Landlord and Tenant agree that improving the quality of care at the Hospital is one of the reasons Landlord has agreed to transition operations to Tenant pursuant to the terms of the OTA and this Lease. The parties believe that making certain Capital Improvements to the Hospital will improve the environment of care and the quality of services offered to the children and young adults seeking care and treatment at the Hospital. Landlord and Tenant desire to memorialize their intent to fund the cost of certain Capital Improvements in order to modernize and improve the Hospital during the Initial Term. The term "Capital Improvements" means any alterations, improvements, modifications, renovations, repairs, replacements, or upgrades to the Premises, including, without limitation, fixtures thereto, which, under generally accepted accounting principles (GAAP), should be capitalized for financial reporting purposes.



- b. Tenant's Commitment to Make Capital Improvements. In connection with Tenant's commitment to improve the environment of care within the Hospital, Tenant shall expend at least Three Million Dollars (\$3,000,000) in the making of Capital Improvements during the Initial Term ("Tenant's Initial Capital Commitment"). Tenant intends to use the funds allocated in Tenant's Initial Capital Commitment to make some of the alterations, improvements, modifications, renovations, repairs, replacements, or upgrades described in Tenant's preliminary improvement plan that is set forth on Exhibit D attached hereto titled "Preliminary Improvement Plan", to the extent they qualify as Capital Improvements (the "Planned Capital Improvements"). Within twelve (12) months after the Effective Date, Tenant will provide to Landlord a Capital Improvement Notice pursuant to Section 8.e, below for approval of Planned Capital Improvements that Tenant intends to perform. In addition to the Planned Capital Improvements, Tenant may, throughout the Term, perform other Capital Improvements, as needed or required, in accordance with and subject to the terms of this Lease (including without limitation Section 9.a), that will be funded by Tenant's Initial Capital Commitment. Tenant anticipates that Tenant's Initial Capital Commitment may not cover the cost of completing all Planned Capital Improvements and other Capital Improvements that may be needed throughout the Term. In recognition of the potential significant cost of completing the Planned Capital Improvements at the Hospital, and the fact that Tenant's Renewal Terms are subject to State Approval (as opposed to options that can be unilaterally exercised), once Tenant has satisfied Tenant's Initial Capital Commitment, if Tenant elects with Landlord's approval to make additional Capital Improvements, Landlord and Tenant will share in the cost of any additional Capital Improvements as outlined in Section 8.d, below. Notwithstanding anything to the contrary contained herein, in the event that this Lease is terminated for any reason whatsoever other than Tenant's default or breach, including a termination pursuant to Section 20 (Damage and Destruction), Tenant's obligation to satisfy Tenant's Initial Capital Commitment shall immediately terminate and be of no further force and effect.
- c. Landlord's Commitment to Make PRTF Renovations. In connection with Landlord's commitment to improve the environment of care within the Hospital, Landlord has received all of the funding necessary to complete the PRTF Renovations described in Section 25. The PRTF Renovations are estimated to cost approximately Three Million Dollars (\$3,000,000). Landlord, at its sole cost and expense, shall substantially complete the PRTF Renovations, in accordance with Section 25, on or before June 30, 2026.
- d. Cost Sharing of Additional Capital Improvements. Tenant anticipates that its Initial Capital Commitment may not be sufficient to address all of the Capital Improvements needed at the Hospital throughout the Term. Once Tenant has satisfied Tenant's Initial Capital Commitment in full, and provided Tenant has complied with the process outlined in Section 8.e, Landlord will reimburse Tenant for one-half (1/2) of the cost incurred by Tenant with respect to any additional Capital Improvements up to a maximum contribution by Landlord of Three Million Dollars (\$3,000,000) during the Initial Term ("Cost Sharing Commitment"). Landlord's Cost Sharing Commitment will be satisfied in the form of a credit towards Base Rent during the Initial Term. By way of example, if in year two of the Initial Term, Tenant has spent Tenant's Initial Capital Commitment, and Tenant elects to make Capital Improvements that are approved by Landlord in the amount of \$1,000,000, Landlord's Cost Sharing Commitment will apply and Tenant will be entitled to a rent abatement equal to \$500,000 that will be applied each month to Tenant's obligation to pay Base Rent until the Cost Sharing Commitment has been satisfied in full. In the event that

an insufficient period of time remains during the Initial Term for Tenant to benefit from an abatement of Base Rent to satisfy Landlord's Cost Sharing Commitment, Landlord will reimburse Tenant for any unfunded portion of the Cost Sharing Commitment upon the expiration or termination of this Lease. Once Landlord has satisfied its Cost Sharing Commitment, Tenant will be responsible, at its sole cost and expense, for funding the cost of any additional Capital Improvements to the Hospital during the Initial Term. In the event this Lease expires or terminates for any reason whatsoever and Tenant has not been reimbursed by Landlord for Landlord's share of any Capital Improvement, Landlord's obligation to reimburse Tenant shall survive the termination or expiration of this Lease.

- e. Approval of Capital Improvements. Prior to incurring the cost of any Capital Improvement which will be applied to Tenant's Initial Capital Commitment or for which Tenant is seeking reimbursement from Landlord's Cost Sharing Commitment, Tenant shall obtain Landlord's prior written consent following written notice to Landlord indicating the proposed Capital Improvement, reasonably detailed plans and specifications related thereto, and the reasonably estimated cost to make such Capital Improvement (a "Capital Improvement Notice"), which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that Tenant shall not be required to obtain Landlord's prior written consent or provide a Capital Improvement Notice for any Emergency Capital Improvement unless the cost thereof exceeds \$50,000. "Emergency Capital Improvement" means any unplanned Capital Improvement due to the unexpected failure of any Capital Improvement which prevents Tenant from operating all or a material portion of the Hospital for its Permitted Use. If Landlord believes that any such Capital Improvement is not necessary, or alternative repair/replacement is reasonably sufficient in lieu of such Capital Improvement, the parties shall retain an independent qualified engineer or consultant, who is mutually acceptable to the parties, to determine whether such Capital Improvement is reasonably necessary or advisable, and such engineer's or consultant's determination shall be final and binding on Landlord and Tenant. The cost of such engineer or consultant shall be shared equally by Landlord and Tenant. Tenant shall have the right to self-perform any Capital Improvement by using its own employees, provided that the cost thereof shall not exceed the reasonably competitive rates for such service charged by third-party contractors in the area where the Hospital is located and Tenant does not charge Landlord a mark-up of its actual costs. All Capital Improvements will be treated as Alterations under this Lease and will be subject to Landlord's review and approval in accordance with Section 10. The cost of all approved Capital Improvements will first be paid by Tenant and the cost deducted from Tenant's Initial Capital Commitment. Once the Initial Capital Commitment has been spent, the cost of any approved Capital Improvements will be subject to the cost sharing provisions set forth in Section 8.d., above. At Landlord's request, Tenant will provide Landlord with supporting documentation evidencing the cost of any Capital Improvements.
- f. Capital Improvements During Renewal Terms. If Tenant elects to exercise a Renewal Term, at the time Tenant delivers notice to Landlord, Tenant shall provide Landlord with a summary of any Capital Improvements that Tenant anticipates will be reasonably necessary over the Renewal Term. With Tenant's notice exercising any Renewal Term, Tenant shall indicate whether Tenant will make any capital commitments during the Renewal Term and whether Tenant will be asking Landlord to make capital commitments during the Renewal Term. If the parties agree as to capital commitments to be made by Tenant and Landlord during the Renewal Term, the concepts outlined in Tenant's renewal

notice will be taken into account when establishing the Fair Market Rental Rate applicable to the Renewal Term in accordance with Section 2.

9. Repairs.

- a. Tenant Repairs. Tenant, at Tenant's sole cost and expense; shall perform all repairs, maintenance and replacements required to keep the Premises clean, safe and in good working order and condition and suitable for the Permitted Use, whether structural or non-structural, foreseen or unforeseen, and shall perform any repairs, alterations, additions or improvements to the Premises to meet applicable state, federal and local code requirements relating to the Hospital (including, but not limited to, Life Safety Code, National Fire Protection Association, and Americans with Disability Act, as amended), except Landlord shall be responsible for performing any maintenance, repairs or replacements that are Landlord's express responsibility under this Lease. Without limiting the generality of the foregoing, Tenant acknowledges that Tenant's obligations under this Section include the maintenance, repair and replacement of structural support, mechanical systems, and such additional maintenance of the Premises as may be necessary because of damages by all persons other than Landlord and its directors, officers, employees, agents, and affiliates. All such repairs and replacements required to be made by Tenant pursuant to the terms of this Section shall be made in a good and workmanlike manner utilizing materials and workmanship of high quality and in compliance with all applicable laws. Landlord shall use reasonable efforts to enforce all warranties issued by third parties that are related to portions of the Premises to be maintained by Tenant under the terms of this Section 9.a., including, without limitation, warranties issued by manufacturers, suppliers, contractors and subcontractors. In addition, each of Landlord and Tenant shall use reasonable efforts to ensure that any warranties that are related to portions of the Premises to be maintained by Tenant under the terms of this Section 9.a., run to the benefit of (and are enforceable by) both Landlord and Tenant.
- b. Landlord Repairs. Landlord shall, at Landlord's sole cost and expense (which may not be passed through to Tenant as Operating Expenses, or otherwise), (i) correct any failures or patent or latent defects in the construction of the Premises constructed or installed by Landlord; and (ii) repair any damage beyond reasonable wear and tear to the Premises to the extent caused by or on behalf of Landlord, Landlord's affiliates, employees, agents, contractors or representatives. Landlord shall maintain and keep the Common Areas serving the Premises clean, safe and in good working order, and in compliance with applicable laws, the cost of which shall be included as a part of Operating Expenses, provided that Landlord shall have no obligation to make any repairs unless Landlord has first received written notice of the need for such repairs from Tenant. Notwithstanding the foregoing, any damage to Common Areas occasioned by the negligence or willful act of Tenant, Tenant's Affiliates, or any person claiming under Tenant, or contractors, agents, patients, employees, invitees or visitors of Tenant, Tenant's Affiliate or any such person, shall be repaired by and at the sole expense of Tenant, except that Landlord shall have the right, at its sole option, to make such repairs and to charge Tenant for all costs and expenses incurred in connection therewith and Tenant shall pay the cost therefor as Additional Rent upon demand. All such repairs, replacements, alterations, additions and improvements required to be made by or on behalf of Landlord shall be made in a good and workmanlike manner utilizing materials and workmanship of high quality and in compliance with all applicable laws. Landlord shall also use commercially reasonable efforts to perform all

maintenance, repairs and replacements that are Landlord's responsibility under this Section 9.b. in a manner that does not materially interfere with Tenant's use and enjoyment of the Premises.

- c. Notwithstanding anything to the contrary set forth in Section 9.b., until such time as the YDC Facility has been completed, Tenant, at its cost and expense, shall be responsible for maintaining and keeping those Common Areas needed for the operation and use of the Premises, clean, safe and in good working order, and in compliance with applicable laws. Tenant will not be responsible for maintaining any excess land within the Common Areas that is not reasonably necessary for the operation and use of the Premises. During the time period when Tenant is maintaining the Common Areas, Landlord will not charge Tenant, as an Operating Expense, for the cost of any services needed to maintain the Common Areas, to the extent that Tenant is providing or contracting for the provision of those services in order to maintain the Common Areas. Within ninety (90) days following the date that the YDC Facility opens, Landlord will assume the responsibility for maintaining the Common Areas in accordance with Section 9.b. and Tenant will no longer be responsible for performing any maintenance associated with the Common Areas.
- d. If Tenant fails to maintain the Premises and Common Areas in compliance with the terms hereof Landlord shall have the right to do such acts and expend such funds at the expense of Tenant as are reasonably required and Tenant shall reimburse Landlord for the cost thereof as Additional Rent upon demand.

10. **Alterations and Improvements.** Tenant, at Tenant's expense, shall have the right, upon obtaining the prior written consent of the Landlord (which consent will not be unreasonably withheld, conditioned, or delayed), to alter, remodel, and make additions, improvements and replacements of and to all or any part of the Premises as Tenant may deem desirable (collectively, "Alterations"), provided the same are made in a workmanlike manner and utilizing good quality materials. All plans, designs or models for any such alteration, redecorating, additions, improvements or replacements must be submitted for review and approval of Landlord (which approval will not be unreasonably withheld, conditioned, or delayed) prior to the commencement of any such work or build-out. Notwithstanding the foregoing, Tenant shall have the right to perform non-structural alterations to the interior of the Premises ("Permitted Non-structural Alterations") costing not more than Fifty Thousand Dollars (\$50,000.00) for an individual project or series of related projects in the aggregate without obtaining Landlord's consent, provided that: (i) Tenant shall give Landlord at least fifteen (15) days prior written notice of such Permitted Non-structural Alteration(s); (ii) Tenant shall submit to Landlord plans for such Permitted Non-structural Alteration(s), provided Tenant utilizes plans for such Permitted Non-structural Alteration(s); and (iii) such Permitted Non-structural Alteration(s) do not result in a reduction of patient rooms or any material change in the Permitted Use or the building systems within the Premises. Tenant shall have the right to place and install personal property, trade fixtures, equipment and other temporary installations in and upon the Premises. All personal property, equipment, machinery, trade fixtures and temporary installations, whether acquired by Tenant at the commencement of the Lease Term or placed or installed on the Premises by Tenant thereafter, shall remain Tenant's property except as otherwise set forth in this Lease. Except as otherwise set forth in this Lease, Tenant shall have the right to remove the same at any time during the Term of this Lease provided that all damage to the Premises caused by such removal shall be repaired by Tenant at Tenant's expense.

Landlord may, by written notice to Tenant at the time that Tenant requests consent to any Alterations, require Tenant, at Tenant's expense, to remove such Alterations at the expiration or earlier termination of the Term and repair any damage to the Project caused by such removal. If Tenant fails to complete such removal and/or to repair any damage caused by the removal of such Alterations, then, without limiting Landlord's other rights and remedies, at Landlord's option, Landlord may do so and may charge the cost thereof to Tenant.

11. Property Taxes.

- a. Introduction. Tenant represents that as of the Effective Date, Tenant is organized as a voluntary not for profit corporation under the laws of the State of New Hampshire and Tenant has received a ruling letter from the Internal Revenue Service indicating that Tenant is tax-exempt under Section 501(c)(3) of the Internal Revenue Code, which status furthers and is important to Tenant's ability to fulfill its charitable mission of improving the health of the communities it serves. Under N.H. Rev. Stat. § 72:23 V (the "Charitable Organization Exemption"), buildings, land, and personal property owned, used and occupied by defined "charitable organizations" are exempt from taxes assessed pursuant to N.H. Rev. Stat. Chapter 72 ("Property Taxes"). Under N.H. Rev. Stat. § 72:23 I(a), land, buildings and structures thereon owned and used by the Landlord, as an instrumentality of the State of New Hampshire, are exempt from Property Taxes if not used or occupied by persons other than the state or a city, town, school district, or village district. In order to compensate the Town of Hampstead (the "Town") for certain public services offered to the Project, Landlord represents that Landlord has made voluntary payments in lieu of Property Taxes to the Town pursuant to N.H. Rev. Stat. § 72:23-n prior to the Effective Date, and reserves the right to make additional such voluntary payments subsequent to the Effective Date (each, a "Landlord PILOT"). Under N.H. Rev. Stat. § 72:23 V-a, notwithstanding the lease of the Premises from Landlord to Tenant, the Premises may remain exempt if the Charitable Organization Exemption applies. The purpose of this Section 11 is to memorialize the rights and responsibilities of Landlord and Tenant with respect to Property Taxes.
- b. Statutory Tax Language. Tenant shall pay Property Taxes properly assessed against the Premises (including without limitation on structures and improvements added by the Tenant) directly to the Town no later than the due date. Failure of the Tenant to pay said Property Taxes on or before the due date shall be cause to terminate this Lease by the Landlord. The previous language required by N.H. Rev. Stat. § 72:23 I(b)(1)(A) and N.H. Rev. Stat. § 72:23 I(b)(4) shall in no way be interpreted as an acknowledgement that Tenant is not a charitable organization that qualifies for exemption from Property Taxes or that Tenant is waiving any right to pursue an exemption from Property Taxes under state law, including without limitation the Charitable Organization Exemption, all of which right(s) are expressly reserved by Tenant.
- c. Collaboration on Property Tax Strategy. Landlord and Tenant are committed to fostering a positive relationship with the Town, notwithstanding the exemptions from Property Taxes under New Hampshire law that may be available to each. Throughout the Term of the Lease, Landlord and Tenant agree to work together in good faith on a Property Tax strategy for the Premises that balances the interests of the Town and the interests of Landlord and Tenant. In the event the parties are unable to agree upon a Property Tax strategy, either

party may pursue their own Property Tax strategy within the framework outlined in this Section 11.

