

MINUTES

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BOARD OF COMMISSIONERS
WEDNESDAY, AUGUST 28, 2013

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:00 a.m. in the Commissioners' Meeting Room of the Historic Courthouse on Main Street, Hendersonville.

Those present were: Chairman Charlie Messer, Vice-Chairman Tommy Thompson, Commissioner Grady Hawkins, Commissioner Mike Edney, Commissioner Larry Young, County Manager Steve Wyatt, Interim Assistant County Manager David Whitson, Attorney Russ Burrell and Clerk to the Board Teresa Wilson.

Also present were: Finance Director J. Carey McLelland, Research/Budget Analyst Amy Brantley, Director of Business and County Development John Mitchell, and PIO Christina Hallingse, videotaping.

CALL TO ORDER/WELCOME

Chairman Messer called the meeting to order and welcomed all in attendance.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the American Flag was led by Commissioner Thompson.

DISCUSSION/ADJUSTMENT OF AGENDA

Commissioner Hawkins made the motion to adopt the agenda as presented. All voted in favor and the motion carried.

CONSENT AGENDA

Commissioner Hawkins made the motion to adopt the Consent Agenda as presented. All voted in favor and the motion carried.

CONSENT AGENDA consisted of the following:

Minutes

Draft minutes were presented for board review and approval of the following meeting(s):

August 5, 2013 – regularly scheduled meeting

Tax Collector's Report

Collections Specialist Luke Small had presented the Tax Collector's Report to the Commissioners dated August 16, 2013 for information only. No action was required.

DOCUMENT APPROVAL RELATING TO HENDERSON COUNTY HOSPITAL CORPORATION REVENUE BOND REFUNDING (REFINANCING)

Attorney Russ Burrell stated as approved by this Board's action on July 17, 2013, the process of negotiation among the County, the Hospital Corporation, bond counsel, counsel for the lender (First Citizens Bank & Trust), UNC Health Care System, and others has been completed. The term of the financing will remain the same with a lower interest cost. There is an estimated savings of \$626,736.20 over the term of the loan.

The following documents are presented for the Board's consideration and approval:

- 1) Restated Articles of Incorporation for Henderson County Hospital Corporation ("the Articles")
- 2) Amended and Restated Lease Agreement ("the Lease")
- 3) Bond Order ("the Bond Order")
- 4) Amended Management Agreement with UNC Health Care System ("the Management Agreement")
- 5) Memorandum of Understanding and Agreement ("the MOU")

DATE APPROVED: September 3, 2013

August 28, 2013

2

Commissioner Edney made the motion that the Board approves the Articles, the Lease, the Management Agreement and the Bond Order, and further directs the Chair and staff to execute these documents and substantially the form as presented today and related documents as required. All voted in favor and the motion carried.

ADJOURN

Commissioner Young made the motion to adjourn at 9:40 a.m. All voted in favor and the motion carried.

Attest:

Teresa L. Wilson, Clerk to the Board

Charles D. Messer, Chairman

HENDERSON COUNTY TAX COLLECTOR

200 NORTH GROVE STREET, SUITE 66

HENDERSONVILLE, NC 28792

PH: (828) 697-5595 | FAX: (828) 698-6153

Henderson County Board of Commissioners
1 Historic Courthouse Square, Suite 1
Hendersonville, NC 28792

Friday, August 16, 2013

Re: Tax Collector's Report to Commissioners -- 28 August 2013 Meeting

Please find outlined below collections information through 15 August 2013 for the 2013 bills mailed out on 08 August 2013, as well as registered motor vehicle bills. As a point of reference, we also have included collections information as of the same date last year.

Annual Bills G01 Only:

2013 Beginning Charge: \$57,416,925.38
Discoveries & Imm. Irreg.: \$217,813.74
Releases & Refunds: (\$145,726.62)
Net Charge: \$57,489,012.50
Unpaid Taxes: \$56,174,111.31
Amount Collected: \$1,314,901.19
Percentage Collected: 2.29%
Through: 15-Aug-2013

2012 Beginning Charge: \$56,694,053.06
Discoveries & Imm. Irreg.: \$70,306.62
Releases & Refunds: (\$15,593.65)
Net Charge: \$56,748,766.03
Unpaid Taxes: \$56,613,373.35
Amount Collected: \$135,392.68
Percentage Collected: 0.24%
Through: 15-Aug-2012

Motor Vehicle Bills G01 Only:

2013 Beginning Charge: \$1,215,841.55
Discoveries & Imm. Irreg.: \$756.04
Releases & Refunds: (\$20,557.18)
Net Charge: \$1,196,040.41
Unpaid Taxes: \$574,846.01
Amount Collected: \$621,194.40
Percentage Collected: 51.94%
Through: 15-Aug-2013

2012 Beginning Charge: \$1,150,976.50
Discoveries & Imm. Irreg.: \$1,069.41
Releases & Refunds: (\$20,059.75)
Net Charge: \$1,131,986.16
Unpaid Taxes: \$555,878.56
Amount Collected: \$576,107.60
Percentage Collected: 50.89%
Through: 15-Aug-2012

Fire Districts All Bills:

2013 Beginning Charge: \$6,383,449.00
Discoveries & Imm. Irreg.: \$34,891.18
Releases & Refunds: (\$25,220.81)
Net Charge: \$6,393,119.37
Unpaid Taxes: \$6,163,293.21
Amount Collected: \$229,826.16
Percentage Collected: 3.59%
Through: 15-Aug-2013

2012 Beginning Charge: \$6,226,058.28
Discoveries & Imm. Irreg.: \$6,857.21
Releases & Refunds: (\$4,715.03)
Net Charge: \$6,228,200.46
Unpaid Taxes: \$6,142,786.06
Amount Collected: \$85,414.40
Percentage Collected: 1.37%
Through: 15-Aug-2012

Respectfully submitted,



Luke Small
Collections Specialist

Stan C. Duncan
Tax Collector

EXTRACTS FROM MINUTES OF BOARD OF COMMISSIONERS

The Board of Commissioners (the "*Board*") of the County of Henderson, North Carolina (the "*County*") held a special meeting in the County Administration Building, 1 Historic Courthouse Square, Hendersonville, North Carolina on August 28, 2013, at 9:00 a.m. The following Commissioners were:

Present: Chairman Charles Messer
 Vice Chairman Thomas Thompson
 Commissioner Larry Young
 Commissioner Michael Edney
 Commissioner Grady Hawkins

Absent: None

The Chairman of the Board introduced the following bond order, the title of which was read and copies of which had been previously distributed to the Board:

BOND ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE COUNTY OF HENDERSON, NORTH CAROLINA OF NOT TO EXCEED \$9,545,000 HOSPITAL REVENUE REFUNDING BOND (MARGARET R. PARDEE MEMORIAL HOSPITAL PROJECT), SERIES 2013 OF THE COUNTY AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH

BE IT ORDERED by the Board of Commissioners (the "*Board*") of the County of Henderson, North Carolina (the "*County*"):

Section 1. The Board does hereby find and determine as follows:

(a) The filing of an application with the North Carolina Local Government Commission (the "*Commission*") requesting approval of the issuance of not to exceed \$9,545,000 Hospital Revenue Refunding Bond (Margaret R. Pardee Memorial Hospital Project), Series 2013 (the "*2013 Bond*") of the County for the purpose of providing funds to refund the County's Hospital Revenue Bond (Margaret R. Pardee Memorial Hospital Project), Series 2008 (the "*2008 Bond*") and its Hospital Revenue Bond (Margaret R. Pardee Memorial Hospital Project), Series 2010 (the "*2010 Bond*"), is hereby ratified and confirmed in all respects.

(b) The County, by resolution, also requested the Commission to sell the 2013 Bond at private sale without advertisement.

(c) The Commission has approved the application of the County for the issuance of the 2013 Bond in an aggregate principal amount not to exceed \$9,545,000 in accordance with N.C.G.S. 159-86.

(d) The County has determined to issue the 2013 Bond in an aggregate principal amount not to exceed \$9,545,000 for the purpose of providing funds, together with other available funds, to (1) refund the 2008 Bond and the 2010 Bond in advance of their maturities, and (2) pay certain costs and expenses incurred in connection with the issuance of the 2013 Bond.

(e) The County proposes to sell the 2013 Bond to First-Citizens Bank & Trust Company (the "*Purchaser*").

(f) There have been presented to the County at this meeting copies of the following documents relating to the issuance and sale of the 2013 Bond:

(1) Master Trust Indenture dated as of September 1, 2001 (the "*Master Indenture*") between the County and First-Citizens Bank & Trust Company, the successor to which is U.S. Bank National Association, as trustee (the "*Trustee*"); and

(2) A draft of the Fourth Supplemental Trust Indenture dated as of September 1, 2013 between the County and the Trustee (the "*Fourth Supplemental Indenture*").

(g) The County has determined that the issuance and sale of the 2013 Bond in the manner provided in this Bond Order is in the best interests of the County.

Section 2. Capitalized words and terms used in this Bond Order and not defined herein have the same meanings given such words and terms in the Master Indenture and the Fourth Supplemental Indenture.

Section 3. Pursuant to the provisions of The State and Local Government Revenue Bond Act, as amended (the "*Act*"), particularly N.C.G.S. 159-88, the County hereby authorizes the issuance of the 2013 Bond in an aggregate principal amount not to exceed \$9,545,000. The 2013 Bond will be issued as a fixed-rate, fully registered bond maturing in annual installments at such times and in such amounts as set forth in the Fourth Supplemental Indenture, subject to the provisions of this Bond Order and the Master Indenture.

Section 4. The 2013 Bond is subject to optional redemption at the times, on the terms and conditions, and at the price as set forth in the Fourth Supplemental Indenture.

Section 5. The proceeds of the 2013 Bond will be applied as provided in the Fourth Supplemental Indenture.

Section 6. The 2013 Bond, together with any additional Bonds hereafter issued under the Master Indenture, is secured on a parity basis by a pledge, charge and lien on the Net Revenues of the Hospital System to the extent set forth in the Master Indenture. The 2013 Bond is additionally secured by a pledge, charge and lien on the funds in the 2013 Bond Fund to the extent set forth in the Fourth Supplemental Indenture.

Section 7. The form, terms and conditions of the Fourth Supplemental Indenture are hereby approved, and the Chairman and Vice Chairman of the Board are hereby authorized to execute and directed to deliver, or cause to be delivered, the Fourth Supplemental Indenture together with such changes, additions and deletions as the Chairman and Vice Chairman of the Board, with the advice of counsel, may deem necessary and appropriate, including, without limitation, changes, additions and deletions necessary to incorporate the final terms of the 2013 Bond as set forth in the Fourth Supplemental Indenture, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof and the Clerk or the Deputy Clerk are hereby authorized to attest to the same.

Section 8. The Chairman and Vice Chairman of the Board and the County Manager and the Finance Director of the County, or any of them or their deputies, are authorized and directed without

limitation except as may be expressly set forth in this Bond Order to take such action and to execute and deliver such certificates, agreements, instruments, opinions or other documents as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by this Bond Order, the Master Indenture and the Fourth Supplemental Indenture.

The officers of the County and the agents and employees of the County are hereby authorized and directed to do all acts and things required of them by the provisions of this Bond Order, the 2013 Bond, the Master Indenture and the Fourth Supplemental Indenture for the full, punctual and complete performance of the terms, covenants, provisions and agreements of the same.

Section 9. The issuance and private sale without advertisement of the 2013 Bond are hereby approved, subject to the terms and conditions set forth in this Bond Order.

Section 10. This Bond Order is effective immediately on its passage.

On motion of Commissioner Edney, the foregoing Bond Order entitled "**BOND ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE COUNTY OF HENDERSON, NORTH CAROLINA OF NOT TO EXCEED \$9,545,000 HOSPITAL REVENUE REFUNDING BOND (MARGARET R. PARDEE MEMORIAL HOSPITAL PROJECT), SERIES 2013 OF THE COUNTY AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH**" was passed by the following vote:

AYES: 5
NAYS: None
ABSTAIN: None

Adopted this, the 28th day of August, 2013.

HENDERSON COUNTY BOARD OF COMMISSIONERS

[SEAL]

By: Charles Spivey
Chairman

ATTESTED BY:

Shera L. Wilson
Clerk to the Board



Documents for Approval for Financing And Carrying Out Previous Agreements

The purpose of this agenda item for the Board of Commissioners is to consider final approval for the refinancing of two major debts of Henderson County Hospital Corporation (“Pardee”) and also to carry out the County’s obligations under the provisions of the Memorandum of Understanding and Agreement between Pardee, the University of North Carolina Health Care System (“UNCHCS”), and the County, of April of 2013.

1. The Loan

The loan considered today consolidates Pardee’s major indebtedness, the 2001 Revenue Bonds, and a smaller indebtedness resulting from the purchase of several real property parcels in the intervening years.

What does this loan do?

This new loan results in cumulative interest savings over the terms of the two previous debts which are consolidated into it of \$626,736.26 between now and 2023.

Does this new loan borrow additional money? Does it spread out repayment?

This new loan does not borrow any additional funds, and this new loan does not extend the time for loan repayment. The sole purpose is to lower the interest cost to Pardee.

Why does the County have to approve this loan?

The County owns all the real estate upon which Pardee operates. The real estate, as well as the revenue of Pardee, is pledged as collateral for the loan?

Will this loan affect property taxes?

No. The taxing power of the County is not pledged, and the County has no obligation to make any payment under the loan.

How does the County act?

It approves the “Bond Order”.

2. The Memorandum Terms

The April 2013 Memorandum expands the role of UNCHCS in the management of Pardee (referred to in the Memorandum as "HCHC"). As specified in the Memorandum,

The parties agree that future documentation of the terms of this MOU will be forthcoming, including but not limited to a new Management Services Agreement, modifications to HCHC's Articles of Incorporation, modifications to HCHC's By-laws, and revisions to the Lease Agreement by and between the County and HCHC.

The "future documentation" was delayed until today, so as to coordinate with the loan refinancing, and to avoid expense for multiple lender and bond counsel opinions.

Taken as a whole, these documents greatly expand the role of UNCHCS in the management of Pardee, and set the stage for possible future expansion.

- The structure of the Board of Directors of Pardee is changed to a 15 member board, appointed by the County, by UNCHCS, and by the Board itself. Insuring public oversight of this public asset, final approval of all members of the Board is with the County, and 2 Commissioners may serve on this Board as full members.
- The new management agreement will run for 25 years. Pardee's chief executive officer will be a UNCHCS employee.
- The new lease provides for a minimum \$1 million per year investment in the capital expansion for Pardee.
- The new lease allows for new joint ventures and partnerships with UNCHCS, and the flexibility to exploit them in a turbulent health care industry.

3. Documents Attached

For your convenience, the following are attached:

- Bond Order
- Memorandum of Understanding and Agreement of April 2013
- Restated Articles of Incorporation
- Amended and Restated Lease Agreement (draft of 8/27/2013 at 3:40 pm)
- Management Services Agreement (draft of 8/27/2013 at 3:57 pm)

BOND ORDER

EXTRACTS FROM MINUTES OF BOARD OF COMMISSIONERS

The Board of Commissioners (the "Board") of the County of Henderson, North Carolina (the "County") held a special meeting in the County Administration Building, 1 Historic Courthouse Square, Hendersonville, North Carolina on August 28, 2013, at 9:00 a.m. The following Commissioners were:

Present: _____

Absent: _____

The Chairman of the Board introduced the following bond order, the title of which was read and copies of which had been previously distributed to the Board:

BOND ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE COUNTY OF HENDERSON, NORTH CAROLINA OF NOT TO EXCEED \$9,545,000 HOSPITAL REVENUE REFUNDING BOND (MARGARET R. PARDEE MEMORIAL HOSPITAL PROJECT), SERIES 2013 OF THE COUNTY AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH

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(d) The County has determined to issue the 2013 Bond in an aggregate principal amount not to exceed \$9,545,000 for the purpose of providing funds, together with other available funds, to (1) refund the 2008 Bond and the 2010 Bond in advance of their maturities, and (2) pay certain costs and expenses incurred in connection with the issuance of the 2013 Bond.

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(f) There have been presented to the County at this meeting copies of the following documents relating to the issuance and sale of the 2013 Bond:

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(2) A draft of the Fourth Supplemental Trust Indenture dated as of September 1, 2013 between the County and the Trustee (the "*Fourth Supplemental Indenture*").

(g) The County has determined that the issuance and sale of the 2013 Bond in the manner provided in this Bond Order is in the best interests of the County.

Section 2. Capitalized words and terms used in this Bond Order and not defined herein have the same meanings given such words and terms in the Master Indenture and the Fourth Supplemental Indenture.

Section 3. Pursuant to the provisions of The State and Local Government Revenue Bond Act, as amended (the "*Act*"), particularly N.C.G.S. 159-88, the County hereby authorizes the issuance of the 2013 Bond in an aggregate principal amount not to exceed \$9,545,000. The 2013 Bond will be issued as a fixed-rate, fully registered bond maturing in annual installments at such times and in such amounts as set forth in the Fourth Supplemental Indenture, subject to the provisions of this Bond Order and the Master Indenture.

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Section 6. The 2013 Bond, together with any additional Bonds hereafter issued under the Master Indenture, is secured on a parity basis by a pledge, charge and lien on the Net Revenues of the Hospital System to the extent set forth in the Master Indenture. The 2013 Bond is additionally secured by a pledge, charge and lien on the funds in the 2013 Bond Fund to the extent set forth in the Fourth Supplemental Indenture.

Section 7. The form, terms and conditions of the Fourth Supplemental Indenture are hereby approved, and the Chairman and Vice Chairman of the Board are hereby authorized to execute and directed to deliver, or cause to be delivered, the Fourth Supplemental Indenture together with such changes, additions and deletions as the Chairman and Vice Chairman of the Board, with the advice of counsel, may deem necessary and appropriate, including, without limitation, changes, additions and deletions necessary to incorporate the final terms of the 2013 Bond as set forth in the Fourth Supplemental Indenture, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof and the Clerk or the Deputy Clerk are hereby authorized to attest to the same.

Section 8. The Chairman and Vice Chairman of the Board and the County Manager and the Finance Director of the County, or any of them or their deputies, are authorized and directed without

limitation except as may be expressly set forth in this Bond Order to take such action and to execute and deliver such certificates, agreements, instruments, opinions or other documents as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by this Bond Order, the Master Indenture and the Fourth Supplemental indenture.

The officers of the County and the agents and employees of the County are hereby authorized and directed to do all acts and things required of them by the provisions of this Bond Order, the 2013 Bond, the Master Indenture and the Fourth Supplemental Indenture for the full, punctual and complete performance of the terms, covenants, provisions and agreements of the same.

Section 9. The issuance and private sale without advertisement of the 2013 Bond are hereby approved, subject to the terms and conditions set forth in this Bond Order.

Section 10. This Bond Order is effective immediately on its passage.

On motion of Commissioner _____, seconded by Commissioner _____, the foregoing Bond Order entitled "**BOND ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE COUNTY OF HENDERSON, NORTH CAROLINA OF NOT TO EXCEED \$9,545,000 HOSPITAL REVENUE REFUNDING BOND (MARGARET R. PARDEE MEMORIAL HOSPITAL PROJECT), SERIES 2013 OF THE COUNTY AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH**" was passed by the following vote:

AYES: _____

NAYS: _____

ABSTAIN: _____

Adopted this the ____th day of August, 2013.

HENDERSON COUNTY BOARD OF COMMISSIONERS

[SEAL]

By: _____
Chairman

ATTESTED BY:

Clerk to the Board

**MEMORANDUM OF
UNDERSTANDING AND
AGREEMENT**



Memorandum of Understanding and Agreement
Among
Henderson County Hospital Corporation,
The University of North Carolina Health Care System,
and
The County of Henderson

I. Purpose

Henderson County Hospital Corporation (“HCHC”), the University of North Carolina Health Care System (“UNCHCS”), and the County of Henderson (“the County”) enter into this Memorandum of Understanding and Agreement (“MOU”) in order to provide for an extended and revised Management Services Agreement. UNC Hospitals at Chapel Hill (“UNCH”), which is part of UNCHCS, currently provides management services to HCHC under an existing agreement. This new understanding and agreement, replacing the existing agreement, will replace UNCH with UNCHCS, thus enabling more flexibility for the provision of services, extend past the duration of the existing agreement, and allow UNCHCS greater direct involvement with HCHC’s clinical, business, and financial operations. It will provide for the potential for investment in HCHC facilities and operations by UNCHCS, and the maintenance and expansion of clinical facilities at HCHC.

II. Background

The County is the owner of the physical facilities (real estate) of Margaret R. Pardee Memorial Hospital and other affiliated facilities (“Pardee”). HCHC leases these facilities and operates Pardee on a not-for-profit basis. UNCH provides management services for Pardee pursuant to a 2011 agreement among the parties. The parties are pleased with this arrangement, and wish to extend and strengthen this relationship.

