

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

In Re:)	
)	CASE NO. 20-10247
Randolph Hospital, Inc. d/b/a Randolph Health,)	
)	CHAPTER 11
)	
Debtors. ¹)	
)	

NOTICE OF SUCCESSFUL BIDDER AND NEXT BEST BIDDER,

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. The above-captioned debtors and debtors-in-possession (collectively, the "Debtors"), seek to sell substantially all of their assets (the "Acquired Assets")² free and clear of certain liens, claims, and encumbrances pursuant to their Motion for Entry of Order (A) Approving the Sale of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Other Interests, and (B) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases [Doc. No. 408] (the "Sale Motion") filed on August 28, 2020.

2. On September 8, 2020, the Court entered its Order (I) Approving Auction and Bidding Procedures in Connection with the Sale of Substantially All of the Debtors' Assets, (II) Permitting Debtors to Designate Stalking Horse Purchaser and Grant Bid Protections, (III) Approving Procedures Related to the Assumption and Assignment of Executory Contracts and Unexpired Leases, (IV) Scheduling Auction and Sale Hearing, (V) Approving the Form and Manner of Sale Notice, and (VI) Granting Related Relief [Doc. No. 445] (the "Bidding Procedures Order").

3. On October 5, 2020, pursuant to the Bidding Procedures Order, the Debtors commenced the Action.

¹ The Debtors are Randolph Hospital, Inc. d/b/a Randolph Health, Case No. 20-10247; Randolph Specialty Group Practice, Case No. 20-10248' and MRI of Asheboro, LLC d/b/a Randolph MRI Center, Case No. 20-10249.

² The Acquired Assets shall not include (i) any cash, cash equivalents and investment property of the Debtors, including, but not limited to, any funds in any of the Debtors' investment or other accounts; *provided, however*, that any interest of the Debtors in StayWell Senior Care, Inc. and/or Randolph Cancer Center, LLC are included in the definition of Acquired Assets that may be sold pursuant to the terms of this Order and the Bidding Procedures attached hereto, (ii) any cause of action or proceeds of such cause of action arising under chapter 5 of the Bankruptcy Code or applicable state law equivalents, (iii) any commercial or other tort claims (as such term is defined in the Uniform Commercial Code as in effect in the State of New York) arising on or before the closing date of any Transaction, or any proceeds thereof, including, but not limited to, any and all causes of action against present or former directors and officers of the Debtors and/or any of their affiliates, (iv) all notes and accounts receivable, and (v) certain other assets as set forth in the Asset Purchase Agreement for the Successful Bidder or Next Best Bidder, as applicable.

4. At the conclusion of the Auction, the Debtors, in consultation with their advisors and the Consultation Parties under the Bidding Procedures Order, selected the following Successful Bidder and Next Best Bidder:

Successful Bidder	Purchase Price
American Healthcare Systems, Inc.	\$18.5 million, plus assumption of cure costs for assumed contracts and paid time off for hired employees
Next Best Bidder	Purchase Price
Pure Health Carolina Corp.	\$18.5 million, plus assumption of cure costs for assumed contracts and paid time off for hired employees

5. Attached as **Exhibit 1** is a copy of the Asset Purchase Agreement between the Debtors and the Successful Bidder.

6. The Successful Bidder has not selected any Designated Contracts for assumption and assignment at this time. The Debtors and the Next Best Bidder reserve the right to file a schedule of Designated Contracts and to amend, modify, and supplement the schedule of Designated Contracts, through the Closing Date. To the extent the Debtors file a schedule of Designated Contracts, a counterparty to a Designated Contract may contact the Successful Bidder for adequate assurance information at the following address:

Gill Law Firm, LLP
 355 S. Grand Ave Suite 2450
 Los Angeles, CA 90071
 Attention: Faisal Gill
 Telephone: (310) 418-6675
 Email: fgill@glawoffice.com

7. The Sale Hearing to consider approval of the sale to the Successful Bidder or, in the alternative, to the Next Best Bidder, free and clear of all liens, claims, interests, and encumbrances will be held on **October 22, 2020 at 9:30 a.m. (prevailing Eastern Time) at the United States Bankruptcy Court for the Middle District of North Carolina, Greensboro Division, 601 W. 4th St., Winston-Salem, NC 27101**. The Sale Hearing may be adjourned or rescheduled by the Debtors, in consultation with the Consultation Parties, without further notice by announcing the adjourned date at the Sale Hearing.

8. Any objections to the Sale or the relief requested in connection with the Sale (a “Sale Objection”), other than a Cure Objection, which shall be governed as set forth in the Bidding Procedures Order, must (a) be in writing, (b) comply with the Bankruptcy Rules and any applicable Local Rules, (c) set forth the name of the objector, (d) state with particularity the legal and factual bases for such objection, and (e) be filed with the Clerk of the Court,

United States Bankruptcy Court for the Middle District of North Carolina, Greensboro Division, 101 South Edgeworth Street, Greensboro, NC 27401, together with proof of service thereof, and served on the following parties **so as to be actually received no later than **October 16, 2020**** (the “Sale Objection Deadline”): (i) counsel to the Debtors, Nelson Mullins Riley & Scarborough, LLP, 1320 Main Street, 17th Floor, Columbia, South Carolina 29201, Attn: Jody A. Bedenbaugh and Rebecca Finch Redwine, Hendren, Redwine & Malone, PLLC, 4600 Marriott Drive, Suite 150, Raleigh, NC 27612; (ii) counsel to the Stalking Horse Purchaser; (iii) counsel to the Committee, (iv) counsel to Bank of America; (v) counsel to the Successful Bidder, (vi) counsel to the Next Best Bidder, if any, and (vii) the Bankruptcy Administrator for the Middle District of North Carolina.

9. The Debtors have set forth the Cure Amount for executory contracts and unexpired leases on the Assignment Schedule attached to the Notice of Potential Assumption and Assignment of Certain Executory Contracts and Unexpired Leases. To the extent the Debtors add or delete an executory contract or unexpired lease to the Assignment Schedule or modify the cure amount, the Debtors will file and serve a separate Supplemental Cure Notice. Any objection to the Cure Amount set forth in the Assignment Schedule or Supplemental Cure Notice (a “Cure Objection”) must (a) be in writing, (b) set forth the basis for the objection as well as any cure amount that the objector asserts to be due (in all cases with appropriate documentation in support thereof), and (c) be filed with the Clerk of the Court, United States Bankruptcy Court for the Middle District of North Carolina, Greensboro Division, 101 South Edgeworth Street, Greensboro, NC 27401, and served on the following: (i) counsel to the Debtors, Nelson Mullins Riley & Scarborough, LLP, 1320 Main Street, 17th Floor, Columbia, South Carolina 29201, Attn: Jody A. Bedenbaugh and Rebecca Finch Redwine, Hendren, Redwine & Malone, PLLC, 4600 Marriott Drive, Suite 150, Raleigh, NC 27612; (ii) counsel to the Committee; (iii) counsel to any proposed Stalking Horse Purchaser; and (iv) the Office of the Bankruptcy Administrator for the Middle District of North Carolina (the “Contract Notice Parties”), **so as to be actually received by the later of (a) October 12, 2020 or (b) ten (10) days after service of a Supplemental Cure Notice (the "Cure Objection Deadline").**

10. This Notice is subject to the terms and conditions of the Bidding Procedures Order, with such Bidding Procedures Order controlling in the event of any conflict. Copies of the Bidding Procedures Order, Sale Motion and other relevant documents may be obtained by: (a) written request to the Debtors' counsel, Nelson Mullins Riley & Scarborough, LLP, 1320 Main Street, 17th Floor, Post Office Box 11070 (29211), Columbia, South Carolina 29201, Attn: Jody A. Bedenbaugh, and Rebecca Finch Redwine, Hendren, Redwine & Malone, PLLC, 4600 Marriott Drive, Suite 150, Raleigh, NC 27612; (b) accessing the Court's website at <http://www.ncmb.uscourts.gov> (please note that a PACER password is needed to access documents on the Court's website); or (c) accessing the website of the Debtors' claims and noticing agent at <https://dm.epiq11.com/case/randolphhospital/info> , or (d) viewing the docket of these cases at the office of the Clerk of the Court, United States Bankruptcy Court for the Middle District of North Carolina, Greensboro Division, 101 South Edgeworth Street, Greensboro, NC 27401.

Dated: October 8, 2020

HENDREN, REDWINE & MALONE, PLLC

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**CO-COUNSEL FOR THE DEBTORS-IN-
POSSESSION**

ASSET PURCHASE AGREEMENT

BY AND AMONG

**RANDOLPH HOSPITAL, INC., d/b/a RANDOLPH
HEALTH, RANDOLPH SPECIALTY GROUP PRACTICE,
and MRI OF ASHEBORO, LLC, d/b/a RANDOLPH
HEALTH MRI CENTER
(AS SELLERS)**

AND

AMERICAN HEALTHCARE SYSTEMS, LLC

(AS BUYER)

Dated: October 8, 2020

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) dated October 8, 2020 (the “Execution Date”), is made by and among **RANDOLPH HOSPITAL, INC., d/b/a RANDOLPH HEALTH**, a North Carolina nonprofit corporation (“Randolph”), **RANDOLPH SPECIALTY GROUP PRACTICE**, a North Carolina nonprofit corporation (“RSGP”), **MRI OF ASHEBORO, LLC, d/b/a RANDOLPH HEALTH MRI CENTER**, a North Carolina limited liability company (“MRI Center”) (Randolph, RSGP, and MRI Center, are referred to collectively herein as “Sellers” and each individually as a “Seller”), and **AMERICAN HEALTHCARE SYSTEMS, LLC**, a Virginia limited liability company (“Buyer”). Capitalized terms used in this Agreement are defined or cross-referenced in Article 1.

Recitals:

A. On March 6, 2020 (the “Petition Date”), Randolph, RSGP, and MRI Center filed voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101-1532 (the “Bankruptcy Code”), which cases are jointly administered under the case In re Randolph Hospital, Incorporated, d/b/a Randolph Health, Case No. 20-10247 (the “Bankruptcy Case”) in the United States Bankruptcy Court for the Middle District of North Carolina and, to the extent of the withdrawal of any reference made pursuant to 28 U.S.C. § 157, the United States District Court for the Middle District of North Carolina with jurisdiction over Randolph’s Bankruptcy Case (the “Bankruptcy Court”).

B. Sellers are in the business of providing medical and health care and services to the City of Asheboro, and the County of Randolph, North Carolina, and surrounding areas (the “Business”).

C. Buyer desires to purchase the Acquired Assets and assume the Assumed Liabilities from Sellers, and Sellers desire to sell, convey, assign, transfer, and deliver to Buyer the Acquired Assets together with the Assumed Liabilities, all in the manner and subject to the terms and conditions set forth in this Agreement and pursuant to an order entered by the Bankruptcy Court in form satisfactory to Buyer (the “Sale Order”), and in accordance with Sections 105, 363, 365, 1146 and all other applicable provisions of the Bankruptcy Code.

Statement of Agreement:

NOW, THEREFORE, in consideration of the foregoing recitals and their respective representations, warranties, and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

**ARTICLE 1.
DEFINED TERMS**

For purposes of this Agreement, the following terms shall have the following meanings:

“Absent Employees” shall have the meaning set forth in Section 6.1(i)(i).

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“Acquired Assets” shall have the meaning set forth in Section 2.1.

“Active Patient Records” shall mean Patient Records of any individual who was a patient of Sellers within two (2) years prior to the date of this Agreement.

“Affiliate(s)” of a specified person shall mean any corporation, limited liability company, partnership, sole proprietorship, or other Person which directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Person specified. The term “control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person.

“Agreement” shall have the meaning set forth in the Preamble.

“AHSM” shall have the meaning set forth in Section 3.3.

“Alternative Transaction” shall mean any transaction (regardless of the form thereof) involving a sale of all of the Acquired Assets by Sellers to a purchaser or purchasers other than Buyer.

“A/R Escrow” shall have the meaning set forth in Section 2.2(r).

“A/R Escrow Agreement” shall have the meaning set forth in Section 10.2(e)(i).

“Assigned Contracts” shall have the meaning set forth in Section 2.1(d).

“Assumed Liabilities” shall have the meaning set forth in Section 2.3.

“Bankruptcy Case” shall have the meaning set forth in the Recitals.

“Bankruptcy Code” shall have the meaning set forth in the Recitals.

“Bankruptcy Court” shall have the meaning set forth in the Recitals.

“Business” shall have the meaning set forth in the Recitals.

“Business Day” shall mean any day other than Saturday, Sunday, and any day that is a legal holiday or a day on which banking institutions are authorized by Law or other governmental action to close.

“Business Records” shall have the meaning set forth in Section 2.1(j).

“Buyer” shall have the meaning set forth in the Preamble.

“Buyer Damage” shall have the meaning set forth in Section 10.2(a)(vi).

“Buyer Indemnified Parties” shall have the meaning set forth in Section 10.2(a).

“Buyer Material Adverse Effect” shall mean any event, occurrence, condition, circumstance, effect, or change that would be (or could reasonably be expected to be) materially

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adverse to the business, assets, condition (financial or otherwise), operating results, operations, or business prospects of Buyer's business.

“Buyer Plan” shall have the meaning set forth in Section 6.1(i)(v).

“Cash Purchase Price” shall have the meaning set forth in Section 3.1.

“Closing” shall have the meaning set forth in Section 4.1.

“Closing Date” shall have the meaning set forth in Section 4.1.

“CMS” shall have the meaning set forth in Section 6.1(c).

“COBRA” shall have the meaning set forth in Section 6.1(i)(iv).

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Contract(s)” shall mean any contract, agreement, lease or sublease, license or sublicense, instrument, note, indenture, commitment, or undertaking, whether in written form or otherwise.

“Cost Report” shall mean any cost report required to be filed, as of the end of a provider cost year or for any other required period, with cost-based Payors with respect to cost reimbursement.

“Cure Costs” shall have the meaning set forth in Section 2.3(a).

“Deposit” shall have the meaning set forth in Section 3.2(b).

“Direct Claim” shall have the meaning set forth in Section 10.2(d).

“Document Retention Period” shall have the meaning set forth in Section 6.1(g)(ii).

“Environmental Law” shall mean any Law regulating Hazardous Materials, the environment, natural resources, pollution, environmental protection, waste management, industrial hygiene, health, or safety.

“Equipment” shall have the meaning set forth in Section 2.1(b).

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended.

“Escrow Agreement” shall have the meaning set forth in Section 3.2(a).

“Excluded Assets” shall have the meaning set forth in Section 2.2.

“Excluded Liabilities” shall have the meaning set forth in Section 2.4.