- d. Tenant's Right to Pursue Tax Exemption. Tenant shall be permitted to pursue a Charitable Organization Exemption or any other exemption from Property Taxes for the Premises. To the extent that Tenant elects to pursue an exemption from Property Taxes, Landlord will not take any action to oppose Tenant's pursuit of an exemption. To the extent that Tenant secures an exemption from Property Taxes for the Premises, Landlord will not take any willful action to intentionally jeopardize the exemption.
- e. Tenant's Right to Contest Tax Matters. To the extent permitted by and in accordance with applicable law, Tenant may contest Property Taxes assessed against the Premises and applicable to the Term, including, without limitation, the amount, the assessed value, validity, and any denial of any Property Tax exemption sought by Tenant, by appropriate legal proceedings, diligently pursued provided that: (i) Tenant makes all such contested payments (which may be made by Tenant under protest if Tenant so desires) or bond over such payments (if permitted by law) before they become delinquent; (ii) neither the Premises nor the Project nor any part thereof nor any interest therein is placed in any danger of being sold, forfeited, lost or interfered with by virtue of any such contest; (iii) Tenant has furnished such security, if any, as may be required in the said contest proceedings; and (iv) all expenses (including, without limitation, any fees, penalty or interest) which are assessed or incurred in connection with or as a result of any such proceedings are paid by Tenant. Any such contest as to the validity or amount of any Property Tax, or assessed valuation on which such Property Tax was computed or based, whether before or after payment, may be made by Tenant in the name of Tenant, or, if required by law, in the name of Landlord or both Landlord and Tenant, and Landlord agrees that it will cooperate with Tenant in any such contest to such extent as Tenant may reasonably request, it being understood, however, that Landlord shall not be subject to any liability for the payment of any costs or expenses in connection with any proceeding brought by Tenant.
- f. Landlord PILOT. A Landlord PILOT will not be passed through to Tenant under this Lease unless the Landlord PILOT was made for an assessment period that falls within the Term of this Lease; provided, however, Tenant will not be responsible for paying any Landlord PILOT if (a) Tenant is paying Property Taxes for the same assessment period as the Landlord PILOT, (b) Tenant is making a Tenant PILOT (defined below) for the same assessment period, or (c) the Premises is exempt from Property Taxes and Tenant elects not to make a Tenant PILOT. To the extent that Tenant is responsible for a portion of a Landlord PILOT, Landlord shall notify Tenant of the amount of the Landlord PILOT, the assessment period for which the Landlord PILOT applies, and a calculation of Tenant's share of the Landlord PILOT. Such Landlord PILOT will be prorated between Landlord and Tenant based on the number of days in which Tenant leased the Premises during the assessment period for which the Landlord PILOT was made. Upon receipt of written notice of a Landlord PILOT, Tenant will have thirty (30) days to reimburse Landlord for its prorated share of such Landlord PILOT. Any portion of the Landlord PILOT that is paid by Tenant shall not be deemed an admission that Tenant is an entity responsible for paying Property Taxes, that Tenant is waiving any right that it may have to pursue an exemption from Property Taxes under state law, including without limitation, the Charitable Exemption, or that Tenant no longer qualifies for an exemption from Property Taxes with respect to other property owned by Tenant.

- g. Tenant PILOT. Tenant may elect to make voluntary payments in lieu of Property Taxes to the Town with respect to the Premises pursuant to N.H. Rev. Stat. § 72:23-n (each, a "Tenant PILOT").
- h. Separate Tax Parcels. The Project is currently considered a single parcel for Property Tax purposes. To the extent permitted by law, the parties will work with Property Tax assessing officials to create separate delineated Property Tax parcels for the Premises and the Common Areas, on the one hand, and the YDC Facility and any excess land that is not reasonably necessary to operate the Hospital, on the other hand.
- i. Notice to Assessor. The parties acknowledge that annually during the Term, on or before April 15, the Landlord is required to provide written notice and a copy of this Lease to the assessing officials of the Town.

12. Insurance/Risk.

- a. Landlord's Insurance. During the Term of this Lease and for the applicable statute of limitations thereafter (for which statute of limitations Landlord's liability may be satisfied by Landlord purchasing appropriate "tail" coverage), Landlord shall, at its sole expense, carry and maintain comprehensive general liability insurance on the Premises and the Common Areas with a combined single limit for bodily injury and property damage in an amount sufficient to protect Landlord and Tenant, but in no event will such insurance be in an amount less than a combined single limit of \$1,000,000 per occurrence / \$3,000,000 in the aggregate. Landlord shall also maintain building property and casualty insurance covering the Premises covering "All Risks" of physical loss, for an amount not less than one hundred percent (100%) of the full replacement cost of the Premises. Landlord may provide the insurance herein required in any blanket policy or policies which it carries. At the request of Tenant, Landlord shall furnish appropriate evidence to Tenant of the existence of such insurance and the payment of premiums by Landlord for the Term of this Lease (which are recoverable as Additional Rent pursuant to Section 3.b. of this Lease). Landlord shall designate Tenant as an additional insured on each policy required to be maintained by Landlord. Notwithstanding anything herein to the contrary, Landlord shall have the right to self-insure all or any portion of the amounts of insurance required to be maintained by Landlord hereunder, to the extent of such limits.
- b. Tenant's Insurance. During the Term of this Lease and for the applicable statute of limitations thereafter, Tenant shall, at its sole expense, carry and maintain: (i) comprehensive general liability insurance insuring Tenant against claims for injury, wrongful death, or property damage occurring in the Premises with minimum policy limits \$1,000,000 per claim / \$3,000,000 aggregate on account of bodily injuries or death of one or more persons and property damage insurance, or such greater amounts as Landlord in its reasonable discretion shall from time to time request; (ii) special form (formerly known as "all risk") property insurance on a "replacement cost" basis, insuring all Tenant's personal property located in or affixed to the Premises; (iii) workers' compensation insurance with statutory limits; (iv) employer's liability insurance with the following limits: bodily injury by disease per person One Million Dollars (\$1,000,000); bodily injury by accident policy limit One Million Dollars (\$1,000,000); bodily injury by disease policy limit One Million Dollars (\$1,000,000), or such greater amounts as Landlord in its

reasonable discretion shall from time to time request; (v) business automobile liability insurance including owned, hired and non-owned automobiles, in an amount not less than One Million Dollars (\$1,000,000) combined single limit per occurrence, or such greater amounts as Landlord in its reasonable discretion shall from time to time request; and (vi) business interruption insurance insuring interruption or stoppage of Tenant's business at the Premises for a period of not less than twelve (12) months. Tenant may provide the insurance herein required in any blanket policy or policies which it carries, provided that the amount of coverage allocated to the Premises is pursuant to a "per location" endorsement and shall fulfill the requirements set forth herein. Tenant's insurance shall be primary to, and not contributory with any insurance carried by Landlord, whose insurance shall be considered excess only. Each policy required hereunder shall be non-cancelable and non-amendable with respect to Landlord and Landlord's said designees without thirty (30) days' prior notice. The policies of insurance required to be maintained by Tenant hereunder shall be issued by companies domiciled in the United States and qualified and licensed to conduct business in New Hampshire, and shall be rated A:X or better in the most current issue of Best's Key Rating Guide (or any successor thereto). Tenant's insurance policies shall not include deductibles in excess of commercially reasonable amounts. Upon Landlord's request, Tenant shall designate Landlord as an additional insured on its general liability policy. At the request of Landlord, Tenant shall furnish Landlord with a certificate of insurance reflecting each policy of insurance required to be maintained by Tenant. Notwithstanding anything herein to the contrary, Tenant shall, after notice with documentation of adequate financial responsibility that is reasonably acceptable to Landlord, have the right to self-insure all or any portion of the amounts of insurance required to be maintained by hereunder.

- c. Waiver of Subrogation. Notwithstanding anything herein to the contrary, Landlord and Tenant each hereby waives any and all rights of recovery, claim, action, or cause of action against the other, its agents, employees, licensees, or invitees for any loss or damage to or at the Premises or the Project or any personal property of such party therein or thereon by reason of fire, the elements, or any other cause which is covered, or would have been covered, by the insurance coverages required to be maintained by Landlord and Tenant, respectively, under this Lease, regardless of cause or origin, including omission of the other party hereto, its agents, employees, licensees, or invitees. The parties hereto agree that to the extent commercially available at a reasonable cost to the insured party, any and all such insurance policies required to be carried by either shall be endorsed with a subrogation clause, substantially providing that such party's insurer waives any right of recovery against the other party in connection with any such loss or damage.
- d. Tenant's Risk. Tenant agrees to use and occupy the Premises and to use such other portions of the Project as Tenant is herein given the right to use at Tenant's own risk. Except as expressly set forth in this Lease, Landlord shall not be liable to Tenant, its employees, agents, invitees or contractors for any damage, injury, loss, compensation, or claim (including, but not limited to, claims for the interruption of or loss to Tenant's business) based on, arising out of or resulting from any cause whatsoever, including, but not limited to, repairs to any portion of the Premises or the Project, any fire, robbery, theft, mysterious disappearance and/or any other crime or casualty, the actions of any person or persons, or any leakage in any part or portion of the Premises, or from water, rain or snow that may leak into, or flow from any part of the Premises, or from drains, pipes or plumbing fixtures in the Premises, unless due to the negligence or willful misconduct of Landlord or



Landlord's agents, contractors or employees, or the breach of any obligations, covenants, representation or warranty of Landlord hereunder. Any goods, property or personal effects stored or placed in or about the Premises shall be at the sole risk of Tenant, and neither Landlord nor Landlord's insurers shall in any manner be held responsible therefor unless due to the negligence or willful misconduct of Landlord or Landlord's agents, contractors or employees, or the breach of any obligations, covenants, representation or warranty of Landlord hereunder. Notwithstanding the foregoing, Landlord shall not be released from liability for any injury, loss, damages or liability to the extent arising from any negligence or willful misconduct of Landlord, its agents, contractors or employees on or about the Premises, or due to the breach of any obligations, covenants, representation or warranty of Landlord hereunder; provided, however, that in no event shall Landlord, its servants, employees or agents have any liability to Tenant based on any loss with respect to or interruption in the operation of Tenant's business. The provisions of this Section 12.d. shall be applicable from and after the execution of this Lease and until the end of the Term of this Lease, and during any additional period as Tenant may use or be in occupancy of any part of the Premises or of the Project.

- c. Landlord's Non-Liability. Landlord, to the fullest extent not prohibited by law, shall not be liable for any damage occasioned by failure to keep the Premises or Project in repair, nor for any damage done or occasioned by or from plumbing, gas, electricity, water, sprinkler, or other pipes or sewerage or the bursting, leaking or running of any pipes, tank or plumbing fixtures, in, above, upon or about the Premises or the Project, nor from any damage occasioned by water, snow or ice being upon or coming through the roof, skylights, trap door or otherwise, nor for any damages arising from acts, or neglect of co-tenants or other occupants of the Project other than the Landlord, its agents, servants, employees, detainees, residents, visitors or licensees, or of any owners or occupants of adjacent or contiguous property, nor for any loss of or injury to property or business occurring, through, in connection with or incidental to the failure to furnish any such services or the interruption of any services to the Premises. Further, Landlord shall not be liable or responsible to Tenant for any loss or damage to any property or person occasioned by theft or any other criminal act, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, law of requisition or order of any governmental authority. Landlord shall not be liable in any event for incidental or consequential damages to Tenant by reason of any default by Landlord hereunder, whether or not Landlord is notified that such damages may occur. Notwithstanding the foregoing, nothing in this Section 12.e., shall limit Landlord's obligation to (a) insure the Premises and Common Areas in accordance with Section 12.a., (b) restore the Premises following a casualty in accordance with Section 20, or (c) maintain, repair and replace the Common Areas as required by this Lease.

### **13. Indemnification.**

- a. Except to the extent caused by the gross negligence or willful misconduct of Landlord, its agents, servants, employees, patients, residents, visitors or licensees, Tenant shall indemnify, and hold Landlord harmless against all expenses (including without limitation, reasonable attorneys' fees and costs), loss, cost, damage, claim, action or liability arising from or claimed to have arisen (a) from any accident, injury or damage whatsoever to any person, or to the property of any person, occurring in or on the Premises; (b) from the omission, fault, willful act, negligence or other misconduct of Tenant or Tenant's agents,

employees, contractors, patients, licensees or invitees, occurring outside of the Premises but on the Project or on any appurtenant areas during the Term; (c) in connection with Tenant's use of the Premises or any business conducted therein or any work done or condition created in the Premises by Tenant, its agents, employees, contractors, patients, licensees or invitees, or anyone claiming by, through or under Tenant, or (d) the failure of Tenant to perform and discharge its covenants and obligations under this Lease and, in any case, occurring on or after the Commencement Date until the expiration of the Term of this Lease and thereafter so long as Tenant is in occupancy of any part of the Premises.

- b. This indemnity and hold harmless agreement shall include indemnity against all losses, costs, damages, expenses and liabilities incurred in or in connection with any such claim or any proceeding brought thereon, and the defense thereof, including, without limitation, reasonable attorneys' fees and costs at both the trial and appellate levels. The provisions of this Section 13 shall survive the expiration or earlier termination of this Lease.

14. Signs. Tenant shall have the right to install, maintain, and replace throughout the Term, interior signage as desired by Tenant in Tenant's sole discretion, provided Tenant agrees to maintain said signage in good repair. Tenant shall have the right to install, maintain, and replace throughout the Term, exterior signage as desired by Tenant in Tenant's sole discretion, provided Tenant agrees to maintain said signage in good repair and obtains Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant shall design, construct, install, maintain and replace all of its signage at its sole effort and expense. At the end of the Term, Tenant shall remove all exterior signage installed by Tenant and repair any damage caused by the removal thereof. Tenant shall be responsible for obtaining, at its sole cost and expense, all permits and approvals required by applicable laws with respect to Tenant's signage.

15. Hazardous Materials.

- a. Landlord represents and warrants that, to the best of its knowledge, no Hazardous Materials are present on the Premises in violation of any applicable law.
- b. If, during the Term of the Lease, any Hazardous Materials are discovered in or on the Project through scientific testing, the presence of such Hazardous Materials violates applicable law, and the presence of such Hazardous Materials do not arise out of any act or omission of Tenant, Tenant's Affiliates, or any of their respective employees, patients, agents, contractors, or invitees, Landlord shall take such action as is required by applicable law with respect to said Hazardous Materials. If the presence of such Hazardous Materials has a material and adverse effect on Tenant's use and enjoyment of any material portion of the Premises, and Landlord fails to commence remediation of such Hazardous Materials within thirty (30) days of its receipt of written notice from Tenant of such Hazardous Materials, Tenant may either:
  - i. Terminate this Lease, without penalty, by giving thirty (30) days' written notice to Landlord; or
  - ii. With Landlord's prior written consent, cause such remediation work to be performed, at Landlord's cost and expense. Upon the completion of the remediation work, Tenant shall furnish Landlord with a written statement of the cost and supporting documentation of the remediation work, and Landlord shall reimburse Tenant for such costs within ten (10) days of Landlord's receipt of

Tenant's statement. Should Landlord fail to reimburse Tenant within the ten (10) day period, then Tenant may, at its option, offset such amount against Base Rent.

- c. As used herein, the term "Hazardous Materials" will mean toxic mold, asbestos or asbestos-containing materials, polychlorinated biphenyls and compounds containing them, lead or lead-based paint, petroleum, petroleum products or petroleum by-products, radioactive materials, or radon, or any other hazardous or toxic chemical regulated by state or federal environmental agencies, but does not include medical or biomedical waste that is properly stored in containers within the Premises.