III. Future Action

The parties agree that future documentation of the terms of this MOU will be forthcoming, including but not limited to a new Management Services Agreement, modifications to HCHC’s Articles of Incorporation, modifications to HCHC’s By-laws, and revisions to the Lease Agreement by and between the County and HCHC. The parties further agree that they will cooperate in obtaining other approvals and permissions as required or advisable, including but not limited to opinions of bond counsel for HCHC and agreements of HCHC’s affiliates or joint venture partners. As used herein, “MOU” shall include this document as well as any other future documentation required by or undertaken in accord with this document.

IV. Ownership and Corporate Structure under this MOU

A. The County and HCHC shall continue to own and control Pardee's physical facilities (except as is otherwise agreed regarding UNCHCS's future investment), consistent with the lease agreement between the County and HCHC.

B. HCHC shall continue to lease all the real property of Pardee from the County and operate the same subject to the management of UNCHCS. HCHC's leases of Pardee's real property from the County shall extend for the full duration of the Management Services Agreement resulting from this MOU. If necessary, HCHC and the County will execute an amendment to the Lease Agreement between HCHC and the County so that the term of the Lease is consistent with the term of the revised Management Services Agreement.

C. The corporate documents of HCHC will be revised to provide for a Board of Directors (also known as Trustees) for a structure of fifteen (15) Directors, the appointment and terms of which are as follows:

1. Ex Officio Members with full voting rights and full rights to be members of all Committees as assigned by the Chair of the Board of Directors:

- (a) President of UNCH or his/her designee
- (b) A designated Henderson County Commissioner
- (c) Chief Executive Officer of HCHC
- (d) Chief of Medical Staff of HCHC

2. The following additional full members:

<u>SEAT DESIGNATION</u>	<u>TERM IN YEARS (Initial, full)</u>	<u>BODY NOMINATING</u>
Seat No. 1	One year initially, then three	UNCHCS
Seat No. 2	One, then three	BOC
Seat No.3	One, then three	HCHC
Seat No.4	One, then three	HCHC
Seat No. 5	Two, then three	UNCHCS
Seat No. 6	Two, then three	BOC
Seat No. 7	Two, then three	HCHC
Seat No. 8	Two, then three	UNCHCS
Seat No. 9	Three, then three	BOC
Seat No. 10	Three, then three	HCHC
Seat No. 11	Three, then three	HCHC

For seats to be nominated by UNCHCS, UNCHCS shall present its nominees to the County, who shall appoint such nominees to the Board of Directors, without the requirement for consent or approval by the County or HCHC.

Nominees for seats designated to be nominated by HCHC shall be presented to UNCHCS for review and approval as a slate. Should UNCHCS fail to approve the slate of nominees within a reasonable period of time, HCHC shall present a new slate to UNCHCS for review and approval. This process shall continue until UNCHCS approves a complete slate of nominees. The slate of nominees approved by UNCHCS shall then be presented to the County for review by the Board of Commissioners. The County shall either approve and appoint the slate as a whole, or reject the

entire slate. If the County rejects the slate, the process shall repeat itself until an entire slate of nominees is appointed.

UNCHCS shall provide the initial slate of nominees, including the HCHC recommended candidates, to the County on or before June 1, 2013, to allow for installation at the July 1, 2013 meeting of the Board of Commissioners.

No HCHC Board Member or nominee shall serve concurrently or within one year after service on the Board of Trustees on any other Board for any entity which would be deemed to be in competition with HCHC.

The terms of the Directors, other than the Pardee chief executive officer and the chief of the medical staff of Pardee, shall be three years, and no such Director may serve more than two consecutive terms without an intervening period of at least one year. At least seventy-five percent (75%) of the Directors shall be residents of Henderson County.

During the term of the revised Management Services Agreement, removal of any HCHC Board member may be done only with the consent of both the County and UNCHCS.

UNCHCS's appointment and removal authority of the HCHC Board of Directors shall terminate immediately upon termination of the Management Services Agreement between HCHC and UNCHCS, unless the parties mutually agree otherwise.

V. Term

The revised Management Services Agreement shall be for an initial term of twenty-five years, and may be extended by mutual agreement for up to three additional periods of ten years each.

VI. Management of Pardee

The chief executive officer of Pardee will be an employee of UNCHCS, contracted to HCHC at UNCHCS's actual cost. UNCHCS may employ other members of the management staff, as appropriate.

VII. Management Services

UNCHCS will add significantly more resources to the day-to-day management of Pardee, as compared to the existing Management Services Agreement. The new Management Services Agreement will increase UNCHCS's direct involvement in Pardee's operations, including direct responsibility of business, financial, and clinical operations, with financial terms to reflect this enhanced relationship. HCHC will appoint UNCHCS as its managing agent and will delegate to UNCHCS the authority to control and direct its assets and operations, including Pardee Hospital and any and all affiliated enterprises except Pardee Hospital Foundation.

VIII. Management Fee

HCHC will contract with UNCHCS to provide existing and enhanced management services to Pardee for an annual management fee, with metrics built in for incentive payments to UNCHCS based on operating performance.

In consideration for additional services and enhanced management oversight, HCHC shall pay to UNCHCS a mutually agreeable percentage of Gross Operating Margin (the definition of which shall be agreed upon by the parties), or some other mutually agreed upon metric. The minimum Management Services Fee due to UNCHCS in any given year shall not fall below \$210,000, increased in each subsequent year by the Consumer Price Index-U, Medical Care Services, with any such annual increases not to exceed 5% of the then current fees.

Additionally, HCHC may pay a leasing fee to the County, as agreed by the parties and subject to legal and regulatory approval. Any leasing fee shall be treated by the County as a restricted fund used solely for capital improvements at Pardee.

IX. Termination Provisions

Either party may terminate the revised Management Service Agreement without cause at any time after one (1) year from the effective date, upon provision of one-year (twelve [12] months) written notice.

Either HCHC or UNCHCS may terminate the revised Management Service Agreement immediately if changes to the governance documents of either HCHC or UNCHCS, or to the lease between the County and HCHC, are made that, in the opinion of either party, alter the ability of either party to fulfill the terms of the Management Services Agreement or any other agreement. The revised Management Services Agreement shall contain other termination provisions, including termination in the case of a material breach and failure to cure by either party.

X. Other Matters

A. To the extent the transactional documents related to the joint venture between HCHC and Mission Health require notice and/or consent by Mission Health to the revised Management Services Agreement and/or amendment of HCHC's corporate documents, HCHC shall obtain from Mission Health, in writing, such acknowledgment and/or consent.

B. The parties hereto anticipate that, at some future date, UNCHCS may desire to make capital investments in Pardee or HCHC. The parties agree that, at such time as UNCHCS is ready, willing and able to make such investment, the parties shall amend any and all necessary documents to accommodate said investment.

C. UNCHCS shall partner with HCHC for health care teaching and educational opportunities and the provision of health care services in western North Carolina. To the extent UNCHCS plans to undertake such activities in western North Carolina, UNCHCS shall utilize HCHC's services and facilities to the maximum extent possible, including reasonably expanding HCHC's and/or Pardee's physical facilities to accommodate such activities, if mutually agreed upon by UNCHCS and HCHC.

D. Should Western Carolina University, the University of North Carolina at Asheville, or Appalachian State University be designated and developed as a medical school that is a constituent institution of the University of North Carolina, UNCHCS shall take all reasonable actions to sponsor Pardee as a teaching hospital in accordance with all relevant statutory, regulatory, and accreditation criteria, including but not limited to reasonably expanding HCHC's and/or Pardee's physical facilities to accommodate such designation, if mutually agreed upon by UNCHCS and HCHC.

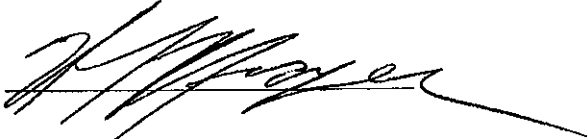
E. With regard to the potential that UNCHCS may make an investment interest in HCHC, either as a part of an expansion of services by UNCHCS in western North Carolina, or related to the designation of Pardee as a teaching hospital, or for any other reason or purpose, the parties agree that any such investment interest shall comply with all applicable laws and regulations, including but not limited to NC General Statutes Chapter 131E, and will result in UNCHCS obtaining an equity interest in HCHC that is proportionate to the investment as a percentage of the total value of HCHC.

F. Within six months after the effective date of the revised Management Services Agreement, the parties shall explore the creation of a health maintenance organization centered on HCHC's facilities, with membership restricted to the employees of the County, HCHC, UNCHCS, and the Henderson County Board of Public Education, unless the parties mutually agree otherwise.

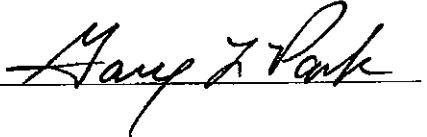
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The terms of this MOU are agreed to and accepted this ____ day of _____, 2013.

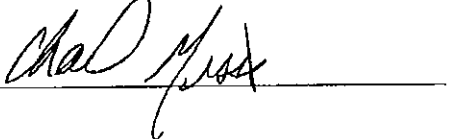
HENDERSON COUNTY HOSPITAL CORPORATION

By: 
Title: _____

UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM

By: 
Title: _____

COUNTY OF HENDERSON

By: 
Title: _____

AMENDED ARTICLES OF INCORPORATION

**STATE OF NORTH CAROLINA
DEPARTMENT OF THE SECRETARY OF STATE**

**RESTATED ARTICLES OF INCORPORATION
NONPROFIT CORPORATION**

Pursuant to Section 55A-10-06 of the General Statutes of North Carolina, the undersigned corporation does hereby submit these Restated Articles of Incorporation for the purpose of amending and fully restating its Articles of Incorporation.

ARTICLE I

The name of the corporation is HENDERSON COUNTY HOSPITAL CORPORATION.

ARTICLE II

The corporation is a charitable or religious corporation as defined in N.C.G.S. Section 55A-1-40(4), and the purpose for which the corporation is organized is to provide, promote and advance health care and wellness related activities, services and purposes primarily within, and for the benefit of the residents of Henderson County, North Carolina.

ARTICLE III

The street and mailing addresses and county of the registered office of the corporation is:

Number and Street: 800 North Justice Street

City, State, Zip Code: Hendersonville, NC 28791

County: Henderson

ARTICLE IV

The name of the registered agent is: Jay Kirby, whose address is 800 N. Justice Street; Hendersonville, North Carolina 28791.

ARTICLE V

The name and address of each original incorporator was as follows:

Robert D. Eklund	1231 Ashby Lane Hendersonville, NC 28791
Grady H. Hawkins	204 Sugar Hollow Road Hendersonville, NC 28739
Vollie G. Good	231 Balsam Road Hendersonville, NC 28792
Renee Kumor	3020 Chestnut Road Hendersonville, NC 28739
Donald G. Ward, III	Route 9, Box 630 Hendersonville, NC 28792

ARTICLE VI

The sole member of the corporation shall be the County Henderson, North Carolina, acting by and through its Board of County Commissioners. No other members may be added without the approval of the County of Henderson, North Carolina. No rights reserved in these Articles to the member may be revised or affected except by amendment to these Articles approved by the County of Henderson, North Carolina. No membership in the corporation may be transferred without the approval of all member(s). The membership of the County of Henderson, North Carolina is not subject to termination or transfer.

ARTICLE VII

The Corporation shall be governed by a Board of Directors who shall be individually known as Trustees. There shall be fifteen (15) voting Trustees.

A. Three (3) of the Trustees ("the BOC Trustees") shall be appointed by the Henderson County Board of Commissioners. Only one of the individuals appointed pursuant to this sub-paragraph may be a sitting member of the Henderson County Board of Commissioners.

B. Three (3) of the Trustees ("the UNCHCS Trustees") shall be nominated by the University of North Carolina Health Care System (UNCHCS), for appointment by the Henderson County Board of Commissioners. The Henderson County Board of Commissioners shall appoint all individuals nominated by UNCHCS to serve as the UNCHCS Trustees.

C. Five (5) of the Trustees ("the HCHC Trustees") shall be nominated by the then-existing Board of Trustees of the Corporation for approval by UNCHCS and appointment by the Henderson County Board of Commissioners. All HCHC Trustee nominees must be approved or disapproved by UNCHCS as a slate. Once a slate of HCHC Trustee nominees is approved by UNCHCS, the slate will then be presented to the Henderson County Board of Commissioners for appointment. All HCHC Trustee nominees presented to the Henderson County Board of Commissioners for appointment must be approved or disapproved by the Henderson County Board of Commissioners as a slate. Should either UNCHCS or the Henderson County Board of Commissioners disapprove of a slate of HCHC Trustee nominees, the process for nomination and appointment of HCHC Trustees will begin again, until a new slate of HCHC Trustees is nominated by the then-existing Board of Trustees of the Corporation and approved by UNCHCS and appointed by the Henderson County Board of Commissioners.

D. Four (4) Trustees shall be *ex officio* Trustees, with full voting rights and the right to serve on any committee of the Board of Trustees. The *ex officio* Trustees shall be as follows:

- (1) The President of UNC Hospitals or his/her designee;
- (2) One (1) county commissioner, designated by the Henderson County Board of Commissioners;
- (3) The Chief Executive Officer of Henderson County Hospital Corporation; and
- (4) The Chief of the Medical and Allied Health Staff of Margaret R. Pardee Memorial Hospital.

The terms of office for the Trustees who are not serving *ex officio* shall be three (3) years, and no individual not serving as an *ex officio* Trustee may serve more than two (2) successive terms following the date of these Restated Articles of Incorporation. However, service as a Trustee prior to the date of these Restated Articles shall not be counted in this regard.

The terms of office shall be staggered such that no more than one-third (1/3) of the composition of the Board of Directors is subject to appointment in any one year. The appointment and terms of the Board of Directors shall be as follows:

<u>SEAT</u>	<u>TERM IN YEARS (initial/full)</u>	<u>NOMINATING BODY</u>
Seat No. 1	one/three	UNCHCS
Seat No. 2	one/three	BOC
Seat No. 3	one/three	HCHC
Seat No. 4	one/three	HCHC
Seat No. 5	two/three	UNCHCS
Seat No. 6	two/three	BOC
Seat No. 7	two/three	HCHC
Seat No. 8	two/three	UNCHCS
Seat No. 9	three/three	BOC
Seat No. 10	three/three	HCHC
Seat No. 11	three/three	HCHC

The timing and process of appointments shall be as provided in the bylaws of the corporation. At all times, at least seventy-five (75%) per cent of the composition of the Board of Directors shall be residents of Henderson County, North Carolina.

All Trustees shall remain in office and have full authority to vote on all matters until their successor is appointed as provided herein above.

Any Trustee shall be subject to removal with the consent of both the Henderson County Board of Commissioners and the University of North Carolina Health Care System.

No Trustee shall receive pay for service as a Trustee except reimbursement for expenses, subject to approval of the full Board of Directors.

No Trustee may serve concurrently or within one (1) year after service on the Board of Directors on any other board for any entity which competes with the Corporation in the provision of any service.

All authority granted anywhere in these Articles to UNCHCS herein shall immediately terminate and the *ex officio* seat on the Board of Directors for the President of UNCHCS and/or his designee shall cease to exist upon termination of the management relationship

between UNCHCS and the Corporation. If such relationship should terminate, the right to nominate UNCHCS Trustees shall immediately vest in the Board of Commissioners of Henderson County, and the number of Trustees on the Board of Directors shall be fourteen (14).

ARTICLE VIII

No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its directors, trustees, officers or any other private person, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth herein. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not carry on other activities not permitted to be carried on by (a) a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue code or the corresponding section of any future tax code.

ARTICLE IX

Upon dissolution or liquidation of the corporation, after paying or adequately providing for the debts and obligation of the corporation, the Trustees shall transfer, deliver and convey all of the corporation's moneys, properties and other assets to the County of Henderson or a governmental entity described under Section 115 of the Internal Revenue Code created by the County of Henderson for exclusively public purposes.

ARTICLE X

The street and mailing addresses and county of the principal office of the corporation is 800 North Justice Street; Hendersonville, Henderson County, North Carolina 28791.

ARTICLE XI

The corporation shall have all of the powers and obligations of a nonprofit corporation pursuant to Chapter 55A of the North Carolina General Statutes except that the corporation shall not have the power, without the express consent of the Henderson County Board

of Commissioners, to undertake any of the following:

a) sell, lease, or otherwise dispose of all or a substantial portion of its assets to an entity not controlled by the corporation, or the Henderson County Board of Commissioners;

b) discontinue operation of Margaret R. Pardee Memorial Hospital as a community general hospital, providing acute medical care services; or

c) hold title to real property other than (1) as a lessee; (2) for a period of time reasonably necessary to consummate a like kind exchange for the benefit of an unrelated entity with whom there is a contract for purchase of such property; or (3) as a tenant in common only with the University of North Carolina Health Care System so long as the corporation's ownership is proportional to its contribution of the cost of the real property.

(d) create or cause to be created, or enter into an agreement with, a wholly-owned subsidiary of the corporation whose articles of incorporation or other controlling document does not require that upon dissolution thereof all assets revert to the corporation or the County Board; or create or cause to be created a partially-owned subsidiary of the corporation or other controlling document for non-incorporated entities does not require that upon dissolution thereof, assets will revert or be transferred to the corporation or the County Board in an amount proportional to the corporation's ownership interest in the subsidiary;

(e) make any investment of its funds in any investments or securities not permitted for the investment of funds of the County or for investment of funds of a public hospital pursuant to N.C.G.S. 159-39.

ARTICLE XII

The Board of Directors shall have the power to alter, amend and rescind only the following provisions contained in these Articles: Article III; Article IV; Article X; Article XIV; and, Article XVI. Otherwise, these Articles may only be amended with the consent of both the Board of Directors, UNCHCS and the Board of Commissioners of Henderson County.

ARTICLE XIII

Except to the extent that the North Carolina General Statutes prohibit such limitation or elimination of liability of Trustees for breaches of duty, no Trustee of the corporation shall have any personal liability arising out of an action whether by or in the right of the corporation or otherwise for monetary damages for breach of any duty as a Trustee. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any Trustee of the corporation for or with respect to any acts or omissions of such Trustee occurring prior to such amendment or repeal. The provision of this article shall not be deemed to limit or preclude indemnification of a Trustee by the corporation for any liability that has not been eliminated by this article.

ARTICLE XIV

These Restated Articles of Incorporation include amendments to and complete restatement of the Articles of Incorporation, filed on April 24, 1998, as those Articles were amended by Amendments filed on February 8, 2001, July 27, 2001, May 3, 2006, September 7, 2006, October 17, 2006, July 9, 2008, April 4, 2011, July 15, 2011 and April 10, 2013. Specifically, Articles I through XIII are deleted in their entirety and replaced with the respective provisions of these Restated Articles of Incorporation.

ARTICLE XV

The period of duration of the corporation shall be perpetual.

ARTICLE XVI

These restated articles will be effective September 4, 2013.

This the _____ day of _____, 2013.

HENDERSON COUNTY HOSPITAL CORPORATION

President, Board of Directors

CHARLES D. MESSER
Chairman
Henderson County Board of Commissioners

LEASE

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

AMENDED AND RESTATED LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT (the "Lease") is dated as of September 4, 2013, and is entered into by and between the COUNTY OF HENDERSON, NORTH CAROLINA, a public body politic and a political subdivision of the State of North Carolina, as lessor (the "County"), and the HENDERSON COUNTY HOSPITAL CORPORATION, a nonprofit corporation organized under the provisions of Chapter 55A of the North Carolina General Statutes, as amended (the "Hospital Corporation");

WITNESSETH:

WHEREAS, the County and the Hospital Corporation have determined to formally transfer control and operation, but not ownership, of Margaret R. Pardee Memorial Hospital and all its related programs, services and property (the "Hospital Facility") from the County to the Hospital Corporation; and

WHEREAS, the Hospital Facility is located on the real property described on Schedule 1 attached hereto and incorporated herein by reference (the "Site") (the portion of the Hospital Facility constituting real property and improvements and the Site are collectively referred to as the "Leased Property"); and

WHEREAS, as part of such plan of transfer, the County proposes to lease the Leased Property to the Hospital Corporation, and the Hospital Corporation has determined to accept such lease; and

WHEREAS, the remaining portion of the Hospital Facility and all other assets, including personal property, funds, accounts receivable, contracts, permits, etc., which are used as a part of the County's health care system at the Hospital Facility but are not a part of the Leased Property (the "Transferred Property"), have previously been transferred and assigned to the Hospital Corporation; and

WHEREAS, the requirements of Sections 131E-8 and 131E-13 of the North Carolina General Statutes ("N.C.G.S.") have been met with respect to the transfer hereunder; and

WHEREAS, the County desires to set forth certain restrictions and conditions on the use of the Leased Property, the Transferred Property and other assets by the Hospital Corporation;

WHEREAS, at the Hospital Corporation's request, the County issued, or intends to issue, pursuant to a Master Trust Indenture dated as of September 1, 2001 (the "Master Indenture"), and the Fourth Supplemental Trust Indenture between U.S. Bank & Trust Company, as trustee (the "Trustee"), and the County and dated as of September 4, 2013 (the "Fourth Supplemental Indenture") (collectively with the Master Indenture, the "Indenture"), \$9,545,000 aggregate principal amount of the County's Hospital Revenue Bonds (Margaret R. Pardee Memorial Hospital Project), Series 2013 (the "Bonds");

WHEREAS, First Citizens Bank and Trust Company (the "Bank") is the initial purchaser of Bonds issued pursuant to the Fourth Supplemental Indenture dated as of September 4, 2013;

WHEREAS, the County and the Hospital Corporation entered into an Amended and Restated Lease Agreement dated September 1, 2001, with subsequent amendments dated September 6, 2005, and June 22, 2011, and now wish to amend certain of those provisions and in so doing enter into this Lease;

NOW THEREFORE, for and in consideration of the mutual promises herein contained, the parties hereto hereby agree, with effective date hereof of October 15, 2013, as follows:

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

The following terms will have the meanings specified below, unless the context clearly requires otherwise:

"Accounts" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance.