“Execution Date” shall have the meaning set forth in the Preamble.

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“Exhibit” shall mean any exhibit to this Agreement.

“Financial Statements” shall have the meaning set forth in Section 5.1(l).

“GAAP” shall mean United States generally accepted accounting principles as in effect from time to time.

“Governmental Entity” shall mean any agency, division, subdivision, or governmental or regulatory authority, or any adjudicatory body thereof, of the United States or any state, county, or political subdivision thereof.

“Hazardous Materials” shall mean any chemicals, materials, substances, or items in any form, whether solid, liquid, gaseous, semisolid, or any combination thereof, whether waste materials, raw materials, chemicals, finished products, by-products, or any other materials or articles, which are regulated by, or form the basis of liability under, any Environmental Laws, including, without limitation, any hazardous waste, medical waste, biohazardous waste, industrial waste, solid waste, hazardous substance, pollutant, hazardous air pollutant, contaminant, asbestos, polychlorinated biphenyls, petroleum, formaldehyde, industrial solvents, flammables, explosives, and radioactive substances.

“HIPAA” shall have the meaning set forth in Section 6.1(g)(v).

“Hired Employees” shall have the meaning set forth in Section 6.1(i)(i).

“Hospital” means the hospital operated by Seller located in Randolph County, North Carolina, known as Randolph Hospital, Inc., d/b/a Randolph Health and operated in connection with the Business.

“Improvements” shall mean the buildings, improvements, and structures owned by Sellers existing on the Real Property, and all privileges, rights, appurtenances, easements, rights of way, right, title and interest, if any, in adjacent streets and alleys, hereditaments, water, mineral, oil, and gas rights, development rights, air rights, and rights to claims for adverse possession on adjacent properties, and all improvements, structures, and fixtures, in each case, as the same are located upon or used or connected with the beneficial use of the Real Property.

“Intangible Assets” shall have the meaning set forth in Section 2.1(i).

“Intercompany Claim” shall mean any receivable owed from, or payable obligation owed to, another Seller.

“Inventory” shall have the meaning set forth in Section 2.1(c).

“Law(s)” shall mean all statutes, rules, regulations, ordinances, orders, codes, permits, licenses, and agreements with or of federal, state, local, or foreign governmental or regulatory authorities and any order, writ, injunction, subpoena, settlement agreement, or decree issued or approved by any court, arbitrator, or Governmental Entity or in connection with any judicial or administrative proceeding.

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“Leased Real Property” shall have the meaning set forth in Section 2.1(a).

“Licenses” shall mean required certificates of need, certificates of exemption, franchises, accreditations, registrations, licenses, permits, and other consents or approvals issued by any Governmental Entity or accreditation organization necessary to operate the Business.

“Lien(s)” shall mean any mortgage, pledge, security interest, encumbrance, lien (statutory or other), conditional sale agreement, claim, or liability.

“Material Adverse Effect” shall mean any event, occurrence, condition, circumstance, effect, or change that would be (or could reasonably be expected to be) materially adverse to the business, assets, condition (financial or otherwise), operating results, or operations of the Business.

“MRI Center” shall have the meaning set forth in the Preamble.

“NC DHHS” shall have the meaning set forth in Section 6.1(c).

“Net MRI-GAP Receivable” shall mean, for any period, all cash received on account of the Medicaid Reimbursement Initiative/GAP Assessment Program for such period, less all cash payments which shall be funded by Buyer to the Medicaid Reimbursement Program/GAP Assessment Program for such period.

“Order” shall mean any applicable statute, rule, regulation, executive order, decree, temporary restraining order, judgment, preliminary or permanent injunction, or other order enacted, entered, promulgated, enforced, or issued by any Governmental Entity.

“Ordinary Course of Business” shall mean the ordinary course of the Business consistent with past custom and practice (including with respect to quantity and frequency).

“Owned Real Property” shall have the meaning set forth in Section 2.1(a).

“Other RCC Owner” shall have the meaning set forth in Section 6.1(j).

“Paid Time Off” shall have the meaning set forth in Section 2.3(c).

“Patient Records” shall mean any and all written or electronically or magnetically stored files, charts, lists, medical histories, and other similar data maintained with respect to any Person treated or medically consulted with in accordance with the Business.

“Payor(s)” shall mean Medicare, Medicaid, or any other third-party payor (including an insurance company and self-insured employer), or any health care provider (such as a health maintenance organization, preferred provider organization, peer review organization, or any other managed care program).

“Permitted Encumbrances” shall mean: (a) Liens for Taxes that are not yet due and payable but which may be payable by Sellers or pro-rated at the Closing; (b) easements, licenses, restrictions, and other matters of record which do not adversely affect the operation of the

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Business in question as currently operated that are shown on any policy of title insurance for the Real Property that is issued to Buyer or any Related Party thereto and that is acceptable to Buyer; (c) Liens arising from the Assumed Liabilities; or (d) Liens included on any policy of title insurance for the Real Property that is issued to Buyer or any Related Person thereto and that is acceptable to Buyer.

“Person” shall mean any individual, corporation (including a nonprofit corporation), partnership, limited liability company, joint venture, trust, estate, association, organization, or other business entity and any governmental body, agency, or regulatory authority.

“Petition Date” shall have the meaning set forth in the Recitals.

“Prepayments” shall have the meaning set forth in Section 2.1(e).

“Program” shall have the meaning set forth in Section 7.10.

“Purchase Price” shall have the meaning set forth in Section 3.1.

“Randolph” shall have the meaning set forth in the Preamble.

“RCC” shall have the meaning set forth in Section 2.1(o).

“Real Property” shall have the meaning set forth in Section 2.1(a).

“Related Agreements” shall mean each other related certificate, instrument, and agreement required pursuant to this Agreement and to which either one or more Sellers or Buyer are parties thereto.

“Related Person” shall mean, with respect to any Person, all past, present, and future directors, officers, members, managers, stockholders, employees, controlling persons, agents, professionals, attorneys, accountants, investment bankers, or representatives of any such Person.

“Release” shall mean any release, spill, emission, leaking, pumping, emptying, dumping, injection, deposit, disposal, discharge, dispersal, leaching, or migration of Hazardous Materials into or within the environment.

“Retained Employees” shall have the meaning set forth in Section 6.1(i)(i).

“Retained Hospital Records” shall have the meaning set forth in Section 6.1(g)(i).

“RSGP” shall have the meaning set forth in the Preamble.

“Sale Order” shall have the meaning set forth in the Recitals.

“Schedule” shall mean any schedule to this Agreement.

“Seller(s)” shall have the meaning set forth in the Preamble.

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“Sellers’ Knowledge” shall mean the actual conscious knowledge of Sellers’ current Chief Executive Officer, Chief Financial Officer, and Chief Operating Officer, only to the extent that each such officer is affiliated with such Seller or Sellers.

“Seller Plan” shall have the meaning set forth in Section 6.1(i)(v).

“StayWell” shall have the meaning set forth in Section 2.1(n).

“Taxes” shall mean (i) all federal, state, county and local sales, use, excise, property, recordation, transfer, and conveyance taxes, (ii) all state, county and local taxes, levies, fees, assessments, or surcharges (however designated, including privilege taxes, room or bed taxes, and user fees) which are based on the gross receipts, net operating revenues, or patient days of a Sellers’ facility for a period ending on, before, or including the Closing Date or a formula taking any one of the foregoing into account, and (iii) any interest, penalties, and additions to tax attributable to any of the foregoing.

“Third Party Claim” shall have the meaning set forth in Section 10.2(c).

“Transferred Hospital Records” shall have the meaning set forth in Section 2.1(k).

“Unresolved Claim Amount” shall have the meaning set forth in Section 10.2(e)(ii).

“WARN Act” shall have the meaning set forth in Section 6.1(i)(vii).

“Warranties” shall have the meaning set forth in Section 2.1(g).

**ARTICLE 2.
PURCHASE AND SALE OF ACQUIRED ASSETS**

2.1 Acquired Assets. At the Closing, and upon the terms and conditions set forth herein, each Seller shall sell, assign, transfer, and deliver to Buyer, and Buyer shall purchase from each Seller, all of such Seller’s right, title, and interest in, to, and under the following properties, assets, and rights owned by such Seller, in each case, free and clear of all Liens, liabilities, claims, interests, and encumbrances, other than Permitted Encumbrances (collectively the “Acquired Assets”):

(a) All owned real property (the “Owned Real Property”) and leased real property (the “Leased Real Property,” together with the Owned Real Property, the “Real Property”) of any Seller, together with all fixtures and Improvements thereon, including, without limitation, the Real Property listed on Schedule 2.1(a);

(b) All machinery, equipment, furniture, leasehold improvements, office and telephone equipment, administrative supplies, maintenance and janitorial equipment, computer hardware, fixtures and fittings, motor vehicles, tools, maintenance parts, spare parts, and other similar items of tangible personal property including, but not limited to, those listed on Schedule 2.1(b) (collectively “Equipment”);

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(c) All inventories of supplies, drugs, pharmaceuticals and medications, food, janitorial and office supplies, forms, consumables, disposables, linens, medical, maintenance and shop supplies, and other similar items of tangible personal property wherever located on the Closing Date that are used, owned, or held primarily in the conduct of the Business (collectively, the “Inventory”);

(d) All Contracts listed on Schedule 2.1(d) (“Assigned Contracts”) which list may be amended, supplemented, added to, or deleted from between the date of this Agreement and the Closing Date by written notice from Buyer to Sellers;

(e) All advance payments, deposits, prepayments, and prepaid expenses made with respect to the Acquired Assets as of the Closing Date, excluding utility deposits and retainers to professionals made in the bankruptcy proceedings (collectively, “Prepayments”), as listed on Schedule 2.1(e);

(f) All Licenses as of the Closing Date that are owned by any Seller, including without limitation those Licenses listed on Schedule 2.1(f), provided that Licenses shall be included only to the extent they are legally transferable;

(g) All unexpired warranties as of the Closing Date that are legally transferable to Buyer either received from third parties with respect to the Acquired Assets, including, but not limited to, obligations to repair or replace, or to refund the sales price or any other related expenses regarding alleged defects in goods sold or services, unliquidated rights under manufacturers’ or vendors’ warranties, and such warranties as are set forth in any construction agreement, lease agreement, equipment purchase agreement, consulting agreement, or agreement for architectural and engineering services (collectively, “Warranties”) as listed on Schedule 2.1(g);

(h) Except as set forth in Section 2.2 below, all causes of action, lawsuits, judgments, claims, and demands of any nature available to or being pursued by any Seller with respect to the Acquired Assets or the Assumed Liabilities, whether known or unknown, contingent or noncontingent, arising by way of counterclaim or otherwise and all proceeds thereof, and all guarantees, warranties, indemnities and similar rights and other intangible property related to the Acquired Assets, the Assumed Liabilities, or the Business; provided, however, that no cause of action, lawsuit, judgment, claim, or demand of any kind or nature whatsoever arising between any Seller, on the one hand, and Buyer, on the other hand, relating to the transactions contemplated by this Agreement and the Related Agreements, shall be deemed to be transferred to Buyer hereunder and shall be retained in its entirety by Sellers solely and exclusively; provided further, however, that nothing herein shall be construed to give Buyer any right to claims and causes of action arising under chapter 5 of the Bankruptcy Code and any related claims and causes of action, which are Excluded Assets pursuant to Section 2.2(f);

(i) All intangible, intellectual, and proprietary property used in or related to the Business and owned by any Seller, including without limitation, all patents and patent applications, trademarks, service marks, inventions, trade secrets, know-how, software, computer files and data, assembly instructions, drawings, blueprints, telephone numbers, facsimile telephone numbers, e-mail addresses, confidential business information, including without

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limitation, those items set forth on Schedule 2.1(i), and all goodwill, rights to sue and collect with respect to any infringements, and the right to receive royalties with respect to the foregoing (collectively, the “Intangible Assets”);

(j) To the extent legally transferable, all documents, books, records, operating, employee and policy manuals, and files of any Seller used primarily in the conduct of the Business, whether in hard copy, electronic copy, or other form, including, without limitation, all vendor and supplier records, financial records, equipment records, and medical and administrative libraries and personnel records related to Hired Employees (collectively, the “Business Records”), but excluding any Seller’s corporate record books, minute books and Tax records, the Retained Hospital Records, the proprietary records, and the Business Records and Patient Records excluded under Section 2.2(d);

(k) To the extent legally transferable, all Active Patient Records maintained or stored as of the Closing Date pertaining to patients treated at any Seller’s facility, as well as all Patient Records that are required to be maintained in accordance with state or federal law, regardless of whether such Patient Records constitute Active Patient Records (collectively, the “Transferred Hospital Records”); *provided, however*, that prior to any Active Patient Records becoming a part of the Acquired Assets, each patient shall be given a reasonable opportunity to object to the transfer of such patient’s Active Patient Records to Buyer, and, to the extent of such patient objections, such Active Patient Records shall become a part of the Excluded Assets;

(l) Any and all Medicare, Medicaid, and other similar provider numbers of or assigned to any Seller with respect to the Business and all rights, benefits, and privileges appurtenant thereto, as listed on Schedule 2.1(l);

(m) All rights relating to all applications for grants filed prior to the Closing Date and/or any grants received prior to the Closing Date that are listed on Schedule 2.1(m);

(n) all of Sellers’ membership interest in StayWell Senior Care, d/b/a Randolph Health StayWell Senior Care, a North Carolina nonprofit corporation (“StayWell”), which constitutes at least an eighty percent (80%) membership interest;

(o) All of Sellers’ membership interest in Randolph Cancer Center, L.L.C., d/b/a Randolph Health Cancer Center, a North Carolina limited liability company (“RCC”), which constitutes at least a sixty percent (60%) membership interest; and

(p) All of Sellers’ interest in any Low Volume Adjustment, DSH/UPL or Pass Through or similar payments (including any Net MRI-GAP Receivable) received for and attributable to any period after the Closing.

2.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, the following properties and assets (the “Excluded Assets”) are not included in the Acquired Assets, and Sellers shall retain and not transfer to Buyer, and Buyer shall not purchase or acquire, such Excluded Assets:

(a) The rights of any Seller to offset or counterclaim as set forth on Schedule 2.2(a) and any other rights or remedies provided to Seller under this Agreement, the Related

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Agreements, and applicable Law and each other document executed in connection with the Closing;

(b) The rights of any Seller under any insurance policy or to any insurance proceeds relating to the Acquired Assets (it being understood, however, that Sellers shall not have any obligation to take any action under any such policy to seek any recovery or to continue any such policy in force);

(c) The rights of any Seller to receive mail and other communications addressed to any of them with respect to Excluded Assets or Excluded Liabilities;

(d) Any and all Business Records and Patient Records, whether or not maintained by Sellers, which are not Transferred Hospital Records, and (i) which are not transferable under applicable Law, (ii) which constitute inactive Patient Records, (iii) which constitute Active Patient Records for patients who have objected to the transfer to Buyer of their Active Patient Records; (iv) which are protected by attorney-client privilege; or (v) as listed on Schedule 2.2(d).