**16. Sublease and Assignment.** Tenant shall not sublease all or any part of the Premises, or assign this Lease in whole or in part, without Landlord's prior written consent, which consent shall be in Landlord's sole and absolute discretion; provided, however, Landlord's consent shall not be required with respect to any assignment that occurs as a result of merger, consolidation or reorganization of Tenant, or in connection with the sale of all or substantially all of Tenant's assets if (i) Tenant notifies Landlord thereof in writing, (ii) such assignee agrees in writing to be bound by all of the terms and provisions of this Lease, (iii) such assignee has a tangible net worth at least equal to that of Tenant as of the date of this Lease or as of the date of such assignment (whichever is greater), and (iv) such assignee has an operating history of at least 5 years of operating similar hospitals or health care facilities. With respect to any assignment or subletting arrangement that requires Landlord's consent, Tenant must request Landlord's consent in writing at least sixty (60) days prior to the proposed effective date of the assignment or sublease. Any sublease or assignment, or amendment to any sublease or assignment, without Landlord's prior written consent shall, at Landlord's option, be null, void and of no effect, and shall, at Landlord's option, constitute an event of default. The provisions of this section shall apply to a transfer, by one or more transfers, of all, or substantially all, of the business or assets of Tenant, of a majority of the stock, partnership or membership interests, or other evidences of ownership, of Tenant, and of any shares, voting rights or ownership interests of Tenant which results in a change in the identity of the entity or entities which exercise, or may exercise, effective control of Tenant as if such transfers were an assignment of this Lease. Notwithstanding anything to the contrary in this section, Tenant herein may, without Landlord's consent, assign this Lease or sublease all or part of the Premises to any party which directly or indirectly: (i) wholly owns or controls Tenant, (ii) is wholly owned or controlled by Tenant, or (iii) is under common ownership or control with Tenant (herein referred to as a "Tenant Affiliate"), so long as the assignee or sublessee has agreed in writing to assume and comply with all of Tenant's obligations under this Lease.

No subletting or assignment shall release Tenant from Tenant's obligations under this Lease or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant hereunder. Landlord's consent to one assignment or sublease shall not be deemed a waiver of the requirement of Landlord's consent to any subsequent assignment or sublease.

**17. Entry.** Landlord shall notify Tenant 24 hours in advance of entry to Premises; provided, however, that no such notice shall be required hereunder in the event of an emergency or in the event of access for regulatory purposes. Nothing herein shall waive, modify, or obviate Landlord's obligations pursuant to Section 41. For the avoidance of doubt, this notice requirement applies only to Landlord's access in its capacity as landlord hereunder, and in no event shall be construed to limit Landlord's access for any other lawful purpose, including for inspections related to licensure or certification of the Hospital.

- 18. Parking.** During the Term of this Lease, Landlord will not permanently reduce the parking available at the Project as of the Commencement Date. There will be no additional charges for parking. If card access is required, Landlord shall provide Tenant's staff with initial access cards at Landlord's expense, but any and all additional lost or replacement cards shall be at Tenant's expense. During the build and operation of the YDC Facility (defined below), parking may be impacted or adjusted. Landlord agrees to notify Tenant prior to making any changes to parking at the Project.
- 19. Rules.** Tenant shall comply with applicable laws, ordinances, orders, rules and regulations (state, federal, municipal and other agencies or bodies having any jurisdiction thereof) relating to the use, condition or occupancy of the Premises. Except to the extent that the rules may conflict with this Lease, the Tenant will comply with the reasonable rules of the Project adopted and altered by the Landlord from time to time for the safety, care and cleanliness of the Common Areas and for preservation of good order therein, if copies of which are delivered to Tenant.
- 20. Damage and Destruction.** If the Premises or any part thereof are damaged by fire or other casualty, Tenant shall give prompt notice thereof to Landlord and, subject to the terms hereof, the Landlord shall diligently restore and repair the Premises to substantially the same condition the Premises was in prior to such damage. If the Premises, Common Areas or any part thereof or any appurtenance thereto is so damaged by fire or other casualty that: (i) a material portion of the Premises cannot be used for Tenant's purposes; (ii) the cost to repair and restore the same are reasonably estimated by the Landlord to be in excess of twenty-five percent (25%) of the replacement value of the Premises; and (iii) the time to repair and restore the same is reasonably estimated by the Landlord to exceed one hundred twenty (120) days after occurrence of such damage, then either party shall have the right, within thirty (30) days following damage, to elect by written notice to the other party to terminate this Lease as of the date of such damage. In making the repairs called for in this paragraph, Landlord shall not be liable for any delays, whether resulting from strikes, governmental restrictions, inability to obtain necessary materials or labor, delays in effectuating a satisfactory settlement with any insurance company involved, or other matters which may cause delay to such repairs, unless such delays are caused by Landlord. Provided that such damage was not caused by the negligence, act or omission of Tenant, Tenant's Affiliates, or any of their respective employees, agents, contractors, patients, or invitees, until the repair and restoration of the Premises is completed Base Rent shall be abated for that part of the Premises that Tenant is unable to use without substantial interference and is not occupied while repairs are being made, based on the ratio that the amount of unusable rentable area bears to the total rentable area of the Premises. Landlord shall bear the costs and expenses of repairing and restoring the Premises, provided, however, that Landlord shall not be obligated to spend more than the net proceeds of insurance proceeds made available for such repair and restoration nor shall Landlord be obligated to repair or restore, or to pay for the repair or restoration of, any furnishings, equipment or personal property belonging to Tenant or any alterations, additions, or improvements (including carpeting, floor coverings, paneling, decorations, fixtures) made to the Premises by Tenant. It shall be Tenant's sole responsibility to repair and restore all such items. In the event of any damage or destruction to the Premises, it shall be Tenant's responsibility to secure the Premises and, upon notice from Landlord, to remove forthwith, at its sole cost and expense, property belonging to Tenant or Tenant's Affiliates, or any of their respective employees, agents, contractors, patients, or invitees, from such portion of the Premises as Landlord shall request.

## 21. Default by Tenant.

- a. Default. In addition to any other acts or omissions designated in this Lease as events of default, each of the following shall constitute an event of default by Tenant hereunder: (i) the failure to make any payment of Rent or any installment thereof or to pay any other sum required to be paid by Tenant under this Lease when due unless such failure is cured by Tenant within ten (10) days after it receives written notice from Landlord; provided, however, Landlord shall not be required to provide written notice under this subsection more than one (1) occasion in any twelve (12) month period; (ii) the failure to provide the services described in Exhibit C attached hereto and incorporated herein by reference, in accordance with said Exhibit C, unless such failure is cured by Tenant within twenty (20) days after it receives written notice from Landlord; provided, however, Landlord shall not be required to provide written notice under this subsection more than one (1) occasion in any twelve (12) month period; (iii) the use or occupancy of the Premises for any purpose other than the Permitted Use or the conduct of any activity in the Premises which constitutes a violation of applicable law; (iv) if the interest of Tenant or any part thereof under this Lease shall be levied on under execution or other legal process and said interest shall not have been cleared by said levy or execution within thirty (30) days from the date thereof; (v) if any voluntary or involuntary petition in bankruptcy or for corporate reorganization or any similar relief under U.S. bankruptcy laws shall be filed by or against Tenant or if a receiver shall be appointed for Tenant or any of the property of Tenant, which if involuntary is not dismissed within sixty (60) days; (vi) if Tenant shall make an assignment for the benefit of creditors or if Tenant shall admit in writing its inability to meet Tenant's debts as they mature; (vii) if any insurance required to be maintained by Tenant pursuant to this Lease shall be cancelled or terminated or shall expire or shall be reduced or materially changed, except, in each case, as permitted in this Lease, or mutually agreed to in writing by the parties; (viii) if Tenant shall fail to discharge or bond over any lien placed upon the Project as a result of the act or omission of Tenant within a period of thirty (30) days from receiving written notice of such lien; (ix) if Tenant shall abandon or vacate the Premises during the Term; (x) termination of the JOC Agreement; or (xi) default shall be made in any of the other covenants or conditions to be kept, observed and performed by Tenant, and such default shall continue for more than thirty (30) days after receipt by Tenant of notice thereof in writing from Landlord specifying in reasonable detail the nature of such default and Tenant fails to commence and thereafter diligently prosecute a cure to such default. Notwithstanding the foregoing, if the nature of the default is such that it is curable and cannot be cured within said thirty (30) day period, Tenant shall not be in default hereunder if Tenant shall commence to cure such breach and thereafter rectify and cure such breach with due diligence.
- b. Remedies. Upon the occurrence of an event of default by Tenant that remains uncured within any applicable time periods set forth in the previous subsection, Landlord may, at its option, with or without notice or demand of any kind to Tenant or any other person, exercise any one or more of the following described remedies, in addition to all other rights and remedies provided at law, in equity or elsewhere herein, and such rights and remedies shall be cumulative and none shall exclude any other right allowed by applicable law:
- (i) Landlord may terminate this Lease, repossess and re-let the Premises;

(ii) Landlord may, without terminating the Lease, terminate Tenant's right of possession, repossess the Premises including, without limitation, removing all or any part of Tenant's personal property in the Premises and to place such personal property in storage or a public warehouse at the expense and risk of Tenant, and relet the same for the account of Tenant for such rent and upon such terms as shall be satisfactory to Landlord. Tenant shall not be entitled to any rents received by Landlord in excess of the Rent provided for in this Lease. No re-entry or taking possession of the Premises by Landlord shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for any breach; and

(iii) Landlord may, but shall not be obligated to, and without waiving or releasing Tenant from any obligations of Tenant hereunder, make any payment or perform such other act on Tenant's part to be made or performed as provided in this Lease. All sums so paid by Landlord and all necessary incidental costs shall be payable to Landlord as Additional Rent on demand and Tenant covenants to pay such sums in accordance with the terms and conditions of this Lease.

- c. Tenant agrees that Landlord may file suit to recover any sums falling due under the terms of this Section from time to time and that no suit or recovery of any portion due Landlord hereunder shall be any defense to any subsequent action brought for any amount not theretofore reduced to judgment in favor of Landlord.
- d. No waiver of any provision of this Lease shall be implied by any failure of Landlord to enforce any remedy on account of the violation of such provision, even if such violation be continued or repeated subsequently, and no express waiver by Landlord shall be valid unless in writing and shall not affect any provision other than the one specified in such written waiver and that provision only for the time and in the manner specifically stated in the waiver. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Term or Tenant's right of possession hereunder or after the giving of any notice shall reinstate, continue or extend the Term or affect any notice given Tenant prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit or after final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the payment of Rent shall not waive or affect said notice, suit or judgment.
- e. Landlord shall use commercially reasonable efforts to mitigate its damages in an event of default.

**22. Default by Landlord.** If Landlord shall default in fulfilling any of the covenants or provisions of this Lease on its part to be performed and shall fail to remedy the default within thirty (30) days after Landlord shall have received written notice from Tenant containing reasonable detail of such default (provided, that if such failure is not reasonably curable within such 30-day period, Landlord shall have a reasonable time to cure provided that such cure is commenced within such 30-day period and is thereafter diligently pursued to completion), then, in addition to all rights, powers and remedies permitted to Tenant by law and in equity, Tenant shall have, without limiting the generality of the foregoing, the right to (a) upon not less than thirty (30) days additional written notice, remedy Landlord's default and charge Landlord for the reasonable cost of remedying the

default; or (b) terminate this Lease upon further written notice to the Landlord, whereupon this Lease shall terminate on the later of the date specified in the notice or return of possession of the Premises to Landlord. If Landlord fails to make the repayment to Tenant within thirty (30) days of being invoiced for the same, in addition to any other rights it may have, Tenant may abate Base Rent until it has recouped the costs and expenses incurred in connection with performing Landlord's obligations. Notwithstanding anything to the contrary herein, if a Landlord default occurs consisting or amounting to dispossession of the Tenant, a just proportion of Rent shall be abated until such time as Tenant is no longer dispossessed. All of Tenant's rights, as stated in this Lease, are cumulative and additional to any other remedy that the Tenant might have at law or in equity.

23. **Quiet Possession.** Landlord covenants and warrants that upon payment and performance by Tenant of all of its obligations hereunder, Tenant shall enjoy exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Premises during the Term of this Lease without hindrance or molestation from Landlord, and subject to the terms and provisions of this Lease. Landlord shall not be liable for any interference or disturbance by other tenants or third persons (other than Landlord's employees, agents, contractors, guests or invitees), nor shall Tenant be released from any of the obligations of this Lease because of such interference or disturbance.

24. **YDC Facility.**

- a. Landlord shall have and hereby reserves the right to construct at the Project an architecturally secure, therapeutically-oriented facility conceptually described as the "YDCRF Facility" on Exhibit B (the "YDC Facility") that is anticipated to open in late 2026. Should opportunities for shared services between the YDC Facility and the Hospital arise (e.g. laundry, food services, security, etc.), the parties agree to negotiate in good faith a future amendment to this Lease or other contract, subject to approval by the Governor and Executive Council of the State of New Hampshire, for such services. As no kitchen is being constructed at the YDC Facility, the Tenant must agree, at a minimum, to share food services pursuant to an amendment to this Lease or a separate contract, and to negotiate in good faith for the specifics thereof.
- b. The YDC Facility may need a small amount of non-clinical space (not to exceed 1,500 square feet) in the Premises for administrative support staff to use for administrative or back-office purposes. At Landlord's request, Tenant will work with Landlord in good faith to identify space in the Premises for Landlord to use for the purposes set forth in the previous sentence. To the extent that Landlord and Tenant agree upon terms that allow Landlord to use space in the Premises, the parties will memorialize the terms in an amendment to this Lease.
- c. In the event the YDC Facility is constructed at the Project, and to the extent Landlord elects to connect the YDC Facility to public water and sanitary sewer services at the time the YDC Facility is constructed, Landlord, at its sole cost and expense, agrees to connect the Premises to public water and sanitary sewer services.
- d. To the extent Landlord elects to construct the YDC Facility, it shall be completed in a manner that reduces impact on Tenant's operations and the environment of care within the Premises, to the extent reasonably possible and reasonably practical.

- e. If the YDC Facility is completed, at the request of Landlord or Tenant, the parties will work together to amend this Lease to include reasonable safety and security measures to ensure that the Premises and YDC Facility are able to coexist in close proximity without substantially impacting the operations of one another.

**25. PRTF Renovations.**

- a. Prior to the Effective Date, Landlord has solicited bids from design-build construction firms to make certain renovations to the Premises that are generally described in Section 9, on page 82 of that document titled "Specifications for ARPA Hampstead Hospital PRTF Renovation Design-Build – 218 East Road, Hampstead, NH – Department of Health and Human Services – Hampstead Hospital PRTF – Division of Public Works Project Number 81366R – Contract A – 10/16/2024" (the "PRTF Renovations"). Landlord believes that the PRTF Renovations will improve the Premises and enhance the environment of care within the Premises. Landlord, at its sole cost and expense, will be responsible for overseeing the bidding process, ensuring compliance with all public bid and public construction requirements, selecting the design-build firm that completes the PRTF Renovation, administering the contract with the design-build firm, overseeing the planning, design, and completion of the PRTF Renovations, and for paying the selected design-build firm and any other consultant or contractor that is engaged to plan, design or complete the PRTF Renovations.
- b. Throughout the design and construction process, Landlord agrees to invite Tenant to planning, design and construction meetings in order to give Tenant the opportunity to provide input on the design and construction of the PRTF Renovations and for purposes of keeping Tenant apprised of the timeline for the PRTF Renovations. Landlord agrees to cause the PRTF Renovations to be completed in a good and workmanlike manner, free from defects, and in compliance with all applicable laws. The PRTF Renovations shall be completed in a manner that minimizes impact on Tenant's operations and the environment of care within the Premises, to the extent possible and practical.
- c. Tenant shall not be liable to Landlord, its employees, agents, invitees or contractors for any damage, injury, loss, compensation, or claim based on, arising out of or resulting from the planning, design, or construction of the PRTF Renovations, including, but not limited to, any claims associated with accidents or injuries to patients, residents, contractors or employees or any damage to any portion of the Premises or the Project, as a result of any act or omission of Landlord or Landlord's agents, contractors or employees engaged to complete the PRTF Renovations.

**26. Landlord's Reserved Rights.** Landlord reserves the following rights, each of which Landlord may exercise by providing reasonable notice to Tenant (except in the event of emergency, in which case notice shall not be required), and the exercise of any such rights in any reasonable manner shall not be deemed to constitute an eviction or disturbance of Tenant's use or possession of the Premises (except as otherwise expressly set forth in this Lease) and shall not give rise to any claim for set-off or abatement of Rent (except as otherwise expressly set forth in this Lease) or any other claim:

- a. to enter the Premises for the purposes of examining the same or to make repairs or alterations or to provide any service;



- b. to change the arrangement and/or locations of entrances, exits, parking areas or other Common Areas so long as Tenant retains reasonable access to the Premises and a sufficient number of parking spaces for its Permitted Use;
- c. to make repairs, decorations, alterations, additions or improvements, whether structural or otherwise, in, about and to the Common Areas and for such purposes temporarily close and interrupt or temporarily suspend services or use of Common Areas;
- d. to retain at all times, and to use in appropriate instances, keys to all doors within and into the Premises;
- e. to construct and operate the YDC Facility, subject to the terms and conditions of Section 24;
- f. to construct the PRTF Renovations, subject to the terms and conditions of Section 25; and
- g. to take any other action which Landlord deems reasonable in connection with the operation, maintenance, repair, replacement, or preservation of the Project.