"Act" means Act as defined in Section 1.01 of the Master Indenture.

"Adjusted Value," means (a) the greater of either the value of the Property, Plant and Equipment, net of accumulated depreciation, as it is carried on the books of the owner thereof in conformity with generally accepted accounting principles for hospitals consistently applied, or the market value of such Property determined by an appraisal as described in Section 2.13, plus (b) the value, if any, ascribed to goodwill or other intangible assets of the Hospital Corporation in an appraisal as described in Section 2.13, if any.

"Bank" means First-Citizens Bank and Trust Company, in its capacity as initial purchaser of the Bonds issued under the Fourth Supplemental Indenture.

"Bonds" means Bonds as defined in Section 1.01 of the Master Indenture.

"Code" means the Internal Revenue Code of 1986, as amended or any corresponding provisions of succeeding law, as applicable to the Bonds.

"County Board" means the Board of Commissioners of the County.

"County Representative" shall mean the County Manager of the County.

"Event of Default" means with respect to the Indenture each of those events of default set forth in the Indenture and with respect to this Lease each of those events set forth in Section 7.1 of this Lease.

"Fourth Supplemental Indenture" means the Fourth Supplemental Indenture by and between the County and the Trustee dated as of September 4, 2013.

“Fiscal Year” means the period beginning on October 1 of each calendar year and extending through September 30 of the succeeding calendar year or such other fiscal year used with respect to the Hospital System from time to time.

“Hazardous Material” shall mean any chemical, material or substance defined as of included in the definition of “hazardous substances”, “hazardous wastes”, “hazardous materials”, “extremely hazardous waste”, “restricted hazardous waste”, or “toxic substances” or words of similar import under any applicable local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto.

“Hazardous Materials Claims” shall mean any enforcement, cleanup, removal, remedial or other governmental or regulatory actions, agreements or orders instituted pursuant to any Hazardous Materials Laws; and any claims made by any third party against the County or the Hospital Corporation relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, release or discharge of any Hazardous Materials.

“Hazardous Materials Laws” shall mean any federal, state or local laws, ordinances, regulations or policies relating to the environment, health and safety or Hazardous Material (including, without limitation, the use, handling, transportation, production, disposal, discharge or storage thereof).

“Holder” means a person in whose name a Bond is registered in the registration books provided for in the Indenture.

“Hospital Corporation” means the Henderson County Hospital Corporation and its successors and assigns as permitted hereby. For all purposes of any covenants, provisions and the definitions herein (except Sections 3.2(c)(3) and 7.1(c)), “Hospital Corporation” includes all subsidiaries or affiliates thereof whose (a) financials are permitted or required to be reported on a consolidated basis with those of the Henderson County Hospital Corporation or (b) inclusion in such term for such purposes has been specifically approved in writing by the County Board.

“Hospital Corporation Representative” means any of the person or persons at the time designated, by a written certificate furnished to the County and signed on the Hospital Corporation’s behalf by its Chairman, to act on the Hospital Corporation’s behalf for the purpose of performing any act under this Lease.

“Hospital Facility” means Margaret R. Pardee Memorial Hospital, as it exists on the date of this Lease.

“Hospital System” means the Leased Property, the Transferred Property and other assets of the Hospital Corporation or the County used in connection with the health care services provided at the Hospital Facility or elsewhere by the Hospital Corporation.

“Indebtedness” means (i) all indebtedness of the County or the Hospital Corporation for borrowed money with respect to the Hospital System, (ii) all installment sales, conditional sales and capital lease obligations incurred or assumed by the County or the Hospital Corporation with respect to the Hospital System and (iii) all Guaranties of the Hospital Corporation with respect to the Hospital System, all as properly reflected in the Financial Statements. Indebtedness shall not include (i) obligations secured solely by the full faith and credit and taxing power of the County

for purposes unrelated to the Hospital System or other indebtedness of the County secured solely by revenues or other funds unrelated to the ownership or the operation of the Hospital System, (ii) installment purchase or lease financings unrelated to the Hospital System, (iii) obligations of the County or the Hospital Corporation under a line of credit, letter of credit, standby bond purchase agreement or similar credit or liquidity facility established in connection with the issuance of any Indebtedness to the extent that such credit or liquidity facilities have not been used or drawn upon and to the extent that they have been used or drawn upon to purchase, but not retire, Indebtedness, (iv) obligations for which there is on deposit with a third party escrow agent, cash or government obligations registered in the name of such third party escrow agents that are irrevocably pledged to payment of either or both principal of and interest on the Indebtedness for which they are pledged, or (v) purchase money debt, non-recourse to the Hospital Corporation and secured only by the property purchased therewith. If such credit or liquidity facility is used or drawn upon to retire, but not purchase, Indebtedness, then the liability incurred by such use or draw by the County or the Hospital Corporation shall be included in Indebtedness. In addition, there shall not be included within Indebtedness any gross or net payment liability of the County or the Hospital Corporation in respect of any Interest Rate Swap Obligation in which it is a counterparty provided that (a) the Interest Rate Swap Obligation is incurred with respect to Indebtedness of the County incurred with respect to the Hospital System or the Hospital Corporation (the "Hedged Debt"), (b) the Hedged Debt remains outstanding as Indebtedness of the County or the Hospital Corporation in a principal amount not less than the notional amount of the related Interest Rate Swap Obligation, and (c) the calculation period(s) and methods of computation of amounts payable and receivable by the County or the Hospital Corporation as a counterparty under the Interest Rate Swap Obligation by reference to the notional amount thereof correspond to interest payment obligations of the County or the Hospital Corporation under the Hedged Debt with the effect that, assuming full compliance by the counterparties under the related Interest Rate Swap Obligation, (i) any floating rate interest payment obligation of the County or the Hospital Corporation under the Hedged Debt, net of payments received under the Interest Rate Swap Obligation, shall equate to a fixed rate of interest, and (ii) any fixed rate interest payment obligation of the County or the Hospital Corporation under the Hedged Debt, net of payments received under the Interest Rate Swap Obligation, shall equate to a floating rate of interest indexed to the same index used in computing the payment obligations of the floating rate payer under the Interest Rate Swap Obligation. In the event that the County or the Hospital Corporation shall become obligated to make a net payment under an Interest Rate Swap Obligation required to be made as a result of the occurrence of any default thereunder or early termination thereof, the amount of such required payment shall constitute Indebtedness for all purposes. In the event that this definition is inconsistent with the definition of "Indebtedness" as defined in Section 1.01 of the Master Indenture, the definition contain in Section 1.01 of the Master Indenture shall control.

"Indenture" means, collectively, the Master Indenture and the Fourth Supplemental Indenture.

"Joint Venture" means the term as defined in Section 2.11.

"JV Risk" means the Hospital Corporation's total exposure, at any given time, in a Joint Venture, determined as (a) the total investment therein, whether as cash or property (determined by the aggregate basis therein), without regard to dividends, if any, plus (b) the financial risk assumed by the Hospital Corporation outside of (a), such as through a guaranty, provided any

risks covered by insurance maintained either by the Hospital Corporation or the Joint Venture and the amount of investment or risk involved in any Joint Venture described in paragraphs 2.11A and 2.11B shall not be taken into account in such determination and regardless of the return from a Joint Venture the JV Risk for such Joint Venture may never be less than zero.

“Lease” means this Amended and Restated Lease Agreement dated as of September 4, 2013, as it may be from time to time amended.

“Lease Term” means the term of this Lease as determined pursuant to Section 3.2.

“Lease Year” means, initially, from the effective date hereof through September 30, 2014, and thereafter, means the twelve-month period of each year commencing on October 1 and ending on the next September 30.

“Leased Property” means all of the real property described on Schedule 1, the portion of the Hospital Facility constituting real property and all real property hereafter titled in the County and added to the Hospital System and leased to the Hospital Corporation pursuant to Section 2.8 hereof or otherwise.

“Lien” means any mortgage, deed of trust or pledge of, security interest in or encumbrance or other lien on any Property of any Person that secures any Indebtedness.

“Long Term Indebtedness” means all Indebtedness, including Indebtedness as to which there is a commitment by a financial lender to provide financing to retire such Indebtedness and such commitment provides for the repayment of principal on terms that would be, described as:

- (a) Money borrowed for an original term, or renewable at the option of the borrower for a period from the date originally incurred, longer than one year; or
- (b) Leases required to be capitalized in accordance with generally accepted accounting principles that have an original term, or are renewable at the option of the lessee for a period from the date originally incurred, longer than one year; or
- (c) Installment sale or conditional sale contracts having an original term in excess of one year.

“Master Indenture” means the Master Trust Indenture by and between the County and the Bank dated as of September 1, 2001.

“Net Revenues” means for any period, the Revenues of such period less the Operating Expenses for such period.

“Operating Expenses” means the expenses of maintaining and operating the Hospital System, including, without limiting the generality of the foregoing, all administrative, general and commercial expenses, insurance and surety bond premiums, architectural expenses, legal expenses, refunds of over-payments on patient accounts, any taxes which may be lawfully imposed on the Hospital System or the income or operations thereof or the property forming a part thereof, rentals of equipment or other property, rental payments to the County hereunder, usual expenses of operations, maintenance and repair, amounts owed to others and collected by

the County or the Hospital Corporation on their behalf and any other current expenses required to be paid by the County or the Hospital Corporation under the provisions of the Indenture or by law, to the extent properly and directly attributable to the Hospital System, and the expenses, liabilities and compensation of the Trustee required to be paid under the Indenture, including, during the continuance of an Event of Default, the reasonable costs and expenses of proceedings pursuant to any right given or action taken under the Indenture resulting in the collection of moneys and the reasonable expenses and advances incurred or made by the Trustee with respect thereto, and those amounts which are reimbursed to any governmental agency including but not limited to Medicare and Medicaid and any related civil sanctions or criminal penalties imposed by Medicare or Medicaid or their respective intermediaries. Operating Expenses shall be determined in accordance with generally accepted accounting principles for hospitals consistently applied, but shall not include reserves for operation, maintenance or repair or any allowance for depreciation, amortization of financing expenses, or the principal of or interest of Indebtedness.

“Permitted Dispositions,” means any dispositions or transfers:

- (a) To any Person if, prior to the sale, lease or other disposition, there is delivered to the County a certificate signed by a Hospital Corporation representative stating that, in the judgment of the signer, such Property, Plant and Equipment (including complete operating facilities not in operation for at least six months) have become inadequate, obsolete, worn out, unsuitable, unprofitable, undesirable or unnecessary, and the sale, lease, removal or other disposition thereof will not impair the structural soundness, efficiency or economic value of the remaining Property, Plant and Equipment; provided, however, that Property, Plant and Equipment with an Adjusted Value aggregating not more than 2% (for each Fiscal Year) of the Adjusted Value of the Property, Plant and Equipment of the Hospital System may be transferred at any time without the delivery of such certificate;
- (b) To any Person, if there are substituted or installed other items of Property free and clear of all liens and encumbrances except Permitted Liens, of at least equal market value though not necessarily of like kind or having the same function;
- (c) To a successor entity of the Hospital Corporation pursuant to a merger or consolidation approved by the County Board;
- (d) To any Person, of personal property as an investment or contribution to a Joint Venture permitted by Section 2.11;
- (e) To any Person, of real or personal property received through gifts, grants or bequests and not used in the provision of health care services; or
- (f) To the County;

it being understood and agreed that prior to the consummation of a Permitted Disposition, the County and the Trustee shall have received a written opinion of bond counsel that such Permitted Disposition will not, in and of itself, adversely affect the exclusion of gross income for federal income tax purposes of the interest on the Bonds; provided, however, that any transfer under subparagraph (a) of Property, Plant and Equipment with an Adjusted Value aggregating not more than 2% (for each Fiscal Year) of the Adjusted Value of the Property, Plant and

Equipment of the Hospital System may be transferred at any time without the delivery of such opinion.

“Permitted Liens,” means the following:

(a) Any encumbrance on title to any Property created by this Lease.

(b) Liens arising by reason of good faith deposits in connection with leases of real estate, bids or contracts (other than contracts for the payment of money), deposits to secure public or statutory obligations, Liens to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges.

(c) Any Lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the maintenance of self-insurance or participation in any funds established to cover any insurance risks or in connection with workers compensation, unemployment insurance, pension or profit sharing plans or other social security, or to share in the privileges or benefits required for companies participating in such arrangements.

(d) Any judgment lien so long as such judgment is being contested in good faith and execution thereon is stayed, or provision for payment of the judgment has been made in accordance with applicable law or by the deposit with a trustee of cash, security or other property.

(e) (1) Rights reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license, permit or provision of zoning or other law, affecting any Property; (2) any liens on any Property for taxes, assessments, levies, fees, water and sewer rents, and other governmental and similar charges and any liens of mechanics, materialmen, laborers, suppliers or vendors for work or services performed or materials furnished in connection with such Property, that are not due and payable or that are not delinquent, the amount or validity of which are being contested and execution thereon is stayed or, with respect to liens of mechanics, materialmen, laborers, suppliers or vendors that have been due for less than 90 days; and (3) easements, rights-of-way, servitudes, restrictions, oil, gas or other mineral reservations and other minor defects, encumbrances, and irregularities in the title to any Property as normally exist on Property of a character of the Leased Property and either are shown on title policies obtained contemporaneously with the purchase of such Property or that do not materially impair the use of such Property for the purposes intended.

(f) Any Lien existing on November 1, 1998, provided that no such Lien may be increased, extended, renewed or modified to apply to any Property not subject to such Lien on such date or to secure Indebtedness not outstanding on such date, unless such Lien as extended, renewed or modified otherwise qualifies as a Permitted Lien.

(g) Any Lien, including a mortgage, in favor of a creditor or a trustee on the proceeds of Indebtedness and any earnings thereon prior to the application of such proceeds and such earnings.

(h) Liens on moneys deposited by patients or others as security for or as prepayment for the cost of patient care.

(i) Liens on Property received through gifts, grants or bequests, such Liens being due to restrictions on such gifts, grants or bequests of Property or the income thereon.

(j) Liens on Property due to rights of third party payors for recoupment of amounts paid.

(k) Rights of the United States of America under Title 42, United States Code Section 291.

(l) Any Lien arising by reason of any escrow established to pay debt service with respect to Indebtedness.

(m) Any purchase money Lien on personal property. For purposes of this Lease Agreement a "purchase money Lien" shall be defined to include any Lien on moveable equipment (as such term is defined under generally accepted accounting principles) security Indebtedness incurred to purchase such moveable equipment, provided that the total of such Indebtedness does not exceed twenty percent (20%) of the net value of Property, Plant and Equipment as shown on the Financial Statements for the prior Fiscal Year. "Person" means an individual, partnership, corporation, trust, unincorporated organization, association, joint venture or a government or agency or political subdivision thereof.

"Property" means any and all rights, titles and interests in and to any and all property whether real or personal, tangible or intangible and wherever situated.

"Property, Plant and Equipment" means all Property in the Hospital System that is property, plant and equipment under generally accepted accounting principles, including cash, accounts receivable and investments; provided (a) the Leased Property, and (b) Property subject to purchase money non-recourse debt of the County and the Hospital Corporation, shall not be included in such term.

"Public Purpose" means any public purpose permitted for the County to undertake in the general health care service area by the North Carolina Constitution and other applicable law.

"Revenue" means (a) all revenues, income and other money received in any period by the County or the Hospital Corporation from, in connection with or as a result of the ownership by the County or the Hospital Corporation, or the operations by the Hospital Corporation, of the Hospital System, including, but without limiting the generality thereof, income (1) from goods and properties sold or leased or services rendered, (2) from agreements and other arrangements with insurance companies, Medicare, Medicaid, Blue Cross, governmental units, agencies and instrumentalities, and prepaid health organizations net of contractual adjustments, and (3) any award or agreement in lieu of an award resulting from eminent domain proceedings, (b) investment income from and revenues realized upon the liquidation or sale of securities held by or on behalf of the County resulting from the ownership of the Hospital System or by the Hospital Corporation, including those held in any of the funds or accounts established pursuant to the Indenture, (c) business interruption insurance proceeds received by the County or by the Hospital Corporation that are deemed property of or derived from the Hospital System, and (d)

all gifts, grants, bequests, contributions and donations, including the unrestricted income and profits therefrom, exclusive of gifts, grants, bequests, contributions and donations to the extent specifically restricted to a particular purpose inconsistent with their use as Revenues. Except as provided in this paragraph, Revenues shall be determined in accordance with generally accepted accounting principles for hospital consistently applied. There shall not be included in Revenues the proceeds of any borrowings the use of which is restricted by the terms of such borrowings for uses inconsistent with the payment of the Indebtedness or income from investments held in a Qualified Escrow (as defined in the Indenture) or any monies that are received in escrow by the Hospital Corporation.

“Series” means Series as defined in Section 1.01 of the Master Indenture.

“Site” means the real property described on Schedule 1 attached hereto.

“Transferred Property” means the portion of the Hospital Facility which is not real property and all other assets, including personal property, funds, accounts receivable, contracts, permits, etc., which are used as a part of the County’s health care system at the Hospital Facility, which are not a part of the Leased Property.

“Trustee” shall have the meaning set forth in the Fourth Supplemental Indenture..

All references to articles or sections are references to articles or sections of this Lease, unless the context clearly indicates otherwise.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

2.1 General. The County and the Hospital Corporation each represent, covenant and warrant for the other’s benefit as follows:

(1) Neither the execution and delivery of this Lease, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated hereby, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either is now a party or by which either is bound, or constitutes a default under any of the foregoing.

(2) To the knowledge of each party, there is no litigation or proceeding pending or threatened against such party (or against any other person) affecting the rights of such party to execute or deliver this Lease or to comply with its obligations under this Lease. Neither the execution and delivery of this Lease by such party, nor compliance by such party with its obligations under this Lease, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.

2.2 Operation as Community General Hospital. The Hospital Corporation agrees that it shall continue to operate the Hospital System, at a minimum, as a community general hospital system, as defined in N.C.G.S. Section 131E-6(2) or a successor section, and may, in addition, operate the Hospital System as hospital facilities as defined in N.C.G.S. § 131E-6(4), or a successor section, open to the general public, free of discrimination based upon race, creed,

color, sex or national origin, and offering health care services at least substantially similar to services offered at comparable health care facilities primarily serving a community role; provided neither this Section 2.2 nor Section 2.3 prohibits the Hospital Corporation from undertaking appropriate collection efforts for any service. The Hospital Corporation's activities are subject to N.C.G.S. Section 131E-14.1 or a successor section and the Hospital Corporation agrees it and its assets shall be subject to the rules for open meetings, public records and property dispositions as if the Hospital System were owned and operated by a North Carolina county.

The Hospital Corporation acknowledges that certificates of need and resulting permits shall continue to be held in the name of the County during the Lease Term, and the County acknowledges that the Hospital Corporation may operate the beds, services and other assets authorized by such certificate and permits during the Lease Term.

2.3 Services to Indigent Patients and Additional Consideration. The Hospital Corporation shall provide community general hospital services to the citizens of Henderson County without regard to their ability to pay. Moreover, the Hospital Corporation shall ensure that the types and levels of any other service it may from time to time provide, whether inpatient or outpatient, is in no way discriminatorily limited or restricted to any Henderson County resident based on ability to pay.

2.4 Covenants on Liens. The Hospital Corporation covenants that there will not be created any Lien upon Property now or hereafter a part of the Leased Property if such lien will be a violation of any covenant of the Indenture.

2.5 Covenants on Indebtedness. The Hospital Corporation covenants it will not incur Long Term Indebtedness if the incurrence thereof would cause a violation of the covenant in Section 2.12 or would be in violation of the covenants contained in the Indenture; provided if the County Board has agreed in writing to particular Long Term Indebtedness such covenant shall not prevent its incurrence, so long as its incurrence is permitted pursuant to Article XII of the Indenture, but the outstanding principal amount thereof shall be included for purposes of the covenant thereafter. No Indebtedness that will be a "bank eligible" obligation under Section 265(b) of the Internal Revenue Code of 1986, as amended, may be incurred without the prior written consent of the County Board. No Indebtedness may be incurred unless the payment thereof (or the payment of the current portion thereof if such Indebtedness is Long Term Indebtedness) is provided for in the Hospital Corporation's budget, either as initially adopted or as revised, for the Fiscal Year of such incurrence.