(e) All amounts due to Sellers arising from Intercompany Claims, which do not arise from Assigned Contracts, provided, no recovery related thereto will be sought against Buyer or the Acquired Assets;

(f) All claims and actions arising under Chapter 5 of the Bankruptcy Code and any related claims and causes of action under applicable non-bankruptcy law arising out of the same set of facts, and the proceeds from any of the foregoing;

(g) All cash, cash equivalents, bank accounts, deposit accounts, trust accounts, escrow accounts, investment accounts, securities accounts and the assets and free credit balances held therein, utility deposits and other liquid assets of any Seller, wherever located and however held; including, without limitation, those specifically described on Schedule 2.2(g);

(h) All regulatory settlements, rebates, adjustments, refunds, or group appeals, including without limitation pursuant to Medicare, Medicaid, or Cost Reports, arising out of time periods prior to the Closing;

(i) Intentionally omitted.

(j) All assets of Randolph Hospital Community Health Foundation, d/b/a Randolph Health Community Foundation;

(k) All notes and accounts receivable in existence as of the Closing Date from patients, Payors, and other third parties (billed and unbilled, recorded and unrecorded, accrued and existing) arising from or in connection with the Business, together with rights to payment for services rendered through the Closing Date; provided, however, that for accounts receivable of patients admitted to Hospital on or before the Closing Date whose lengths of stay shall continue following the Closing Date and dates of service cannot be identified for such patients, such accounts receivable shall be allocated between Sellers and Buyer based upon the days elapsed

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during such admissions up to and including the Closing Date, which shall be allocated to Sellers, and the days following the Closing Date, which shall be allocated to Buyer;

(l) All actions and/or causes of action that Seller has brought and/or may bring against any Person relating to any Excluded Asset and/or Excluded Liability, including, without limitation, all actions and/or causes of action that Seller may bring against any current or former director, officer, employee, or consultant;

(m) Any assets disposed of or consumed in the ordinary course of business (except any disposed of or consumed in breach of the provisions of this Agreement) during the period between the date hereof and the Closing Date;

(n) Any personnel records for employees of Seller who are not Hired Employees;

(o) All rights, documents, or privileges relating to any Excluded Liability or other Excluded Asset;

(p) All of Sellers' deposits and other prepaid charges and expenses paid in connection with or relating to any Excluded Assets;

(q) Such other assets, if any, specifically described on Schedule 2.2(q), and assets which would be Acquired Assets except for the operation of Section 2.5 or as expressly provided in other provisions, if any, of this Agreement; or

(r) All of Sellers' interest in any Low Volume Adjustment, DSH/UPL or Pass Through or similar payments (including any Net MRI-GAP Receivable) received for or attributable to any period prior to the Closing.

Notwithstanding the foregoing, post-Closing, Buyer shall use commercially reasonable efforts to, for a period of twelve (12) months following the Closing Date, complete the billing process and thereafter collect accounts receivable arising from patient services rendered prior to the Closing Date and transfer such collections to Sellers, with the first distribution occurring two (2) weeks from the Closing Date and continuing thereafter on a monthly basis, together with an accounting for same. Buyer shall retain four percent (4%) of the first \$5,000,000.00 collected, five percent (5%) of the next \$2,000,000.00 collected, six percent (6%) of the next \$2,000,000.00 collected, and seven percent (7%) on any additional amounts collected as compensation for managing the collection of such accounts receivable for Sellers; provided, that the first \$500,000.00 of such post-Closing Date collections that would otherwise be remitted to Sellers will be retained in an escrow account (the "A/R Escrow") to secure Sellers' indemnification obligations set forth in Article 10. At any time after the A/R Escrow is funded and no earlier than sixty (60) days after Closing, Sellers may give written notice of termination of this accounts receivable collections provision, without cause, with the termination to be effective sixty (60) days after the date of written notice of termination is received by Buyer. In the event of such termination, Buyer will cooperate to transfer necessary data to Sellers but Sellers will pay all third party costs associated with such transfer. Although the source of funding the A/R Escrow will be collections of Sellers' accounts receivable, this shall in no way

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prejudice the allocation of creditor distributions, rights to future release of the A/R Escrow or otherwise among Sellers' creditors.

Sellers shall remove at any time prior to or within ninety (90) days following the Closing Date or, with respect to the Retained Hospital Records, Sellers may remove from time to time within the relevant Document Retention Period (in each case, at Sellers' expense, but without charge by Buyer for storage), any and all of the Excluded Assets, provided that Sellers shall do so in a manner that does not unduly or unnecessarily disrupt Buyer's normal business activities.

2.3 **Assumed Liabilities.** At the Closing, Buyer shall assume and pay, discharge, and perform as and when due, and indemnify, defend, and hold harmless Sellers and their Affiliates from and against, all of the following liabilities of Sellers (the "Assumed Liabilities"):

(a) All liabilities and obligations of Sellers under the Assigned Contracts arising on or after the Closing Date, and all cure costs required to be paid pursuant to Section 365 of the Bankruptcy Code in connection with the assumption and assignment of the Assigned Contracts (such cure costs are, collectively, the "Cure Costs"), provided, the Cure Cost and any amount required for adequate assurance of future performance shall be acceptable to Buyer in its sole discretion and if any Cure Cost or adequate assurance of future performance is not acceptable to Buyer in its sole discretion at any time prior to the Closing Date, such contract shall not be an Assigned Contract and Buyer shall have no liability with respect to such contract;

(b) All liabilities and obligations arising on or after the Closing Date relating to or arising out of the Acquired Assets or the Business;

(c) All liabilities and obligations to any Hired Employee for compensation that is accrued and vested and with respect to which the Hired Employee would be entitled to payment upon termination of his or her employment with Sellers or an Affiliate of Sellers for "old paid days leave," "paid time off," sick leave and vacation pay to the extent that they are vested rights that are subject to payment upon termination of employment (collectively, "Paid Time Off") through the Closing Date in accordance with the employment policies of Sellers and their Affiliates as they exist on the date of this Agreement, excluding, however, compensation payable by Sellers solely as a result of a termination of such employee's employment with Sellers as of the Closing;

(d) Liabilities or obligations existing by reason of any liability to refund any payment or reimbursement received from any Payor relating to services performed on or after the Closing Date;

(e) Any liability or obligation resulting from Sellers' use of Medicare, Medicaid, or other similar provider numbers for the Business on or after the Closing Date; and

(f) Such other liabilities and obligations, if any, specifically described on Schedule 2.3(f).

2.4 **Excluded Liabilities.** Buyer is assuming only the Assumed Liabilities and is not assuming any other liability or obligation of whatever nature, whether presently in

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existence or arising hereafter. All such other liabilities and obligations shall be retained by and remain liabilities and obligations of Sellers (all such liabilities are, collectively, the “Excluded Liabilities”). The Excluded Liabilities include, without limitation, the following liabilities and obligations:

- (a) Amounts due pursuant to any Intercompany Claims;
- (b) Any liabilities or obligations related to any Excluded Assets;
- (c) Any liabilities relating to fraud or the federal statutes relating to health care fraud and abuse and kickbacks or related or similar statutes or the regulations promulgated pursuant to any of such statutes, and any similar applicable state laws or regulations pertaining to fraud, kickbacks, or fee-splitting;
- (d) Any liabilities or obligations of Sellers related to any pension or retirement plans or programs.;
- (e) Liabilities or obligations to refund any payment or reimbursement received from any Payor, patient, or vendor on account of services performed or goods provided prior to the Closing Date;
- (f) Liabilities or obligations resulting from any Seller’s use of Medicare, Medicaid, or similar provider numbers for the Business prior to the Closing Date;
- (g) Liabilities or obligations related to any grant not listed on Schedule 2.1 (m);
- (h) Liabilities or obligations related to funds received under the CARES Act, Paycheck Protection Program, or similar governmental programs.
- (i) Liabilities or obligations to any employee of Sellers other than Paid Time Off for all Hired Employees.

2.5 Non-Assignment of Contracts. Notwithstanding anything contained herein to the contrary, this Agreement shall not constitute an agreement to assign any Assigned Contract, if, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, an attempted assignment thereof, without the consent of any other party thereto, would constitute a breach thereof or in any way negatively affect the rights of Sellers or Buyer, as the assignee of such Assigned Contract, as the case may be, thereunder. If, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, such consent or approval is required but not obtained, Sellers shall cooperate with Buyer without further consideration in any reasonable arrangement designed to both (a) provide Buyer with the benefits of or under any such Assigned Contract, and (b) cause Buyer to bear all costs and obligations of or under any such Assigned Contract. Any assignment to Buyer of any Assigned Contract that shall, notwithstanding the provisions of Sections 363 and 365 of the Bankruptcy Code, require the consent or approval of any third party for such assignment as aforesaid shall be made subject to such consent or approval being obtained.

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2.6 Taxes and Assessments. The liability for payment of accrued but unbilled or unpaid Taxes and other assessments relating to, or arising out of the ownership or transfer of, the Acquired Assets or the Assigned Contracts (including, but not limited to any water, sewer, and other municipal charges owed to any Governmental Authority), imposed on a periodic basis beginning before and ending after the Closing Date or as a result of the consummation of the transactions evidenced by this Agreement or otherwise, shall be paid by Sellers at the Closing, provided that Sellers have received at Closing the Purchase Price required to be paid by Buyer pursuant to Article 3. All Taxes and other assessments shall be listed on Schedule 2.6, which shall be prepared and delivered at Closing. If any Taxes or other assessments paid by Seller at any time on or prior to the Closing Date are attributable in whole or in part to any period following the Closing, then the Purchase Price payable at Closing shall be increased to adjust for the prior payment of such Taxes and assessments by Seller attributable to the post-closing period.

**ARTICLE 3.
CONSIDERATION**

3.1 Purchase Price. The aggregate consideration for the sale, conveyance, assignment, transfer, and delivery of the Acquired Assets shall be (a) Eighteen Million Five Hundred Thousand Dollars (\$18,500,000.00) (the "Cash Purchase Price"), and (b) the assumption by Buyer of the Assumed Liabilities (such assumption, together with the Cash Purchase Price, the "Purchase Price"). The Cash Purchase Price shall be payable as provided in Section 4.3 and subject to adjustment as provided elsewhere in this Article 3.

3.2 Escrow.

(a) Upon the execution of this Agreement, the parties shall execute an escrow agreement (the "Escrow Agreement") in substantially the form of Exhibit A, attached hereto and incorporated herein by reference. In the event of any conflict between this Agreement and the Escrow Agreement, this Agreement shall prevail.

(b) Upon the execution of this Agreement, Buyer shall deposit with the Escrow Agent (as such term is defined in the Escrow Agreement) an amount equal to One Million Eight Hundred Fifty Thousand Dollars (\$1,850,000.00) (the "Deposit").

3.3 Operational Commitments. In addition to the Purchase Price and Deposit noted above, the parties acknowledge and agree that the following is additional consideration for this Agreement:

(a) Buyer intends to, and will make commercially reasonable efforts to, operate Randolph licensed as a North Carolina acute care hospital with the complement of health care clinical services and service lines reasonably appropriate for a similarly situated hospital, from the Closing Date continuously through the term of any loan provided to Randolph County on behalf of Randolph pursuant to the Rural Health Care Stabilization Program.

(b) Buyer intends to, and will make commercially reasonable efforts to, dedicate reasonably necessary ongoing capital and operating resources to ensure the continuation

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and advancement of the clinical service lines, programs, and other health care activities provided by Sellers in Sellers' service area prior to the Closing.

(c) Buyer intends to, and will make commercially reasonable efforts to, make capital investments in Randolph, and in its core service lines, consistent with the terms and conditions of any loans or grants made to Buyer at the Closing.

Recovery for any breach of the obligations set forth in this Section 3.3 shall be limited to the assets of Buyer, except as otherwise specifically provided in this Section 3.3. No claim arising from or related to this Section 3.3 may be asserted against American Healthcare Systems Management, LLC ("AHSM") or any present or future officer, director, or employee of Buyer or of AHSM, provided, however, this limitation of liability shall not apply in the event of gross negligence, willful misconduct, or self-dealing.

ARTICLE 4. CLOSING

4.1 Closing. The closing of the purchase and sale of the Acquired Assets and the assumption of the Assumed Liabilities and the consummation of any other transactions contemplated hereunder (the "Closing") shall take place at the offices of Nelson Mullins Riley & Scarborough LLP, Glenlake One, Suite 200, 4140 Parklake Avenue, Raleigh, North Carolina 27612, at 10:00 am local time (unless the parties agree to another time, date, or place) within three (3) Business Days after the satisfaction or waiver of the conditions set forth in Articles 7 and 8, other than those conditions that by their nature are to be satisfied at the Closing, but subject to the fulfillment or waiver of those conditions (the "Closing Date"). The transactions to be consummated on the Closing Date shall be deemed to have been consummated as of 11:59 p.m. on the day prior to the Closing Date. At the Closing, all proceedings to be taken and all documents to be executed and delivered by all parties shall be deemed to have been taken and executed simultaneously and no proceedings shall be deemed to have been taken or not taken nor documents executed or delivered until all have been taken, executed, and delivered. Sellers shall be responsible for all expenses of the Acquired Assets and the Business through Closing, however, Sellers and Buyers shall prorate the expenses to the extent not capable of being paid at Closing. Such expenses that are not capable of being known as of the Closing Date shall be estimated and fixed by the parties, utilizing their good faith best efforts, prior to Closing.

4.2 Deliveries by Sellers. On or prior to the Closing Date, Sellers shall deliver to Buyer the following:

(a) Copies of the resolutions of Sellers necessary to authorize the transactions contemplated hereby, authorizing the sale of the Assets and the execution and delivery of this Agreement by Sellers and the consummation by Sellers of the transactions contemplated hereby, certified by an authorized signatory of each Seller;

(b) A true and complete copy of each Seller's organizational documents and a certificate of existence of each Seller from the State of North Carolina, together with a certificate by an authorized officer of each Seller that the certificate of formation of each Seller has not

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been amended since the date of the certification and that nothing has occurred since the date of issuance of the certificate of existence that would adversely affect such Seller's existence;

(c) Certificates from an authorized officer of each Seller as to the incumbency and signatures of each officer of Sellers executing this Agreement, the Related Agreements, and any other documents required under this Agreement;

(d) A certified copy of the final, non-appealable Sale Order authorizing and ratifying the execution and delivery of this Agreement by Sellers and the consummation of the transactions contemplated hereby;

(e) An officer's certificate delivered in accordance with Section 7.3; and

(f) A title commitment and pro forma title insurance policy for each parcel of Owned Real Property and Leased Real Property in form and content acceptable to Buyer issued by a title insurance company acceptable to Buyer, with the premiums for such policies paid by Sellers together with such additional documents as required by the title company from Sellers in order to issue the final title insurance policies.