**27. Holding Over.** If Tenant or any party claiming by or under Tenant should remain in possession of the Premises or any part thereof after the expiration of the Term, without the execution by Landlord and Tenant of a new lease or an extension of this Lease, then such holding over shall be without right and a tenancy at sufferance, and Tenant shall be liable to Landlord for any loss or damage incurred by Landlord as a result thereof, including consequential damages. In addition, for each month or any part thereof that such holding over continues, Tenant shall pay to Landlord a monthly fee for the use and occupancy of the Premises equal to one hundred fifty percent (150%) of the Rent amount payable for the month immediately preceding such hold over, and there shall be no adjustment or abatement for any partial month. The provisions of this Section shall not be deemed to limit or exclude any of Landlord's rights of re-entry or any other right granted to Landlord hereunder, at law or in equity. Notwithstanding the foregoing, the terms and conditions of this section shall not apply in connection with any time period where Landlord is attempting to secure Governor or Executive Council approval as a result of Tenant exercising a Renewal Term or as a result of any delays in the transition of services, if any, from Tenant back to Landlord upon the expiration or earlier termination of this Lease.

**28. Condemnation.** If any legally, constituted authority condemns the Project or any part thereof which shall make the Premises unsuitable for the Permitted Use, this Lease shall cease when the public authority takes possession, and Landlord and Tenant shall account for rental as of that date. Such termination shall be without prejudice to the rights of either party to recover compensation from the condemning authority for any loss or damage caused by the condemnation. Neither party shall have any rights in or to any award made to the other by the condemning authority.

**29. Subordination and Estoppel.** This Lease is expressly subordinate to any current or future mortgage or mortgages placed on the Premises or the Project, and to all other documents executed in connection with any such mortgage, except that in the event of foreclosure, or any similar proceeding, of any such mortgage, or any conveyance in lieu of such foreclosure, which foreclosure or conveyance occurs prior to the expiration or earlier termination of this Lease, including any extensions or renewals hereof, and so long as Tenant is not in default under any of the terms, covenants and conditions of this Lease beyond any applicable grace or cure period, and attorns to

the subsequent owner of the Premises and/or Project, Tenant shall not be disturbed in the quiet and peaceful possession of the Premises. In the event that Landlord elects to place a mortgage on the Project, at the request of Landlord or Tenant, the other party agrees to work with any mortgage lender to negotiate and execute a commercially reasonable subordination, non-disturbance and attornment agreement memorializing the concepts in this section.

The parties agree that they will upon request by the other party (the "Requesting Party") (but no more often than twice in any twelve month period) execute and deliver to such persons the Requesting Party shall request an estoppel stating that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), stating the dates to which rent and other charges payable under this Lease have been paid, stating that the Requesting Party is not in default hereunder (or stating the nature of any alleged default).

- 30. Notice.** Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by overnight commercial courier or United States certified mail, return receipt requested, addressed as follows:

If to Landlord:

New Hampshire Department of Health and Human Services  
129 Pleasant Street  
Concord, New Hampshire 03301  
Attn: Health Facilities Administration

Copy to:

New Hampshire Department of Health and Human Services  
218 East Road  
Hampstead, New Hampshire 03841  
Attn: Health Facilities Administration

If to Tenant:

Mary Hitchcock Memorial Hospital  
One Medical Center Drive  
Lebanon, New Hampshire 03756  
Attention: General Counsel

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

- 31. Brokers.** Landlord and Tenant represent and warrant to the other that neither party has dealt with any broker in connection with this Lease and that, insofar as they know, no other broker negotiated or is entitled to any commission in connection with this Lease. Each party agrees to indemnify and hold harmless the other party from and against any and all liabilities and claims for commissions and fees arising out of a breach of the foregoing representations.

32. **Waiver**. No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.
33. **Headings**. The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.
34. **Successors**. The provisions of this Lease shall inure to the benefit of and be binding upon Landlord and Tenant and their respective legal representatives and permitted successors and assigns.
35. **Licensure and Accreditation**. Upon Tenant's request, Landlord agrees to cooperate with, assist in Tenant's efforts to obtain all governmental permits, licenses and approvals that Tenant deems necessary or desirable for Tenant's use of the Premises for the Permitted Use or any other uses approved by Landlord.
36. **Compliance with Law**. Tenant shall during the Term comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to the Premises and Tenant's use and occupancy thereof, including but not limited to the Life Safety Code, National Fire Protection Association, and Americans with Disability Act, as amended; provided, however, Tenant shall not be responsible for bringing the Premises into compliance with all laws, orders, ordinances and other public requirements state, federal, and local code requirements unless reasonably necessary for Tenant to license and obtain accreditation from any hospital accrediting body to operate the Premises in accordance with the Permitted Use. Notwithstanding the foregoing, Tenant, at its expense, may contest (by appropriate administrative or legal proceedings conducted in good faith), the applicability of such laws, and code requirements and/or seek waivers of the laws or code requirements.
37. **Modification**. This Lease may be modified only by the written consent of the parties hereto.
38. **Governing Law**. This Lease shall be governed, construed and interpreted by, through and under the laws of the State of New Hampshire, without regard to conflict of laws.
39. **Waiver of Landlord's Lien**. Notwithstanding anything to the contrary contained in this Lease, Landlord shall have no lien (whether contractual, statutory, or otherwise) on, or security interest in, any of Tenant's personal property (including furniture, trade fixtures, and equipment) located in, on or about the Premises, by virtue of this Lease, and Landlord hereby expressly waives and releases any such lien or security interest it may have in any of Tenant's property.

**40. End of Term.**

- a. At the expiration or earlier termination of the Term of this Lease, Tenant shall surrender the Premises to the Landlord in good working order and condition and suitable for the Permitted Use, ordinary wear and tear, damages by casualty, and Landlord's obligations hereunder excepted. Before surrendering possession of the Premises to Landlord, Tenant shall, at its expense, remove all of its furnishings, trade fixtures, signage and other personal property from the Premises, except that Tenant shall not remove any furnishings, trade fixtures, signage or other personal property in which Landlord has elected to acquire from Tenant pursuant to the terms of the OTA, without Landlord's prior written consent. Tenant shall promptly repair all material damage to the Premises resulting from the removal of such items. If Tenant fails to remove any of the foregoing items from the Premises by the expiration or termination of this Lease, then Landlord may deem such items abandoned and dispose of the same in any manner Landlord sees fit, the reasonable costs of which shall be paid by Tenant upon demand. For purposes of clarification, Tenant shall not be required to remove any furniture, fixtures, or equipment that existed in the Premises on the Commencement Date.
- b. If applicable, upon early termination or expiration of the Term of this Lease the parties agree to cooperate in good faith to effectuate a transition of Hospital services ("Transition Services") from the Tenant to the Landlord and, if applicable, a new provider engaged by the Landlord to assume the said Transition Services. The Transition Services will be provided pursuant to a separate agreement that will be negotiated between Landlord and Tenant, which, in all cases will be on commercially reasonable terms and the term of the agreement will not exceed a period of twelve (12) months. This obligation shall survive the expiration or the termination of this Lease.

**41. Confidentiality of Medical Records.** Inasmuch as the nature and practice of Tenant's business involves the use and maintenance of private and confidential medical records and other individually-identifiable health information, Landlord hereby covenants, warrants, and agrees that neither Landlord, its employees, agents, contractors, invited guests, or assigns shall view, inspect, observe, read, examine, document, copy, disseminate, distribute, or otherwise disclose confidential medical records and/or other individually-identifiable health care information that may be located, stored, or otherwise maintained at or on the Premises, regardless of the nature, source, or storage medium of said confidential information. Landlord shall notify Tenant of any entry into the Premises made by Landlord and/or its employees, agents, contractors, invited guests, or assigns. In the event that Landlord and/or its employees, agents, contractors, invited guests, or assigns enters the Premises, Landlord covenants, warrants, and agrees that said party shall at all times maintain the confidentiality of any and all medical records and/or other individually-identifiable health care information to which said party may have access, and Landlord shall ensure that any and all persons entering the Premises at its request or acquiescence, by its authority, or on its behalf shall strictly abide by the terms of this section. Landlord further agrees to immediately notify Tenant of any violation of this section or other compromise of private and confidential medical records and/or other individually-identifiable health information belonging to Tenant of which Landlord becomes aware. Landlord also agrees to execute any additional confidentiality agreement(s) subsequently requested by Tenant as required by the federal government under the privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA).

**42. Books and Records.** The parties intend this Lease to comply with Section 1861(v)(1)(I) of the Social Security Act (Section 952 of the Omnibus Reconciliation Act of 1980) and the regulations promulgated at 42 C.F.R. Part 420 in implementation thereof, and to the extent necessary, the parties agree to make available to the Comptroller General of the United States ("Comptroller General"), the Secretary of the Department of Health and Human Services ("Secretary") and their duly authorized representatives, for four (4) years after the latest furnishing of services pursuant to this Lease, access to the books, documents and records and such other information as may be required by the Comptroller General or Secretary to verify the nature and extent of the costs of services provided by each party, respectively. If either party carries out the duties of this Lease through a subcontract worth \$10,000.00 or more over a twelve (12) month period with a related organization, then the subcontract will also contain an access clause to permit access by the Secretary, Comptroller General and their representatives to the related organization's books and records. For the avoidance of doubt, "related organization" means an organization related to the party entering into the subcontract in question by control or common ownership, as defined in the regulations referenced above.

**43. Health Care Compliance.**

- a. Nothing in this agreement, whether written or oral, nor any consideration in connection herewith, shall require either party to refer any patients to the other, or to any affiliate or subsidiary of the other. This agreement is not intended to influence the judgment of any person in choosing the provider appropriate for the proper treatment and care of the patient. No party to this agreement shall receive any compensation or remuneration for arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medicare or Medicaid, or which otherwise may be deemed to violate any federal or state law.
- b. The parties agree that this Lease is intended to comply with all applicable state and federal laws, regulations, and policies including, but not limited to the Anti-Kickback Statute (42 U.S.C. Section 1320a-7b(b)) (collectively, and including the regulations promulgated thereunder, the "Health Care Laws"). If any provision of this Lease is believed by either party in good faith to be materially in violation of the Health Care Laws, the parties shall attempt in good faith to amend this Lease, if possible, to conform to the Health Care Laws. If the parties are unable to agree on any such amendment, or if it is not possible to amend the Lease to comply with the Health Care Laws, then either party may terminate this Lease upon thirty (30) days prior written notice. Further, the parties agree that rent set forth in the Lease reflects the fair market value for the space and furnishings provided. No charges or payments made or given hereunder shall reflect any fluctuation in Premises utilization, nor the volume or value of referrals (if any) to any physicians accessing the Premises hereunder.

**44. Exclusion From Federal Health Care Programs.** Each party represents and warrants that it, and any individual or entity with a direct or indirect ownership interest in such party (such as, without limitation, stock membership interest, partnership interests, limited partnership interests, or voting rights) ("Ownership Group"), neither has been nor is about to be excluded, to the best of its knowledge, from participation in any Federal Healthcare Program (defined below). Each party agrees to notify the other party within one (1) business day of its receipt of a notice of intent to exclude or actual notice of exclusion of the party or its Ownership Group from any such program. Each party further agrees to disclose immediately any proposed or actual debarment, exclusion or

other event that makes the party or its Ownership Group ineligible to participate in Federal Healthcare Programs or Federal procurement or non-procurement programs. In the event that any party or its Ownership Group is excluded from any Federal Healthcare Program, either party may elect to terminate this Lease at any time thereafter upon the delivery of notice to the other party and this lease shall immediately terminate. For the purposes of this section, the term "Federal Healthcare Program" means the Medicare program, the Medicaid program, the Maternal and Child Health Services Block Grant program, the Block Grants for State for Social Services program, any State Children's Health Insurance program, or any similar program.

45. **Force Majeure.** Neither Landlord nor Tenant shall incur liability to the other with respect to, and shall not be responsible for any failure to perform, any of their respective obligations hereunder if such failure is caused by reason of war, enemy or hostile government actions, riots, insurrection or other civil commotions, strike, other labor trouble, governmental rule, regulations, ordinance, statute or interpretation, or by fire, earthquake, civil commotion, or failure or disruption of utility services, or other reason of a like nature that is beyond the reasonable control of the party delayed. The amount of time for either party to perform any of its respective obligations shall be extended by the amount of time the responsible party is delayed in performing such obligation by reason of any such occurrences. Force majeure shall not operate to excuse Tenant from the prompt payment of Rent required under the terms of this Lease.
46. **Attorney General, Governor and Executive Council Approval.** Notwithstanding any provision of this Agreement to the contrary, this Lease and all obligations of the parties hereunder, shall become effective only upon the approval of the Attorney General, the Governor and the Executive Council of the State of New Hampshire, as evidenced by appropriate signatures and/or stamps below.
47. **Representations by Landlord.** Landlord hereby represents and warrants to Tenant, as of the Effective Date, that: (i) once Landlord has secured the approval of the Attorney General, the Governor and the Executive Council of the State of New Hampshire, as evidenced by appropriate signatures and/or stamps below, Landlord will have secured all necessary approvals to execute and deliver this Lease and perform all of Landlord's obligations under this Lease; (ii) the execution, delivery and performance of this Lease by Landlord does not conflict with or result in a violation of any judgment, order or decree of any court or arbiter or any contract, agreement or other instrument to which Landlord is a party; (iii) there are no pending or, to Landlord's knowledge, threatened governmental actions, investigations or proceedings that will adversely affect the Premises or the Project (including, without limitation, condemnation or eminent domain proceedings); and (iv) Landlord has not granted any other person or entity an option to purchase, right of first offer to purchase, right of first refusal to purchase or any other purchase option to purchase Landlord's interest in the Premises or the Project.

**48. Representations by Tenant.** Tenant hereby represents and warrants to Landlord, as of the Effective Date, that: (i) Tenant has all power and authority necessary for Tenant to execute and deliver this Lease and perform all of Tenant's obligations under this Lease; (ii) the execution, delivery and performance of this Lease by Tenant does not conflict with or result in a violation of any judgment, order or decree of any court or arbiter or any contract, agreement or other instrument; and (iii) Tenant has not filed or threatened to file any voluntary petition in bankruptcy or sought to reorganize its affairs under the Bankruptcy Code of the United States or any other federal, state or local law related to bankruptcy, insolvency or relief for debtors, Tenant has not been adjudicated as bankrupt or insolvent, or Tenant has not had an involuntary petition filed against it under the Bankruptcy Code of the United States or any other federal, state or local law related to bankruptcy, insolvency or relief for debtors.

**49. Memorandum of Lease.** Landlord and Tenant shall, promptly upon the request of either, enter into a short form memorandum of this Lease, in a form suitable for recording the memorandum in the public real estate records applicable to the Project in order to place the public on notice of Tenant's rights under this Lease. The party making the request to record a short form memorandum of this Lease shall pay all costs and expenses of recording any such memorandum. Upon the expiration or earlier termination of this Lease, Tenant shall fully cooperate with Landlord in removing from record any such memorandum by executing an agreement that terminates the memorandum of Lease.

**50. Miscellaneous Provisions.**

- a. The fact that this Lease may have been prepared by either Landlord or Tenant, or by the attorneys for either party, shall not justify the resolving of whatever, if any, doubt there may be against said party.
- b. If any provision of this Lease should be or become prohibited under any applicable law(s), then the remaining provisions of the Lease shall remain in full force, unless an essential purpose of this Lease would be defeated by the loss of any such prohibited provision.
- c. In the event that it shall become necessary for Landlord or Tenant to employ the services of an attorney to enforce any of its rights under this Lease or to collect any sums due to it under this Lease or to remedy the breach of any covenant of this Lease on the part of the other party the prevailing party in any such action shall be entitled to recover all reasonable attorney's fees.
- d. The parties agree this Lease may be executed in multiple originals, each of which shall be considered an original for all purposes and, collectively, shall be considered to constitute this Lease. The parties further agree signatures transmitted by facsimile or in Portable Document Format (pdf) may be considered an original for all purposes, including, without limitation, the execution and enforcement of this Lease.
- e. All exhibits referred to herein shall be considered a part hereof for all purposes with the same force and effect as if copied at full length herein.
- f. TIME IS OF THE ESSENCE OF THIS LEASE AND EACH OF ITS PROVISIONS.