2.6 Covenants on Disposition or Management of Assets. The Hospital Corporation covenants that (a) it will not sell, lease or otherwise dispose of all or a substantial portion of the Leased Property without the consent of the County Board, (b) it will not allow all or a substantial portion of the Hospital System to be managed (whether by contract or otherwise) by an entity not controlled by the Hospital Corporation or the University of North Carolina Health Care System without the consent of the County Board, (c) there will not be any sale or other disposition of Property, Plant and Equipment or transfer or disposition of cash or investments unless specifically approved by the County Board except for dispositions or transfers which are Permitted Dispositions. A transfer of assets to a subsidiary or affiliate which is included within the definition of "Hospital Corporation" shall not be deemed a disposition for purposes of this Section 2.6.

Nothing herein shall be construed as prohibiting or limiting the ability of the Hospital Corporation to (1) purchase or sell Property in the ordinary course of business or to transfer cash, securities and other investment properties in connection with ordinary investment transactions where such purchases, sales or transfers are for substantially equivalent value, including without limitation, the making of loans to affiliates or to other persons pursuant to a legally binding obligation for such loan to be repaid or the capitalization of a stock corporation through the purchase of newly issued or treasury stock thereof or of a non-stock corporation through a capital contribution thereto, or (2) use Revenues in the ordinary course of business. However, the forgiveness of such loan, the writing off on a balance sheet of such stock as worthless, or such time as the "non-stock corporation capital" is deemed worthless, as hereinafter described, such shall be considered to be a disposition of Property, Plant and Equipment in the Fiscal Year of such loan, purchase of stock or capital contribution. For purposes of this paragraph, a contribution to a non-stock corporation to capitalize the same shall be treated as a loan to such non-stock corporation and, upon the occurrence of such conditions as would require the writing off of such a loan, then the "non-stock corporation capital" shall be deemed worthless.

If accounts are sold in any Fiscal Year and (i) fair market value is received and (ii) there is an independent certified public accountants' statement that such sale is a "sale" under generally accepted accounting principles, then such sale shall not be deemed a disposition for the purposes of this Section 2.6.

2.7 Reports; Budget; Annual Meeting. (a) The Hospital Corporation shall have an annual financial audit performed by a nationally recognized firm of independent auditing and accounting consultants of favorable repute for skill and expertise. Such audit shall include a review of compliance by the Hospital Corporation with the provisions hereof. The annual audit and any appraisals performed to determine Adjusted Value shall be provided to the County within 30 days of availability. The County shall have the right, upon reasonable notice, to review other financial information with respect to the Hospital Corporation and the Hospital System.

(b) The Hospital Corporation shall annually make available to the County and the public a summary of its proposed budget for the next Fiscal year prior to its adoption and inform the County Board of any revisions thereto after its adoption. The Hospital Corporations' budget, whether as proposed, adopted or revised, shall be such as to result in either an excess of revenues over expenditures and expenses or a deficiency which does not result in 50% of the Adjusted Value of Property, Plant and Equipment being less than the sum of Long Term Indebtedness and JV Risk at the beginning of the immediately succeeding Fiscal Year.

(c) The County and the Hospital Corporation shall have an annual meeting to discuss matters relating to this Lease and the community health care needs and the plans therefore.

(d) The obligations, terms and provisions of this section 2.7 shall apply only during the Lease Term.

2.8 After-Acquired Property. Except as is provided in this paragraph, all real property acquired or received through donation by the Hospital Corporation shall be titled in the name of the County and become subject to the terms of this Lease; provided the Hospital

Corporation may hold the title to real property for any period of time that is reasonably necessary to consummate a like kind exchange for the benefit of a third-party with whom the Hospital Corporation has contracted for the purchase of real property. Further, the Hospital Corporation may obtain and hold title in its name as a tenant in common only with the University of North Carolina Health Care System so long as the corporation's ownership in such arrangement is proportional to its contribution of the cost of the real property. Further, the Hospital Corporation may obtain and hold title in its name with the consent of the County Board. The Hospital Corporation may lease property in its own name.

2.9 Subsidiaries. Without the prior approval of the County Board, the Hospital Corporation shall not create or cause to be created any corporation to serve as a subsidiary of the Hospital Corporation unless such corporation is a nonprofit corporation whose Articles of Incorporation require that upon dissolution all assets of the corporation revert or must be transferred to the Hospital Corporation or the County if wholly owned, or if partially owned whose Articles of Incorporation require reversion of assets to the Hospital Corporation or to the County at least proportional to the Hospital Corporation's investment interest; provided a limited liability company or for-profit corporation may also be created as a subsidiary entity if the Hospital Corporation is and will be the sole equity investor, participant and owner in such entity and the County receives a written opinion of bond counsel to the effect that the creation of such subsidiary will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

2.10 Investments. The Hospital Corporation may invest any of its funds only as provided in the Hospital Corporation's Restated Articles of Incorporation effective September 4, 2013.

2.11A Joint Ventures with University of North Carolina Health Care System. The Hospital Corporation may enter into a contract, lease, sublease, arrangement or other venture ("a UNCHCS Joint Venture"), by itself or through a corporation permitted under Section 2.9, which UNCHCS Joint Venture includes as one of its co-venturers or parties the University of North Carolina Health Care System ("UNCHCS"), provided:

(a) Upon the dissolution of any UNCHCS Joint Venture, the Hospital Corporation will receive a share of the assets of the former UNCHCS Joint Venture proportionate to the JV Risk of the UNCHCS Joint Venture undertaken by the Hospital Corporation to the total of the JV Risk of the entire UNCHCS Joint Venture.

(b) The Hospital Corporation's ability to enter into new UNCHCS Joint Ventures shall terminate upon the termination of any management agreement entered into by UNCHCS and the Hospital Corporation. The termination and windup, if any, of any UNCHCS Joint Ventures already undertaken at the time of such termination of management agreement shall occur according to the terms of any documents creating such UNCHCS Joint Venture, or in the absence of any such terms, shall occur in a commercially reasonable time and manner after the termination of such management agreement.

2.11B Joint Ventures with other third parties during term of any management agreement. During the term of any management agreement entered into by UNCHCS and the Hospital Corporation, the Hospital Corporation may enter into a contract, lease, sublease, arrangement or

other venture, by itself or through a corporation permitted under Section 2.9, with any unrelated party for health care services or related endeavors and without UNCHCS being a party to such venture (a "Joint Venture"), provided:

(a) Prior to entry into the Joint Venture, the Hospital Corporation must (as evidenced in the minutes of a board meeting):

(1) Receive a written opinion of counsel to the Hospital Corporation that the Joint Venture is for a Public Purpose and not prohibited by this Lease.

(2) Make specific findings to support a general finding, which also must be made, that the undertaking of such Public Purpose through the Joint Venture is in the best interests of community health care for the County.

(3) Receive a written opinion of bond counsel to the County to the effect that such Joint Venture will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

(4) Receive written consent and approval from UNCHCS to the effect that such Joint Venture is not an unreasonable course of action.

(b) The Hospital Corporation must have an investment and equity interest in the Joint Venture, and upon its dissolution ownership of its assets, which bears a proportionate relationship to the amount invested considering the terms and conditions of the Joint Venture as well as the risks thereof.

(c) Information with respect to the Joint Venture that is a public record shall be made publicly available.

Neither a traditional managed care contract with the Hospital Corporation as the health care provider nor membership in an association with other nonprofit corporations where the association does not undertake direct health care services shall be deemed a Joint Venture.

2.11C Joint Ventures with other third parties subsequent to any management agreement. At any time after the termination and non-renewal of any management agreement with UNCHCS, the Hospital Corporation may enter into a contract, lease, sublease, arrangement or other venture, by itself or through a corporation permitted under Section 2.9, with any unrelated party for health care services or related endeavors and without UNCHCS being a party to such venture (a "Joint Venture"), provided:

(a) Prior to entry into the Joint Venture, the Hospital Corporation must (as evidenced in the minutes of a board meeting):

(1) Receive a written opinion of counsel to the Hospital Corporation that the Joint Venture is for a Public Purpose and not prohibited by this Lease.

(2) Make specific findings to support a general finding, which also must be made, that the undertaking of such Public Purpose through the Joint Venture is in the best interests of community health care for the County.

(3) Make an analysis of the risks of the Joint Venture upon the assets of the Hospital System with the identification of the initial "JV Risk" associated with such joint venture.

(4) Receive a written opinion of bond counsel to the County to the effect that such Joint Venture will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

(b) The JV Risk to the Hospital Corporation in such Joint Venture may not cause a violation of the covenant in Section 2.12.

(c) The Hospital Corporation must have an investment and equity interest in the Joint Venture, and upon its dissolution ownership of its assets, which bears a proportionate relationship to the amount invested considering the terms and conditions of the Joint Venture as well as the risks thereof.

(d) Information with respect to the Joint Venture that is a public record shall be made publicly available.

Neither a traditional managed care contract with the Hospital Corporation as the health care provider nor membership in an association with other nonprofit corporations where the association does not undertake direct health care services shall be deemed a Joint Venture.

2.12 Financial Covenant; Annual Calculation. The Hospital Corporation may not incur Long Term Indebtedness, enter into a Joint Venture, with the exception of those Joint Ventures described in paragraphs 2.11A and 2.11B, above, or otherwise put the assets of the Hospital Corporation at risk unless the Long Term Indebtedness to be incurred, the JV Risk to be assumed or the other risk to be assumed will not cause the total of all Long Term Indebtedness, JV Risk or other risk to exceed 50% of the Adjusted Value of the Property, Plant and Equipment. For purposes of this covenant, 50% of the Adjusted Value shall be determined at the end of each Fiscal Year (including with use of an appraisal as described in Section 2.13 completed and dated within sixty (60) days of the end of the Fiscal Year) and be applicable for the following Fiscal Year as a limitation, after deduction of outstanding Long Term Indebtedness, JV Risk and other risk, on further incurrence of Long Term Indebtedness, entry into a Joint Venture or assumption of other risk.

2.13 Appraisals. The market value of Property and the value, if any, of goodwill or other intangible assets of the Hospital Corporation may be determined on the basis of an appraisal of an independent party qualified by reputation and experience. Any such appraisal must be completed and dated within sixty (60) days of the end of a Fiscal Year.

2.14 Exclusion From Gross Income Covenant. The Hospital Corporation covenants that it will do and perform all acts and things permitted by law necessary to assure that interest paid on the Bonds be and remain excluded from gross income of the Holders thereof for federal income tax purposes.

2.15 Arbitrage. The Hospital Corporation shall take no action, and shall not approve any action of, or the making of any investment or use of the proceeds of any Series of Bonds that were issued as tax-exempt bonds, by the Trustee that would cause such Series of Bonds to be

“arbitrage bonds” within the meaning of Section 148 of the Code and the regulations thereunder as such may be applicable to such Series at the time of such action, investment or use.

ARTICLE III

DEMISE; LEASE TERM; QUIET ENJOYMENT

3.1 Demise. The County hereby leases the Leased Property to the Hospital Corporation, and the Hospital Corporation hereby accepts such lease from the County on the date of commencement of the Lease Term, in accordance with the provisions of this Lease, to have and to hold for the Lease Term.

3.2 Lease Term. The Lease Term shall commence on the effective date hereof. The Lease Term shall terminate upon the earliest of the following.

(a) The occurrence of an Event of Default and subsequent termination by the County pursuant to Article VII; or

(b) September 30, 2038; or

(c) If there is (1) any amendment to the Articles of Incorporation of the Hospital Corporation which has not been specifically approved by the County, (2) any determination by a court that any provision of the Articles of Incorporation of the Hospital Corporation is void or unenforceable, or (3) dissolution of the Hospital Corporation without a successor nonprofit corporation to carry out the terms and conditions of this Lease, this Lease shall terminate immediately; or

(d) Mutual agreement of the parties, the Trustee, and all Holders.

Upon termination, in the absence of an agreement to the contrary, the entire Hospital System shall revert or be transferred to the County, including but not limited to (i) the Leased Property; (ii) all improvements thereto or replacements thereof; (iii) all additions or other facilities essential to the operation of (i) or (ii); (iv) all other facilities intended to be operated with (i), (ii) or (iii); (v) all Property, Plant and Equipment owned by the Hospital Corporation on the date of reversion or transfer; and (vi) all cash, accounts, equipment, permits, contractual rights and property rights relating to (i), (ii), (iii), (iv) or (v). In connection with such a reversion, the Hospital Corporation shall execute and deliver any documents requested by the County Board to evidence or effectuate the transfer of all such property including property, whether real or personal and whether a part of a facility which could be operated on its own or not, which is acquired after recordation of this Lease. The County shall receive all property transferred subject to any and all Permitted Liens.

Termination of the Lease Term pursuant to Section 3.2(a) or 3.2(b) shall terminate all the County’s obligations under this Lease except those undertaken prior to termination that are not finalized or completed until after termination, and shall terminate the Hospital Corporation’s rights of possession under this Lease.

3.3 Extension or Renewal of Lease. This Lease may be renewed or extended by written agreement, signed by all parties.

3.4 Quiet Enjoyment. The County hereby covenants that the Hospital Corporation shall, during the Lease Term, peaceably and quietly have and hold and enjoy the Leased Property without suit, trouble or hindrance from the County, except as expressly required or permitted by this Lease. The County shall not interfere with the quiet use and enjoyment of the Leased Property during the Lease Term. The County shall, at the Hospital Corporation's request and cost, join and cooperate fully in any legal action in which the Hospital Corporation asserts its right to such possession and enjoyment, or which involves the imposition of any taxes or other governmental charges on or in connection with the Leased Property. In addition, the Hospital Corporation may at its own expense join in any legal action affecting its possession and enjoyment of the Leased Property, and shall be joined (to the extent legally possible, and at the Hospital Corporation's expense) in any action affecting its liabilities hereunder.

ARTICLE IV

CONSIDERATION FOR LEASE

4.1 Use as Hospital. In partial consideration for its acquisition of rights to use the Leased Property during the Lease Term, the Hospital Corporation hereby agrees to use the Leased Property as set forth in Section 2.2 and to undertake to perform all of the duties and obligations of the County and the Hospital Corporation under the Indenture. The Hospital Corporation may adopt regulations concerning such use and the utilization of the Hospital System by all Persons so long as such regulations are consistent with the Indenture.

4.2 Payments. In partial consideration for its acquisition of rights to use the Leased Property during the Lease Term, the Hospital Corporation hereby agrees to pay, in the manner specified in this Section 4.2, to the County annual rent in the minimum net amount of \$1,000,000.00 per year, said minimum payment being reduced each year by all amounts paid by the Hospital Corporation to reduce any indebtedness that is secured by the Leased Property or the Revenue, said amount being payable in arrears on the first day of each Lease Year. This annual rent shall be transferred from the Hospital Corporation's operating account and placed in a designed separate capital expense account ("the Separate Account") held in the name of the Hospital Corporation. Funds deposited in the Separate Account may be used by the Hospital Corporation solely to fund capital expenditures by the Hospital Corporation including, but not limited to Property, Plant and Equipment acquisitions, upgrades and replacements. The Hospital Corporation shall budget and appropriate these funds, which may be carried over from year to year so long as the same will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds. Notwithstanding the other provisions of this paragraph, the payment specified in this paragraph need be made only from the "rental net income" of the Hospital Corporation, which shall be defined as the operating income of the Hospital Corporation net of all reasonably necessary expenses. If the rental net income of the Hospital Corporation is less than the amount of the rent payment specified herein in any year, no rent payment shall be payable by the Hospital Corporation for that year, and the failure of the Hospital Corporation to pay the amount of the rent payment in excess of its rental net income shall not be considered an event of default under paragraph 7.1(a).

4.3 Maintenance and Repair. The Hospital Corporation acknowledges that it has received the Leased Property in good order and repair. The Hospital Corporation, at its own expense, will maintain all parts of the Leased Property in good repair and condition and will take

all action and will make all structural and nonstructural, foreseen and unforeseen and ordinary and extraordinary changes and repairs which may be required to keep all parts of the Leased Property in good repair and condition (including, but not limited to, all painting, glass, utilities, conduits, fixtures and equipment, foundation, roof, exterior walls, heating and air conditioning systems, wiring, plumbing, sprinkler systems and other utilities, and all paving, sidewalks, roads, parking areas, drainage, curbs and gutters and fences). The County shall not be required to maintain, repair or rebuild all or any part of the Leased Property. The Hospital Corporation waives the right to require the County to maintain, repair or rebuild all or any part of the Leased Property or make repairs at the expense of the County pursuant to any legal requirement, agreement, contract, covenant, condition or restrictions at any time.

4.4 County's Cooperation. The County shall cooperate fully with the Hospital Corporation in filing any proof of loss or taking any other action under this Lease. In no event shall the County or the Hospital Corporation voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim with respect to the Leased Property without the other's written consent.

4.5 Advances; Performances of Obligations. If the Hospital Corporation shall fail to pay any amount required to be paid by it under this Lease, or fails to take any other action required of it under this Lease, the County may (but shall be under no obligation to) pay such amounts or perform such other obligations. The Hospital Corporation agrees to reimburse the County for any such payments or for its costs incurred in connection with performing such other obligations, together with interest thereon at the annual rate of 8%.

4.6 Collection and Application of Revenues. In consideration of the County's issuance of the Bonds that are secured by the Net Revenues of the Hospital System, the Hospital Corporation shall collect and deposit the Revenues with the Trustee for application in accordance with Section 4.02 of the Master Indenture and, if the Bonds have been accelerated under Section 7.02 of the Master Indenture, the Hospital Corporation shall collect and deposit the Revenues with the Trustee for application in accordance with Section 7.04 of the Master Indenture. Subject to this undertaking to collect and deposit the Revenues, the Hospital Corporation may utilize, invest and expend the Revenues pursuant to its best judgment in the operation of the Hospital System.

The obligation of the Hospital Corporation to collect and deposit the Revenues with the Trustee in the amounts and at the times provided in the Master Indenture shall be absolute and unconditional. The Hospital Corporation agrees to perform such obligation without notice or demand and without abatement, deduction or set-off, notwithstanding any rights or claims that the Hospital Corporation might otherwise have against the County, the Trustee or any other person.

Upon payment in full of the Bonds and all obligations owing to the Bank or any subsequent Holder of the Bank arising out of the Bonds, the County's interest in the Revenues shall terminate.

4.7 In connection with the Bonds, the Hospital Corporation agrees to pay the fees, expenses and charges of the Trustee, any remarketing agent and any paying agent as authorized

and provided by the Indenture and any fees, expenses and charges of the County as authorized, required and provided by the Indenture.

4.8 Indenture Controlling. The parties to this Lease hereby agree that the Hospital System will be administered in a manner consistent with the Indenture and in the event of conflict between the Lease and the Indenture, the provisions of the Indenture shall control.

ARTICLE V

DISCLAIMER OF WARRANTIES; OTHER COVENANTS

5.1 Disclaimer of Warranties. THE COUNTY MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR A PARTICULAR USE OF THE LEASED PROPERTY OR ANY PART THEREOF OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PART THEREOF. In no event shall the County be liable for any direct or indirect, incidental, special or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or use by any of them of any item, product or service provided for herein.

5.2 Further Assurances Corrective Instruments. The Hospital Corporation and the County agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be, or for otherwise carrying out the intention of this Lease.

5.3 Hospital Corporation and County Representatives. Whenever under the provisions hereof the approval of the Hospital Corporation or the County is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Hospital Corporation by the Hospital Corporation Representative and for the County by either the County Representative or a resolution of the County Board, and the Hospital Corporation and the County shall be authorized to act on any such approval or request.

5.4 Compliance with Requirements. During the Lease Term, the Hospital Corporation and the County shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the Leased Property or any portion thereof (or be diligently and in good faith contesting such orders), and all current and future requirements of all insurance companies writing policies covering the Leased Property or any portion thereof.

5.5 Compliance with Hazardous Materials Laws. The Hospital Corporation shall comply with all Hazardous Materials Laws. The Hospital Corporation shall promptly cure and satisfy all Hazardous Materials Claims arising out of or by reason of the activities or businesses of the Hospital Corporation, its subtenants, or the agents, contractors, businesses or employees of the Hospital Corporation.

ARTICE VI

TITLE TO LEASED PROPERTY; SUBLEASING, ASSIGNMENT, INDEMINIFICATION AND INSURANCE

6.1 Title to Leased Property. Title to the Leased Property and any and all additions and modifications to or replacements of any portion of the Leased Property shall be held in the County's name. The Hospital Corporation shall have no right, title or interest in the Leased Property or any additions and modifications to or replacements of any portion of the Leased Property, except as expressly set forth in this Lease.