4.3 Deliveries by Buyer. On or prior to the Closing Date, Buyer shall deliver, or shall cause to be delivered, to Sellers the following:

(a) The Deposit, in accordance with the terms of the Escrow Agreement by wire transfer of immediately available funds to the bank account designated by Sellers in writing to Buyer at least two (2) Business Days prior to the Closing Date

(b) The Cash Purchase Price, less the Deposit, by wire transfer of immediately available funds to Sellers' bank account, designated by Sellers in writing to Buyer at least two (2) Business Days prior to the Closing Date;

(c) Copies of the resolutions of all corporate bodies of Buyer necessary to authorize the transactions contemplated hereby, authorizing the purchase of the Acquired Assets and the execution and delivery by Buyer of this Agreement and the consummation by Buyer of the transactions contemplated hereby, certified by an authorized signatory of Buyer;

(d) A true and complete copy of Buyer's organizational documents along with (i) a certificate of existence of Buyer from Buyer's state of formation, (ii) a certificate of authority from the State of North Carolina, if applicable, and (iii) a certificate by an authorized officer of Buyer that the certificates of formation and/or authority of Buyer have not been amended since the date(s) of the certification and that nothing has occurred since the date of issuance of the certificate(s) that would adversely affect Buyer's existence or authority, as applicable;

(e) Certificates from an authorized officer of Buyer as to the incumbency and signatures of each officer of Buyer executing this Agreement, the Related Agreements, and any other documents required under this Agreement;

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- (f) An instrument of assumption of liabilities with respect to the Assumed Liabilities reasonably satisfactory in form and substance to counsel for Sellers;
- (g) An officer's certificate in accordance with Section 8.3; and
- (h) Any Cure Costs related to any Assigned Contract, which Cure Costs shall not be credited against the Purchase Price, which Cure Costs shall be paid by Buyer at Closing to the various contract parties.

**ARTICLE 5.
REPRESENTATIONS AND WARRANTIES**

5.1 Representations and Warranties of Sellers. Sellers, jointly and severally, represent and warrant to Buyer as follows:

(a) Corporate Organization of Sellers. Each Seller is duly incorporated, validly existing, and in good standing under the laws of the State of North Carolina. Each Seller has all necessary power and authority to own its properties and assets and to conduct the Business as now conducted.

(b) Authorization and Validity. Subject to Bankruptcy Court approval, each Seller has the full power and authority to execute and deliver this Agreement and the Related Agreements and to perform its obligations hereunder and thereunder.

(c) No Conflict or Violation. Subject to: (i) Bankruptcy Court approval; (ii) receipt of the consents listed on Schedule 5.1(d); and (iii) delivery of notice to the North Carolina Attorney General or receipt of approval from the North Carolina Attorney General, as applicable, as required by N.C. Gen. Stat. § 55A-12-02, the execution, delivery, and performance by Sellers of this Agreement and the Related Agreements, and the performance by Sellers of the transactions contemplated by this Agreement and the Related Agreements, do not (a) violate any provision of Sellers' governance documents, (b) violate any Law or Order, (c) result in a breach of or default (with or without notice or lapse of time or both) under any Contract to which Sellers are a party or by which they or any of their properties may be affected or bound, if the effect of such breach or default shall be a Material Adverse Effect, or (d) cause the acceleration of the maturity of the Assumed Liabilities or the creation of any Lien, charge, or encumbrance upon any Seller in a manner that shall have a Material Adverse Effect.

(d) Consents. Except as set forth on Schedule 5.1(d), to Sellers' Knowledge, the execution, delivery, and performance by Sellers of this Agreement and the Related Agreements, and the performance by Sellers of the transactions contemplated by this Agreement and the Related Agreements, do not require the authorization, consent, or approval of any Governmental Entity or third party of such a nature that the failure to obtain the same would have a Material Adverse Effect.

(e) Brokers. Except as set forth on Schedule 5.1(e), no broker, finder, investment banker, or other Person is entitled to any brokerage, finder's, or other fee or commission in connection with this Agreement or the transactions contemplated hereby based

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upon any agreements or arrangements or commitments, written or oral, made by or on behalf of Sellers.

(f) Title to Acquired Assets. Subject to the entry of the Sale Order, at the Closing, Sellers shall have good and marketable title to, or a valid and enforceable right by Contract to use, the Acquired Assets, which shall be transferred to Buyer free and clear of all Liens, other than Permitted Encumbrances.

(g) Assigned Contracts. Copies of all Assigned Contracts (including all material modifications and amendments thereto) have been provided or made available to Buyer on October 1, 2020. Except as set forth on Schedule 5.1(g), after giving effect to the Sale Order, all of the Assigned Contracts are valid and binding agreements of Sellers and are in full force and effect in all material respects. Upon entry of the Sale Order and payment of Cure Costs and/or provision of adequate assurances, Sellers shall not be in breach or default in any material respect thereunder. To Sellers' Knowledge, as of the Closing Date and except as set forth in Schedule 5.1(g), no other party to any of the Assigned Contracts is in material breach or default thereunder.

(h) Licenses. To Sellers' Knowledge, Sellers possess all Licenses necessary for the conduct of the Business as it is currently conducted, other than such Licenses the absence of which would not have a Material Adverse Effect. Except as set forth on Schedule 5.1(h), Sellers are in material compliance with all Licenses.

(i) Employee Relations. With respect to the Hired Employees:

(i) Except as set forth on Schedule 5.1(i)(i), Sellers are not a party to any agreement with any union, trade association, or other similar employee organization, and Sellers have provided Buyer with access to a copy of all collective bargaining agreements listed on Schedule 5.1(i)(i); and

(ii) Except as set forth on Schedule 5.1(i)(ii), to Sellers' Knowledge, there are no unfair labor practice complaints, labor strikes, arbitrations, disputes, work slowdowns, or work stoppages pending, which would have a Material Adverse Effect.

(iii) A description of all employee benefits is set forth in Schedule 5.1(i)(iii).

(j) Litigation. Except as set forth on Schedule 5.1(j), and for the Bankruptcy Case and proceedings therein, there is no action, suit, proceeding in equity or at law, arbitration, or administrative or other proceeding by or before any person (including, without limitation, any Governmental Entity), pending, or to Sellers' Knowledge, threatened in writing against Sellers which, if adversely determined, would result in a Material Adverse Effect at any time before or after the Closing Date, and the Acquired Assets are not subject to any Order entered in any material lawsuit or proceeding.

(k) Hazardous Substances. To Sellers' Knowledge, except as disclosed on Schedule 5.1(k):

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(i) There has been no treatment, disposal, or Release of Hazardous Material on the Real Property or any other site to which Sellers have sent knowingly or otherwise knowingly arranged the transportation of Hazardous Materials (other than Releases involving *de minimis* quantities of Hazardous Materials and other than disposal and transportation by licensed disposers or haulers of Hazardous Materials) that would: (a) constitute a violation of any Environmental Law by Sellers, or by any third party if the effect of such violation by such third party imposes a remediation obligation on the part of Sellers; (b) trigger any release-reporting obligations of Sellers under any Environmental Law; or (c) trigger any clean-up or remediation obligations of Sellers under any Environmental Law;

(ii) Sellers are in compliance with, in all material respects, all Environmental Laws that govern the Real Property;

(iii) Sellers have obtained all material Licenses required under the Environmental Laws for operation of the Business, and currently are in compliance in all material respects with, all such Licenses; and

(iv) Sellers have not received in the most recent five (5) year period any written notice of any proceeding, action, or other claim or liability arising under any Environmental Laws (including, without limitation, notice of potentially responsible party status under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq. or any state counterpart) from any Person or Governmental Entity regarding the Real Property or the businesses operated from such properties, or any properties to which Sellers have sent knowingly or arranged knowingly for the transportation of Hazardous Materials.

(l) **Financial Information.** Sellers have previously furnished to Buyer, interim unaudited financial statements dated June 30, 2020 (the "Financial Statements"). Such Financial Statements were prepared in accordance with Sellers' past practices, and fairly represent the financial position, results of operations, and cash flows of Sellers for the period presented.

(m) **Compliance with Laws.** Except as set forth on Schedule 5.1(m), to Sellers' Knowledge, Sellers are in compliance with Laws and requirements applicable to the conduct of the Business or to the ownership or use of any of the Acquired Assets. To Sellers' Knowledge, and except to the extent that there is no Material Adverse Effect, Sellers are in compliance with Laws, regulations, and Orders, as required for participation in the Medicare and Medicaid reimbursement programs and are in compliance with the indigent care conditions, if any, contained in or related to certificates of need obtained by them. To Sellers' Knowledge, except as in the Ordinary Course of Business for denials, takebacks, and Payor audits, Sellers have not received any written notice with current applicability from any Governmental Entity of any violation or failure to comply with any Laws.

5.2 Representations, Warranties, and Agreements of Buyer. Buyer hereby represents, warrants to Sellers, and agrees with Sellers as follows:

(a) **Organization and Corporate Power.** Buyer is a limited liability company, organized and validly existing under the laws of, and is authorized to exercise its limited liability company powers, rights and privileges and is in good standing in, the Commonwealth of

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Virginia, and has full limited liability company power and authority to carry on its business as presently conducted and to own or lease and operate its properties and assets now owned or leased and operated by it, to own the Acquired Assets, and to perform the transactions on its part contemplated by this Agreement and all Related Agreements.

(b) Authorization and Validity. Buyer has, or on the Closing Date shall have, all requisite limited liability company power and authority to enter into this Agreement and any Related Agreement, and to perform its obligations hereunder and thereunder. The execution and delivery of this Agreement and each Related Agreement to and the performance of its obligations hereunder and thereunder, have been, or on the Closing Date shall be, duly authorized by all necessary entity action by the governing body of Buyer, and no other proceedings on the part of Buyer are necessary to authorize such execution, delivery, and performance. This Agreement has been, and each Related Agreement has been, or on the Closing Date shall be, duly executed by Buyer and constitute, or shall constitute, when executed and delivered, Buyer's valid and binding obligation, enforceable against Buyer in accordance with its respective terms, except as may be limited by bankruptcy or other laws affecting creditors' rights and by equitable principles.

(c) Absence of Breach. Subject to the provisions of Section 5.2(d) below regarding private party and Governmental Entity consents, the execution, delivery and performance by Buyer of this Agreement and the Related Agreements do not (i) violate any of the provisions of the governing documents of Buyer, (ii) violate any Law or cause the suspension or revocation of any License presently in effect, except where such violation, suspension, or revocation shall not have a Buyer Material Adverse Effect, or (iii) result in a breach of or default (with or without notice or lapse of time or both) under any Contract to which Buyer is a party or by which it or any of its properties may be affected or bound, if the effect of such breach or default shall be a Buyer Material Adverse Effect.

(d) Consents. Except as set forth on Schedule 5.2(d), the execution, delivery and performance by Buyer of this Agreement and the Related Agreements, and the performance by Buyer of the transactions contemplated hereby and thereby, do not require the authorization, consent, or approval of any Governmental Entity or third party of such a nature that a failure to obtain the same would have a Material Adverse Effect.

(e) Brokers. Except as set forth on Schedule 5.2(e), no broker, finder, investment banker or other Person is entitled to any brokerage, finder's, or other fee or commission in connection with this Agreement or the transactions contemplated hereby based upon any agreements, arrangements, or commitments, written or oral, made by or on behalf of Buyer or any of its Affiliates. Buyer shall be solely responsible for the payment of any such fee or commission to any Person listed on Schedule 5.2(e).

(f) Qualified for Licenses. Buyer has no knowledge of any reason why it is not qualified to obtain any Licenses and program participations necessary for the operation by Buyer of the Acquired Assets as of the Closing in substantially the same manner as the Acquired Assets are presently operated by Sellers and as Buyer anticipates operating the Business following the Closing, and Buyer shall use its best efforts to obtain all such Licenses and

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program participations. Buyer has no knowledge of any reason why it will not receive approval from the North Carolina Attorney General regarding the transactions set forth herein.

(g) Financial Ability to Perform. Subject to receipt of the grant set forth in Section 7.10, Buyer shall have at Closing, liquid capital or committed sources therefor sufficient to permit it to perform timely its obligations hereunder, including, but not limited to, the payment of the Cash Purchase Price to Sellers and the other payments to Sellers required hereunder, and the due and timely discharge of the Assumed Liabilities, including but not limited to, payment of the Cure Costs.

(h) No Assurance. Buyer acknowledges and agrees that the rates or bases used in calculating payments or reimbursements to it by any Payor (including but not limited to Medicare) following the Closing may differ from the rates and bases used in calculating such payments or reimbursements to Sellers.

(i) Acknowledgment by Buyer. Buyer has concluded whatever inspections, studies, tests, and investigations Buyer desired to conduct relating to the Business, affairs, condition (financial and otherwise), prospects, properties, assets, liabilities, and obligations of Sellers, the Acquired Assets, and the Assumed Liabilities, including economic reviews and analyses, soil tests, engineering analyses, environmental analyses and analyses of any applicable records of any Governmental Entity; provided the third parties providing the grant described in Section 7.10 may require additional due diligence. Buyer is relying solely on (i) the representations, warranties, and covenants of Sellers set forth in this Agreement and the Related Agreements, and (ii) its own investigation as to the Business, affairs, condition (financial and otherwise), prospects, properties, assets, liabilities, and obligations of Sellers. Buyer acknowledges that all representations regarding the Acquired Assets, the Assumed Liabilities, the Business, and the past, present, and future condition (financial and otherwise) of Sellers have been made to Buyer in writing only, and limited to representations contained in this Agreement and the Related Agreements.

(j) Litigation. Except as set forth on Schedule 5.2(j), there is no action, suit, proceeding in equity or at law, arbitration, or administrative or other proceeding by or before any person (including, without limitation, any Government Entity), pending, or threatened in writing against Buyer which, if adversely determined, would result in a Buyer Material Adverse Effect at any time before or after the Closing Date.