- g. ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE INSTITUTED ONLY IN THE COURTS OF THE STATE OF NEW HAMPSHIRE, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- i. No provision of this Lease shall be deemed to constitute a waiver of the sovereign immunity of Landlord, which immunity is hereby reserved to Landlord.

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IN WITNESS WHEREOF, the parties have executed this Lease as of the Effective Date set forth above.

**LANDLORD**

NEW HAMPSHIRE DEPARTMENT OF HEALTH AND HUMAN SERVICES

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**TENANT**

MARY HITCHCOCK MEMORIAL HOSPITAL

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Attorney General of the State of New Hampshire**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Approval by the Governor and Executive Council of the State of New Hampshire**

\_\_\_\_\_

G&C Item Number: \_\_\_\_\_

G&C Meeting Date: \_\_\_\_\_

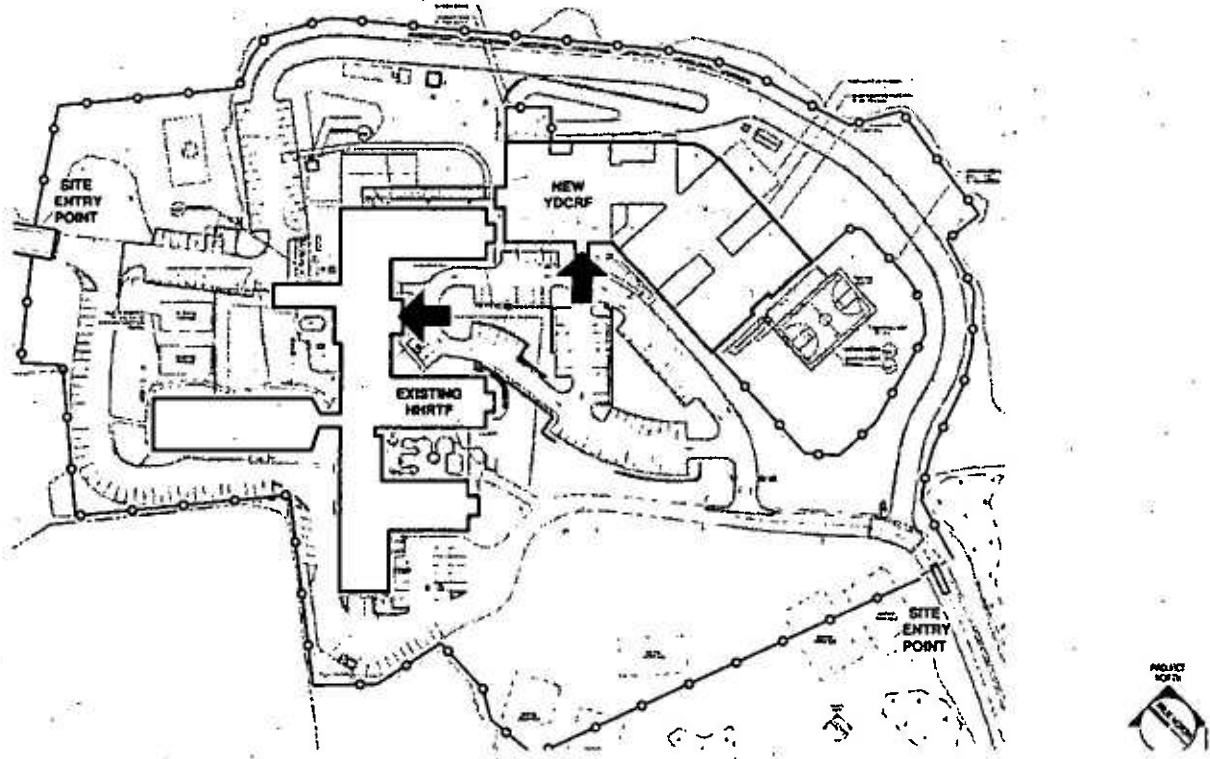
**EXHIBIT A**

**LAND DESCRIPTION**

All of the land situated in the Town of Hampstead, County of Rockingham, State of New Hampshire that is more particularly described in that Warranty Deed from Hampstead Outlook, Inc. to State of New Hampshire, by and through the Department of Health and Human Services, dated June 8, 2022, and recorded in the Rockingham County Register of Deeds on June 8, 2022 in Book 6414 on Pages 765 through 771.

**EXHIBIT B**

**DEPICTION OF THE PREMISES AND THE YDC FACILITY**



## EXHIBIT C

### REQUIRED SERVICES

#### **1. GENERAL REQUIREMENTS**

Tenant must provide the following services at Hampstead Hospital and Residential Treatment Facility (HHRTF) to individuals in need of such services:

1. Inpatient psychiatric care, including providing clinically managed high intensity residential withdrawal management for individuals withdrawing from alcohol, opioids, and benzodiazepines who are medically stable.
2. Partial hospitalization as a structured program of outpatient services for individuals who are stepping down from inpatient treatment, or as standalone treatment for those whose intensive needs can be met outside of a traditional overnight stay. As Partial hospitalization does not currently exist, Tenant will use reasonable efforts to establish such services at HHRTF within one (1) year.
3. Psychiatric Residential Treatment Center (PRTF) services for youth under age 21 with complex mental health conditions who are appropriate for this highest level of residential treatment.

Other behavioral health services for youth may also be offered. Tenant may contract with independent providers to support any of the above services, though any clinical staffing will be under the management and control of Tenant.

Tenant must ensure inpatient admissions are accepted at the facility 24 hours per day, 7 days per week.

Tenant must comply with all applicable accreditation standards as well as federal and state legal and regulatory standards in the provision of services at HHRTF, subject to any waivers that Tenant may seek in its reasonable discretion given the age and condition of HHRTF.

Tenant must utilize practices and deliver services in alignment with the requirements in NH RSA 135-F, System of Care for Children's Mental Health.

Tenant must become a Designated Receiving Facility (DRF) to treat individuals who are involuntarily admitted and in accordance with NH RSA 135-C:26, NH Administrative Rules, He-M 204, Rights Protection Procedures for Mental Health Services, He-M 305, Personal Safety Emergencies, He-M 311, Rights of Persons in State Mental Health Facilities, and Part He-M 405, Designation of Receiving Facilities.

#### **2. PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY**

Tenant must provide services to the Psychiatric Residential Treatment Facility (PRTF) 24 hours a day, seven (7) days a week, located at HHRTF, operated as a distinct separate unit from the psychiatric hospital, ensuring all dedicated beds are utilized only for PRTF level of care.

Tenant must provide PRTF services to individuals in accordance with 42 CFR 441.151, General Requirements, who:

1. Have a medical necessity determined by the Comprehensive Assessment for Treatment (CAT); and

2. Have a certification of need for services by a Doctor of Medicine or a psychiatrist.

Tenant will prioritize NH-eligible individuals for PRTF level-of-care services prior to accepting out-of-state individuals in need of PRTF level of care services.

### 3. EDUCATION SERVICES

Tenant must ensure Education Services are available to all individuals, if applicable. Through this plan, the facility must:

- Provide Education Services to individuals who are, at the time of admission, enrolled in any primary school grade ranging from Kindergarten through Grade 12, unless otherwise indicated. Tenant must:
  1. Provide Education Services to individuals after individuals are admitted for 14 continuous days.
  2. Ensure individuals are provided with time to complete any schoolwork that families bring to the HHRTF for the individuals admitted for any amount of time up to the 14 continuous days of admission.
  3. Provide Education Services on the first day of admission for all individuals who have an intellectual/developmental disability diagnosis.
  4. For the PRTF, initiate educational services to individuals beginning upon admission, with education plan determined by their multidisciplinary team and sending school district. Tenant must ensure on-site availability of:
    1. A nonpublic special educational program approved by the State of New Hampshire Department of Education; and/or
    2. A tutoring program, administered by a special education certified professional, depending on the acuity of the population and the length of stay; and/or
    3. An approved online educational curriculum.

When Education Services are provided, Tenant must ensure Education Services align with Individualized Education Programs (IEPs) and 504 Plans. Tenant must ensure individuals attend their school within their communities, when possible and clinically appropriate.

Tenant must retain client student records in accordance with applicable federal and state laws and regulations.

Tenant must provide copies of the individual's records of education and progress to the individual's sending school, upon client discharge from the PRTF.

## **EXHIBIT D**

### **PRELIMINARY IMPROVEMENT PLAN**

#### **Architecture & Life Safety Code Renovations**

1. Patient Room Doors
2. Renovate bathrooms, medical, seclusion, and sally ports
3. Ligature upgrades
4. Computers, wiring, switches, power, and cooling equipment
5. Door access system, security cameras, and public announcement system
6. Fire alarm systems in bedrooms
7. General building life safety items
8. Boiler and roof top HVAC replacements
9. Kitchen cooking area renovations (if not addressed in the PRTF Renovations)

#### **Building Code & Infrastructure Items**

1. Roof replacements
2. HVAC units replacements
3. Additional kitchen cook area renovations (if not addressed in the PRTF Renovations)
4. Well water and sewage on-site system upgrades (if needed before Landlord connects the Hospital to public water and sewer services as contemplated in Section 24 of the Lease)

#### **Other Improvements**

1. New flooring
2. Painting
3. Lighting

**EXHIBIT D**

**Transition Services Agreement**

**(See attached)**

## TRANSITION SERVICES AGREEMENT

**THIS TRANSITION SERVICES AGREEMENT** (this “**Agreement**”), dated as of [5], 2025 (the “**Effective Date**”), is entered into by and between Mary Hitchcock Memorial Hospital, a New Hampshire nonprofit corporation (“**Buyer**”), and The State of New Hampshire, acting through the New Hampshire Department of Health and Human Services (“**Seller**”). Buyer and Seller may be referred to herein individually as a “**Party**” or collectively as the “**Parties**.”

### RECITALS

**WHEREAS**, pursuant to that certain Operations Transfer and Asset Purchase Agreement (the “**APA**”), dated November 25, 2024, by and between Buyer and Seller, Seller transferred the operations and certain assets of a specialty hospital, under the name Hampstead Hospital and Residential Treatment Facility, located at 218 East Road, Hampstead, New Hampshire 03841 (the “**Hospital**”), to Buyer (the “**Transaction**”); and

**WHEREAS**, in connection with the Transaction, Buyer desires to engage Seller, and Seller desires to be so engaged, to assist with the transition of the Hospital and the Hospital’s operations to Buyer; and

**WHEREAS**, Buyer and Seller intend this agreement to meet the “safe harbor” requirements under the Medicare Anti-Kickback Statute for personal services and management contracts, as established in regulations promulgated by the U.S. Department of Health and Human Services, Office of the Inspector General, at 42 C.F.R. § 1001.952(d).

**NOW, THEREFORE**, in consideration of the foregoing and the mutual representations, warranties, covenants, agreements, terms and conditions set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Term.** The term of this Agreement shall commence on the Effective Date, or such other date as the Parties may mutually agree upon in writing, and shall continue for a period of one year, unless earlier terminated in accordance with the provisions of Section 11 of this Agreement (the “**Term**”).

2. **Transition Services.** Buyer hereby engages Seller to assist with transitioning the operations of the Hospital to Buyer by providing assistance to Buyer, based on Seller’s knowledge and experience (the “**Transition Services**”), and Seller hereby agrees to perform the Transition Services, in each case pursuant to the terms and conditions of this Agreement. The scope of the Transition Services is further set forth in Section 3 of this Agreement and on Exhibit A, attached hereto and incorporated herein by reference, as may be supplemented, amended or modified from time to time by mutual, written agreement of the Parties.

3. **Contracts.**

(a) As part of the Transition Services and subject to the terms and conditions of this Agreement, Seller agrees to, during the Term of this Agreement, use good faith efforts to maintain in full force and effect certain contracts, agreements or arrangements of Seller, to the extent related to the Hospital and its operations, as set forth on Exhibit B (collectively, the “**Contracts**”). The Contracts shall not be included in the Transferred Assets (as defined by the APA), but shall be maintained by Seller pursuant to the terms of this Agreement in the interest of ensuring the continued operation of the Hospital, in substantially the same manner as it was operated prior to the Effective Date, until such Contracts: (a) are



assigned by Seller to Buyer and assumed by Buyer as mutually agreed between the parties, (b) Buyer enters into new agreements or otherwise makes arrangements for the receipt of products or services covered by any such Contract and provides Seller 45 days' notice of its election to terminate the product or service covered by any such Contract, (c) Buyer provides Seller 45 days' notice of its election to terminate the product or service covered by any such Contract, or (d) are terminated by the third-party service provider or otherwise terminate in accordance with their terms (each, a "Termination Event"). Upon a Termination Event, applicable to any Contract, the applicable Contract shall be removed from Exhibit B and Buyer shall have no further obligation to make payment for any products or services covered by such Contract, except to the extent such obligation accrued prior to the Termination Event. During the period of time between the Effective Date and a Termination Event (with respect to any individual Contract), in consideration for the continued benefit of the Contracts, Buyer shall pay to Seller the Fees (defined below) set forth on Exhibit C. Seller shall provide Buyer with invoices or other documentation necessary to support the Fees reimbursement requests. For avoidance of doubt, except for the Fees set forth on Exhibit C, Buyer shall not reimburse Seller for any other costs or expenses associated with the Contracts, including, but not limited to, any breach of a Contract by Seller, provided that any such breach of a Contract was not primarily caused by Buyer and/or Buyer's receipt of the products or services provided under such Contract. Buyer shall be responsible for any and all losses, damages or liabilities of, or claims by, a third-party service provider or any third party related to the applicable Contract or the underlying services provided by such third-party service provider, except to the extent caused by any breach of a Contract by Seller or the gross negligence or willful misconduct of Seller.

(b) The Parties shall use commercially reasonable efforts to transition the provision of products and services, covered by the Contracts (whether by assignment of a Contract or entry into a new Contract), to Buyer or its designee as soon as reasonably practicable, but in no event later than the end of the Term of this Agreement. The Parties shall work together in good faith to cooperate together and coordinate any Termination Event, with respect to any Contract, in order to avoid disrupting the operations of the Hospital.

(c) To the extent applicable, Seller shall use good faith efforts to obtain all consents or permissions from third-party service providers that are required as of the Effective Date in order for Seller to provide, and Buyer to receive, the Transition Services. If any such third-party consent or permission is not or cannot be obtained, the Parties shall work together in good faith and use their respective commercially reasonable efforts to arrange for alternative temporary methods of delivering the affected Transition Services.

4. **Compensation.** As consideration for the Transition Services performed pursuant to this Agreement, Buyer shall pay to Seller the fees and expenses (the "Fees") set forth on Exhibit C, attached hereto, in accordance with the provisions therein. The Parties acknowledge and agree that the consideration exchanged pursuant to this Agreement is intended to be commercially reasonable, consistent with fair market value, and shall not take into account the volume or value of referrals generated by or between the Parties. No purpose of this Agreement or any other arrangement between the Parties is intended to generate or incentivize the generation or making of referrals by or between the Parties.

5. **Standard of Service; Buyer Policies.**

(a) Seller represents, warrants and agrees that (i) Seller will perform the Transition Services in a professional and workmanlike manner, in accordance with generally accepted industry practices for similar services, and in material compliance with all applicable laws, orders, and regulations, and (ii) Seller is not, and during the Term of this Agreement will not, be bound by any agreement or arrangement which would preclude Seller from entering into, or from performing Transition Services

required under this Agreement. Seller agrees to assign sufficient resources as are reasonably required to perform the Transition Services in accordance with the terms and conditions of this Agreement.

(b) In performing the Transition Services, Seller shall comply with all applicable policies, procedures and protocols of the Buyer to the extent communicated to Seller, including, but not limited to, all health, safety and security policies and procedures of Buyer.

6. **Independent Contractor Status.** It is expressly understood that this Agreement creates an independent contractor relationship between Seller and Buyer and under no circumstances shall this Agreement be construed, deemed or considered as a partnership, employment, agency or joint venture relationship between the Parties. Seller expressly disclaims any entitlement to Buyer employee benefits. In addition, the Parties acknowledge that neither Party has, nor shall be deemed to have, the authority to act as an agent for the other Party or its employees or contractors, pursuant to the terms of this Agreement.

7. **Responsibility for Taxes.** Seller shall be solely responsible for the payment of any and all taxes, penalties, assessments and interest of any kind that may be due or assessed by any governmental entity or agency arising out of any amounts earned or benefits received by Seller for the Transition Services.