6.2 Hospital Corporation's Subleasing and Assignment. The Hospital Corporation may not sublease the Leased Property, in whole or in part, or assign any of its rights or obligations under this lease, without (a) the prior written consent of the County and (b) a written opinion or opinions of nationally recognized bond counsel acceptable to the County, to the effect that the exclusion from gross income for federal income tax purposes of the interest on any obligations issued with respect to the Hospital System will not be adversely affected by the sublease of the Leased Property; provided (1) the Hospital Corporation may enter into agreements for the temporary use of portions of the Leased Property, (2) subleases for space not aggregating in excess of 20% of the total usable square footage of facilities which are Leased Property may be entered into if such temporary uses and subleases do not purport to assign or otherwise relieve the Hospital Corporation from any of its obligations hereunder and not more than 25% of the space to be so subleased is to be used for non-medical purposes, and (3) a written opinion or opinions of nationally recognized bond counsel acceptable to the County to the effect that the exclusion from gross income for federal income tax purposes of the interest on the Bonds will not be adversely affected by the sublease of the Leased Property.

Notwithstanding the first paragraph of this Section 6.2, the County and the Hospital Corporation hereby agree and acknowledge that the Henderson County EMS will continue to occupy the space currently utilized by it (approximately a +/- 5,000 square foot sallyport and +/- 5,000 square feet of office space and quarters); provided such space may be moved within the Leased Property with the consent of the County.

6.3 General Indemnification. The Hospital Corporation shall and hereby agrees to indemnify and save the County harmless against and from all claims, by or on behalf of any person, firm, corporation or other legal entity, arising from (a) the reorganization of the County's health care services at the Hospital Facility including but not limited to the lease of the Leased Property and other transfers to the Hospital Corporation, all employee contracts, pensions and other personnel matters, all arrangements with physicians and other practitioners and rearrangements, if any, of other contracts and permits, and (b) the operation or management of the Leased property during the Lease Term, including any arising from: (1) any condition of the Leased Property of (2) any act of negligence of the Hospital Corporation or of any of its agents, contractors or employees or any violation of law by the Hospital Corporation or breach of any covenant or warranty by the Hospital Corporation hereunder. The Hospital Corporation shall, upon notice from the County, defend or pay the cost of defending the County, in any action or proceeding brought in connection with any claims arising out of circumstances described in (a) or (b) above. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

6.4 Environmental Indemnification. The Hospital Corporation shall not knowingly or negligently cause or permit any Hazardous Material to be brought upon, kept or used in or about the Leased Property or otherwise at the Hospital System by the Hospital Corporation, its agents, employees, contractors or invitees without the prior written consent of the County, other than those used for any medical purpose, body substances and substances resulting from medical procedures, office supplies and other medical care facilities in quantities or concentrations that do not violate any Hazardous Materials Laws. If such events occur with or without the knowledge of the Hospital Corporation or if contamination of the Leased Property or the Hospital System by Hazardous Material occurs and is caused by the acts, omissions or activities of its contractors, agency, invitees or employees, then to the extent permitted by law, the Hospital Corporation shall indemnify, defend, protect and hold the County harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Leased Property, damages arising from any adverse impact on the space, sums paid in settlement of claims, and reasonable attorneys', consultants' and experts' fees) which arise during or after the Lease Term as a result of such contamination. This indemnification of the County by the Hospital Corporation includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Leased Property. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

6.5 Insurance. The Hospital Corporation shall obtain and maintain adequate comprehensive general liability, casualty and umbrella insurance with a reputable insurance company licensed to do business in the State of North Carolina covering the Leased Property and its employees and naming the County as an additional insured. The umbrella policy must have limits of not less than Ten Million Dollars. The Hospital Corporation shall provide certificates or other evidence of such insurance upon the request of the County.

ARTICLE VII

EVENTS OF DEFAULT

7.1 Events of Default. The following shall be "Events of Default" under this Lease and the term "Default" shall mean, whenever it is used in this Lease, any one or more of the following events.

(a) The Hospital Corporation's (i) failure to make any payments hereunder when due, or (ii) failure to perform the undertaking set forth in Sections 4.6 and 4.7 hereof.

(b) The Hospital Corporation's failure to observe and perform any covenant, condition or agreement on its part to be observed or performed (other than as described in (a) above) for a period of 30 days after written notice specifying such failure and requesting that it be remedied shall have been given to the Hospital Corporation by the County, unless the County Board shall consent in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the County Board shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Hospital Corporation within the applicable period and

diligently pursued until such failure is corrected; and further provided, that if by reason of *force majeure* the Hospital Corporation is unable in whole or in part to carry out any of its agreements contained herein (other than its obligations contained in Section 4.2 hereof), the Hospital Corporation shall not be deemed in default during the continuance of such event of occurrence.

(c) The dissolution or liquidation of the Hospital Corporation or the voluntary initiation by the Hospital Corporation of any proceeding under any federal or State law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Hospital Corporation of any such proceeding which shall remain undismissed for sixty (60) days, or the entry by the Hospital Corporation into an agreement of composition with creditors or the Hospital Corporation's failure generally to pay its debts as they become due.

7.2 Remedies on Default. Whenever any Event of Default shall have happened and be continuing, the County may take one or any combination of the following remedial steps:

(a) Terminate this Lease and cause reversion and transfer pursuant to Section 3.2; or

(b) Have reasonable access to inspect, examine and make copies of the Hospital Corporation's books and records and accounts during the Hospital Corporation's regular business hours, if reasonably necessary in the County's opinion; or

(c) Take whatever action at law or in equity may appear necessary or desirable to collect any amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Hospital Corporation under this Lease.

7.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to the County is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder and every remedy now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, and any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved in this Article VII, it shall not be necessary to give any notice, other than such notice as may be required in this Article VII.

7.4 Waivers. If any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

7.5 Upon an Event of Default, the Trustee in its name or in the name of the County may enforce all rights of the County and all obligations of the Corporation under and pursuant to the Lease Agreement for and on behalf of the Holders, whether or not the County is in default hereunder.

7.5 Waiver of Appraisements, Valuation, Stay, Extension and Redemption Laws. The Hospital Corporation and the County agree, to the extent permitted by law, that upon a termination of the Lease Term by reason of an Event of Default, neither the Hospital Corporation

nor the County nor any one claiming through or under either of them shall or will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension or redemption laws now or hereafter in force in order to prevent or hinder the enforcement of any security document relating to obligations financing the Hospital System or of any remedy provided hereunder or thereunder; and the Hospital Corporation and the County, for themselves and all who may at any time claim through or under either of them, each hereby waives, to the full extent that it may lawfully do so, the benefit of such laws.

ARTICLE VIII

MISCELLANEOUS

8.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, addressed as follows:

- (a) If intended for the County, addressed as follows:

County of Henderson, North Carolina
1 Historic Courthouse Square, Suite 2
Hendersonville, North Carolina 28792-5092
Attention: County Manager

- (b) If intended for the Hospital Corporation, addressed as follows:

Henderson County Hospital Corporation
800 North Justice Street
Hendersonville, North Carolina 28791
Attention: Chairman, Board of Directors

- (c) If intended for the Trustee, addressed as follows:

U.S. Bank and Trust Company
214 N. Tryon Street, 27th Floor
Charlotte, North Carolina 28202
Attention: Corporate Trust Division

- (d) If intended for the Bank, addressed as follows:

First-Citizens Bank & Trust Company
P. O. Box 29519
16 East Rowan Street
Raleigh, North Carolina 27626-0519
Attention: Nathan Kennedy

8.2 Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Hospital Corporation and the County, and their respective successors and assigns, subject, however, to the limitations contained in Article VI.

8.3 Consent of County Board. Whenever this Lease requires, or the Hospital Corporation desires to receive, consent of the County Board with respect to any matter, a written proposal therefore must be submitted to the County Board. If specific consent to such proposal is not received by the sixth regular meeting of the County Board following such proposal, consent to such proposal shall be deemed refused.

8.4 Net Lease. This Lease shall be deemed and construed to be a "net lease," and the Hospital Corporation shall pay absolutely all costs with respect to the Leased Property during the lease Term as well as all other payments required hereunder, free of any deductions, and without abatement or set-off.

8.5 Payments Due on Holidays. If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this lease, shall not be a business day, such payment shall be made or act performed or right exercised on the next preceding day that is a business day.

8.6 Essentiality; Severability. The provisions of Sections 2.2, 2.4, 2.5, 2.6, 2.12, 3.2, 4.6 and 4.7 are hereby deemed essential and if, for any reason, any of such provisions are found to be void or unenforceable, this Lease shall be deemed entirely void and the Hospital Corporation shall transfer to the County all property which would revert and be transferred under Section 3.2. If any other provision of this Lease shall, for any reason, be invalid or unenforceable, such provision shall be ineffective only to the extent of such invalidity or unenforceability and the remaining provisions hereof shall nevertheless be valid, enforceable and in full force and effect.

8.7 Fees and Expenses. The Hospital Corporation shall pay all costs, fees and expenses of the County, including counsel fees and the fees of any consultant, in connection with any action or review by it under this Lease or as a result of any consent or waiver requested by the Hospital Corporation.

8.8 Compliance with Terms. Failure to insist upon strict compliance with any of the terms herein (by way of waiver or breach) by either party hereto shall not be deemed to be a continuous waiver in the event of any future breach or waiver of any condition hereunder.

8.9 Third Party Beneficiary. This Lease shall not create nor be construed to create any rights in any manner whatsoever in any other person or entity as a third-party beneficiary, other than holders or a trustee for holders of Indebtedness or the Bonds, and the Bank.

8.10 Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

8.11 Applicable law. This Lease shall be governed by and construed in accordance with North Carolina law.

8.12 Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

8.13 Memorandum of Lease. At the request of either party, the County and the Hospital Corporation shall, on or after the date hereof, execute a memorandum of this Lease legally sufficient to comply with the relevant provisions of the North Carolina General Statutes.

IN WITNESS WHEREOF, the parties hereto have caused this Amended and Restated Lease Agreement to be executed as a document under seal, by their duly authorized officers, all as of the date first above written.

COUNTY OF HENDERSON, NORTH CAROLINA

[SEAL]

By: _____
Title: Charles D. Messer, Chairman,
Board of Commissioners

ATTEST:

By: _____
Title: Teresa L. Wilson, Clerk, Board
of Commissioners

HENDERSON COUNTY HOSPITAL
CORPORATION

[SEAL]

By: _____
Title: William L. Moyer, Chairman

ATTEST:

By: _____
Title: Peter Goodfield,
Secretary

STATE OF NORTH CAROLINA

HENDERSON COUNTY

I, _____, a Notary Public of said State and County, do hereby certify that Charles D. Messer and Teresa L. Wilson personally came before me this day and acknowledged that they are the Chairman and Clerk, respectively, of the Board of County Commissioners of the County of Henderson, North Carolina, and that by authority duly given and as the act of the County of Henderson, North Carolina, the foregoing instrument was signed in the County's name by the Chairman of its Board of Commissioners, sealed with its corporate seal and attested by the Clerk of such Board.

Witness my hand and official seal, this _____ day of August, 2013.

Notary Public

My commission expires:

STATE OF NORTH CAROLINA

HENDERSON COUNTY

I, _____, a Notary Public of said State and County, do hereby certify that William L. Moyer and Peter Goodfield personally came before me this day and acknowledged that they are the Chairman and Secretary, respectively, of the Board of Directors of Henderson County Hospital Corporation, and that by authority duly given and as the act of such Board, the foregoing instrument was signed in the County's name by the Chairman, sealed with its corporate seal and attested by its Secretary.

Witness my hand and official seal, this _____ day of August, 2014.

Notary Public

My commission expires:

MANAGEMENT AGREEMENT

MANAGEMENT SERVICES AGREEMENT

THIS MANAGEMENT SERVICES AGREEMENT ("Agreement") is made and entered into by and between Henderson County Hospital Corporation d/b/a Margaret R. Pardee Memorial Hospital ("HCHC"), a North Carolina not for profit corporation, and the University of North Carolina Health Care System on behalf of itself and UNC Hospitals ("UNCHCS"), (individually, a "Party," and collectively, the "Parties"), effective as of _____, 2013 (the "Effective Date").

WITNESSETH:

WHEREAS, HCHC was created by Henderson County to provide for the operation of a community hospital in Henderson County, North Carolina doing business as Margaret Pardee R. Memorial Hospital ("Pardee Hospital"), that is dedicated to serving the health care needs of Henderson County citizens;

WHEREAS, Henderson County is the sole member of HCHC, which leases and operates Pardee Hospital and whose Board of Directors is appointed by the Henderson County Board of Commissioners;

WHEREAS, the mission of the University of North Carolina Health Care System, as mandated by the State of North Carolina, is to provide care to all North Carolinians, to educate physicians and other health care providers, and to render other services designed to promote the health and well-being of North Carolina's citizens;

WHEREAS, the missions of HCHC and UNCHCS are consistent and compatible;

WHEREAS, HCHC and UNCHCS desire to work together on health care programs over a period of several years serving the citizens of Henderson County and the surrounding region;

WHEREAS, HCHC has a need for certain management services and desires to arrange for such services to be provided by UNCHCS, and UNCHCS is willing to provide such services under the terms and conditions of this Agreement, conditioned upon Henderson County and HCHC amending the lease of Pardee Hospital to HCHC and HCHC amending its corporate governance documents, such amendments addressing, among other things, the appointment and removal of the HCHC Board, future investment by UNCHCS in HCHC, and other terms that will allow for the provision of management services by UNCHCS to HCHC as contemplated herein; and

WHEREAS, the County of Henderson, North Carolina (the "County") must approve this Agreement in order for it to be a valid obligation of HCHC;

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. ENGAGEMENT

(a) Services of UNCHCS. HCHC hereby engages UNCHCS to provide those services set forth on Exhibit A, attached hereto and incorporated into the terms of this Agreement (the "Services"), pursuant to the terms and conditions contained in this Agreement. UNCHCS shall apply reasonable business judgment in making decisions regarding the Services. UNCHCS shall have all rights and powers to conduct and effectively manage the day to day operations of Pardee Hospital and HCHC's affiliated operations, consistent with the authority granted pursuant to this Agreement. For purposes of this Agreement, Pardee Memorial Hospital Foundation Inc. shall not be treated as an affiliated operation of HCHC. UNCHCS hereby agrees that, throughout the term of this Agreement, the administration of HCHC operations shall comply with applicable laws and contractual requirements to allow UNCHCS to perform all Services contemplated under this Agreement. HCHC agrees to provide to UNCHCS all of its applicable policies and procedures, as well as any future amendments, to enable UNCHCS to carry out its duties under this Agreement. UNCHCS agrees to abide by such policies and procedures, to the extent provided to UNCHCS by HCHC, and to the extent such policies and procedures are consistent with applicable laws and regulations. UNCHCS shall make recommendations to the HCHC Board of Directors as needed regarding such policies and procedures, or any other matter related to HCHC operations. Notwithstanding anything stated herein, UNCHCS shall not be obligated to perform any Services if HCHC breaches this Agreement.

(b) Relationship Between HCHC and Henderson County. UNCHCS and HCHC specifically acknowledge the existence of and agree to abide by the provisions of Article XI of the HCHC Articles of Incorporation. The parties will keep the Henderson County Board of Commissioners informed of all matters not in the ordinary course of business that can reasonably be expected to have a substantial and material impact on the financial performance or operations of HCHC.

(c) Time and Attention to Duties. UNCHCS shall devote the time and attention of its personnel, as UNCHCS and HCHC mutually shall determine to be reasonably necessary, to the faithful performance of UNCHCS's duties hereunder. UNCHCS may engage any other person or entity to perform any particular Service and may delegate any of its responsibilities hereunder, subject in each case to the conditions and limitations set forth herein.

(d) Records and Reports. UNCHCS shall have the following responsibilities with respect to HCHC's records and reports:

(i) UNCHCS shall arrange for the establishment and maintenance of a comprehensive system of records, books and accounts for HCHC, in a manner conforming to the directives of all applicable third-party payors. These books and business records shall be considered to be the property of HCHC, however all operating protocols, information systems, and other proprietary business systems or information developed or provided by UNCHCS shall remain the exclusive property of UNCHCS. All records, books and accounts will be subject to examination and copying at reasonable hours by any authorized representatives of HCHC. To the extent information is maintained at another site, all books and records shall be available at Pardee Hospital (or such other location as the Parties may mutually agree) upon request.

(ii) Both parties shall furnish or cause to be furnished to the other such information as reasonably may be requested from time to time with respect to HCHC's financial, physical, or operational condition.

(iii) UNCHCS shall furnish or cause to be furnished to HCHC monthly operating, management, and financial statements within twenty (20) days after the end of each month, and information for quarterly tax returns within thirty (30) days after the end of each quarter, unless delayed by circumstances beyond its control. UNCHCS's provision of year-end financial statements shall be subject to reasonable timeframes established by HCHC and agreeable to UNCHCS, whose agreement shall not be unreasonably withheld.

(iv) UNCHCS shall prepare or cause to be prepared for HCHC, in a timely manner, proposed budgets and internal financial reports and shall supervise the preparation and timely submission of such other reports or statements as may be required by city, state and federal statutes, regulations and requirements.

(v) Any billing and collections conducted by UNCHCS on behalf of HCHC shall be conducted under the name of HCHC doing business as Pardee Hospital, or such other "doing business as" name as HCHC may utilize in regard to its ancillary operations.

(e) Employees. UNCHCS shall assist HCHC in determining qualifications and duties of the personnel to be regularly employed in the management and operation of HCHC, including but not limited to the personnel set forth in Exhibit B, attached hereto and incorporated into the terms of this Agreement. All personnel listed in Exhibit B shall be employees of UNCHCS and/or its subsidiaries or affiliates and shall be hired, paid, and discharged by UNCHCS and/or its subsidiaries or affiliates, unless otherwise stated in Exhibit B. Regardless of whether the personnel listed in Exhibit B are employees of UNCHCS and/or its subsidiaries or affiliates or HCHC, the terms of employment of such personnel, including compensation and assignment at HCHC, shall be at the continuing pleasure of the HCHC Board of Directors. In the event HCHC terminates this Agreement prior to the end of a term, the employees listed in Exhibit B shall remain UNCHCS employees, unless the Parties hereto otherwise mutually agree, and HCHC agrees to reimburse UNCHCS for any severance expenses and recruitment costs incurred by UNCHCS or any of its affiliates or subsidiaries with respect to the personnel listed in Exhibit B due to such termination. The additional terms of Exhibit B shall apply to such personnel.

(f) UNCHCS Board Appointment and Removal Authority of the HCHC Board of Directors.

(i) UNCHCS shall nominate three individuals to serve as Trustees on the HCHC Board of Directors ("the UNCHCS Trustees"), and the Henderson County Board of Commissioners shall appoint all individuals nominated by UNCHCS to serve as the UNCHCS Trustees.

(ii) UNCHCS shall have approval authority of the slate of five (5) nominees for the HCHC Board of Directors that HCHC will recommend directly to Henderson County for appointment (hereinafter, "the HCHC Slate"). UNCHCS must approve or disapprove the HCHC Slate as a whole and may not disapprove of any individual nominee. If UNCHCS should disapprove of a slate of nominees, HCHC shall, then, recommend another full slate of nominees for approval by UNCHCS, and the process shall continue until such time as UNCHCS approves the HCHC Slate in its entirety. The authority of UNCHCS to approve the slate of nominees for the HCHC Board of Directors and any requirement that it do so shall immediately terminate upon termination of this Agreement.

(iii) No HCHC Board of Director Trustee may be removed without the consent of UNCHCS.

(iv) Full HCHC Board appointment and removal powers shall be outlined in the HCHC Articles of Incorporation, as amended by HCHC as a condition precedent to this Agreement.

(g) Control over Operations. The HCHC Board of Directors will retain control and direction of its assets and operations, including Pardee Hospital, and this Agreement shall not constitute a delegation of any powers, duties or responsibilities vested in the HCHC Board of Directors; provided, however, the HCHC Board of Directors shall delegate to UNCHCS authority for all business, clinical, and operational decisions related to Pardee Hospital, subject to control by and approval of the HCHC Board of Directors. Notwithstanding any other provision in this Agreement, HCHC shall remain responsible for compliance with respect to all applicable provisions of federal, state and local laws, rules, regulations and ordinances and standards of accreditation, including but not limited to those regarding the establishment and operation of health care facilities in North Carolina, and UNCHCS shall assist HCHC with respect to these obligations. HCHC, acting through its officers, retains the ultimate authority over the overall policy, operation and assets of its facilities and their operation, with delegated authority to UNCHCS as identified herein. HCHC shall remain the holder of all of its licenses, contracts, and accreditation certificates. The Chief Executive Officer (CEO) employed by UNCHCS and/or its subsidiaries or affiliates, but assigned to Pardee Hospital, will report to the HCHC Board of Directors, with oversight provided by the President of UNC Hospitals (or such other UNCHCS representative as reasonably determined by UNCHCS). The HCHC Board of Directors shall have authority to issue directives to the CEO and to place limitations on the authority of the CEO, in consultation with the President of UNC Hospitals (or such other UNCHCS representative with oversight authority). The Chief Financial Officer (CFO) employed by Pardee Hospital will report to the CEO of Pardee Hospital, with oversight by the President and Chief Financial Officer of UNC Hospitals (or such other UNCHCS representative(s) as reasonably determined by UNCHCS). The scope of, and limitations on, the duties of the CEO and CFO will be mutually agreed upon by the HCHC Board of Directors and UNCHCS. UNCHCS shall be entitled to rely on communications from the Chairperson of the HCHC Board of Directors and the Chairperson's designees regarding HCHC operations. HCHC will reasonably cooperate with UNCHCS in the administration of HCHC operations.