5.3 Representations Exclusive. THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT AND THE RELATED AGREEMENTS CONSTITUTE THE SOLE AND EXCLUSIVE REPRESENTATIONS AND WARRANTIES OF SELLERS TO BUYER IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT AND BY THE RELATED AGREEMENTS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN THE RELATED AGREEMENTS, SELLERS MAKE NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, UNDER CONTRACT, AT LAW, OR IN EQUITY, IN RESPECT OF ANY OF THE PROPERTIES, ASSETS, RIGHTS, LICENSES, PERMITS, PRIVILEGES, OR FRANCHISES OF SELLERS, ANY OF THE LIABILITIES, OBLIGATIONS, OPERATIONS, AFFAIRS, OR PROSPECTS

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OF SELLERS, OR ANY PRESENT OR FUTURE FINANCIAL CONDITION OF SELLERS OR THEIR RESPECTIVE OPERATIONS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLERS MAKE NO REPRESENTATION OR WARRANTY WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, SUITABILITY, USAGE, WORKMANSHIP, QUALITY, PHYSICAL CONDITION, OR VALUE, AND ANY AND ALL SUCH OTHER REPRESENTATIONS AND WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLERS SPECIFICALLY SET FORTH IN THIS AGREEMENT AND IN THE RELATED AGREEMENTS, ALL OF THE PROPERTIES, ASSETS, RIGHTS, LICENSES, PERMITS, PRIVILEGES, FRANCHISES, LIABILITIES, AND OBLIGATIONS OF SELLERS INCLUDED IN THE ACQUIRED ASSETS AND THE ASSUMED LIABILITIES ARE BEING ACQUIRED OR ASSUMED "AS IS, WHERE IS" ON THE CLOSING DATE AND IN THEIR PRESENT CONDITION, WITH ALL FAULTS, AND BUYER SHALL RELY ON ITS OWN EXAMINATION AND INVESTIGATION THEREOF IN MAKING ITS ACQUISITION INVESTMENT DECISION.

ARTICLE 6.
COVENANTS AND OTHER AGREEMENTS

6.1 **Mutual Covenants.** Each Seller covenants to Buyer and Buyer covenants to each Seller the following:

 (a) **General.** Each of the parties shall use its commercially reasonable efforts to take all actions to do all things necessary in order to consummate and make effective the transactions contemplated by this Agreement.

 (b) **Notices, Consents and Licenses.** Upon execution of this Agreement, each party hereto shall (i) cooperate with the other and take all reasonable steps to obtain, as promptly as practicable, all consents and Licenses required of any party hereto to consummate the transactions contemplated by this Agreement, and (ii) provide such other information and communications to any Governmental Entity as may be reasonably requested. Sellers shall be responsible for obtaining all consents and Licenses required for Sellers to transfer the Acquired Assets and Assumed Liabilities to Buyer, and Buyer shall be responsible for obtaining all consents and Licenses required for Buyer to acquire the Acquired Assets from Sellers and to operate the Acquired Assets following the Closing. Upon request, each party hereto shall cooperate with the other parties hereto in all reasonable respects in such party's efforts to obtain the consents and Licenses for which such party is responsible. The parties shall work diligently and in good faith to complete all necessary regulatory filings, applications, and notices and secure all necessary consents and approvals, if any, including, without limitation, filings with the North Carolina Attorney General, in order to complete the transactions contemplated under this Agreement. From and after the Execution Date, the parties shall use commercially reasonable efforts to complete, prepare, and obtain all materials necessary or desirable to make the filings contemplated by Section 6.1(c) immediately after the entry of the Sale Order.

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(c) Various Regulatory and CMS Filings. After entry of the Sale Order, Sellers shall promptly execute and file any and all forms, notices, consents, and applications with the North Carolina Department of Health and Human Services (“NC DHHS”) and the Centers for Medicare and Medicaid Services (“CMS”) as may be necessary for NC DHHS and CMS to timely issue, assign, or transfer any provider agreement to Buyer required for Buyer to operate the Acquired Assets immediately upon the Closing. After entry of the Sale Order, Buyer shall promptly execute and file any and all forms, notices, consents, and applications with NC DHHS and CMS as may be necessary for NC DHHS and CMS to timely apply for the issuance, assignment, or assumption of any provider agreement to Buyer required for Buyer to operate the Acquired Assets immediately upon the Closing. Buyer shall assume Sellers’ provider agreements to participate in the Medicare and Medicaid programs.

(d) Other Filings. Buyer will prepare and file the 2020 Medicare Cost Report for January 1, 2020 to December 31, 2020. Sellers will prepare all prior Medicare Cost Reports. Sellers will prepare and file all income and other tax returns for the periods up to and ending on the Closing Date.

(e) Further Assurances. From time to time, at the reasonable request of either Buyer or Sellers, whether on or after the Closing, without further consideration, either Buyer or Sellers, at its expense and within a reasonable amount of time after request hereunder is made, shall (i) execute and deliver such further instruments of assignment, transfer, and assumption and take such other action as may be reasonably required to more effectively assign and transfer the Acquired Assets to, and vest the Assumed Liabilities in, Buyer; (ii) deliver or make the payment of the Cash Purchase Price to Sellers or any amounts due from one party to the other pursuant to the terms of this Agreement; or (iii) confirm Sellers’ ownership of the Excluded Assets and obligations with respect to the Excluded Liabilities.

(f) Cooperation Respecting Proceedings. After the Closing, upon prior reasonable written request, each party shall cooperate with the other, at the requesting party’s expense (but including only out-of-pocket expenses to third parties and not the costs incurred by any party for the compensation or other benefits paid to its officers, directors or employees), in furnishing information, testimony, and other assistance in connection with any inquiries, actions, Tax or Cost Report preparation and/or audits, proceedings, arrangements, or disputes involving either Buyer or Sellers (other than in connection with disputes between the parties hereto) and based upon Contracts, arrangements, or acts of Sellers which were in effect or occurred on or prior to the Closing and which relate to the Business or the Acquired Assets, including, without limitation, arranging discussions with (and the calling as witness of) officers, directors, employees, agents, and representatives of Buyer or Sellers.

(g) Preservation of and Access to Certain Records.

(i) *Hospital Records.* As set forth in Sections 2.1(j) and 2.1(k), the Transferred Hospital Records are Acquired Assets under this Agreement. As set forth in Section 2.2(d), the Business Records and Patient Records referred to therein are Excluded Assets under this Agreement (such records are collectively referred to herein as the “Retained Hospital Records”). Notwithstanding anything to the contrary in this Agreement, the parties hereto shall

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cooperate in providing copies and access to such Transferred Hospital Records and Retained Hospital Records as set forth below.

(ii) *Document Retention.* Notwithstanding that the Retained Hospital Records are Excluded Assets, to the extent required by applicable Law or at Sellers' election, Sellers may choose not to remove the Retained Hospital Records or otherwise acquire possession of such records after the Closing. Unless and until removed by Sellers, Buyer shall, in accordance with applicable Laws, maintain the Retained Hospital Records at the facilities used in the Business (or at such other mutually approved locations) at Buyer's cost, and as agent of and bailee for Sellers, until the expiration of ten (10) years from the Closing, or longer pursuant to any applicable statute of limitations period (if, at the expiration of such period, any Tax or Payor audit or judicial proceeding is in progress or the applicable statute of limitations has been extended, for any such longer period as such audit or proceeding is in progress or such statutory period is extended) (the "Document Retention Period"). After the Closing and subject to applicable Laws, Buyer shall grant Sellers full access to the Retained Hospital Records (including any Patient Records) as needed for any lawful purpose (including Sellers' inspection and copying of same, at Sellers' expense), and Sellers shall have the same rights of access to inspect and copy any or all of the Retained Hospital Records that Sellers had prior to the Closing. Buyer shall instruct the appropriate employees to cooperate in providing access to such records to Sellers and Sellers' authorized representatives as contemplated herein. Access to such records shall be, wherever reasonably possible, during normal business hours, with reasonable prior written notice to Buyer of the time when such access shall be needed. Sellers' employees, representatives, and agents shall conduct themselves in such a manner so that Buyer's normal business activities shall not be unduly or unnecessarily disrupted.

(iii) *Removal of Retained Hospital Records.* Sellers shall have the right to remove, and may remove, from time to time on or prior to the Closing Date and during the Document Retention Period any or all of the Retained Hospital Records. In the event of Sellers' removal of any Retained Hospital Records, Sellers shall, subject to applicable Laws, provide Buyer with copies (or originals, if required by applicable Law or accreditation standards) of the following Retained Hospital Records if Buyer elects to retain such copies: (a) the Patient Records for patients who are active patients of Sellers as of the Closing and have consented to the transfer of such Patient Records to Buyer in accordance with this Agreement, and (b) any records Buyer would be required to have to comply with License and accreditation standards. If the Retained Hospital Records are removed by Sellers, then Sellers shall maintain such Retained Hospital Records at Sellers' expense during such period of time and at such location as is deemed appropriate by Sellers in their sole and absolute discretion. For so long as the Retained Hospital Records are maintained by Sellers, Sellers shall make the Retained Hospital Records (other than those protected by or subject to the attorney-client privilege) available to Buyer, subject to applicable Laws, as needed by Buyer for any lawful purpose and if reasonably necessary to permit Buyer to operate the Business. Sellers shall instruct their appropriate employees to cooperate in providing access to such records to Buyer and its authorized representatives as contemplated herein. Buyer's access to such Retained Hospital Records shall be during normal business hours, with reasonable prior written notice to Sellers of the time when such access shall be needed. Buyer may make copies of or extracts from, at Buyer's expense, any such Retained Hospital Records to which Buyer has access hereunder. Notwithstanding the foregoing, Buyer's access to, or right to copies of, any Patient Records or medical staff records

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shall be subject to any applicable Law, accreditation standard, or rule of confidentiality or privilege.

(iv) *Sellers' Access to Transferred Hospital Records.* Notwithstanding that the Transferred Hospital Records are Acquired Assets under this Agreement, Buyer shall provide copies and access to such records to Sellers as set forth herein. After the Closing and subject to applicable Laws, Buyer shall grant Sellers reasonable access to the Transferred Hospital Records (including any Patient Records) as needed for any lawful purpose (including Sellers' inspection and copying of same, at Sellers' expense), and Sellers shall have the same rights of access to inspect and copy any or all of the Transferred Hospital Records that Sellers had prior to the Closing. Buyer shall instruct the appropriate employees to cooperate in providing access to the Transferred Hospital Records to Sellers and Sellers' authorized representatives as contemplated herein. Access to the Transferred Hospital Records shall be, wherever reasonably possible, during normal business hours, with reasonable prior written notice to Buyer of the time when such access shall be needed. Sellers' employees, representatives, and agents shall conduct themselves in such a manner so that Buyer's normal business activities shall not be unduly or unnecessarily disrupted. Notwithstanding anything to the contrary in this Agreement, Sellers' access to, or right to copies of, any Transferred Hospital Records shall be subject to any applicable Law, accreditation standard, or rule of confidentiality or privilege. Buyer shall adopt a record retention policy with respect to the Business Records which requires that all Transferred Hospital Records be maintained for the Document Retention Period.

(v) *Compliance with Law.* With respect to any Retained Hospital Records or Transferred Hospital Records transferred to or in the possession of Buyer or Sellers pursuant to this Agreement, Buyer and Sellers shall comply with all state and federal laws and regulations applicable to the maintenance, use, and disclosure of medical records and individually identifiable health information, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and regulations promulgated pursuant to HIPAA.

(h) *Remittances.* All remittances, mail, and other communications relating to the Excluded Assets or Excluded Liabilities received by Buyer or its Affiliates at any time after the Closing shall be promptly turned over by Buyer to the addressee thereof, or if the addressee is no longer affiliated with Sellers, to Sellers, and pending such delivery, Buyer shall have no interest in the same and shall hold such remittances, mail, and other communications in trust for the benefit of Sellers. All remittances, mail, and other communications relating to the Acquired Assets or the Assumed Liabilities received by Sellers, or any of their Affiliates at any time after the Closing shall be promptly turned over by Sellers, or Affiliate to Buyer, and pending such delivery, Sellers shall have no interest in the same and shall hold such remittances, mail, and other communications in trust for the benefit of Buyer.

(i) Employee Matters.

(i) *Retained Employees.* Upon the Closing, Buyer (which obligations of Buyer under the Employee Matters subsection may be contracted to AHSM, the entity to be hired by Buyer to manage the Acquired Assets), shall offer to hire the employees of Sellers who, as of the Closing, are actively working in the Business (the "Retained Employees"). All offers of

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employment by Buyer to Retained Employees shall be to perform comparable services in a comparable position for each respective Retained Employee, and for compensation (including base compensation which is not less than such Retained Employee's base compensation in effect immediately prior to the Closing) and benefits that are reasonably comparable to those in effect immediately prior to the Closing. Between the Execution Date and the earlier of the Closing or a termination of this Agreement, Sellers shall consult with Buyer before hiring new employees to replace any employees who are terminated or who voluntarily resign their position of employment. With respect to employees who are on authorized medical leave, military leave, short-term disability (including maternity), workers' compensation, or other leave of absence as of the Closing and who worked at Sellers' facilities immediately prior to such disability or leave (the "Absent Employees"), Buyer shall offer to hire such Absent Employees at the time their leave of absence expires and, if appropriate, they present a physician's note stating that they are released to return to work and perform the essential functions of their jobs with or without reasonable accommodation (all such Retained Employees and Absent Employees that accept such employment to be referred to as the "Hired Employees"). For those Absent Employees who are not released to return to work within six (6) months after the Closing, or, if later, the time required by Law, Buyer shall not be obligated to immediately offer to hire such Absent Employees but shall only be obligated to maintain them on a preferential hiring list and to employ them only if and when a position for which they are qualified becomes available.

(ii) *Paid Time Off.* Buyer shall give the Hired Employees full credit for the Paid Time Off earned and accrued by them as of the Closing and assumes the obligation for such Paid Time Off. Buyer will have no other obligation to any employee of Sellers for any salary, wage, payment, or benefit arising or incurred or accruing prior to the Closing Date

(iii) *Qualified Retirement Plans.* On or prior to the Closing Date, Buyer shall designate or adopt and place in full force and effect qualified retirement plans for the benefit of all Hired Employees, which shall contain terms, conditions, rights, and benefits which are comparable to those in effect immediately prior to the Closing. Such plans will provide benefits for service on or after the Closing Date.