8. **Confidentiality.**

(a) Seller acknowledges that, during the Term of this Agreement, Seller may acquire, be exposed to and have access to materials, data and information of the Buyer, the Buyer's affiliates and business partners (each a "Disclosing Party") that are confidential, proprietary and/or a trade secret to or of the Disclosing Party. The term "Confidential Information" as used herein shall include the specific terms of this Agreement, and any information about Disclosing Party or its affiliates and business partners that is not generally available to the public or that has value to Disclosing Party and its affiliates and business partners because it is not known to others, whether in final, proposed or draft form. Solely for purposes of this Section 8 of this Agreement, any materials, data or information related in any way to the Hospital and the operation of the Hospital, and that belonged to Seller prior to the Closing, to which Seller had access or otherwise has knowledge shall be considered to be the Confidential Information of Buyer, and Buyer shall be considered the Disclosing Party for purposes of such Confidential Information. Confidential Information may include, but is not limited to, patient medical and billing records and other patient information; past, present or future business affairs, including without limitation business strategies and plans; trade secrets; technical know-how; proprietary information and processes; operational information; financial information; billing and reimbursement information; contracts; supplier and customer lists; purchasing data; pricing data; marketing and sales plans, methods and data; creative concepts, strategies and plans devised or proposed for use by or in connection with the business of Disclosing Party and its affiliates and business partners; and any confidential or proprietary information disclosed by or on behalf of Disclosing Party and its affiliates and business partners, irrespective of the form of communication, and any such information discovered by Seller in connection with this Agreement; *provided, however*, that Confidential Information shall not include information that at the time of disclosure to Seller was in the public domain, subsequently becomes part of the public domain through no breach of Seller's confidentiality obligations, or is independently developed by Seller without reference to the materials, data and information made available to Seller by Disclosing Party, its affiliates or business partners or its or their representatives.

(b) Without the prior written consent of Disclosing Party, Seller shall not disclose any of the Disclosing Party's (or its affiliates' or business partners') Confidential Information to any third party or use such Confidential Information for any purpose other than as necessary to perform Seller's obligations under this Agreement. Seller may disclose Confidential Information to such of Seller's affiliates and Seller's and their respective directors, officers, employees, agents, and advisors ("Representatives") who

have a reasonable need for such Confidential Information in connection with this Agreement and who are bound by corresponding duties of confidentiality. Seller will be responsible for any unauthorized use or disclosure of Confidential Information by Seller's Representatives. Seller acknowledges and agrees that Disclosing Party shall retain all of its intellectual property rights in such Disclosing Party's Confidential Information, including without limitation any patent, copyright and trademark rights, and nothing in this Agreement shall be construed as granting Seller any license or other right in or to such Confidential Information or any patents, copyrights, trademarks or other intellectual property owned or licensed by Disclosing Party. Upon expiration or termination of this Agreement or at any time upon written request by Disclosing Party, Seller shall return to Disclosing Party (or, at Disclosing Party's election, destroy and certify in writing to Disclosing Party as to such destruction) all Confidential Information in Seller's possession, including all copies and all abstracts, summaries or documents produced using the Confidential Information.

(c) Nothing in this Section 8 shall prevent Seller from disclosing Confidential Information as required by valid court order, other lawful process or pursuant to applicable law.

(d) Seller acknowledges that recovery of damages may not be an adequate means to redress a breach of this Section and, accordingly, agrees that Disclosing Party shall be entitled to equitable relief, including without limitation a temporary restraining order and an injunction, without the requirement that Disclosing Party post any bond or prove the inadequacy of damages. Nothing contained in this Section 8, however, shall prohibit Disclosing Party from pursuing any remedies in addition to equitable relief, including recovery of damages.

**9. Security and Confidentiality of Protected Health Information.** Each Party shall comply with applicable state and federal laws and regulations relating to the security, protection and privacy of individually identifiable health information, including without limitation the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, as they may be amended from time to time ("HIPAA"). Seller agrees that, at the request of Buyer, Seller shall promptly execute a business associate agreement that meets the HIPAA requirements at 45 C.F.R. § 164.504(c).

**10. Limitation of Liability.** NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, EACH PARTY SHALL BE LIABLE ONLY FOR DIRECT DAMAGES, IF ANY, WHICH SHALL EXPRESSLY EXCLUDE ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR INDIRECT DAMAGES FOR ANY BREACH OF THIS AGREEMENT.

**11. Termination.**

(a) Either Party may terminate this Agreement upon any material breach by the other Party of any provision of this Agreement, provided, such breach is not cured within 15 days after receipt by the breaching Party of written notice of such breach from the non-breaching Party.

(b) In the event that either Party hereto shall (i) file a petition in bankruptcy, (ii) become or be declared insolvent, or become the subject of any proceedings (not dismissed within 60 days related to such Party's liquidation, insolvency or the appointment of a receiver, (iii) make an assignment on behalf of all or substantially all of such Party's creditors, or (iv) take any corporate action for such Party's winding up or dissolution, then the other Party shall have the right to terminate this Agreement by providing written notice to such Party.

(c) Either Party may terminate this Agreement immediately upon written notice to the other Party in the event that any provision herein, or any action or course of action taken by a Party in connection with its obligations hereunder, is determined by a federal or state court of competent jurisdiction

or by a federal or state administrative tribunal or agency to be in violation of any federal or state law, rule or regulation.

(d) Buyer may terminate this Agreement immediately, upon written notice to Seller, in the event that Seller engages in conduct that Buyer reasonably deems to pose an imminent risk of harm to Buyer's staff.

(c) Buyer may terminate this Agreement without cause and without penalty by giving Seller at least 60 days' prior written notice of such termination.

(f) In the event of termination of this Agreement pursuant to this Section 11, Buyer shall be obligated to pay Seller the Fees accrued through the effective date of termination of this Agreement. Upon the effective date of termination or expiration of this Agreement, the Parties shall have no further obligations to each other under this Agreement, except those that arose prior to the date of termination or expiration or as otherwise specifically stated in this Agreement. The provisions of Sections 6, 7, 8, 10, 11, and 12 shall survive the termination or expiration of this Agreement. In the event of termination or expiration of this Agreement, Seller shall promptly (and in any event not less than 15 days) return to the Buyer any equipment, documents, or other materials belonging to or otherwise provided by the Buyer.

(g) In the event this Agreement is terminated within the first year of the Term, the Parties shall not enter into another agreement for the same or substantially similar services until after the first anniversary of the Effective Date.

## 12. General Provisions.

(a) Governing Law Jurisdiction. This Agreement is governed by the laws of the State of New Hampshire, notwithstanding the conflicts of laws provisions. ANY LEGAL SUIT, ACTION, OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT MAY BE INSTITUTED ONLY IN THE COURTS OF THE STATE OF NEW HAMPSHIRE, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(b) Records. Upon written request, the Parties shall make available for a period of four years after the furnishing of services under this Agreement to the Secretary of the U.S. Department of Health and Human Services, the U.S. Comptroller General, or any duly authorized representatives, this Agreement and any of the Parties' books, documents, and records that are necessary to certify the nature and extent of costs incurred pursuant to this Agreement and which are required to be made available under the Omnibus Reconciliation Act of 1980, Public Law 96-499, Section 952, or any regulation promulgated thereunder. Further, if Seller carries out any of Seller's duties under this Agreement through a subcontract or assignment with a related organization with a value or cost of \$10,000.00 or more over a 12 month

period, such contract shall contain a clause to the effect that the contracting organization shall furnish its books, documents, and records upon request as described to verify the nature and extent of costs.

(c) Waivers. Waiver by either Party of any default by the other Party shall not be deemed a waiver by such Party of any other default.

(d) Notices. Any notices or other communications required or contemplated under the provisions of this Agreement shall be in writing and delivered in person, evidenced by a signed receipt; or mailed by certified mail, return receipt requested, postage prepaid; or sent by prepaid express delivery service, to the persons and addresses indicated below or to such other persons or addresses as Buyer and Seller may provide by written notice to the other. The date of notice shall be the date of delivery if the notice is personally delivered or sent by prepaid express delivery service, or three days after the date of mailing if the notice is mailed by certified mail.

**Notices to Buyer:**

Mary Hitchcock Memorial Hospital  
One Medical Center Drive  
Lebanon, NH 03756  
Attn: General Counsel  
Email: John.P.Kacavas@hitchcock.org

**Notices to Seller:**

New Hampshire Department  
of Health and Human Services  
129 Pleasant Street  
Concord, NH 03301  
Attn: Commissioner Lori Weaver  
Email: lori.a.weaver@dhhs.nh.gov

(e) Assignment. This Agreement, and the rights and obligations of the Parties hereunder, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Except as provided in Section 10, there are no third-party beneficiaries to this Agreement. Neither Party may assign any of its rights or obligations under this Agreement without the prior written consent of the other Party. Except to the extent set forth in Section 3, Seller shall not perform any of the Transition Services through any subcontractor or other third party without the prior written consent of Buyer.

(f) Amendment. This Agreement may not be modified or amended except in writing executed by both Parties.

(g) Entire Agreement. This Agreement, including its exhibits, together with the APA, constitutes the full and entire understanding and agreement between the Parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous written or oral understandings and agreements between the Parties with respect to the subject matter hereof. In the event that any term or condition of this Agreement conflicts with the terms and conditions of the APA, then the terms and conditions of the APA shall control.

(h) Construction; Severability. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. The Parties acknowledge that this Agreement is the result of arms-length negotiations and shall not be construed for or against any Party by virtue of draftsmanship. The Parties hereto intend that this Agreement and each Party's performance hereunder shall at all times be in compliance with applicable law, rule, or regulation. In the event that any term or provision of this Agreement is held to be illegal, invalid or unenforceable under any

applicable law, rule or regulation, such term or provision shall be deemed severed from this Agreement and the remaining terms and provisions shall remain unaffected thereby, provided the invalid term does not materially alter the basic purpose or intent of this Agreement.

(i) Execution. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Signatures to this Agreement delivered by facsimile or other electronic means shall be equally as effective as delivery of an original signature and shall in no way affect the validity, enforceability or binding effect of this Agreement.

(j) Sovereign Immunity. Except for claims pursuant to the terms of this Agreement, no provision of this Agreement shall be deemed to constitute a waiver of the sovereign immunity of Seller, which immunity is hereby reserved to Seller.

*[Signature page follows]*

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**BUYER**

**Mary Hitchcock Memorial Hospital**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SELLER**

**The State of New Hampshire, Department of  
Health and Human Services**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## Exhibit A

### Scope of Transition Services

[Seller will support and facilitate the transition of Hospital operations from Seller to Buyer or its affiliates. In this role, Seller will serve as a technical consultative support to Buyer and its affiliates. In provision of the Transition Services, Seller will use good faith efforts to:

- Support and facilitate the transition of the operations of Hospital to Buyer;
- Provide guidance and direction on staff leader roles and supporting that transition from Seller to Buyer;
- Provide essential stakeholder introductions and relationship transitions with, including, but not limited to, city officials, key community members, relevant board members, and partner agencies;
- Provide operations consultation to assist in local area specific knowledge, direction, and historical elements;
- Provide facilities and logistics consultation to ensure the integrity of operations, equipment functioning, and staffing;
- Support transition of current staffing to Buyer or its affiliates and aid with consultation regarding human resource related matters where necessary;
- Provide consultation needed for any applicable licensing, accreditation, certification, or permits transition and support;
- Provide consultation needed for any applicable licensing, accreditation, certification, or permits to be obtained by Buyer or its affiliates in operation of the Hospital;
- Provide public relations support, coordination, and consultation;
- Provide revenue cycle and key payor relationship and contract transition;
- Provide assistance with compliance with existing contracts and remaining agency obligations;
- Share and support equipment and maintenance administrative history;
- Provide guidance on clinical practice history and current initiatives to ensure transition of clinical practice;
- Provide context and support for any necessary documents relevant to transition;
- Assist and support transition of all education and training center obligations and commitments;
- Share and support transition of relevant agency data, including, but not limited to, personnel records, agency response history, clinical charting, reporting, etc.; and
- Provide other transitional services, as reasonably requested by Buyer.]<sup>1</sup>

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<sup>1</sup> **Note to Draft:** Subject to further review and agreement by both Buyer and Seller prior to the Transfer.



**Exhibit B**

**Contracts<sup>2</sup>**

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<sup>2</sup> **Note to Draft:** The Parties will work together to identify Contracts to be continued and will populate this schedule prior to Transfer.

### Exhibit C

#### Fees<sup>3</sup>

[As full and complete consideration for the Transition Services provided by Seller hereunder, Buyer shall pay to Seller the following Fees:

1. Subject to the terms of the Agreement, in consideration for benefit of products and services under the Contracts, Seller shall reimburse Seller for all out-of-pocket fees, costs and expenses incurred by Seller pursuant to and in respect of each Contract set forth on Exhibit B, to the extent, and only to the extent, that such fees relate directly to products or services offered and/or provided at the Hospital (the "Contract Costs"), plus a [5] percent administrative fee calculated on the aggregate amount of all Contract Costs, all as calculated and payable on a monthly basis. Notwithstanding the foregoing, Buyer shall in no event be obligated to pay to Seller any fees associated with Seller's breach of any Contract. Moreover, upon a Termination Event, Seller shall be under no further obligation to provide any further payment to Buyer for any Contract following a Termination Event, with respect to that Contract, except to the extent such fees relate to obligations which accrued prior to the Termination Event.
2. For the Transition Services set forth on Exhibit A, the parties will mutually agree upon a fee structure for fees payable to Seller acceptable to each party and in accordance with applicable law prior to the Transfer.]

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<sup>3</sup> Note to Draft: Fees to be finalized and agreed upon by the Parties prior to Transfer.

## **SCHEDULES**

**[Disclosure Schedules Follow]**

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**DISCLOSURE SCHEDULES**

to the

**OPERATIONS TRANSFER AND ASSET PURCHASE AGREEMENT**

by and between

**MARY HITCHCOCK MEMORIAL HOSPITAL**  
a New Hampshire nonprofit corporation

and

**THE STATE OF NEW HAMPSHIRE**  
acting through the New Hampshire Department of Health and Human Services

November 25, 2024

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## INTRODUCTION

Attached are the Disclosure Schedules (these “**Disclosure Schedules**”) as referred to in that certain Operations Transfer and Asset Purchase Agreement (the “**Agreement**”), dated as of November 25, 2024, by and between Mary Hitchcock Memorial Hospital, a New Hampshire nonprofit corporation (“**Buyer**”), and The State of New Hampshire, acting through the New Hampshire Department of Health and Human Services (“**Seller**”).

These Disclosure Schedules are subject to the following terms and conditions:

1. Capitalized terms used in these Disclosure Schedules and not otherwise defined shall have the respective meanings given to them in the Agreement.
2. All references to Article or Section numbers in these Disclosure Schedules are to the corresponding Articles or Sections of the Agreement, unless otherwise stated.
3. Section headings or other headings and descriptions of representations, warranties or disclosures herein are for descriptive purposes and convenience of reference only and shall not be deemed to affect such representations, warranties or disclosures or to limit the disclosures made herein or the provisions hereof.
4. No reference in these Disclosure Schedules to a possible breach or violation of any Contract, law or order shall be construed as an admission of liability under any applicable law or otherwise.
5. Any matter, information or item disclosed in or pursuant to any part of these Disclosure Schedules shall be deemed to be disclosed with respect to the representations and warranties set forth in any other section of these Disclosure Schedules so long as the relevance of the item to such other section of these Disclosure Schedules is reasonably apparent on the face of such disclosure.
6. The annexes, attachments, and exhibits to these Disclosure Schedules, if any, form an integral part of these Disclosure Schedules and are incorporated by reference for all purposes as if set forth fully herein.

**Schedule 1.9**  
**Seller Knowledge Parties**

1. Melissa St. Cyr
2. Morissa Henn
3. Nathan White

## Schedule 2.3.5

### Existing Licenses

1. State of New Hampshire In-State Pharmacy License, issued 8/15/2024 and expiring 8/15/2026 (Permit Number 01008) (not assignable)
2. US Department of Justice Drug Enforcement Administration Controlled Substance Registration Certificate, issued 8/19/2024 and expiring 10/31/2027 (DEA Registration Number FH4624575) (not assignable)
3. The Joint Commission Hospital Accreditation as a hospital and psychiatric hospital issued 7/11/2024 and expiring 3/30/2027 (Joint Commission ID# 3169) (assignable upon notice to The Joint Commission at signing)
4. New Hampshire Department of Labor Certificate of Inspection Boiler issued 1/31/2023 and expiring 1/31/2025 (Boiler ID 037375)
5. New Hampshire Department of Labor Certificate of Inspection Boiler issued 1/31/2023 and expiring 1/31/2025 (Boiler ID 019215)
6. CMS Certification to Participate in Medicare and Medicaid (assignable via Medicare CHOW process, requiring CMS review and approval)
7. New Hampshire Department of Labor Elevator Inspection Certificate issued 12/28/2023 and expiring 12/31/2024 (Elevator No. 000001626)
8. Centers for Medicare & Medicaid Services Clinical Laboratory Improvement Amendments Certificate of Waiver, effective 9/01/2024 and expiring 8/31/2026 (CLIA ID Number 30D0002851) (assignable upon notice to the Health Facilities Administration within New Hampshire Department of Health and Human Services no later than thirty (30) days after the Effective Date)
9. Licenses for each of the Healthcare Professionals listed on Schedule 5.13.