Nothing herein shall be construed to grant any authority to UNCHCS to expend funds of HCHC except in the ordinary course of business and in compliance with a budget approved by the Board of Directors of HCHC.

(h) Expenses Related to Services. Reasonable out-of-pocket business expenses incurred by personnel of UNCHCS set forth in Exhibit B in performing Services hereunder shall be subject to HCHC's policies and may be paid directly by UNCHCS and reimbursed to UNCHCS by HCHC pursuant to Exhibit C. HCHC shall be responsible for all costs and expenses associated with the operation of HCHC's facilities and business, and UNCHCS shall only be responsible to pay costs and expenses on behalf of HCHC that are specifically set forth in this Agreement.

(i) Force Majeure. Neither party shall be obligated to perform any of its obligations pursuant to this Agreement that it is prevented from performing by law, act of God, war, strike, labor unrest, unavailability of supplies or services, or similar events beyond the party's reasonable control, for the period of time the applicable event continues, but not including any obligation it is prevented from performing due to the party's own negligence, malfeasance, or where non-performance is caused by the usual and natural consequences of external forces or where the intervening circumstances are specifically contemplated. To the extent practicable, the party prevented from performing any obligations pursuant to this subsection (i) shall provide notice to the other party immediately upon the happening of such event that prevents performance, including a list of the obligations the party will be prevented from performing and the anticipated timeframe in which the party will be prevented from performing.

(j) Incidental Services. UNCHCS shall perform for and on behalf of HCHC such other services incidental to the Services or as may from time to time be reasonably necessary in connection with the orderly and successful operation of Pardee Hospital.

(k) Independent Contractor. Nothing herein shall be construed as giving HCHC control over, or the right to control, the judgment or actions of UNCHCS or individuals performing services on behalf of UNCHCS with respect to Services rendered hereunder, and UNCHCS shall at all times act as and be deemed to be an independent contractor, subject to the contractual conditions, obligations and limitations set forth herein. This Agreement shall not be construed as creating a partnership or joint venture. Except as explicitly set forth herein, neither party shall hold itself out as or act as an agent of the other party, nor have the power to obligate the other party with respect to third parties in any way; provided, however, that the personnel listed in Exhibit B shall have such powers as shall be delegated to them by HCHC.

Nothing herein shall be construed as giving UNCHCS control over or any right to control the independent actions of the HCHC Board of Directors to adopt and apply Bylaws, oversee the medical staff at Pardee Hospital and make all decisions related to credentialing of providers at Pardee Hospital and other HCHC facilities; provided, however, UNCHCS shall provide advice and consultation to the HCHC Board of Directors on these and other matters.

(l) Disclosure of Conflicts of Interest; Business Opportunities. UNCHCS shall identify to HCHC in writing any contractual or financial relationships of UNCHCS and its affiliates and subsidiaries with any hospitals or health care providers who provide services in competition with or in overlapping service areas with HCHC that might create a conflict of interest in UNCHCS's provision of the Services identified herein (a "Conflict of Interest Transaction"). UNCHCS shall not enter into any Conflict of Interest Transactions during the term of this Agreement without the prior written consent of HCHC. UNCHCS shall present to HCHC for consideration any educational or health care business opportunities in Western North Carolina that are identified by UNCHCS, and UNCHCS shall facilitate pursuit of any such opportunities by HCHC if so requested by HCHC, consistent with the terms of this Agreement. UNCHCS shall partner with HCHC for health care teaching and educational opportunities and the provision of health care services in western North Carolina. To the extent UNCHCS plans to undertake such activities in western North Carolina, UNCHCS shall utilize HCHC's services and facilities to the maximum extent possible, including reasonably expanding HCHC's and/or Pardee's physical facilities to accommodate such activities, if mutually agreed upon by UNCHCS and HCHC. Such opportunities may include, without limitation, educational opportunities such as participation in the development of allied health programs in western North Carolina, and health care business opportunities, such as joint ventures with UNCHCS or other health care providers.

(m) Development of a Medical School in Western North Carolina. If Western Carolina University, the University of North Carolina at Asheville, or Appalachian State University should be designated and developed as a medical school that is a constituent institution of the University of North Carolina, UNCHCS shall take all reasonable actions to sponsor Pardee Hospital as a teaching hospital in accordance with all applicable statutory, regulatory and accreditation requirements, including but not limited to reasonably expanding HCHC's or Pardee Hospital's physical facilities, as necessary, to accommodate use of Pardee Hospital as a teaching hospital, if agreed upon by both UNCHCS and HCHC.

(n) Health Maintenance Organization. On or before January 1, 2014, HCHC and UNCHCS shall work in good faith to explore the creation of a health maintenance organization with HCHC's facilities at the core, with membership restricted to employees of Henderson County, HCHC, UNCHCS and the Henderson County Board of Education and only such other members to which HCHC and UNCHCS mutually agree.

2. COMPENSATION

In consideration of providing the Services set forth in Exhibit A and the personnel set forth in Exhibit B, HCHC shall pay to UNCHCS those amounts set forth in Exhibit C, attached hereto and incorporated into the terms of this Agreement, in accordance with the provisions therein.

3. LICENSE TO USE NAME/LOGO

UNCHCS hereby grants to HCHC a non-exclusive license to use the names "The University of North Carolina Health Care System," "UNC Health Care System," "The University

of North Carolina Hospitals at Chapel Hill,” or “UNC Hospitals,” and related logos in connection with UNCHCS’s management of Pardee Hospital; provided, however, HCHC or its designee shall first seek the approval of UNCHCS’s Marketing Department before using any such name or logo. This license grant is part of the consideration provided by UNCHCS in this Agreement, for which UNCHCS is receiving fair market value consideration, as itemized in Exhibit C. This license shall automatically terminate upon the termination of this Agreement

4. TERM; TERMINATION

(a) Term. This Agreement shall commence as of the Effective Date and shall terminate on the twenty-fifth anniversary of the Effective Date. The Parties may renew this Agreement for ten years, upon mutual written agreement of the Parties (each ten-year extension referred to as a “Renewal Term”), for up to three separate Renewal Terms.

(b) Termination.

(i) Either Party may terminate this Agreement without cause at any time after ten (10) years from the Effective Date, upon provision of one-year (twelve [12] months) written notice. There shall be no without-cause termination until the expiration of ten years from the Effective Date.

(ii) A non-breaching Party may terminate this Agreement upon material breach of this Agreement by the other Party, provided that the non-breaching Party first shall have provided to the breaching Party written notice of such breach and a thirty (30) day period in which to cure such breach. If at the end of the thirty (30) day cure period, the breaching Party has not substantially cured the breach, the non-breaching Party may provide the breaching Party with written notice declaring this Agreement to be terminated thirty (30) days after receipt of such written notice by the breaching Party;

(iii) A Party may terminate this Agreement immediately upon the dissolution, insolvency, or filing for bankruptcy of the other Party; or

(iv) A Party may terminate this Agreement immediately if any license, permit, accreditation or approval required for the operation of HCHC is at any time suspended, terminated or revoked and all administrative and judicial review have been exhausted.

(v) UNCHCS may terminate this Agreement immediately if changes to the lease between Henderson County and HCHC or to the HCHC governance documents, including but not limited to the HCHC Articles of Incorporation, are made that, in the opinion of UNCHCS, alter the ability of UNCHCS to provide services consistent with and pursuant to the terms of this Agreement. HCHC may terminate this Agreement immediately if changes to the UNCHCS governance documents are made that, in the opinion of HCHC, alter the ability of UNCHCS to provide services consistent with and pursuant to the terms of this Agreement.

(vi) HCHC may terminate this Agreement if any management decision or decisions made by UNCHCS has been the direct cause of a[ny] material and substantial

violation or breach of any applicable law, regulation or other requirement of any licensing, regulatory or accrediting authority that creates a significant risk that any license, permit, accreditation or approval required for the operation of HCHC could be suspended, terminated or revoked or that HCHC could lose its accreditation.

(c) Conditions of Termination. Upon termination of this Agreement pursuant to the provisions of subsection 4(b) above, all obligations of UNCHCS to provide further Services hereunder shall be deemed immediately terminated; UNCHCS shall cooperate with HCHC and its representatives to ensure that records, documents, and other such materials are appropriately returned to HCHC in a format accessible to HCHC; and any employee listed in Exhibit B as a UNCHCS (or its subsidiaries or affiliates) employee shall remain a UNCHCS (or its subsidiaries or affiliates) employee unless mutually agreed by the Parties; provided, however, if Pardee terminates this Agreement pursuant to subsections 4(b)(ii) or 4(b)(iv), herein, Pardee, in its discretion, shall have the option to directly employ the then-serving CEO of Pardee, with the CEO's mutual agreement to become a Pardee employee, and UNCHCS shall terminate the CEO's employment and the CEO shall become an employee of Pardee, such termination by UNCHCS and employment by Pardee effective the date of termination of this Agreement. After the effective date of termination, HCHC shall compensate UNCHCS on a reasonable hourly basis for UNCHCS's assistance in completing any Services begun hereunder, if requested by HCHC and as mutually agreed by the parties, in transitioning management back to HCHC or to a third party. Any obligations of HCHC to pay fees to UNCHCS hereunder that arose prior to the termination of this Agreement shall survive the termination of this Agreement, and HCHC shall be fully responsible for all such fees. HCHC shall pay all fees earned and accrued through the date of termination of this Agreement to UNCHCS in the manner specified in Exhibit C. If UNCHCS used a particular computer system or software in providing Services, UNCHCS shall cooperate with HCHC during the management transition back to HCHC or to a third party to make information from such system or software available to HCHC in an accessible format, provided however that, to the extent HCHC or any third party management company desires the electronic transfer of data or information from UNCHCS, HCHC shall be responsible for any costs to UNCHCS to effectuate such transfer in the format desired.

(d) HCHC's Continuing Use of Policies, Protocols, and Materials. To the extent UNCHCS implements at HCHC during the term of this Agreement any business or operating protocols or policies to which UNCHCS owns all rights, title, and interest, including educational or training programs and materials (collectively, "Policies, Protocols, and Materials"), HCHC shall have an unlimited license after termination of this Agreement to continued use of such Policies, Protocols, and Materials, without further compensation to UNCHCS; provided, however, to the extent UNCHCS utilizes any Policies, Protocols, and Materials to which UNCHCS does not own all rights, title, and interest and/or that are licensed to UNCHCS and its affiliated entities by third parties and are nontransferable to HCHC after termination of this Agreement, HCHC's use of such Policies, Protocols, and Materials shall immediately cease upon termination of this Agreement, and HCHC may take no further action with respect to such Policies, Protocols, and Materials that could cause UNCHCS to be in breach of any third party licensing agreement. Under no circumstances is UNCHCS obligated to provide an unlimited license to HCHC after termination of this Agreement for Policies, Protocols, and Materials to which UNCHCS does not own all rights, title, and interest.

5. CONFIDENTIALITY

(a) Definition. For purposes of this Section, the term “Trade Secrets” shall mean all information, documentation, and materials, including without limitation, financial information such as books, records, financial statements, contracts, patient information, and other information concerning the business and operation of a party and its operating units that may be disclosed or made available from any source and in any form, including paper record, oral communication, audio recording, and electronic display, by such party and its operating units to the other party that derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use, and that is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. “Trade Secrets” under this Section shall include information protected by N.C. Gen. Stat. § 66-152 et seq., and other confidential information described below.

Notwithstanding the foregoing, “Trade Secrets” shall not include information that: (a) as of the date of disclosure is already known to the receiving party; (b) is or becomes part of the public domain, through no act or fault of the receiving party; (c) is lawfully disclosed to the receiving party by a third party that is not obligated to maintain and preserve such information as confidential and proprietary; or (d) is independently developed by or for the receiving party without the benefit of the Trade Secrets of the disclosing party. The nondisclosure obligation of this Section shall not apply to the extent disclosure is required by law, regulatory or accrediting agencies or a court of competent jurisdiction.

(b) Confidentiality. Each party acknowledges and agrees that all Trade Secrets of the disclosing party are confidential to and the sole and exclusive property of the disclosing party or of the disclosing party’s patients, as appropriate, and that any unauthorized disclosure or use of such information will cause irreparable harm, injury, and loss to the disclosing party or patients, as appropriate. Each party agrees to hold the Trade Secrets of the other party in strictest confidence and (a) to use any Trade Secrets of the other party solely for the purposes required in connection with the business relationship of the parties; (b) not to disclose any Trade Secrets of the other party to any person or entity other than its agents, employees, or representatives who have a need to know such information for the permissible purposes hereunder and in accordance with its obligations under state and federal law; (c) not to reproduce, distribute or otherwise disseminate Trade Secrets of the other party, and to protect Trade Secrets of the other party from disclosure by others; and (d) to return the Trade Secrets of the other party, including all copies and records thereof, to the disclosing party upon its request, or upon the termination of the business relationship of the parties, whichever occurs first. Each party agrees that it shall not be a breach of this Section for a party to disclose information regarding the other party to the party’s governing Boards in connection with the oversight responsibilities of such Boards.

Each party agrees that the obligations contained in this Section will be honored by its agents, employees, and representatives, and by any subsidiary company, parent company, or company related to such party by common ownership, and its agents, employees, and representatives. Each party agrees to require each of its employees or agents to retain all proprietary information of the other party, including all patient information, in strict confidence.

(c) Other Confidential Information. In the event any of the information considered and treated as confidential by a party and disclosed during the course of the parties' business relationship does not qualify as statutorily protected Trade Secrets, then the parties acknowledge and agree that such information shall nonetheless remain confidential and shall not be disclosed by the receiving party to any other party during the term of the parties' business relationship and for a period of three (3) years following the termination of the business relationship, absent the express written consent of the disclosing party; provided, however, that patient information shall not be disclosed at any time following the execution of this Agreement.

(d) Survival. The obligations of the parties under this Section shall survive the expiration, termination, or cancellation of this Agreement and/or the business relationship of the parties, and shall continue to bind the parties, their agents, employees, representatives, successors, and assigns as set forth herein.

(e) Breach. In the event of any actual or threatened breach or violation of this Section, the disclosing party shall have full rights to seek injunctive relief, in addition to any other rights and remedies it may have.

6. COMPLIANCE WITH LAWS

(a) Each party shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and the performance of this Agreement, including those of federal, state, and local agencies having jurisdiction and/or authority.

(b) It is the intent of UNCHCS and HCHC to comply with federal and state antitrust laws and to conduct their activities pursuant to this Agreement in accordance with such laws. To the extent applicable, UNCHCS and HCHC will take such steps as are necessary to comply with such laws.

(c) UNCHCS shall have the authority to receive, create, access and possess Protected Health Information, as such term is defined by the Health Insurance Portability and Accountability Act and the regulations promulgated thereunder ("HIPAA"), related to patients of HCHC. UNCHCS shall maintain the privacy and security of such Protected Health Information in the manner required of HCHC by applicable law, including without limitation HIPAA, as such may be amended from time to time. The parties shall enter into a HIPAA-compliant Business Associate Agreement, which is attached hereto as Exhibit G and incorporated herein by reference.

7. INSURANCE

(a) At all times during the term of this agreement, UNCHCS and HCHC each at its own expense shall secure and maintain commercial general liability insurance covering itself and its respective employees. Such coverage provided by UNCHCS and HCHC may be afforded via commercial insurance, self-insurance, or some combination thereof, at limits of at least \$1,000,000 per occurrence. Such coverage shall be primary and non-contributory. Each

party shall provide a certificate of insurance evidencing such coverage upon request of the other party.

(b) At all times during the term of this agreement, UNCHCS shall provide professional liability insurance, which may be provided through a self-insurance program, to provide coverage for claims against UNC Hospitals, UNC School of Medicine, and their employees, with the following limits: \$1,000,000 per occurrence for all covered entities for injury or death to any one person; \$3,000,000 limit per covered individual; \$7,000,000 single claim limit, regardless of the number of entities or individuals involved in the claim. At times during the term of this Agreement, HCHC at its own expense shall secure and maintain professional liability (medical malpractice) insurance covering itself and its respective employees. Such coverage provided by HCHC may be afforded via commercial insurance, self-insurance, or some combination thereof at limits of at least \$1,000,000 per claim/occurrence and \$3,000,000 in the aggregate, with additional coverage at a minimum of \$7,000,000 per claim/occurrence. For each party, such professional liability coverage shall be primary and non-contributory. Each party shall provide a certificate of insurance evidencing such coverage upon request of the other party. Such coverage shall be either (1) on an occurrence basis or (2) on a claims-made basis. If the coverage is on a claims-made basis, both UNCHCS (or its subsidiaries or affiliates) and HCHC hereby agree that, prior to the effective date of termination of their respective current insurance coverage, both parties shall, at their respective expense, either renew or procure replacement policies annually thereafter having a retroactive date no later than the Effective Date or purchase tail coverage in the above stated amounts for all claims arising out of incidents occurring prior to termination of the respective party's current coverage or prior to termination of this Agreement.

UNCHCS and HCHC each shall secure and maintain at all times during the term, at its respective sole expense, workers' compensation/employers liability insurance covering its respective employees as required by statute.

Such coverage shall be primary and non-contributory. Each party shall provide a certificate of insurance evidencing such coverage upon request of the other party.

(c) UNCHCS and HCHC each shall secure and maintain at all times during the term at their respective sole expense automobile liability insurance covering themselves and their respective employees for whom such coverage is necessary or appropriate in the course of business operations. Such coverage provided by UNCHCS and HCHC may be afforded via commercial insurance, self-insurance, or some combination thereof at limits of at least \$1,000,000 per occurrence. Such coverage shall be primary and non-contributory. Each party shall provide a certificate of insurance evidencing such coverage upon request of the other party.

(e) HCHC shall secure and maintain at all times during the term, at its sole expense, directors' and officers' liability insurance covering its directors and officers, including coverage for the personnel of UNCHCS listed in Exhibit B. Such coverage provided by HCHC may be afforded via commercial insurance or self-insurance at limits of at least \$1,000,000 per claim/occurrence and \$1,000,000 in the aggregate, with additional coverage with a minimum of \$5,000,000 per claim. Such coverage shall be primary and non-contributory. HCHC shall provide a certificate of insurance evidencing such coverage upon request of UNCHCS.

(f) HCHC shall maintain a fidelity bond or commercial insurance policy with employee dishonesty coverage for all employees with access to the cash assets of HCHC, including the personnel of UNCHCS listed in Exhibit B.

(g) As to each policy identified in this Section 7 to be maintained by HCHC, such policy shall (i) name UNCHCS and its agents and employees as additional insureds; and (ii) provide that no cancellation thereof or material change therein shall be effective until at least thirty (30) days after receipt by UNCHCS of written notice to such effect. UNCHCS has had an opportunity in advance to review the current coverage maintained by HCHC, and HCHC shall not make material changes to such coverage without the advance written notice to UNCHCS required herein.

8. NON-SOLICITATION

(a) The parties acknowledge that personnel are a significant asset to the parties, and that each party will gain knowledge of the employees of the other party through performance of this Agreement. Accordingly, UNCHCS and HCHC each agree that, except as shall be mutually agreed between the parties, during the term of this Agreement (including any renewals) and for a period of one (1) year following the date upon which this Agreement or any renewal of this Agreement is terminated for any reason, it shall not solicit for employment any employees of the other party who become known to such party through this Agreement. Nothing herein shall prevent an employee of a party from applying for a posted position with the other party or any of its affiliates.

(b) The parties acknowledge and agree that the recruitment of senior-level employees is a lengthy and expensive process, and further that the solicitation by either party of the other party's senior-level employees will result in economic damage to the non-soliciting party. Both parties further agree and acknowledge that the economic damages that the non-soliciting party would suffer as a result of the other party's breach of this Section 8 are difficult to ascertain on the date hereof because of their indefiniteness and uncertainty; notwithstanding this, the parties acknowledge and agree that \$100,000 is a reasonable approximation of the damages that the non-soliciting party would suffer as a result of the other party's solicitation of its senior-level employees, including but not limited to the Chief Executive Officer, which damages would include, but not be limited to administrative costs associated with recruiting a replacement and training such replacement. Each party agrees that \$100,000 is reasonable and that it will pay the other party the full amount if it breaches this Section 8.

9. CERTIFICATE OF NEED OPPORTUNITIES

During the term of this Agreement, UNCHCS shall review the State Medical Facilities Plan on behalf of HCHC and shall advise the HCHC Board of Directors of potential Certificate of Need ("CON") opportunities that may be available to HCHC.