(iv) *Health and Welfare Benefits.* On or prior to the Closing Date, Buyer shall adopt and place in full force and effect health and welfare benefits programs for the benefit of all Hired Employees and their eligible dependents, which health and welfare benefits programs shall contain terms, conditions, rights, and benefits which are comparable to those in effect immediately prior to the Closing. Such health care benefits shall be immediately available as of the Closing Date, without regard to any applicable waiting period or any limitation with respect to preexisting conditions, except insofar as such waiting period or limitation gives full credit to such Hired Employees for the period of time during which he or she was employed by Sellers in the same manner as provided under Sellers' health benefits program. Buyer shall give effect, in determining any deductible and out-of-pocket amounts, to claims incurred and amounts paid by, and amounts reimbursed to, such Hired Employees or their eligible dependents prior to the Closing Date in the plan fiscal year in which the Closing occurs for purposes of satisfying any applicable deductible or out-of-pocket requirements or limitations under any similar welfare benefit plans sponsored or maintained by Buyer in which such Hired Employees or their eligible dependents participate following the Closing and in the plan fiscal year in which the Closing occurs. Notwithstanding anything in this Agreement to the contrary, Buyer acknowledges and

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agrees that, in addition to Buyer's obligations arising under applicable Law, Buyer is a successor employer for purposes of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), and that any COBRA notices or coverages required to be given or made available to any Hired Employee or other Person shall be given or made by Buyer and not Sellers or their respective Affiliates. Sellers shall be responsible for all medical, dental, and vision reimbursement claims (including claims under Sellers' cafeteria plan or flexible spending account plan) for claims and expenses incurred by any Retained Employee or Absent Employee (and his or her dependents and beneficiaries) prior to the Closing Date, and for all life insurance, accidental death and dismemberment, business travel accident, disability, or workers' compensation claims incurred by any Retained Employee or Absent Employee (or his dependents and beneficiaries) prior to the Closing Date. For purposes of this Section 6.1(i)(iv), a claim shall be deemed to be incurred as follows: (a) life insurance, accidental death and dismemberment, business travel accident insurance, and disability upon the death, accident, or illness giving rise to such benefits, and (b) health, dental, vision, and prescription drug benefits (including in respect of any hospital confinement), upon commencement of the provision of the related services, materials, or supplies. Buyer shall be responsible for all claims for workers' compensation benefits of Sellers for layoffs on or after the Closing Date. Nothing in this Section 6.1(i)(iv) shall obligate Sellers or Buyer to make payment with respect to any claim that is not otherwise reimbursable or payable under the terms of the applicable employee benefit plan in effect at the time the claim is incurred or shall prohibit Sellers or Buyer from disputing, refusing, or settling a claim, if such actions are taken in good faith.

(v) *Rollover of Defined Contribution Plan.* Buyer shall establish or designate a defined contribution plan that includes a qualified cash or deferred arrangement within the meaning of Code Section 401(k) (the "Buyer Plan") to be effective as of the Closing. Buyer shall cause the Buyer Plan to accept "direct rollovers" (within the meaning of Section 401(a)(31) of the Code) of distributions from a defined contribution plan of Sellers that includes a cash or deferred arrangement with the meaning of Code Section 401(k) or similar arrangement under Code Section 403(b) (each, a "Seller Plan") to Hired Employees in cash (but including direct rollovers of outstanding loans and promissory notes or other documents evidencing such loans), if such rollovers are elected in accordance with the terms of the Seller Plan and applicable Law by such Hired Employee.

(vi) *Unpaid Wages and Reporting.* Sellers shall fund any unpaid payroll and pay all wages and all taxes and withheld amounts through the Closing and file corresponding tax returns. Buyer shall utilize its commercially reasonable efforts to cooperate with Sellers to process such payroll and payments post-Closing. As of the Closing, Sellers shall be relieved of their Form W-2, Wage and Tax Statement, reporting obligations and related tax returns with respect to each Hired Employee for service after Closing.

(vii) *Acknowledgement of Responsibility.* As of the Closing Date, Buyer shall be considered, for purposes of the Worker Adjustment and Retraining Notification Act (the "WARN Act"), the employer of the Retained Employees related to the Acquired Assets transferred at the Closing and Buyer (and not Sellers) shall thereupon be responsible for complying with the WARN Act with respect to such Retained Employees, and prior to such time none of such Retained Employees shall be, nor shall they be deemed to be, terminated.

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(viii) *Service Credit.* Under programs required by this Agreement to be adopted by Buyer on and after the Closing Date, Buyer shall, on and after the Closing Date, credit each Hired Employee with his or her years of credited service with Sellers for purposes of vesting and eligibility as though such service was performed for Buyer; provided, that no service shall be credited to Hired Employees for purposes of vesting or benefit accrual under any “defined benefit plan” within the meaning of Section 3(35) of ERISA adopted by Buyer to replace a Pension Plan of Seller, but shall be credited with years of service with Sellers for purposes of eligibility under any “defined benefit plan” adopted by Buyer to replace a Pension Plan of Sellers.

(ix) *No Third Party Beneficiaries.* Notwithstanding anything in this Agreement to the contrary, nothing in this Section 6.1(i) shall, or shall be deemed to, create any rights in favor of any Person not a party hereto or to constitute an employment agreement or condition of employment for any employee of Sellers or any Affiliate of Sellers or any Retained Employee.

(x) *No Obligation.* Notwithstanding anything in this Agreement to the contrary, Buyer shall not be obligated to adopt or provide any benefit, program or privilege not specifically disclosed on Schedule 6.1(i)(x).

(xi) *Cooperation.* During the period between the Execution Date and the Closing Date, Buyer and Sellers shall reasonably cooperate on labor matters to effect the transactions contemplated by this Agreement and the orderly transition of the operations of the Acquired Assets from Sellers to Buyer.

(j) RCC. To the extent that any Person who is an owner of a membership interest in RCC (“Other RCC Owner”) other than Sellers fails or refuses to provide any consent necessary to transfer Sellers’ interest in RCC to Buyer, Buyer and Sellers will work cooperatively pursuant to RCC’s organizational documents to purchase the Other RCC Owner’s equity interest in RCC. The purchase price and terms for the interest of the Other RCC Owner must be acceptable to Buyer in its sole discretion and Sellers in their sole discretion. The transaction documents and the Purchase Price will then be adjusted.

6.2 Additional Covenants of Sellers.

(a) Conduct Pending Closing. Prior to consummation of the transactions contemplated hereby or the termination of this Agreement pursuant to its terms, unless Buyer shall otherwise consent in writing, which consent shall not be unreasonably withheld, conditioned, or delayed, Sellers shall conduct the Business and otherwise deal with the Acquired Assets only in the usual and Ordinary Course of Business materially consistent with practices followed prior to the execution of this Agreement, except for (i) actions which arise from or are related to the anticipated transfer of the Acquired Assets, (ii) the effectuation of ongoing compliance programs, (iii) actions contemplated by this Agreement, the transactions contemplated hereby and the Related Agreements, or (iv) actions disclosed on any Schedule to this Agreement. Prior to Closing or termination of this Agreement, Sellers shall promptly inform Buyer of any material events or changes relating to the operation of the Business, consult with Buyer regarding the Business as reasonably requested by Buyer, and promptly respond to Buyer

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regarding the Business or the Acquired Assets. Without limiting the generality of the foregoing, and except as required pursuant to the terms of this Agreement, from the Execution Date until the Closing or termination of this Agreement, Sellers shall not with respect to the Business, except in the Ordinary Course of Business or pursuant to preexisting Contracts, Orders, agreements, policies, or as disclosed, (whether orally or in writing):

(i) Incur any indebtedness other than in the Ordinary Course of Business;

(ii) Amend their governance documents;

(iii) Pay or increase any bonuses, salaries, or other compensation to any director, officer, or employee or enter into any employment, severance, or similar contract with any director, officer, or employee;

(iv) Adopt or increase the payments to or benefits under, any profit sharing, bonus, deferred compensation, savings, insurance, pension, retirement, or other employee benefit plan for or with any employees;

(v) Except as may be necessary for the continued operation of the Business, acquire any material assets (other than in connection with customary retirement and replacement programs) or sell (other than sales of Inventory in the Ordinary Course of Business), lease or otherwise dispose of any material asset or property (other than retirements of assets in accordance with their respective useful lives or the normal policies and procedures of Sellers) or mortgage, pledge, or impose any material lien or other encumbrance on any material asset or property constituting a part of the Acquired Assets, other than Permitted Encumbrances;

(vi) Enter into any material contract which would be an Assigned Contract or any material amendment, modification, or termination (partial or complete) of any Assigned Contract or grant any material waiver under or give any material consent with respect to any Assigned Contract;

(vii) Knowingly or intentionally cancel or waive any claims or rights with a value in excess of Fifty Thousand Dollars (\$50,000.00);

(viii) Merge or consolidate with, or make any material capital investment in, any material loan to, any material advance to, or material acquisition of the securities or assets of, any other Person;

(ix) Settle or agree to settle any litigation relating to the Acquired Assets, except with respect to claims having a value of less than Five Hundred Thousand Dollars (\$500,000.00) individually or in the aggregate; or

(x) Transfer, abandon, cancel, or terminate before the natural expiration of its term any Assigned Contract or License included in the Acquired Assets.

Notwithstanding anything in this Agreement to the contrary, nothing in this Section 6.2 shall (i) obligate Sellers to make expenditures other than in the Ordinary Course of Business and

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consistent with practices of the recent past or to otherwise suffer any economic detriment outside the Ordinary Course of Business, (ii) preclude each Seller from instituting or completing any program designed to promote compliance or comply with Laws or other good business practices respecting the Business, or (iii) preclude Sellers from transferring, selling, or otherwise dealing in any manner with any of the Excluded Assets.

(b) Access and Information. Sellers shall afford Buyer, and the counsel, accountants, and other representatives of Buyer, reasonable access, unless such access is otherwise restricted pursuant to this Agreement, and except as required to preserve any privilege, throughout the period from the Execution Date to the Closing Date, to the Acquired Assets and the employees, personnel, and medical staff associated therewith and all the properties, books, contracts, commitments, Cost Reports, and records respecting the Business and the Acquired Assets (regardless of where such information, may be located) which Seller possesses or to which it has access. Such access shall be coordinated through such persons as may be designated in writing by Seller for such purpose and shall be afforded to Buyer during normal business hours and only in such manner so as not to disturb patient care or to interfere in any material respect with the normal operations of the Business; provided, however, that without first obtaining the written consent of the Chief Executive Officer of Sellers, which consent shall not be unreasonably withheld, conditioned, or delayed, neither Buyer nor its counsel, accountants, or other representatives shall tour or visit the facilities or contact any of the employees, personnel, or medical staff thereof or of any Affiliate of Sellers. Sellers' covenants under this Section 6.2 are made with the understanding that Buyer shall use all such information in compliance with all Laws and for the sole purpose of consummating the transactions. The foregoing notwithstanding, Buyer acknowledges and agrees that Buyer's access to the books and records of the Business and the Acquired Assets shall not include access to, and Sellers shall not have any obligation to deliver to Buyer, any information concerning any alleged dispute or any pending litigation, investigation, or proceeding involving Sellers or any of their respective Affiliates that is protected by or subject to the attorney-client privilege, or the disclosure of which is restricted by an agreement entered into in connection with such dispute, litigation, investigation or proceeding or an order entered by any court; moreover, Buyer shall not have access to Patient Records or employee or medical staff records or any other records the disclosure of which would be prohibited by any Law, accreditation standards, or rule or agreement (express or implied) of confidentiality, except that Buyer may be granted access to such records to the extent they are appropriately redacted and in conformity with such other reasonable procedures as may be required to conform to any such requirements of Law, accreditation standards or rule, or agreement of confidentiality. Buyer hereby agrees to defend, indemnify, and hold harmless from and against, and to reimburse and compensate, Sellers for all Losses arising out of or relating to Buyer's access provided pursuant to this Section 6.2(b).

(c) Updating. Sellers have provided draft Schedules and Exhibits to Buyer as of the Execution Date. Sellers and Buyer thereafter will negotiate in good faith to agree on the final form and content of the Schedules and Exhibits as of the Closing Date.

6.3 Additional Covenants of Buyer.

(a) Conduct Pending Closing. Prior to consummation of the transactions contemplated hereby or the termination of this Agreement pursuant to its terms, unless Sellers

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shall otherwise consent in writing, Buyer shall not take any action or fail or omit to take any action which would cause any of Buyer's representations and warranties set forth in Section 5.2 to be false as of the Closing.

(b) Submission to Regulation. Buyer shall submit to regulation by the NC DHHS, the North Carolina Attorney General's office, and any other Governmental Entity of the State of North Carolina to the same extent as such Governmental Entity currently regulates Sellers in connection with the ownership and operation of the Business, it being agreed that this covenant shall terminate and have no further effect upon Closing or a termination pursuant to Article 9. Buyer shall not make filings with any state Governmental Entity or take any other action in connection with any action, proceeding, or investigation or Law relating to any other businesses conducted by Sellers or any of their respective Affiliates that also are subject to regulation by any of such state Governmental Entities.

(c) Buyer's Insurance. At least ten (10) days prior to the Closing Date, Buyer shall deliver to Sellers a schedule that lists Buyer's policies and Contracts that shall be in effect as of the Closing Date for retroactive claims made coverage for each physician considered to be a Hired Employee, casualty, general liability, hospital professional liability, professional errors and omissions, and property insurance covering its assets and properties as existing on and after the Closing and the conduct of its business as such business shall be conducted after the Closing, together with a description of the risks insured against, coverage limits, deductible amounts, and carriers, such insurance policies and coverage terms to be reasonably acceptable to Sellers. Buyers' policy limits shall not be less than those policy limits currently carried by Sellers.

(d) Resale Certificate. Buyer shall furnish to Sellers any resale certificate or certificates or other similar documents reasonably requested by Sellers to comply with or obtain an exemption from pertinent excise, sales, and use tax laws.

(e) Access to Information Following Closing. After Closing, Buyer shall, and shall cause its employees, representatives, and advisors to, afford to Seller, including its advisors, reasonable access to all books, records, files, and documents related to the Business, the Acquired Assets, and the Assumed Liabilities upon, wherever reasonably possible, at least two (2) Business Days' written notice and during regular business hours in order to permit Sellers to prepare and file tax returns and to prepare for and participate in any investigation with respect thereto, to prepare for and participate in any other investigation and defend any actions, proceedings, or investigations relating to or involving Sellers or the Business, for which Sellers may be responsible, to discharge their respective obligations under this Agreement and the other Related Agreements to which any of them is a party, and for other reasonable purposes, and shall afford Sellers reasonable assistance in connection therewith. Except for documents which are protected by the attorney-client privilege, Buyer shall cause such records to be maintained for not less than ten (10) years from the Closing Date and shall not dispose of such records without first offering in writing to deliver them to Sellers; provided, however, that in the event that Buyer transfers all or a portion of the Business to any third party during such period, Buyer may transfer to such third party all or a portion of the books, records, files, and documents related thereto, provided such third party transferee expressly assumes in writing the obligations of Buyer under this Section 6.3(e). In addition, on and after the Closing Date, at Sellers' request, Buyer shall generally cooperate with Sellers in connection with any action, proceeding, or

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investigation related to Sellers' operation of the Business prior to Closing and, without limiting the foregoing, make reasonably available to Sellers and Sellers' Affiliates, employees, medical staff, representatives, agents, and advisors those employees of Buyer requested by Sellers, including to provide testimony, to be deposed, to act as witnesses, and to assist counsel in connection with any such action, proceeding or investigation, all without cost to Sellers or Sellers' Affiliates.