**Schedule 2.3.9**  
**Assigned Contracts**

None.

*This Schedule 2.3.9 may be further amended by Buyer at any time prior to the Transfer to add Contracts or remove Contracts set forth hereon. Notwithstanding the foregoing, the parties understand and agree that the Statewide Contracts, as defined on Schedule 5.5.1, are not subject to transfer to Buyer and will not be included in the Assigned Contracts.*



**Schedule 2.4.2**

**Excluded Assets**

1. Any asset owned by Seller and leased pursuant to the Lease Agreement.

### **Schedule 2.4.3**

#### **Excluded Contracts**

1. Collective Bargaining Agreement between the State of New Hampshire and the State Employees' Association of New Hampshire, Inc., effective January 26, 2024 (the "CBA").
2. Any Statewide Contract, including those set forth on Schedule 5.5.1.

*This Schedule 2.4.3 may be further amended by Buyer at any time prior to the Transfer to add Contracts or remove Contracts set forth hereon. Notwithstanding the foregoing, the parties understand and agree that the Statewide Contracts and the CBA, are not subject to transfer to Buyer and will remain listed on this Schedule 2.4.3.*

## **Schedule 4.1.5**

### **Required Governmental Approvals**

1. Approval of the Attorney General, of the State of New Hampshire is required to execute the Agreement.
2. Approval of the Governor and Executive Council of the State of New Hampshire is required for the Transfer.
3. Approval by the New Hampshire Department of Health and Human Services as a licensed Psychiatric Residential Treatment Program.
4. Approval by the New Hampshire Department of Health and Human Services as a licensed Hospital or a location of a licensed Hospital.

**Schedule 4.1.6**

**Required Third-Party Consents**

None.

Pursuant to Section 7.1.5 of the Agreement, Seller shall use its commercially reasonable best efforts to obtain any consent required for the assignment of any Assigned Contract.

**Schedule 5.2**  
**No Conflicts; Consents**

(a)

No exceptions.

(b)

Schedule 4.1.5 and Schedule 4.1.6 are incorporated by reference.

(c)

No exceptions.

**Schedule 5.3.**  
**Title to Transferred Assets**

No exceptions.

## Schedule 5.4

### Condition and Sufficiency of Transferred Assets

All computers and similar equipment will be transferred subject to complete data erasure or similar procedure; provided, that all data on computers and similar equipment that is reasonably necessary for the Hospital to provide the same or substantially similar services provided by the Hospital immediately prior to the Transfer Date shall be removed and provided to Buyer in a format reasonably acceptable to Buyer prior to erasure.

## Schedule 5.5.1

### Contracts

1. The CBA.
2. Agreement between Mary Hitchcock Memorial Hospital and the Seller, approved March 23, 2022, as amended on December 21, 2022, and May 9, 2024.
3. Agreement between Unidine Corporation and the Seller, approved June 27, 2024.
4. Agreement between AB Staffing Solutions, LLC and the Seller approved June 10, 2024, as amended on August 13, 2024.
5. Agreement between Amergis Healthcare Staffing, Inc. and the Seller approved June 10, 2024, as amended on August 13, 2024.
6. Agreement between Healthcare Services Group, Inc. and the Seller approved June 28, 2024.
7. Agreement between JABLINCORN LLC and the Seller approved June 13, 2024.
8. Agreement between Youth Villages, Inc. and the Seller approved November 22, 2021, and as amended on June 14, 2023, and June 5, 2024.
9. Memorandum of Understanding between New Hampshire Department of Safety, Division of State Police and the Seller approved November 2, 2022, as amended by Amendment #1 dated June 12, 2024.
10. Agreement between Morin's Landscaping & Lawn Maintenance, Inc. and the Seller approved June 16, 2023.
11. Agreement between The Sonata Center, LLC and the Seller approved May 23, 2024.
12. Agreement between ITW Food Equipment Group LLC and the Seller approved April 7, 2021, as amended on February 22, 2023, March 13, 2024, and June 7, 2024.
13. Agreement between UpReach Therapeutic Equestrian Center, Inc. and the Seller approved June 23, 2023, as amended on May 1, 2024, and July 10, 2024.
14. Agreement between Brewster Ambulance Service, Inc. and the Seller approved May 29, 2023.
15. Agreement between Concord Hospital, Inc. and the Seller approved December 22, 2021, as amended on May 15, 2023.
16. Agreement between Inovalon Provider, Inc., formerly known as ABILITY Network Inc. and the Seller approved May 4, 2022 (as amended).
17. Agreement between American Data Network LLC and the Seller approved August 15, 2023, as amended on January 29, 2024.
18. Agreement between Ascentria Community Services, Inc. and the Seller approved June 16, 2021, as amended on March 9, 2022, and May 24, 2024.

Seller receives services from the following vendors on an as needed or purchase order basis:

1. Softwriters (pharmacy software support)
2. Comcast Business (internet)
3. Comcast (cable and streaming)
4. PV Business Solutions (OSHA manuals)



5. CPI (crisis prevention training)
6. Celayix (scheduling software)
7. Exeter Health (CPR training)
8. MDToolbox (electronic RX)
9. Medical Professional Services (medical outpatient services)

Seller is party to provider contracts with the following parties:

1. NHHF
2. Wellsense
3. Amerihealth
4. Anthem all plans all programs
5. Cigna HC all plans all programs
6. Optum all plans all programs
7. Martins Point

Seller is currently in the process of negotiating provider contracts with the following parties:

1. Aetna
2. Point32Healthcare
3. Modern Assistance
4. Magellan
5. HMC

Seller is currently enrolled with following Medicare/Medicaid programs:

1. Vermont Medicaid
2. MaineCare (Maine Medicaid)
3. MassHealth (Mass Medicaid)
4. Medicare A. & B
5. NH Medicaid

Seller currently receives the benefit of the following statewide contracts (collectively, the "Statewide Contracts"):

1. Agreement between Waste Management of New Hampshire, Inc. and the State of New Hampshire, Department of Administrative Services ("DAS") dated November 1, 2021, as amended on November 4, 2021.
2. Agreement between Impact Fire Services, LLC and DAS effective January 1, 2022, as amended on February 11, 2022, March 6, 2022, and April 24, 2023.
3. Agreement between Impact Fire Services, LLC and DAS dated October 27, 2021.
4. Agreement between Impact Fire Services, LLC and DAS effective January 1, 2022, as amended on December 17, 2021.
5. Agreement between Impact Fire Services, LLC and DAS dated November 1, 2021.
6. Agreement between Stericycle, Inc and DAS dated March 11, 2022.

7. Agreement between Waste Management of New Hampshire, Inc. and DAS approved May 13, 2022, as amended March 8, 2023, August 23, 2023, October 18, 2023, February 21, 2024, and March 27, 2024.
8. Agreement between Pitney Bowes Inc. and DAS dated May 4, 2023, as amended May 15, 2024.
9. Agreement between Sprague Operating Resources LLC and DAS dated September 1, 2023, as amended on December 22, 2023.
10. Agreement between Tri State Generators LLC and DAS dated September 1, 2022, as amended on February 22, 2023, October 18, 2023, June 12, 2024, and July 8, 2024.
11. Agreement between Irving Oil Terminals Inc. and DAS dated August 23, 2023.
12. Agreement between The Subsidiaries of Enterprise Holdings, Inc. and DAS dated October 25, 2019, as extended on January 15, 2021.
13. Agreement between Wind River Environmental LLC d/b/a Felix Septic Service, Inc. and DAS, approved February 8, 2023.
14. Agreement between Superior Plus Energy Services Inc and DAS approved June 26, 2024.
15. Agreement between W.B. Mason Co., Inc. and DAS approved April 12, 2023.
16. Agreement between Pest-End Inc. and DAS approved March 27, 2024.
17. Agreement between Thayer Limited Liability Company and DAS approved February 29, 2024.
18. Agreement between Thayer Limited Liability Company and DAS approved November 8, 2023.
19. Agreement between City Pro Plumbing and Heating LLC and DAS approved October 4, 2023, as amended July 11, 2024.
20. Agreement between Airgas USA, LLC and DAS dated October 6, 2023.
21. Agreement between Accurate Tree Service, LLC and DAS approved October 18, 2023.
22. Agreement between Amoskeag Maintenance Services, LLC and DAS approved April 1, 2024.
23. Agreement between SPOK, INC. and DAS dated April 1, 2024.
24. Agreement between Bio-Med Innovations LLC and DAS dated June 18, 2024.
25. Agreement between TK Elevator Corporation and DAS approved June 12, 2024.
26. Agreement between RP Enterprises LLC and DAS approved October 7, 2024.
27. Pharmaceutical Prime Wholesaler Services Contract by and between the State of Minnesota acting through its Commissioner of Administration on behalf of MMCAP Infuse and Cardinal Health 110, LLC and Cardinal Health 112, LLC, dated November 1, 2019, as amended by Amendment 1 on August 14, 2019; Amendment 2 on October 31, 2019; Amendment 3 on November 1, 2019; Amendment 4 on January 1, 2020 (adding the State of New Hampshire as a member to the agreement); Amendment 5 on January 16, 2020; Amendment 6 on February 1, 2020; Amendment 7 on March 1, 2020; Amendment 8 on May 1, 2020; Amendment 9 on June 1, 2020; Amendment 10 on March 15, 2021; Amendment 11 on August 10, 2022; and Amendment 12 on November 15, 2022 and Amendment 13 on May 12, 2023 (Seller receives a benefit of this contract for pharmaceuticals/medical supplies services; this agreement requires consent to assignment).

**Schedule 5.6**  
**Legal Proceedings**

No disclosure.

**Schedule 5.7.1**  
**Compliance with Laws**

No disclosure.

## Schedule 5.7.2

### Licenses

1. State of New Hampshire Pharmacy License, issued 8/15/2024 and expiring 8/15/2026 (Permit Number 01008)
2. US Department of Justice Drug Enforcement Administration Controlled Substance Registration Certificate, issued 8/19/2024 and expiring 10/31/2027 (DEA Registration Number FH4624575)
3. The Joint Commission Hospital Accreditation issued 7/11/2024 and expiring 3/30/2027 (Joint Commission ID# 3169)
4. New Hampshire Department of Labor Certificate of Inspection Boiler issued 1/31/2023 and expiring 1/31/2025 (Boiler ID 037375)
5. New Hampshire Department of Labor Certificate of Inspection Boiler issued 1/31/2023 and expiring 1/31/2025 (Boiler ID 019215)
6. CMS Certification to Participate in Medicare and Medicaid
7. New Hampshire Department of Labor Elevator Inspection Certificate issued 12/28/2023 and expiring 12/31/2024 (Elevator No. 000001626)
8. Centers for Medicare & Medicaid Services Clinical Laboratory Improvement Amendments Certificate of Waiver, effective 9/01/2024 and expiring 8/31/2026 (CLIA ID Number 30D0002851)
9. Licenses for each of the Healthcare Professionals listed on Schedule 5.13.

Schedule 5.8

Governmental Program Participation

Seller NPIs:

<b>State of NH</b>
NPI: 1952450082
Tax ID: 02-6000618
Provider ID MMIS 3134696
<b>New Hampshire Medicaid</b>
Inpatient 3134696
PRTF 3139508
<b>Medicare Part A</b>
PTAN 304001
<b>Medicare Part B</b>
PTAN T100874347
<b>MassHealth</b>
110066831C effective 09/15/2023
<b>Vermont Medicaid ID</b>
6710824
Taxonomy 273R00000X

Seller is party to provider contracts with the following parties:

1. NHHF
2. Wellsense
3. Amerihealth
4. Anthem all plans all programs
5. Cigna HC all plans all programs
6. Optum all plans all programs
7. Martins Point

Seller is currently in the process of negotiating provider contracts with the following parties:

1. Aetna

2. Point32Healthcare
3. Modern Assistance
4. Magellan
5. HMC

Seller is currently enrolled with following Medicare/Medicaid programs:

1. Vermont Medicaid
2. MaineCare (Maine Medicaid)
3. MassHealth (Mass Medicaid)
4. Medicare A & B
5. NH Medicaid

**Schedule 5.10**  
**Third Party Payor Cost Reports**

No disclosure.



## **Schedule 5.12.1**

### **Current Employees**

See Attachment to Schedule 5.12.1 [Employee Information Redacted].

Each Current Employee gets one meal provided for a full shift.

Seller provides on-call pay for the maintenance staff for 24/7 coverage.

Seller provides \$200 per shift for Current Employees who sign up for shifts who are not otherwise scheduled to work (weekend, holiday or short staffing coverage).

Seller also provides the following bonus opportunities for Current Employees:

- Sign-on Bonus: \$1,000.00 to \$15,000.00
- Referral Bonus (for referring qualified candidates for open job postings): \$1,500.00
- Longevity Bonus: \$350 each year after 10 years, additional \$350 each fifth year thereafter

Current Employees are offered Seller's standard suite of employee benefits including an elective deferred compensation plan, medical benefits including a health reward program and prescription drugs, dental coverage including vision benefits, flexible spending accounts for health, dependent care, and eldercare purposes, participation in the New Hampshire retirement system, group term life insurance, short-term disability, employee assistance program, overtime, annual and sick leave, and paid holidays.

**Schedule 5.12.2**

**Retained Employees**

See Attachment to Schedule 5.12.2 [Employee Information Redacted].

## Schedule 5.13

### Healthcare Professionals

See Attachment to Schedule 5.13 [Employee Information Redacted].

The following Healthcare Professionals dispense narcotic drugs to patients, pursuant to a valid medication order (or prescription) for maintenance or detoxification treatment:

1. [Redacted] (pharmacist)
2. [Redacted] (pharmacist)

**Schedule 5.14.1**  
**Statements of Appropriation**

See Attachment to Schedule 5.14.1.