10. REPRESENTATIONS OF THE PARTIES

(a) Representations of UNCHCS. UNCHCS hereby makes material representations as follows:

(i) UNCHCS is an agency of the State of North Carolina with full power and authority necessary to enable it to own, lease or otherwise hold its properties and assets and to carry on its operations as presently conducted.

(ii) UNCHCS has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement. The execution and delivery by UNCHCS of this Agreement and the performance of its obligations hereunder have been duly and validly authorized by all necessary action on its part. This Agreement has been duly executed and delivered by UNCHCS and constitutes the legal, valid and binding obligation of UNCHCS, enforceable against UNCHCS in accordance with its terms.

(iii) To the knowledge of UNCHCS, there is no requirement applicable to UNCHCS to make any filing with, or to obtain any permit, authorization, consent or approval of, any governmental authority as a condition to the performance of the Services, other than the approval of the UNC Health Care System Board of Directors, which has so approved.

(iv) To its knowledge, UNCHCS is in material compliance with all laws or regulations applicable to it and is not aware of any pending, threatened or unasserted claims to the contrary. UNCHCS has not received any written communication from a governmental authority that alleges that it is not in compliance with any law applicable to the performance of the Services.

(v) To the knowledge of UNCHCS, UNCHCS has never been charged with any violation of any law involving fraudulent or abusive practices relating to its participation in state or federally sponsored reimbursement programs, including but not limited to fraudulent billing practices. Neither UNCHCS nor, to the knowledge of UNCHCS, any officer or director of UNCHCS, has engaged on behalf of UNCHCS in any of the following: (i) knowingly and willfully making or causing to be made a false statement or representation of a material fact in any application for any benefit or payment under any Federal Health Care Program, as that term is defined at 42 U.S.C. § 1320a-7b(f) ("FHCP") (part of the federal "fraud and abuse" provisions); (ii) knowingly and willfully making or causing to be made any false statement or representation of a material fact for use in determining rights to any benefit or payment under any FHCP; (iii) failing to disclose knowledge of the occurrence of any event affecting the initial or continued right to any benefit or payment by a claimant under any FHCP on its/his/her own behalf or on behalf of another, with intent to secure such benefit or payment fraudulently; (iv) knowingly and willfully soliciting or receiving any remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind or offering to pay such remuneration (A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by any FHCP, or (B) in return for purchasing, leasing or ordering or arranging for or recommending the purchasing, leasing or ordering of any good, facility, service, or item for which payment may be made in whole or in part by any FHCP.

(vi) There are no lawsuits, claims, or legal, administrative or arbitration proceedings or investigations pending, or to the knowledge of UNCHCS, threatened, by or against UNCHCS that would affect the performance of the Services, or that seek to enjoin the consummation of the transactions contemplated herein.

(vii) UNCHCS is exempt from filing, or has filed or caused to be filed on a timely basis, all tax returns and all reports with respect to taxes that are or were required to be filed pursuant to applicable legal requirements, including those related to unrelated business income. Any such tax returns and reports filed by UNCHCS are true, correct and complete in all material respects. UNCHCS has paid, or made provision for the payment of, all taxes that have or may have become due for all periods covered by the tax returns or otherwise, or pursuant to any assessment received by UNCHCS. All taxes that UNCHCS is or was required to withhold, deduct or collect have been timely withheld, deducted and collected and, to the extent required, have been paid to the proper governmental body or other person.

(viii) Exhibit H contains a complete list of all of UNCHCS's affiliated entities, including without limitation any parent corporations, affiliates of a parent corporation, subsidiaries, joint ventures, whether via ownership or contract, and ownership interests, whether whole or partial, in any other legal entities.

(b) Representations of HCHC. HCHC hereby makes material representations as follows:

(i) HCHC is a North Carolina non-profit corporation that leases its real property from Henderson County. HCHC has full power and authority necessary to enable it to lease or otherwise hold properties and assets and to carry on the operation of a hospital. HCHC does not have the authority to own real property without the express consent of the Henderson County Board of Commissioners but does have the authority to own personal property without limitation.

(ii) HCHC has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement, subject to approval by the Henderson County Board of Commissioners. The execution and delivery by HCHC of this Agreement and the performance of its obligations hereunder have been duly and validly authorized by all necessary action on its part, including but not limited to approval and authorization by the Henderson County Board of Commissioners. This Agreement has been duly executed and delivered by HCHC and constitutes the legal, valid and binding obligation of HCHC, enforceable against HCHC in accordance with its terms.

(iii) Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with the terms and conditions of this Agreement conflict with or result in a breach of any terms, conditions, or provisions of any restrictions or agreements to which HCHC is now a party or to which HCHC's facilities or assets are subject.

(iv) Exhibit D contains a complete and accurate list of each governmental authorization that is held by HCHC or that otherwise relates to Pardee Hospital or

HCHC's affiliated operations (the "Governmental Authorizations"). Each Governmental Authorization is valid and in full force and effect. Except as set forth in Exhibit E, HCHC is, and at all times since January 1, 2008, has been, in material compliance with all of the terms and requirements of each Governmental Authorization. Except as set forth in Exhibit E, HCHC has not received, at any time since January 1, 2008, any notice or other communication (whether oral or written) from any governmental body or any other person regarding (A) any actual, alleged, possible or potential violation of or failure to comply with any term or requirement of any Governmental Authorization or (B) any actual, proposed, possible or potential revocation, withdrawal, suspension, cancellation, termination of or modification to any Governmental Authorization. The Governmental Authorizations collectively constitute all of the governmental authorizations necessary to permit HCHC to lawfully conduct and operate Pardee Hospital and its affiliated operations in the manner in which HCHC currently conducts and operates such businesses. Except as set forth on Exhibit D, to the knowledge of HCHC, there is no requirement applicable to HCHC to make any filing with, or to obtain any permit, authorization, consent or approval of, any governmental authority as a condition to the consummation of this Agreement.

(v) To its knowledge, HCHC is in material compliance with all laws or regulations applicable to it and no facts or circumstances exist that, with or without the passing of time or the giving of notice or both, might reasonably serve as the basis for any claim that HCHC is not in material compliance with any law or regulation applicable to it. Except as set forth in Exhibit E, HCHC is not aware of any pending, threatened or unasserted claims to the contrary, and HCHC has not received any written communication from a governmental authority that alleges that it is not in compliance with any law. Upon request, HCHC shall disclose to UNCHCS in writing any direct or indirect financial relationships between HCHC and any physician or other person or entity in a position to make or influence referrals to HCHC.

(vi) To the knowledge of HCHC, HCHC has never been charged with any violation of any law involving fraudulent or abusive practices relating to its participation in state or federally sponsored reimbursement programs, including but not limited to fraudulent billing practices. To its knowledge, HCHC has properly and legally billed all intermediaries and third party payors for services rendered and has maintained its records to reflect such billing practices. No funds with respect to HCHC are now, or to the knowledge of HCHC will be, withheld by any Medicare intermediary or third party payor, other than in the usual course of business. To the knowledge of HCHC, neither HCHC nor any officer or director of HCHC, has engaged in any of the following: (i) knowingly and willfully making or causing to be made a false statement or representation of a material fact in any application for any benefit or payment under any FHCP; (ii) knowingly and willfully making or causing to be made any false statement or representation of a material fact for use in determining rights to any benefit or payment under any FHCP; (iii) failing to disclose knowledge of the occurrence of any event affecting the initial or continued right to any benefit or payment by a claimant under any FHCP on its/his/her own behalf or on behalf of another, with intent to secure such benefit or payment fraudulently; (iv) knowingly and willfully soliciting or receiving any remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind or offering to pay such remuneration (A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by

any FHCP, or (B) in return for purchasing, leasing or ordering or arranging for or recommending the purchasing, leasing or ordering of any good, facility, service, or item for which payment may be made in whole or in part by any FHCP.

(vii) HCHC is exempt from filing, or has filed or caused to be filed on a timely basis, all tax returns and all reports with respect to taxes that are or were required to be filed pursuant to applicable legal requirements. All tax returns and reports filed by HCHC are true, correct and complete in all material respects. HCHC has paid, or made provision for the payment of, all taxes that have or may have become due for all periods covered by the tax returns or otherwise, or pursuant to any assessment received by HCHC. All taxes that HCHC is or was required to withhold, deduct or collect have been timely withheld, deducted and collected and, to the extent required, have been paid to the proper governmental body or other person.

(viii) Except as set forth in Exhibit E, there are no lawsuits, actual claims, or legal, administrative or arbitration proceedings or investigations pending, or to the knowledge of HCHC, actually threatened, by or against or affecting HCHC, or seeking to enjoin the consummation of the transactions contemplated herein.

(ix) Exhibit F contains a complete list of all of HCHC's affiliated entities, including without limitation any parent corporations, affiliates of a parent corporation, subsidiaries, joint ventures, whether via ownership or contract, and ownership interests, whether whole or partial, in any other legal entities.

(c) Statements of Both Parties

(i) HCHC and UNCHCS each agree that they shall continue to operate their respective hospitals in accordance with their existing missions and in furtherance of providing high quality medical care to, and otherwise benefiting, the communities they serve;

(ii) Pardee Hospital will be managed, operated and maintained as a Community General Hospital, as defined in N.C.G.S. § 131E-6(2), and HCHC will provide the same or similar programs and services as are provided by other Community General Hospitals in similarly situated and similar sized communities in the State of North Carolina;

(iii) Pardee Hospital will be managed, operated and maintained in a manner that will preserve the tax-exempt, Section 115 status of HCHC;

(iv) Pardee Hospital will provide care in accordance with its charity care and non-discrimination policies;

(v) Pardee Hospital will be operated primarily for the benefit of the community it serves; and

(vi) Nothing in this Agreement shall be construed to be a warranty by UNCHCS with respect to the profitability of HCHC's operations or to constitute UNCHCS as a guarantor of any obligations of HCHC.

11. LIABILITY/RESPONSIBILITY OF THE PARTIES

(a) No Assumed Liability. UNCHCS (including its subsidiaries, affiliates, successors, and assigns) shall neither assume nor become liable for the payment or performance of any liabilities of HCHC of any nature whatsoever, whether related to or arising out of the operation of HCHC or its facilities, including without limitation: (a) any liability based upon any act or omission of HCHC or any of its representatives; (b) any indebtedness of HCHC or any of its representatives; (c) any liabilities relating to any breach of contract, breach of warranty, tort, infringement, or violation of law by HCHC or any of its representatives; (d) any liability for lawsuits, claims, or legal, administrative or arbitration proceedings or investigations relating to HCHC or any of its representatives. HCHC shall neither assume nor become liable for the payment or performance of any liabilities of UNCHCS of any nature whatsoever, whether related to or arising out of the operation of UNCHCS or its facilities, including without limitation: (a) any liability based upon any act or omission of UNCHCS or any of its representatives; (b) any indebtedness of UNCHCS or any of its representatives; (c) any liabilities relating to any breach of contract, breach of warranty, tort, infringement, or violation of law by UNCHCS or any of its representatives; (d) any liability for lawsuits, claims, or legal, administrative or arbitration proceedings or investigations relating to UNCHCS or any of its representatives.

(b) Indemnification. To the extent permitted by law, each party agrees that it shall indemnify the other party, including the other party's officers, directors, employees, successors and assigns, for any and all liability, claims, and costs of whatsoever kind and nature, including without limitation attorneys' fees, arising out of or from: (i) any breach of any of the representations or warranties of the indemnifying party contained in or made pursuant to this Agreement or other document delivered by the indemnifying party pursuant to this Agreement, and (ii) any failure by the indemnifying party to perform or observe, or to have performed or observed, in full, any covenant, agreement, obligation or condition to be performed or observed by it pursuant to this Agreement. HCHC agrees that it shall indemnify UNCHCS, including its subsidiaries and affiliates, officers, directors, employees, successors and assigns, for any and all liability arising from or related to the lease, ownership, or operation of Pardee Hospital or any other asset, facility or other operations of HCHC, except as to any liability arising out of or resulting from the negligence or misconduct of UNCHCS or any of its officers, agents or employees. The requirements of this Section will survive the expiration or termination of this Agreement.

12. MEDICARE RECORD ACCESS

In compliance with 42 U.S.C. § 1395x(v)(1)(I) and implementing regulations, UNCHCS agrees, until the expiration of four (4) years after the services are furnished under this Agreement, to allow the Secretary of the Department of Health and Human Services and the Comptroller General access to this Agreement, all applicable purchase orders, and to the books, documents and records of UNCHCS necessary to verify the nature and extent of the costs of this Agreement. UNCHCS further agrees that if any of the duties of this Agreement are carried out by a subcontractor of UNCHCS pursuant to a subcontract with a cost in excess of \$10,000 within a period of twelve (12) months, such subcontract will contain a clause to the effect that, until the expiration of four (4) years after the services are furnished under such subcontract, the Secretary

University of North Carolina Hospitals
Attn: UNC Hospitals President
101 Manning Drive
3rd Floor Med Wing E
Chapel Hill, NC 27514

15. MISCELLANEOUS

(a) This Agreement may be amended only in writing by mutual agreement of the parties.

(b) No party may assign this Agreement without the written agreement of the other party; however, UNCHCS may delegate Services to be performed hereunder to its affiliates, subsidiaries, or other related entities without the prior written consent or approval of HCHC. This Agreement shall be binding upon and inure to the benefit of the parties, their successors in interest and permitted assigns.

(c) This Agreement and any documents incorporated specifically by reference herein represent the entire agreement between the parties and supersede all prior oral or written statements or agreements.

(d) All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive this Agreement's expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or state statutes of limitation.

(e) In the event that any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement will remain in full force and effect.

(f) In the event that a party waives any provision of this Agreement, it will not be deemed to have waived that provision at any other time or to have waived any other provision.

(g) This Agreement shall be governed by the laws of the State of North Carolina.

(h) This Agreement is entered into by and between UNCHCS and HCHC solely for their benefit and shall not create rights in any third party beneficiary. However, the Henderson County Board of Commissioners ("BOC") joins in the execution of this Agreement for the limited purposes of evidencing the BOC's grant of authority allowing HCHC to enter into this Agreement.

(i) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized agents effective as of the date first above written.

HENDERSON COUNTY HOSPITAL
CORPORATION

By: _____

Title: _____

UNIVERSITY OF NORTH CAROLINA HEALTH
CARE SYSTEM

By: _____

Title: _____

*For the limited purposes of evidencing the
Henderson County Board of Commissioners' grant
of authority allowing HCHC to enter into this
Agreement:*

COUNTY OF HENDERSON

BY: _____

Title: _____

EXHIBIT A

SERVICES

Services

The following services and services incidental to the following services (“Services”) will be included as part of the management fee or carried out under the supervision of the Chief Executive Officer of Pardee Hospital, and/or the Pardee Hospital Chief Financial Officer, (hereinafter, “CEO” and “CFO”), as more fully described below:

Detailed Description of Services

Hospital Operations: The CEO employed by UNCHCS but assigned to Pardee Hospital (hereinafter, the “CEO”) will provide administrative oversight to all business, administrative and executive functions of Pardee Hospital, consistent with and subject to the policies, procedures and objectives and periodic directives of the HCHC Board of Directors. The CEO will report to the HCHC Board of Directors as requested regarding the status of operations of Pardee Hospital and any related entities. (See Appendix B).

Financial Management: The CFO will provide, at a minimum, supervision of the business office functions such as accounting, patient billing, medical information management, accounts payable and purchasing functions and will be responsible for the preparation of the operating and capital budgets. However, from time-to-time the CEO may deem changes to these core responsibilities as the business or expertise needed in fiscal areas change. Monthly financial reports, including monthly revenues and expenses, and an annual financial report will be provided to the HCHC Board of Directors. The CFO will coordinate audit activity with an independent public accounting firm to be approved by the HCHC Board of Directors.

Detailed Services: The following is a description of the detailed services to be administered or overseen by UNCHCS, working with the CEO and/or the Pardee CFO

- Supervision of the fiscal office functions: accounting, patient billing, patient receivables, accounts payable, purchasing, etc. and assuring the provision of consultative support on any new requirements or regulations that may be envisioned in the future that will affect these functions.
- Preparation of the statistical, operating and capital budgets, including preparing summaries and presentations for the Board of Directors noting variances and explanations as to the occurrence and how changes are being properly researched or addressed.
- Preparation of monthly and annual financial reports and assuring quality and accuracy.
- Analysis of revenue cycle operations as required to assure effective financial management, proper charge capture, billing and collection of services provided to patients or organizations.
- Presentation of a management report from UNCHCS, including such specific information as may be reasonably requested by HCHC from time-to-time or to

address challenges and issues in financial management, health care reform and general operations of the enterprise.

- Continued review and analysis of the processes, policies, and information systems in use in the HCHC business office by UNCHCS to identify any modifications suggested by a management and the costs associated with those changes. Further UNCHCS will endeavor to provide periodic review and analysis of process, function and metrics recommending improvements to improve overall performance and compliance.
- Opportunities for streamlining operations will also be evaluated and discussed with the HCHC Board of Directors.
- UNCHCS will continue to build upon the productivity system and measurements in place currently supported to properly staff the enterprise relative to available resources concentrating on supporting a quality, patient-centered organization.
- UNCHCS will assist with profitability beyond cost accounting implementation and maintenance including access to UNCHCS similar reporting and expertise.

Purchasing Agreements: Should HCHC elect to participate, as an affiliate hospital of UNCHCS and after signing a Group Purchasing Organization (“GPO”) Participation Agreement, HCHC will have access to the UNC Health Care System’s purchasing agreements with the UNCHCS GPO and other locally negotiated purchasing agreements.

Regardless of the Group Purchasing Organization decision, the UNCHCS Purchasing Department will offer assistance in accessing both GPO and locally negotiated UNCHCS purchasing agreements to afford HCHC the opportunity to make an informed decision regarding its willingness to access such agreements.

- This assistance will include the UNCHCS Purchasing Department facilitating discussions with suppliers to extend UNCHCS pricing to HCHC, if applicable and if HCHC is eligible, in support of the cost savings opportunities available to it.
- UNCHCS Purchasing Department will also assist with other locally negotiated purchasing agreements.
- Supply chain consultation will be available as part of this management agreement.

Managed Care Contracting and Governmental Reimbursement Consultation: UNCHCS Managed Care Office will evaluate managed care contracts with insurance companies, managed care organizations, employers, and other payers on a regular basis to assist HCHC. As needed and requested, the UNCHCS Managed Care staff will negotiate and execute agreements in consultation with and on behalf of HCHC where such integration with UNCHCS contracting is advantageous. The Managed Care Office staff will participate in all areas of non-government reimbursement to the extent it is in compliance with applicable laws, including antitrust laws and regulations.

- UNCHCS will provide advice and counsel on predicted changes in managed care, contracting trends, or challenges in hospital and physician reimbursement..
- UNCHCS will provide assistance in resolving issues with payors.

UNCHCS Reimbursement Office will evaluate, recommend and perform necessary duties to assist HCHC with the completion of the annual Medicare, Medicaid and TriCare Cost Reports. Further it will advise and assist on matters related to governmental payer regulations in a manner consistent with other UNCHCS affiliated hospitals. UNCHCS is prepared to complete these annual reports in-house with HCHC assistance.

Physician Recruitment: The Pardee CEO will work with the HCHC Board of Directors and medical staff to develop a recruitment program to attract physicians to HCHC's service area and to retain physicians who already have privileges at Pardee Hospital.

- UNCHCS Network Development staff will assist with developing recruitment plan.
- UNCHCS will provide access to UNCHCS physician resources including medical students, residents and fellows in training as an additional means of potential physician recruitment consistent with other affiliated entities.

Staff Education: The UNC Hospital Human Resources Development Department and the Nursing Practice Education and Research Department located on the UNC Medical Center Campus, have extensive educational offerings covering clinical and management topics. These programs will be made available to HCHC staff in Chapel Hill or at other scheduled venues consistent with other affiliated entities. On occasion, off-site programs are presented that may require a registration fee. In those instances, HCHC employees will pay the UNCHCS employee rate.

- Targeted programs for special educational needs are also available in response to new clinical need or skills required.

Board Education: Governance programs will be available in areas such as health care reform, legislative and regulatory changes, board orientation and responsibilities, critical topics in health care such as managed care, information systems and quality improvement, and other topics of interest to or at the request of the Board. UNCHCS is contemplating an annual Board of Trustees retreat for all affiliated entities that will include education sessions and strategic planning. HCHC will be afforded such interaction as an affiliated entity.

Quality Improvement:

- Advice and consultation on Quality and Organizational Improvement will be available from UNCHCS. This includes the opportunity to participate in special educational programs for quality and process improvement in the same manner that staff education is provided.
- Clinical support services consultation and sharing of best practices within the UNC Health Care System, including the opportunity to meet with peers and colleagues with similar interests and challenges, is available as needed.

Strategic Planning:

- Strategic planning consultation, including consultation on CON development and regulatory issues is available.
- Consultation on data base development and analysis, strategic positioning and business planning models is an important part of this largely local process.
- UNCHCS will make available, where licenses permit, access to analytical information obtained by UNCHCS.

Facility Master Planning:

- Consultative support on facility master planning.