(f) Cost Reports and Audit Contests. After the Closing and for the period of time necessary to conclude any pending or potential audit or contest of any Cost Reports with respect to the Business transferred at the Closing that include periods ending on or before the Closing Date, Buyer shall (i) keep and preserve all financial books and records delivered to Buyer by Sellers and utilized in preparing such Cost Reports, including, without limitation, accounts payable invoices and Medicare logs, and (ii) within a reasonable time after Buyer's receipt of the same, forward to Sellers all information received from Payors relating to periods prior to and as of the Closing Date including, without limitation, Cost Report settlements, notices of program reimbursements, demand letters for payment, and proposed audit adjustments. Sellers shall provide assistance to Buyer, without cost to Sellers, in preparing all necessary returns and reports relating to the conduct of the Business prior to the Closing Date, including, without limitation, Cost Reports and excise tax and information returns. Upon reasonable written notice by Sellers, Sellers (or Sellers' agents) shall be entitled, during regular business hours, to have access to, inspect, and make copies of all such books and records. Upon the reasonable request of Sellers, Buyer shall assist Sellers in obtaining information deemed by Sellers to be reasonably necessary or desirable in connection with any audit or contest of such reports, with Sellers paying all third party costs. To the extent required to meet its obligations under this Section 6.3(f), Buyer shall provide the reasonable support of its employees at no cost to Sellers.

(g) Cure Costs. Buyer shall, at or prior to the Closing, pay the Cure Cost for each Assigned Contract, so that such Assigned Contract may be assumed by Sellers and assigned to Buyer in accordance with the provisions of Section 365 of the Bankruptcy Code.

(h) Adequate Assurances Regarding Assigned Contracts and Required Orders. Subject to Section 2.3(a), with respect to each Assigned Contract, Buyer shall provide adequate assurance of the future performance of such Assigned Contract by Buyer. Buyer shall promptly take all actions as are reasonably requested by Sellers to assist in obtaining entry of the Sale Order, including, without limitation, furnishing affidavits, financial information, or other documents or information for filing with the Bankruptcy Court and making Buyer's Related Persons available to testify before the Bankruptcy Court.

(i) Physician Privileges. Buyer shall continue to accord from and after the Closing all privileges to practice medicine at the facilities operated as part of the Business to each physician who, immediately prior to the Closing, is on the medical staff; provided that such physicians continue to meet the qualifications and guidelines which may be established from time to time by the Medical Staff and governing board.

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(j) Nonprofit Corporation. Prior to the Closing, Buyer shall transfer its interest in the Acquired Assets to a not-for-profit corporation registered under the laws of the State of North Carolina.

ARTICLE 7.
BUYER'S CONDITIONS TO CLOSING

The obligations of Buyer to consummate the transactions under this Agreement shall be subject to the fulfillment at or prior to the Closing of the following conditions, unless, except for Section 7.8, Buyer waives in writing such fulfillment:

7.1 Performance of Agreement. Sellers shall have performed in all material respects their respective agreements and obligations contained in this Agreement required to be performed on or prior to the Closing.

7.2 Accuracy of Representations and Warranties. The representations and warranties of Sellers set forth in Section 5.1 shall be accurate in all respects as of the Closing (as updated by the revising of Schedules contemplated by Section 6.2(c)) as if made as of such time (except for those representations and warranties which speak as of a specific time, which shall have been true in all respects as of such time), except where any inaccuracy or inaccuracies would not result in a Material Adverse Effect.

7.3 Officers' Certificate. Buyer shall have received from Sellers an officer's certificate, executed on Sellers' behalf by Sellers' Chief Executive Officer or Chief Financial Officer (in his or her capacity as such) dated the Closing Date and stating that to the knowledge of such individual, the conditions in Sections 7.1 and 7.2 have been satisfied.

7.4 Consents. Buyer shall have obtained all consents listed on Schedule 5.2(d).

7.5 North Carolina Law Requirements. All notices required to have been given to, and approvals required to have been obtained by, the North Carolina Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section shall have been given and/or obtained, as applicable.

7.6 No Violation of Orders. No Order by any Governmental Entity shall be in effect that (a) prevents the sale and purchase of the Acquired Assets or any of the other transactions contemplated by this Agreement, and (b) would adversely affect or interfere with the operation of the Business as contemplated to be conducted after the Closing in a matter which would reasonably be expected to constitute a Material Adverse Effect.

7.7 No Litigation. There shall not be pending or threatened in writing by any Governmental Entity any suit, action, or proceeding, challenging or seeking to restrain, prohibit, alter, or materially delay the sale and purchase of the Acquired Assets or any of the other transactions contemplated by this Agreement, or seeking to obtain from Buyer or any of its Affiliates in connection with the sale and purchase of the Acquired Assets to be acquired by Buyer any material damages.

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7.8 **Sale Order.** The Bankruptcy Court shall have entered the Sale Order, the Sale Order shall be final and non-appealable, or subject to Section 363(m) of the Bankruptcy Code, in full force and effect, and no order staying, reversing, modifying, vacating, or amending the Sale Order shall be in effect on the Closing Date.

7.9 **Closing Deliveries.** Sellers shall have made the deliveries contemplated under Section 4.2.

7.10 **Additional Closing Conditions.** The Closing is contingent on Randolph receiving a commitment for a \$20 million grant from Randolph County through the North Carolina Rural Health Care Stabilization Program (the "Program") on terms reasonably satisfactory to Buyer, which grant will be paid to Buyer at or after Closing and be available for use as permitted by the Program. Notwithstanding anything to the contrary herein, Buyer agrees that (a) Randolph County, as partial consideration for the funding under the Program, shall have the right to seat at least two (2) directors on the governance board of the ongoing operating entity of the Hospital, and (b) no portion of the funds received pursuant to the Program shall be used to fund the Purchase Price.

7.11 **RCC and StayWell.** The transfer of the equity interests in RCC and StayWell described in Section 2.1 to Buyer and, if Section 6.1(j) applies, the transfer of the equity interest in RCC owned by the Other RCC Owner on terms and conditions satisfactory to Buyer in its sole discretion and Seller in its sole discretion.

ARTICLE 8.
SELLERS' CONDITIONS TO CLOSING

The obligation of Sellers to consummate the transactions shall be subject to the fulfillment at or prior to the Closing of the following conditions unless, except for Section 8.8, Sellers waive in writing such fulfillment.

8.1 **Performance of Agreement.** Buyer shall have performed in all material respects all obligations required under this Agreement or any Related Agreement which are to be performed by Buyer on or before the Closing.

8.2 **Accuracy of Representations and Warranties.** The representations and warranties of Buyer made in Section 5.2 of this Agreement, in each case, shall be true and correct in all material respects as of the Execution Date and as of the Closing as though made by Buyer again as of the Closing, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct on and as of such earlier date.

8.3 **Officers' Certificate.** Sellers shall have received from Buyer an officer's certificate, executed on Buyer's behalf by its Chief Executive Officer, President, Chief Financial Officer, or Treasurer (in his or her capacity as such) dated the Closing Date and stating that to the knowledge of such individual, the conditions in Sections 8.1 and 8.2 have been satisfied.

8.4 **Consents.** Sellers shall have obtained all consents listed on Schedule 5.1(d).

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8.5 **North Carolina Law Requirements.** All notices required to have been given to, and approvals required to have been obtained by, the North Carolina Division of Health Service Regulation Healthcare Planning and Certificate of Need Section shall have been given and/or obtained, as applicable.

8.6 **No Violation of Orders.** No Order by any Governmental Entity shall be in effect that (a) prevents the sale and purchase of the Acquired Assets or any of the other transactions contemplated by this Agreement, and (b) would adversely affect or interfere with the operation of the Business as contemplated to be conducted after the Closing in a matter which would reasonably be expected to constitute a Material Adverse Effect.

8.7 **No Litigation.** There shall not be pending or threatened in writing by any Governmental Entity any suit, action, or proceeding, (a) challenging or seeking to restrain, prohibit, alter, or materially delay the consummation of any of the transactions contemplated by this Agreement, or (b) seeking to obtain from Sellers or any of their Affiliates any damages in connection with the transactions contemplated hereby.

8.8 **Sale Order.** The Bankruptcy Court shall have entered the Sale Order, the Sale Order shall be in full force and effect, and no order staying, reversing, modifying, vacating, or amending the Sale Order shall be in effect on the Closing Date.

8.9 **Closing Deliveries.** Buyer shall have made the deliveries contemplated under Section 4.3.

**ARTICLE 9.
TERMINATION**

9.1 **Termination.** This Agreement may be terminated only in accordance with this Section 9.1. This Agreement may be terminated at any time before the Closing as follows:

- (a) By mutual consent of Sellers and Buyer;
- (b) By Sellers if there shall be a material breach by Buyer, as determined by the Bankruptcy Court, of the representations and warranties, taken as a whole, or of any material covenant or agreement contained in this Agreement which breach cannot be or has not been cured within ten (10) Business Days after the giving of written notice by Sellers to Buyer of such breach;
- (c) By Sellers if any of the conditions to the obligations of Sellers to close set forth in Article 8 shall have become incapable of fulfillment other than because of a breach by Sellers of any covenant or agreement contained in this Agreement and such condition is not waived by Sellers;
- (d) By Sellers or the Buyer if the Bankruptcy Court dismisses the Bankruptcy Case or converts the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code;

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(e) By Buyer if there shall be a material breach by Sellers, as determined by the Bankruptcy Court, of the representations and warranties, taken as a whole, or of any material covenant or agreement contained in this Agreement which breach cannot be or has not been cured within ten (10) Business Days after the giving of written notice by Buyer to Sellers of such breach;

(f) By Buyer if any of the conditions to the obligations of Buyer to close set forth in Article 7 shall have become incapable of fulfillment other than because of a breach by Buyer of any covenant or agreement contained in this Agreement and such condition is not waived by Buyer;

(g) Automatically, upon the consummation of an Alternative Transaction;

(h) By Sellers or Buyer if the Bankruptcy Court fails to approve this Agreement and enter the Sale Order by October 31, 2020;

(i) By Sellers if the conditions in Section 7.10 have not been satisfied as of November 30, 2020; or

(j) By Sellers or Buyer if the Closing has not occurred as of February 28, 2021.

9.2 Effect of Termination.

(a) In the event of termination pursuant to Section 9.1, this Agreement shall become null and void and have no effect (other than Article 1, Article 9, and Article 11, which shall survive termination), with no liability on the part of Sellers, Buyer, or their respective Affiliates or respective Related Persons, with respect to this Agreement or any Related Agreement, except for any liability provided for in this Article 9.

(b) If this Agreement is terminated pursuant to Sections 9.1(a), 9.1(c), 9.1(d), 9.1(e), 9.1(f), 9.1(g), 9.1(h), 9.1(i), or 9.1(j) then, within five (5) Business Days after such termination, the Deposit shall be returned to Buyer, without interest; provided, however, that if this Agreement is terminated pursuant to Section 9.1(f), specifically with regard to Section 7.10, or pursuant to Section 9.1(i), then ten percent (10.0%) of the Deposit, an amount equal to One Hundred Eighty Five Thousand Dollars (\$185,000.00), shall be permanently relinquished to Seller, and the remainder of the Deposit shall be returned to Buyer.

(c) If this Agreement is terminated pursuant to Section 9.1(b) then all right, title and interest to the Deposit shall automatically vest in Sellers; in addition, Sellers shall have all other rights and remedies available to them at law or equity with respect to the inaccuracy or failure giving rise to such termination.

9.3 Exclusive Remedy; Waiver. Prior to the Closing, the parties' sole and exclusive remedies for any claim arising out of or in connection with this Agreement shall be termination in accordance with, and obtaining the remedies provided in, this Article 9. The failure by either Sellers or Buyer to pursue or foreclose on any right or remedy against the other

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party, by itself, shall not constitute a waiver, and any waiver under this Article 9 shall be effective only if made in writing.

**ARTICLE 10.
SURVIVAL AND REMEDIES; INDEMNIFICATION**

10.1 **Survival.** Sections 3.3 and 11.14, as limited therein, shall survive following the Closing Date. The representations and warranties of each Seller set forth in Sections 5.1(e), (f), (g), (h), (i), (j), (k), (l) and (m) shall survive for a period of 18 months following the Closing Date. No other representations and warranties of each Seller and of Buyer made in this Agreement shall survive the Closing Date, and all of such representations and warranties shall be extinguished by the Closing. All covenants and agreements of the parties contained in this Agreement shall survive the Closing for a period equal to the maximum period available for enforcement of any such covenant or agreement under the applicable statute of limitations. If the Closing occurs, Buyer shall indemnify and hold harmless Sellers and their respective Affiliates and Related Persons against any and all losses, liabilities, expenses, or damages first arising after the Closing Date that result from or arise out of the Assumed Liabilities. If the Closing occurs, Sellers shall indemnify and hold harmless Buyer and its respective Affiliates and Related Persons against any and all losses, liabilities, expenses, or damages that result from or arise out of the Excluded Liabilities.

10.2 **Indemnification.**

(a) **By Sellers.** Subject to the limitations set forth in this Article 10, Sellers, jointly and severally, hereby agree to indemnify, defend and hold harmless Buyer, each of its Affiliates and their respective assignees, officers, directors, members, shareholders, employees, agents and representatives (collectively, the "Buyer Indemnified Parties") from and against all actual demands, claims, actions, losses, damages, liabilities, penalties, taxes, costs and expenses (including, without limitation, reasonable attorneys' fees, settlement costs, arbitration costs and any reasonable other expenses for investigating or defending any action or threatened action) asserted against or incurred by the Buyer Indemnified Parties or any of them arising out of:

(i) any failure by Sellers or any Affiliates to pay or perform when due any of the Excluded Liabilities attributable to employee obligations, or any failure by Sellers or any Affiliates to pay or resolve any Medicare/Medicaid adjustments, recoupments, setoffs, or similar charges related to services provided by Sellers prior to the Closing;

(ii) any failure by Sellers or any Affiliates to pay or perform when due any of the Assumed Liabilities which was due prior to the Closing;

(iii) to the extent not addressed under the proration provisions of Section 4.1, any Taxes assessed in connection with the Acquired Assets or the Business that relate to periods prior to the Closing any liability or obligation related to or in connection with any current or former employees of Sellers or an Affiliate of Sellers including any Hired Employees (other than Paid Time Off for the Hired Employees) or employees who were not hired by Buyer, which are related to any incident or event arising prior to the Closing, including

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any worker's compensation, employee benefits and employment related claims or actions (including those not otherwise covered elsewhere in this Agreement);

(iv) any liability, action or claim related to or in connection with medical records maintained and archived by Sellers, or an Affiliate of Sellers, and related to any incident or event arising prior to and up to Closing;

(v) any medical malpractice or professional liability claim arising from activities of Sellers prior to the Closing; and/or

(vi) or in connection with or resulting from any breach of, misrepresentation associated with or failure to perform under any covenant, representation, warranty or agreement under this Agreement or the other agreements contemplated hereby on the part of Sellers (collectively, "Buyer Damage").