Attachment to Schedule 5.14.1

QL201 Date 06/29/24  
Time 04:36

Statement of Appropriations by Office

Fiscal Year 2024

Periods From 1 to 12 Page 373  
Period Beg 07/01/23 End 06/30/24

Company 0010 General Fund  
Agency 098 HAMPSTEAD HOSPITAL  
Organization 2648 HAMPSTEAD HOSPITAL OPERATIONS  
BUR/DIV 9800 HAMPSTEAD HOSPITAL  
Sub-Org 001 HAMPSTEAD HOSPITAL OPERATIONS  
Acct Unit 26480000

Class	Appropriation	Est Revenue	Expenditures	Revenue	Encumbrances	Transfers	Lapsed	Bal Fwd	Available	Rate
000	FEDERAL FUNDS	0.00	0.00	2,031,253.50	0.00	0.00	0.00	9,088,811.00-	7,057,557.50-	0.00
001	TRANSFERS FROM OTHER AGENCY	0.00	0.00	4,035,183.50	0.00	0.00	0.00	0.00	61,553.50-	0.00
009	AGENCY INCOME	20,635,939.00-	0.00	11,442,823.11	0.00	0.00	0.00	0.00	9,193,115.89-	0.00
010	PERSONAL SERVICES PERM CLAS 1,599,628.00	0.00	1,249,530.46-	0.00	0.00	0.00	0.00	0.00	350,097.54	.78
012	PERSONAL SERVICES UNCLASSIF 819,916.00	0.00	816,342.01-	0.00	0.00	0.00	0.00	0.00	3,573.99	.99
018	OVERTIME 358,600.00	0.00	7,050.52-	0.00	0.00	0.00	0.00	0.00	351,549.48	.01
019	HOLIDAY PAY 2,125.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,125.00	0.00
020	CURRENT EXPENSES 25,000.00	0.00	19,681.95-	0.00	2,502.00-	0.00	0.00	0.00	2,816.05	.88
023	HEAT ELECTRICITY WATER 561,235.00	0.00	188,427.67-	0.00	0.00	0.00	0.00	0.00	372,807.33	.33
024	MAINT OTHER THAN BUILD-GRN 147,054.00	0.00	79,169.42-	0.00	0.00	0.00	0.00	0.00	67,884.58	.53
026	ORGANIZATIONAL DUES 42,000.00	0.00	2,550.00-	0.00	0.00	0.00	0.00	2,966.00	42,416.00	.05
030	EQUIPMENT NEW REPLACEMENT 350,000.00	0.00	18,512.25-	0.00	678.00-	0.00	0.00	678.00	331,487.75	.05
037	TECHNOLOGY-HARDWARE 10,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	10,000.00	0.00
038	TECHNOLOGY-SOFTWARE 5,000.00	0.00	3,050.00-	0.00	0.00	0.00	0.00	0.00	1,950.00	.61
039	TELECOMMUNICATIONS 10,000.00	0.00	4,307.57-	0.00	0.00	0.00	0.00	0.00	5,692.43	.43
042	ADDITIONAL PRINCE BENEFITS 181,331.00	0.00	168,515.26-	0.00	0.00	0.00	0.00	0.00	12,815.74	.92

Statement of Appropriations by Office

Company 0010 General Fund  
 Agency 098 HAMPSHIRE HOSPITAL  
 Organization 2648 HAMPSHIRE HOSPITAL OPERATIONS  
 BUR/DIV 9800 HAMPSHIRE HOSPITAL  
 Sub-Org 001  
 Acct Unit 26480000

Class	Appropriation	Est Revenue	Expenditures	Revenue	Encumbrances	Transfers	Lapsed	Bal Fwd	Available Rate
047	OWN FORCES MAINT BUILD-GRN	112,989.00	32,684.75	0.00	0.00	0.00	0.00	80,304.25	.28
048	CONTRACTUAL MAINT BUILD-GRN	292,821.00	118,113.68	0.00	166,488.00	0.00	0.00	0.00	.97
049	TRANSFER TO OTHER STATE AGR	150,000.00	16,249.06	0.00	0.00	0.00	0.00	133,750.94	.10
050	PERSONAL SERVICE TEMP APPOI	10,184.00	0.00	0.00	0.00	0.00	0.00	10,184.00	0.00
057	BOOKS PERIODICALS SUBSCRIP	2,500.00	703.31	0.00	0.00	0.00	0.00	1,796.69	.28
060	BENEFITS	1,494,348.00	931,938.10	0.00	0.00	0.00	0.00	562,409.90	.62
061	UNEMPLOYMENT COMPENSATION	856.00	0.00	0.00	0.00	0.00	0.00	856.00	0.00
062	WORKERS COMPENSATION	5,000.00	4,284.22	0.00	0.00	0.00	0.00	715.78	.85
066	EMPLOYER TRAINING	16,000.00	3,195.00	0.00	0.00	0.00	0.00	10,805.00	.22
070	IN STATE TRAVEL REIMBURSEME	12,000.00	1,066.41	0.00	0.00	0.00	0.00	10,933.59	.08
080	OUT OF STATE TRAVEL REIME	3,500.00	0.00	0.00	0.00	0.00	0.00	3,500.00	0.00
102	CONTRACTS FOR PROGRAM SERVI	27,785,189.00	20,353,992.53	0.00	0.00	0.00	0.00	9,088,738.30	.89
...	Sub-Org...	33,995,276.00	24,712,676.00	17,509,260.11	12,565,857.87	0.00	0.00	3,571.30	9.979,458.63-
...	Organization...	33,995,276.00	24,712,676.00	17,509,260.11	12,735,525.87-	0.00	0.00	3,571.30	9.979,458.63-
...	Agency...	33,995,276.00	24,712,676.00	17,509,260.11	12,735,525.87-	0.00	0.00	3,571.30	9.979,458.63-

Statement of Appropriations by Office

BUR/DIV 9800 HAMPSHIRE HOSPITAL  
 Sub-019 001  
 Acct Unit 24800000

Class	Appropriation	Est Revenue	Expenditures	Revenue	Encumbrances	Transfers	Lapsed	Bal Fwd	Available Rate
000 FEDERAL FUNDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	9,088,811.00-	9,088,811.00-
001 TRANSFERS FROM OTHER AGENCY	4,249,348.00-	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4,249,348.00-
009 AGENCY INCOME	0.00	20,714,710.00-	0.00	4,019,753.85	0.00	0.00	0.00	7,905,540.53-	24,600,496.68-
010 PERSONAL SERVICES PERM CLAS	1,716,164.00	0.00	450,250.66-	0.00	0.00	0.00	0.00	0.00	1,265,913.34
012 PERSONAL SERVICES UNCLASSIF	842,017.00	0.00	291,503.92-	0.00	0.00	0.00	0.00	0.00	550,513.08
018 OVERTIME	379,120.00	0.00	211,757.90-	0.00	0.00	200,000.00	0.00	0.00	367,362.10
019 HOLIDAY PAY	2,125.00	0.00	38,502.28-	0.00	0.00	0.00	0.00	0.00	36,377.28-
020 CURRENT EXPENSES	25,000.00	0.00	24,581.80-	0.00	387.00-	0.00	0.00	2,502.00	2,533.20
023 HEAT ELECTRICITY WATER	561,235.00	0.00	69,512.06-	0.00	0.00	0.00	0.00	372,807.33	864,530.27
024 MAINT OTHER THAN BUILD-CRM	147,054.00	0.00	47,925.99-	0.00	10,000.00-	0.00	0.00	0.00	89,128.01
026 ORGANIZATIONAL FEES	42,000.00	0.00	248.00-	0.00	0.00	0.00	0.00	0.00	41,752.00
030 EQUIPMENT NEW REPLACEMENT	350,000.00	0.00	3,541.74-	0.00	678.00-	0.00	0.00	678.00	346,458.26
037 TECHNOLOGY-HARDWARE	10,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	10,000.00
038 TECHNOLOGY-SOFTWARE	5,000.00	0.00	3,050.00-	0.00	0.00	0.00	0.00	0.00	1,950.00
039 TELECOMMUNICATIONS	10,000.00	0.00	6,986.63-	0.00	0.00	0.00	0.00	0.00	3,013.37
042 ADDITIONAL FRINGE BENEFITS	186,462.00	0.00	0.00	0.00	0.00	0.00	0.00	12,815.74	199,277.74

Company 0010 General Fund  
 Agency 098 HAMPSTEAD HOSPITAL  
 Organization 2648 HAMPSTEAD HOSPITAL OPERATIONS

BUR/DIV 9800 HAMPSTEAD HOSPITAL  
 Sub-Dir DCI  
 Acct Unit 26480000

Statement of Appropriations by Office

Fiscal Year 2025

Periods From 1 to 5  
 Period Beg 07/01/24 End 11/30/24  
 Page 360

Class	Appropriation	Est Revenue	Expenditures	Revenue	Encumbrances	Transfers	Lapsed	Bal Fwd	Available Rate
047	OWN FORCES MAINT BUILD-GRN	112,989.00	1,056.45-	0.00	0.00	0.00	0.00	80,304.25	192,236.80
048	CONTRACTUAL MAINT BUILD-GRN	252,821.00	108,786.76-	0.00	61,906.75-	0.00	0.00	174,707.32	296,834.81
049	TRANSFER TO OTHER STATE AGR	150,000.00	30.00-	0.00	0.00	0.00	0.00	0.00	149,970.00
050	PERSONAL SERVICE TEMP APOI	0.00	2,946,564.43-	0.00	11,017,925.00	0.00	0.00	0.00	8,071,360.57
057	BOOKS PERIODICALS SUBSCRIPT	2,500.00	236.85-	0.00	0.00	0.00	0.00	0.00	2,263.15
060	BENEFITS	1,568,715.00	1,255,018.54-	0.00	5,836,807.00	0.00	0.00	0.00	6,150,503.46
061	UNEMPLOYMENT COMPENSATION	856.00	0.00	0.00	0.00	0.00	0.00	0.00	2,712.00
062	WORKERS COMPENSATION	5,000.00	11,869.08-	0.00	0.00	0.00	0.00	715.78	188,846.70
066	EMPLOYEE TRAINING	14,000.00	2,132.92-	0.00	0.00	0.00	0.00	0.00	12,867.08
070	IN STATE TRAVEL REIMBURSEME	12,000.00	3,236.55-	0.00	0.00	0.00	0.00	0.00	8,763.45
080	OUT OF STATE TRAVEL REIMB	3,500.00	0.00	0.00	0.00	0.00	0.00	0.00	3,500.00
102	CONTRACTS FOR PROGRAM SERVI	27,799,937.00	6,987,627.81-	0.00	14,280,652.07-	17,249,732.00-	0.00	16,519,931.77	5,801,859.89
...	Sub-org...	34,238,495.00	12,464,420.37-	4,019,753.85	14,353,623.82-	0.00	0.00	170,969.66	13,352,883.68-
...	Organization...	34,238,495.00	12,464,420.37-	4,019,753.85	14,353,623.82-	0.00	0.00	170,969.66	13,352,883.68-
...	Activity...	34,238,495.00	12,464,420.37-	4,019,753.85	14,353,623.82-	0.00	0.00	170,969.66	13,352,883.68-
...	Agency...	34,238,495.00	12,464,420.37-	4,019,753.85	14,353,623.82-	0.00	0.00	170,969.66	13,352,883.68-



## Schedule 7.5

### Buyer Governmental Approvals and Licenses

1. The Joint Commission will survey the Hospital in accordance with both the standards for an acute care hospital under Appendix A of the CMS State Operations Manual and the added requirements for a psychiatric hospital or Distinct Part Unit under the psychiatric unit module of Appendix A thereof, even if the Hospital is not otherwise certified by CMS as a psychiatric hospital or Distinct Part Unit.
2. The Hospital will qualify for designation as a Designated Receiving Facility (“DRF”) for purposes of (i) receiving involuntary emergency treatment patients, and (ii) billing for and receiving Medicaid reimbursement as a DRF.
3. The Hospital will meet all applicable CMS certification requirements for an acute care hospital providing psychiatric hospital services, including without limitation the Medicare Conditions of Participation set forth in 42 C.F.R. §§ 482.41 and 482.60 and any applicable life safety code requirements.
4. The Hospital will meet all applicable state licensing requirements for an acute care hospital providing psychiatric hospital services.

Any other License or approval, which Buyer, in Buyer’s reasonable discretion, deems necessary or advisable to assume operation of the Hospital on the Transfer Date and provide the same or substantially similar services provided by the Hospital immediately prior to the Transfer Date.

# State of New Hampshire

## Department of State

### CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that MARY HITCHCOCK MEMORIAL HOSPITAL is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on August 07, 1889. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 68517

Certificate Number: 0006803853



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 5th day of November A.D. 2024.

A handwritten signature in black ink, appearing to read "D. Scanlan", is written over a faint circular stamp.

David M. Scanlan  
Secretary of State



**CERTIFICATE OF VOTE/AUTHORITY**

I, Roberta L. Hines, MD, do hereby certify that:

1. I am the duly elected Chair of the Mary Hitchcock Memorial Hospital and Dartmouth-Hitchcock Clinic Boards of Trustees (together, "**Dartmouth-Hitchcock**").
2. The following is a true and accurate excerpt from the Amended, Restated and Integrated Bylaws of the Dartmouth-Hitchcock Corporations:
  - a. "**ARTICLE II – Section A. Fiduciary Duty. Stewardship over Corporate Assets.** As responsible stewards of tax-exempt, charitable Corporations, members of the Corporations' Boards have the fiduciary duty to oversee, with due care and loyalty, the stewardship of the Corporations' assets and operations in order to create a sustainable health system that is population focused and value-based, and to advance their respective corporate purposes. In exercising this duty, the Boards may, consistent with the respective Corporation's Articles of Agreement and these Bylaws, delegate authority to Board Committees and other bodies, or to various officers, to provide input with respect to issues and strategies, incur indebtedness, make expenditures, enter into contracts and agreements and take such other binding actions on behalf of the Corporations as may be necessary or desirable in furtherance of their charitable purposes."
3. Pursuant to policy approved and adopted by the Boards of Trustees and consistent with the above Bylaws provision, the Boards have subdelegated signature authority to the President and Chief Executive Officer of Mary Hitchcock Memorial Hospital to enter into that certain Operations Transfer and Asset Purchase Agreement, between Mary Hitchcock Memorial Hospital and the State of New Hampshire, acting through the New Hampshire Department of Health and Human Services, dated November 25, 2024 (the "**Agreement**"), on behalf of Mary Hitchcock Memorial Hospital.
4. The foregoing authority shall remain in full force and effect as of the date of the Agreement executed or action taken in reliance upon this Certificate. This authority shall remain valid for thirty (30) days from the date of this Certificate and the State of New Hampshire shall be entitled to rely upon same, until written notice of modification, rescission or revocation of same, in whole or in part, has been received by the State of New Hampshire.

*[Signature Page Follows]*

IN WITNESS WHEREOF, I have hereunto set my hand as the Chair of the Dartmouth-Hitchcock  
Boards of Trustees this 25<sup>th</sup> day of November, 2024.



Printed Name: Roberta Hines, MD

Its: Board Chair

**CERTIFICATE OF INSURANCE**

**DATE: November 22, 2024**

**COMPANY AFFORDING COVERAGE**  
 Hamden Assurance Risk Retention Group, Inc.  
 P.O. Box 1687  
 30 Main Street, Suite 330  
 Burlington, VT 05401

This certificate is issued as a matter of information only and confers no rights upon the Certificate Holder. This Certificate does not amend, extend or alter the coverage afforded by the policies below.

**INSURED**  
 Dartmouth-Hitchcock Clinic  
 One Medical Center Drive  
 Lebanon, NH 03756  
 (603)653-6850

**COVERAGES**

The Policy listed below has been issued to the Named Insured above for the Policy Period notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued. The insurance afforded by the policy is subject to all the terms, exclusions and conditions of the policy. Limits shown may have been reduced by paid claims.

TYPE OF INSURANCE		POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS	
GENERAL LIABILITY		0002024-A	7/1/2024	7/1/2025	EACH OCCURRENCE	\$1,000,000
X CLAIMS MADE					DAMAGE TO RENTED PREMISES	\$1,000,000
					MEDICAL EXPENSES	N/A
OCCURRENCE					PERSONAL & ADV INJURY	\$1,000,000
					GENERAL AGGREGATE	\$3,000,000
OTHER					PRODUCTS-COMP/OP AGG	\$1,000,000
PROFESSIONAL LIABILITY		0002024-A	7/1/2024	7/1/2025	EACH CLAIM	\$1,000,000
X CLAIMS MADE					ANNUAL AGGREGATE	\$3,000,000
OCCURRENCE						
OTHER						

**DESCRIPTION OF OPERATIONS/ LOCATIONS/ VEHICLES/ SPECIAL ITEMS (LIMITS MAY BE SUBJECT TO RETENTIONS)**  
 Certificate is issued as evidence of insurance for Hampstead Hospital.

**CERTIFICATE HOLDER**

NH Department of Health and Human Services  
 129 Pleasant Street  
 Concord, NH 03301

**CANCELLATION**  
 Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 DAYS written notice to the certificate holder named below, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

**AUTHORIZED REPRESENTATIVES**



DARTHIT-01

LSTILES

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
7/8/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> License # 1780862 <b>HUB International New England</b> 275 US Route 1 Cumberland Foreside, ME 04110	<b>CONTACT NAME:</b> Lauren Stiles	
	<b>PHONE (A/C, No, Ext):</b>	<b>FAX (A/C, No):</b>
<b>E-MAIL ADDRESS:</b> Lauren.Stiles@hubinternational.com		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURER A:</b> The Gray Insurance Company		<b>36307</b>
<b>INSURER B:</b> Midwest Employers Casualty Company		<b>23612</b>
<b>INSURER C:</b>		
<b>INSURER D:</b>		
<b>INSURER E:</b>		
<b>INSURER F:</b>		

**INSURED:**

Dartmouth-Hitchcock Health  
 1 Medical Center Dr.  
 Lebanon, NH 03756

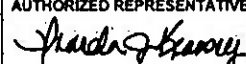
**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPPOP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE  DED    RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
<b>A</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	SPX0702544	7/1/2024	7/1/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
<b>B</b>	Excess Workers' Comp			EWC010235	7/1/2024	7/1/2026	NH Only \$ 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
 Evidence of Workers Compensation coverage for

Cheshire Medical Center  
 Dartmouth-Hitchcock Health  
 Mary Hitchcock Memorial Hospital  
 Alice Peck Day Memorial Hospital  
 New London Hospital Association  
 Visiting Nurse Associates and Hospice of Vermont and New Hampshire

<b>CERTIFICATE HOLDER</b>  NH DHHS 129 Pleasant Street Concord, NH 03301	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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