(b) A/R Escrow. Notwithstanding anything to the contrary contained herein, Sellers' indemnification obligations herein will be satisfied exclusively from the proceeds of the A/R Escrow, and Sellers will have no obligation to indemnify the Buyer Indemnified Parties for any amount in excess of that collected in the A/R Escrow.

(c) Indemnification Procedures. In the event any Buyer Indemnified Party receives notice of the assertion or commencement of any action, suit, claim or other legal proceeding made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a representative of the foregoing (a "Third Party Claim") against such Buyer Indemnified Party with respect to which Sellers are obligated to provide indemnification under this Agreement, the Buyer Indemnified Party shall give Sellers prompt written notice thereof. Such notice by the Buyer Indemnified Party shall describe the Third Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Damages that has been or may be sustained by the Buyer Indemnified Party. The Buyer Indemnified Party shall assume the defense of any Third Party Claim by the Buyer Indemnified Party's own counsel using funds in the A/R Escrow, and Sellers shall cooperate in good faith in such defense. Sellers shall have the right, at their own cost and expense, to participate in the defense of any Third Party Claim with counsel selected by them subject to the Buyer Indemnified Party's right to control the defense thereof. Sellers and the Buyer Indemnified Parties shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(d) Any claim by a Buyer Indemnified Party on account of a loss which does not result from a Third Party Claim (a "Direct Claim") shall be asserted by the Buyer Indemnified Party giving Sellers prompt written notice thereof. Such notice by the Buyer Indemnified Party shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the loss that has been or may be sustained by the Buyer Indemnified Party.

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Sellers shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. During such thirty (30)-day period, the Buyer Indemnified Party shall allow Sellers and their professional advisors to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim, and the Buyer Indemnified Party shall assist Sellers' investigation by giving such information and assistance (including access to the Buyer Indemnified Party's premises and personnel and the right to examine and copy any accounts, documents or records) as Sellers or any of their professional advisors may reasonably request. If Sellers do not so respond within such thirty (30)-day period, Sellers shall be deemed to have accepted such claim, in which case the Buyer Indemnified Party may obtain the release from the A/R Escrow of the amount of Buyer Damages claimed by the Buyer Indemnified Party. If Sellers do respond timely and dispute the amount of Buyer Damages suffered on account of such Direct Claim, the parties shall attempt to negotiate in good faith a resolution of the Direct Claim for a period of thirty (30) days. If, after that period, the parties cannot agree on the resolution of the Direct Claim, the Buyer Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement.

(e) Release of A/R Escrow.

(i) Upon resolution of any indemnification claim of the Buyer Indemnified Parties pursuant to this Article 10 that requires the payment of all or a portion of the A/R Escrow to one or more Buyer Indemnified Parties, the parties shall cause the Escrow Agent to immediately release and pay the applicable Buyer Indemnified Parties from the funds then-available in the A/R Escrow the amount required to resolve such indemnification claim pursuant to this Agreement and an A/R escrow agreement (the "A/R Escrow Agreement") in substantially the form of Exhibit B, attached hereto and incorporated herein by reference.

(ii) On the date that is eighteen (18) months from the Closing Date, if the balance of the A/R Escrow exceeds the aggregate amount of Buyer Damages sought by Buyer Indemnified Parties with respect to all unresolved indemnification claims (the "Unresolved Claim Amount"), the parties shall cause the Escrow Agent to release and pay to Sellers the amount of such excess. The remaining Unresolved Claim Amount shall be maintained in escrow until the date on which each indemnification claim by a Buyer Indemnified Party hereunder of which notice is timely and properly given pursuant to the terms of this Agreement and the A/R Escrow Agreement shall be finally resolved, on which date any remaining portion of such remaining Unresolved Claim Amount after the resolution of all remaining indemnification claims shall be released and paid by the Escrow Agent to Sellers.

(iii) The parties shall give any joint written instructions to the Escrow Agent that may be required to effect any release of all or any portion of the A/R Escrow if and to the extent that such release is required under, and in accordance with, any of the provisions of this Agreement or the A/R Escrow Agreement. Any claim against the A/R Escrow under this Agreement or the A/R Escrow Agreement, and the amount asserted for such claim, shall be made in good faith and based upon a reasonable belief that the party making the claim against the A/R Escrow is entitled to make a claim in the amount asserted.

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10.3 **Specific Performance.** After Closing, absent actual fraud, the sole and exclusive remedy for damages of a party hereto for any breach of the covenants or agreements of the other party contained in this Agreement and the Related Agreements shall be the remedies contained in this Article 10. Sellers and Buyer acknowledge that in case of any breach of their respective covenants and agreements after the Closing, the other would suffer immediate and irreparable harm, which money damages would be inadequate to remedy, and accordingly, in case of any such breach, each non-breaching party shall be entitled to seek specific performance or other injunctive or equitable relief to the extent that specific performance or such other relief would otherwise be available to a party hereunder in addition to all other remedies available at law or in equity.

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PROVISIONS OF GENERAL APPLICATION

11.1 Notices. Any and all notices required or permitted pursuant to the provisions of this Agreement shall be in writing and given to a party by one of the methods provided below, and shall be effective and deemed to provide such party sufficient notice under this Agreement on the earliest of the following: (a) at the time of personal delivery, if delivery is in person; (b) one (1) Business Day after deposit with an express overnight courier; or (c) three (3) Business Days after deposit in the United States or foreign mail by certified mail (return receipt requested). All notices shall be sent with postage and/or other charges prepaid and properly addressed or directed to each party at the address or electronic destination set forth below, or to such other address or electronic destination as any party may designate by one of the indicated means of notice herein.

If to Sellers, addressed to: Randolph Hospital, Inc.
364 White Oak Street
Asheboro, North Carolina 27203
Attention: Angela P. Orth
Facsimile: (336) 626-7664
Telephone: (336) 629-8827
Email: angela.orth@randolphhealth.org

with a copy to counsel for Sellers,
which shall not constitute notice, to: Nelson Mullins Riley & Scarborough LLP
Glenlake One, Suite 200
4140 Parklake Avenue
Raleigh, North Carolina 27612
Attention: Robert L. Wilson, Jr.
Facsimile: (919) 329-3799
Telephone: (919) 329-3870
Email: bob.wilson@nelsonmullins.com

If to Buyer, addressed to: American Healthcare Systems, LLC
Attn: Michael Sarian
5025 Backlick Road
Suite B
Annandale, VA 22003

with a copy to counsel for Buyer,
which shall not constitute notice, to: Gill Law Firm, LLP
355 S. Grand Ave Suite 2450
Los Angeles, CA 90071
Attention: Faisal Gill
Telephone: (310) 418-6675
Email: fgill@glawoffice.com

11.2 Press Releases and Public Announcements. No party shall issue any press release or public announcement relating to the subject matter of this Agreement without the

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prior written approval of the other party; provided, however, that any party may make any public disclosure it believes in good faith is required by applicable law.

11.3 Expenses. Except as otherwise provided in this Agreement, Sellers and Buyer shall pay their own expenses in connection with this Agreement and the transactions contemplated hereby, including, without limitation, any legal and accounting fees, whether or not the transactions contemplated hereby are consummated. Buyer shall pay the cost of all surveys, title insurance policies, and title reports ordered or requested by Buyer.

11.4 Successors and Assigns. The rights under this Agreement shall not be assignable or transferable nor the duties delegable by either party without the prior written consent of the other, and nothing contained in this Agreement, express or implied, is intended to confer upon any Person, other than the parties hereto and their permitted successors-in-interest and permitted assignees, any rights or remedies under or by reason of this Agreement, unless so stated to the contrary. This Agreement shall inure to the benefit of and is binding upon each party's permitted successors-in-interest and permitted assigns.

11.5 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute the same agreement. The signature of any of the parties may be delivered and made by facsimile, portable document format ("pdf"), or other electronic means capable of creating a printable copy, and each such signature shall be treated as an original signature for all purposes.

11.6 Headings. Article and Section headings used herein are for convenience only and are not a part of this Agreement and shall not be used in its interpretation.

11.7 Entirety of Agreement; Amendments. This Agreement (including the Schedules and Exhibit hereto), the Related Agreements, and the other documents and instruments specifically provided for in this Agreement and in the Related Agreements contain the entire understanding between and among the parties concerning the subject matter of this Agreement, the Related Agreements, and such other documents and instruments and, except as expressly provided for herein, supersede all prior and contemporaneous understandings and agreements, whether oral or written, between or among them with respect to the subject matter hereof and thereof. There are no representations, warranties, agreements, arrangements, or understandings, oral or written, between or among the parties hereto relating to the subject matter of this Agreement, the Related Agreements, and such other documents and instruments which are not fully expressed herein or therein, and there are no conditions precedent to the effectiveness of this Agreement. This Agreement may be amended, supplemented, or modified only by an agreement in writing signed by each of the parties hereto. The Exhibit and all Schedules attached to or delivered in connection with this Agreement are integral parts of this Agreement as if fully set forth herein.

11.8 Construction of Agreement. The parties acknowledge that each party has reviewed this Agreement and has sought and obtained the legal advice of counsel of its choice, and the parties and their respective legal counsel have together negotiated the final terms of this Agreement. Accordingly, all rules of construction that would otherwise require that any ambiguities be resolved against the drafting party are not applicable and shall not be employed in

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the interpretation of this Agreement. Any reference to any law shall be deemed also to refer to all rules and regulations promulgated thereunder unless the context requires otherwise. The word "including" shall mean including without limitation. Any reference to the singular in this Agreement shall also include the plural and vice versa. The phrase "to which any Seller is a party," or similar construction, is intended to limit the applicable listing of any items, properties, assets, or Contracts to only those items that any Seller actually owns or to which any Seller is actually a party, as the case may be, and is meant to exclude any listed property or Contract otherwise.

11.9 Waiver. The failure of a party to insist, in any one or more instances, on performance of any of the terms, covenants or conditions of this Agreement shall not be construed as a waiver or relinquishment of any rights granted hereunder or of the future performance of any such term, covenant or condition, but the obligations of the parties with respect thereto shall continue in full force and effect. No waiver of any provision or condition of this Agreement by a party shall be valid unless in writing signed by such party or operational by the terms of this Agreement. A waiver by one party of the performance of any covenant, condition, representation, or warranty of the other party shall not invalidate this Agreement, nor shall such waiver be construed as a waiver of any other covenant, condition, representation, or warranty. A waiver by any party of the time for performing any act shall not constitute a waiver of the time for performing any other act or the time for performing an identical act required to be performed at a later time.

11.10 Governing Law; Jurisdiction. This Agreement shall be construed, performed, and enforced in accordance with, and governed by, the laws of the State of North Carolina (without giving effect to the principles of conflicts of laws thereof), except to the extent that the laws of such State are superseded by the Bankruptcy Code or other applicable federal law. For so long as Sellers are subject to the jurisdiction of the Bankruptcy Court, the parties irrevocably elect, as the sole judicial forum for the adjudication of any matters arising under or in connection with the Agreement, and consent to the exclusive jurisdiction of, the Bankruptcy Court.

11.11 Severability. If any term or other provision of this Agreement is deemed by any court or other tribunal of competent jurisdiction to be invalid, illegal, or incapable of being enforced under any rule of law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the greatest extent possible.

11.12 Consents Not Unreasonably Withheld. Wherever the consent or approval of any party is required under this Agreement, such consent or approval shall not be unreasonably withheld, conditioned, or delayed, unless such consent or approval is to be given by such party at the sole or absolute discretion of such party or is otherwise similarly qualified.

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11.13 **Time is of the Essence.** Time is hereby expressly made of the essence with respect to each and every term and provision of this Agreement. The parties acknowledge that each shall be relying upon the timely performance by the other of its obligations hereunder as a material inducement to each party's execution of this Agreement.

11.14 **No Third Party Beneficiaries.** Nothing expressed or referred to in this Agreement will be construed to give any person other than the parties to this Agreement any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement, except such rights as shall inure to a successor or permitted assignee pursuant to this Agreement; provided that Randolph Hospital Community Health Foundation, d/b/a Randolph Health Community Foundation, shall be an express third-party beneficiary hereof solely for the purpose of enforcing Buyer's obligations under Section 3.3 of this Agreement on behalf of Sellers or any successors thereto.

11.15 **Disclosure Schedules.** Any disclosure made under any specific disclosure Schedule to this Agreement is intended to apply to and qualify disclosures contained under any one or more other disclosure Schedules to this Agreement to the extent that such disclosure contains sufficient information to make it reasonably apparent that it would apply to such other disclosure schedule or Schedules.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first above written.

SELLERS:

**RANDOLPH HOSPITAL, INC., d/b/a
RANDOLPH HEALTH**, a North Carolina
nonprofit corporation

By: _____
Name: _____
Title: _____

**RANDOLPH SPECIALTY GROUP
PRACTICE**, a North Carolina nonprofit
corporation

By: _____
Name: _____
Title: _____

**MRI OF ASHEBORO, LLC, d/b/a RANDOLPH
HEALTH MRI CENTER**, a North Carolina
limited liability company

By: _____
Name: _____
Title: _____

BUYER:

AMERICAN HEALTHCARE SYSTEMS, LLC,
a Virginia limited liability company

Mike Sarian

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Randolph Hospital Community Health Foundation, d/b/a Randolph Health Community Foundation, joins in the execution of this Agreement for the purpose of enforcing Buyer's obligations under Section 3.3 of this Agreement on behalf of Sellers or any successors thereto.

**RANDOLPH HOSPITAL COMMUNITY
HEALTH FOUNDATION, d/b/a RANDOLPH
HEALTH COMMUNITY FOUNDATION**

By: _____
Name: _____
Title: _____