Public Policy:

- Assist with and coordinate public policy issues that impact health care entities
- Provide a primary point of contact for public policy issues
- Monitor and report issues of concern that impact health care broadly

Additional Services

The following additional services (“Additional Services”) will be available from UNCHCS upon request by HCHC as part of this enhanced contractual relationship at cost plus 10%*:

- Development of cost accounting and decision support systems including training on how to implement and evaluate the impact of such systems
- Facility plan development and implementation
- Other services can be evaluated on a case by case basis as requested by HCHC

**The additional 10% covers additional staffing and other expenses required for UNCHCS to cover needs associated with this Agreement. UNCHCS shall provide to HCHC an estimate detailing the cost to UNCHCS of each such item in advance of providing such service.*

Limitation on Services

Services not specifically described are not included as part of this Agreement.

EXHIBIT B

PERSONNEL

UNCHCS will provide a full-time CEO for Pardee Hospital and affiliated entities for the management of the day-to-day operations of the hospital. The CEO will be an employee of UNCHCS assigned to Pardee Hospital and will report to the HCHC Board of Directors, and to the President of UNC Hospitals (or such other UNCHCS representative as reasonably determined by UNCHCS), who will provide oversight of the CEO.

These duties of the CEO include, but are not limited to, the following:

1. Insures preparation of administrative and financial reports for presentation to the HCHC Board of Directors,
2. Manages Pardee Hospital and related entities, including the CFO (employed by Pardee Hospital and with dual reporting to the UNC Hospitals CFO),
3. Maintains open lines of communication with the medical staff regarding all matters relating to Pardee Hospital,
4. Facilitates resolution of questions and problems relating to HCHC operations,
5. Stays abreast of all public policy, economic developments and other issues pertaining to HCHC operations,
6. Oversees all accreditation and compliance efforts,
7. Negotiates professional service contracts,
8. Develops and maintains open communication with other health care providers in Henderson County and the region,
9. Develops and maintains open communication with other health care providers in Henderson County,
10. Represents Pardee Hospital at local, regional and statewide meetings of health care providers and policy makers, and
11. Represents Pardee Hospital to the public.
12. Ensures effective quality and compliance programs that are consistent with current health care laws and regulations and that reflect expected changes due to health care reform and changes in reimbursement methodologies.
13. Fulfills those duties assigned by the HCHC Board of Directors, including but not limited to those duties set out in the HCHC Board of Directors Bylaws, as the same may be amended from time to time.
14. Assures that appropriate hospital departments are established and that necessary inter- and intra-departmental meetings occur.
15. Prepares reports for the Board of Directors and Medical and Allied Health Staff as appropriate, including (1) general activities and performance within the hospital, (2) federal and state regulations and local developments that affect hospital operations, and (3) actual or potential liabilities arising from federal and state regulations or otherwise and measures taken to avoid or address such liabilities.
16. Maintains policies to prevent hospital employee conflicts of interest in any financial aspect of hospital business.

17. Presents operating and capital budgets to HCHC, as well as other projections including but not limited to annual compensation plans, which include salaries, bonuses, awards, benefits, changes in staffing, and other amenities; presents to HCHC any changes in the financial forecast, including reductions in force.
18. Oversees purchases of approved and budgeted capital equipment, and has authority to make unbudgeted purchases of capital equipment consistent with HCHC policies and procedures as approved by the HCHC Board, except in the event a patient emergency requires such expenditure, in which case approval shall be sought as soon as practicable after such emergency.

Pardee Hospital will employ a full time Chief Financial Officer (CFO) for the management of the fiscal operation of Pardee Hospital, who shall report to the CEO for Pardee Hospital, with dotted line reporting to the CFO of UNCH (or such other UNCHCS representative as reasonably determined by UNCHCS), unless and until such time as Pardee Hospital desires that UNCHCS provide a full time CFO employed by UNCHCS or one of its affiliates or subsidiaries but assigned to Pardee Hospital, or until such time as the CFO employed by Pardee is terminated or otherwise terminates his employment. The CFO will consult regularly with the UNCH CFO and other members of the UNCH Fiscal Services staff (or such other UNCHCS representative as reasonably determined by UNCHCS).

All other staff will remain employees of HCHC, subject to the day-to-day supervision and management of the CEO.

The CEO and the CFO will have annual performance reviews prepared by UNCHCS in consultation with the appropriate committee of the HCHC Board of Directors. HCHC and UNCHCS will mutually determine performance measures for the CEO and the CFO. In the event the CEO does not meet previously established performance standards, and after a reasonable cure period, HCHC may request, and UNCHCS will reassign the individual outside of HCHC as soon as possible, but within thirty days of written request by HCHC or otherwise agreed upon time. Likewise, if the CEO meets or exceeds performance standards, HCHC agrees to allow such individual to receive performance bonuses, as recommended by UNCHCS and approved by HCHC. If the CFO does not meet previously established performance standards, UNCHCS may recommend such action as may be appropriate and, in the event the CFO meets or exceeds performance standards, UNCHCS may recommend that such individual receive a performance bonus. Unless the CFO is employed by UNCHCS (or one of its subsidiaries or affiliates), HCHC, in its sole discretion, shall have the option of acting upon UNCHCS recommendations with regard to the CFO. If the CFO is employed by UNCHCS (or one of its subsidiaries or affiliates), treatment of the CFO with respect to established performance standards shall be the same as that of the CEO.

UNCHCS will not remove the CEO from his or her assignment at HCHC without the prior written consent of HCHC, except upon termination of the Management Services Agreement, in which case the CEO no longer will be assigned to HCHC unless HCHC and UNCH mutually agree otherwise, or unless Pardee terminates for cause and the conditions outlined in Section 4(c) of the Management Services Agreement are applicable. To the extent the CEO is removed from his or her assignment at HCHC consistent with the terms of this Agreement, the appropriate

committee of the HCHC Board of Directors will participate in decisions related to the recruitment of a new CEO, and will have final approval of the candidate(s) recommended by UNCH. In such event, UNCH agrees that it shall present candidates to the HCHC Board of Directors and the Board will notify UNCH of its decision regarding the candidates within five (5) days of initial presentation to the Board.

EXHIBIT C

COMPENSATION

HCHC will reimburse UNCHCS for the salaries and benefits of the personnel listed in Exhibit B. Any increases in salaries or benefits above standard UNCH increases, including performance bonuses, shall require approval of HCHC's Board of Directors. HCHC also will reimburse UNCHCS for all relocation expenses, severance expenses and interim living expenses for such personnel, as needed and as mutually agreed upon by UNCHCS and HCHC. All other staff will be employees of and directly compensated by HCHC.

In addition to the salary of the CEO, and the CFO to the extent UNCHCS directly employs him or her (see Exhibit B), HCHC will pay UNCHCS:

1. A management fee equal to X.X% of the Gross Operating Margin will be paid quarterly. Gross Operating Margin shall be defined as the Operating Margin from the HCHC audited financial statements plus Depreciation and Amortization expenses.

This calculation of Gross Operating Margin is based on the financial statement presentation as depicted in the HCHC Fiscal Year 2012 audited financial statements. Both parties recognize that from time-to-time, due to the inherent complexity of health care, significant changes in operating results may be the result of one-time or prior period transactions. Such one-time transactions and gifts and devisees to HCHC shall be excluded from the calculation of Gross Operating Margin. Further, governmental and accounting standards change periodically such that reasonable modifications to this calculation will need to be made to maintain the baseline agreement. UNCHCS and HCHC agree to work collaboratively when a permanent rebasing of the calculation becomes necessary. A copy of the Fiscal Year 2012 audited financial statements is incorporated to this agreement as Exhibit C-1.

Any overage or underage in quarterly calculations shall be trued-up within 30 days following the acceptance of the annual audited financial reports by the HCHC Board.

The minimum Management Services Fee due to UNCHCS in any given year shall not fall below \$210,000, \$52,500 quarterly, increased in each subsequent year by the Consumer Price Index-U, Medical Care Services, as published by the Bureau of Labor Statistics at bls.gov, with any such annual increases not to exceed 5% of the then current fees. This fee is inclusive of the Name Use fees described in 2.

2. A fee of \$10,000 annually for the use of the names "The University of North Carolina Health Care System," "UNC Health Care System," "The University of North Carolina Hospitals at Chapel Hill," or "UNC Hospitals" and related logos is included as part of the Management Services Fee described in 1.

3. For Additional Services as set forth in Exhibit A, actual cost plus 10%. UNCHCS shall exercise reasonable efforts to provide such Additional Services at the lowest available cost.

All amounts owed to UNCHCS by HCHC shall be prorated for any partial periods, if necessary, and paid on a monthly basis on the first day of each month. UNCHCS shall have the right to charge HCHC interest per annum at the rate of Wall Street Journal Prime Rate plus one (1) percent on all fees and reimbursable expenses not paid when due.

EXHIBIT C-1: Fiscal Year 2012 HCHC Audited Financial Statements

EXHIBIT D

GOVERNMENTAL AUTHORIZATIONS

1. Licensure as an Acute Care Hospital, with general acute and psych beds, by the North Carolina Department of Health and Human Services - Division of Health Service Regulation, license number H0161.
2. Licensure to provide Home Care , issued by the North Carolina Department of Health and Human Services – Division of Health Service Regulation.

EXHIBIT E

ACTUAL OR POTENTIAL PROCEEDINGS AGAINST HCHC

EXHIBIT F

AFFILIATES OF HCHC

Henderson County Urgent Care Centers, Inc.
Western Carolina Medical Associates, Inc.

EXHIBIT G

BUSINESS ASSOCIATE AGREEMENT

BUSINESS ASSOCIATE AGREEMENT

This Agreement is made effective the ____ of _____ 20__, by and between Henderson County Hospital Corporation d/b/a Margaret R. Pardee Memorial Hospital ("HCHC"), hereinafter referred to as "Covered Entity", and UNC Health Care System, hereinafter referred to as "Business Associate", (individually, a "Party" and collectively, the "Parties"). This Agreement supersedes any previously executed Business Associate Agreement between the parties.

WITNESSETH:

WHEREAS, Sections 261 through 264 of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as modified by the Health Information Technology for Economic and Clinical Health Act, known collectively as "the Administrative Simplification provisions," direct the Department of Health and Human Services to develop standards to protect the security, confidentiality and integrity of health information; and

WHEREAS, pursuant to the Administrative Simplification provisions, the Secretary of Health and Human Services has issued regulations at 45 CFR Parts 160 and 164, as the same may be amended from time to time (the "HIPAA Security and Privacy Rule"); and

WHEREAS, the Parties wish to enter into or have entered into an arrangement whereby Business Associate will provide certain services to Covered Entity, and, pursuant to such arrangement, Business Associate may be considered a "business associate" of Covered Entity as defined in the HIPAA Security and Privacy Rule (the agreement evidencing such arrangement is hereby referred to as the "Arrangement Agreement"); and

WHEREAS, Business Associate may have access to Protected Health Information (as defined below) in fulfilling its responsibilities under such arrangement;

THEREFORE, in consideration of the Parties' continuing obligations under the Arrangement Agreement, compliance with the HIPAA Security and Privacy Rule, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Agreement in order to address the requirements of the HIPAA Security and Privacy Rule and to protect the interests of both Parties.

I. DEFINITIONS

Except as otherwise defined herein, any and all capitalized terms in this Agreement shall have the definitions set forth in the HIPAA Security and Privacy Rule. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Security and Privacy Rule, as amended, the HIPAA Security and Privacy Rule shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Security and Privacy Rule, but are nonetheless permitted by the HIPAA Security and Privacy Rule, the provisions of this Agreement shall control.

The term "Protected Health Information" means individually identifiable health information including, without limitation, all information, data, documentation, and materials, including without limitation, demographic, medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. "Protected Health Information" includes without limitation "Electronic Protected Health Information" as defined below.

The term "Electronic Protected Health Information" means Protected Health Information that is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.

Business Associate acknowledges and agrees that all Protected Health Information that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording, and electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity's behalf shall be subject to this Agreement.

II. PERMITTED USES AND DISCLOSURES

(a) Business Associate may use or disclose Protected Health Information only as permitted or required by this Agreement or as required by law. Except as specifically set forth herein, Business Associate may not use or disclose Protected Health Information in a manner that would violate the HIPAA Security and Privacy Rule if such use or disclosure were done by Covered Entity. Specifically, Business Associate may use or disclose Protected Health Information (1) for meeting its obligations as set forth in any agreements between the Parties evidencing their business relationship, including the Arrangement Agreement, or (2) as required by applicable law, rule or regulation, or by an accrediting or credentialing organization to whom Covered Entity is required to disclose such information, or (3) as otherwise permitted under this Agreement, the Arrangement Agreement (if consistent with this Agreement and the HIPAA Security and Privacy Rule), or the HIPAA Security and Privacy Rule, or (4) as would be permitted by the HIPAA Security and Privacy Rule as if such use or disclosure were made by Covered Entity.

(b) Business Associate may de-identify Protected Health Information only at the specific direction of and only for the use of Covered Entity. Business Associate may not sell Protected Health Information except at the direction of Covered Entity and in compliance with the requirements of the HIPAA Security and Privacy Rule.

(c) Notwithstanding the prohibitions set forth in this Agreement,

(i) Business Associate may use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate;

(ii) Business Associate may disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that as to any such disclosure, the following requirements are met:

- (A) The disclosure is required by law; or
- (B) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(iii) Business Associate may provide data aggregation services relating to the health care operations of Covered Entity pursuant to any agreements between the Parties evidencing their business relationship. For purposes of this Agreement, data aggregation means the combining of Protected Health Information by Business Associate with the protected health information received by Business Associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

III. CONFIDENTIALITY AND SECURITY REQUIREMENTS

(a) Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by this Agreement or as required by law. To the extent Business Associate carries out obligations of Covered Entity under the HIPAA Security and Privacy Rule, Business Associate shall comply with the applicable provisions of the HIPAA Security and Privacy Rule as if such use or disclosure were made by Covered Entity. Covered Entity will not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the HIPAA Security and Privacy Rule if done by Covered Entity, except as otherwise provided herein. Business Associate agrees to comply with Covered Entity's policies regarding the minimum necessary use or disclosure of Protected Health Information.

(b) Business Associate agrees to provide HIPAA training to all of its personnel who service Covered Entity's account or who otherwise will have access to Covered Entity's Protected Health Information.

(c) At termination of this Agreement, the Arrangement Agreement (or any similar documentation of the business relationship of the Parties), or upon request of Covered Entity, whichever occurs first, if feasible, Business Associate will return (in a manner or process approved by the Covered Entity) or destroy all Protected Health Information received from Covered Entity, or created, maintained or received by Business Associate on behalf of Covered Entity, that Business Associate still maintains in any form and retain no copies of such information. If such return or destruction is not feasible, Business Associate will (i) retain only that Protected Health Information necessary under the circumstances; (ii) return or destroy the remaining Protected Health Information that the Business Associate still maintains in any form; (iii) extend the protections of this Agreement to the retained Protected Health Information; (iv) limit further uses and disclosures to those purposes that make the return or destruction of the Protected Health Information not feasible; and (v) return or destroy the retained Protected Health Information when it is no longer needed by Business Associate. This paragraph shall survive the termination of this Agreement and shall apply to Protected Health Information created, maintained, or received by Business Associate and any of its subcontractors.

(d) Business Associate agrees to ensure that its agents, including any subcontractors, that create, receive, maintain or transmit Protected Health Information on behalf of Business Associate agree to the same (or greater) restrictions and conditions that apply to Business Associate with respect to such information, and agree to implement reasonable and appropriate safeguards to protect any of such information that is Electronic Protected Health Information. Business Associate agrees to enter into written agreements with any subcontractors in accordance with the requirements of the HIPAA Security and Privacy Rule. In addition, Business Associate agrees to take reasonable steps to ensure that its employees' actions or omissions do not cause Business Associate to breach the terms of this Agreement.

(e) Business Associate will implement appropriate safeguards to prevent use or disclosure of Protected Health Information other than as permitted in this Agreement. Business Associate will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by the HIPAA Security and Privacy Rule.

(f) To the extent applicable, Business Associate will comply with (i) Covered Entity's Notice of Privacy Practices; (ii) any limitations to which Covered Entity has agreed in regard to an Individual's permission to use or disclose his or her Protected Health Information; and (iii) any restrictions to the use or disclosure of Protected Health Information to which Covered Entity has agreed or is required to agree.

(g) Business Associate will make its internal practices, books and records available to the Secretary of the Department of Health and Human Services for purposes of determining compliance with the terms of the HIPAA Security and Privacy Rule, and, at the request of the Secretary, will comply with any investigations and compliance reviews, permit access to information, and cooperate with any complaints, as required by law. Without unreasonable delay and, in any event, no more than 48 hours of receipt of the request or notification, Business Associate will notify Covered Entity in writing of any request by any governmental entity, or its designee, to review Business Associate's compliance with law or this BAA, to pursue a complaint, or to conduct an audit or assessment of any kind.

(h) Business Associate shall report to Covered Entity (see Exhibit A) any use or disclosure of Protected Health Information that is not in compliance with the terms of this Agreement, as well as any Security Incident and any actual or suspected Breach, of which it becomes aware, without unreasonable delay, and in no event later than forty-eight (48) hours of such discovery. For purposes of this Agreement, "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. Such notification shall contain the elements required by 45 C.F.R. 164.410. In addition, Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement, as well as to provide complete cooperation to Covered Entity should Covered Entity elect to review or investigate such noncompliance or Security Incident. Business Associate shall cooperate in Covered Entity's breach analysis and/or risk assessment, if requested. Furthermore, Business Associate shall cooperate with Covered Entity in the event that Covered Entity determines that any third parties must be notified of a Breach, provided that Business Associate shall not provide any such notification except at the direction of Covered Entity. Business Associate shall indemnify and hold harmless Covered Entity for any injury or damages arising from any noncompliance with this Agreement or any Security Incident

attributable to the negligence of Business Associate, including the failure to execute the terms of this Agreement.

(i) Business Associate shall permit Covered Entity, in its discretion, to conduct an audit of Business Associate's compliance with this BAA, HIPAA, and HITECH. Such audit may consist of an onsite visit, a series of inquiries that require written responses, or both. Business Associate shall promptly and completely respond to Covered Entity's requests for information in support of the audit, which shall not be conducted more than once annually except in cases of an actual or reasonably suspected Security Incident or reasonably suspected noncompliance with this BAA, HIPAA or HITECH. Each Party shall bear its own costs associated with the audit.

IV. AVAILABILITY OF PHI

(a) Business Associate agrees to make available Protected Health Information in a Designated Record Set to Covered Entity to the extent and in the manner required by Section 164.524 of the HIPAA Security and Privacy Rule.

(b) Business Associate agrees to make available Protected Health Information in a Designated Record Set for amendment and to incorporate any amendments to Protected Health Information in accordance with the requirements of Section 164.526 of the HIPAA Security and Privacy Rule and at the direction of Covered Entity.

(c) Business Associate agrees to maintain and make available the information required to provide an accounting of disclosures, as required by Section 164.528 of the HIPAA Security and Privacy Rule. Business Associate will comply with Covered Entity's policy regarding accounting of disclosures, a copy of which is available at <http://www.med.unc.edu/security/hipaa/documents/d13.pdf>.

(d) In the event an Individual makes a request under this Section IV directly to Business Associate, Business Associate will notify Covered Entity of such request within three (3) business days and shall cooperate with, and act only at the direction of, Covered Entity in responding to such request.

V. TERMINATION

This Agreement shall be effective as of the date first set forth above and shall terminate upon the earlier of (i) the termination of all agreements between the parties, and (ii) the termination by Covered Entity for cause as provided herein. Notwithstanding anything in this Agreement to the contrary, Covered Entity shall have the right to terminate this Agreement and the Arrangement Agreement immediately if Covered Entity determines that Business Associate has violated any material term of this Agreement. If Covered Entity reasonably believes that Business Associate will violate a material term of this Agreement and, where practicable, Covered Entity gives written notice to Business Associate of such belief within a reasonable time after forming such belief, and Business Associate fails to provide adequate written assurances to Covered Entity that it will not breach the cited term of this Agreement within a reasonable period of time given the specific circumstances, but in any event, before the threatened breach is to occur, then Covered Entity shall have the right to terminate this Agreement and the Arrangement Agreement immediately.

VI. MISCELLANEOUS

Except as expressly stated herein or in the HIPAA Security and Privacy Rule, the parties to this Agreement do not intend to create any rights in any third parties. The obligations of Business Associate under this Agreement shall survive the expiration, termination, or cancellation of this Agreement, the Arrangement Agreement and/or the business relationship of the parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.

This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party. None of the provisions of this Agreement are intended to create, nor will they be deemed to create any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. This Agreement will be governed by the laws of the State of North Carolina. No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

The parties agree that, in the event that any documentation of the arrangement pursuant to which Business Associate provides services to Covered Entity contains provisions relating to the use or disclosure of Protected Health Information that are more restrictive than the provisions of this Agreement, the more restrictive provisions will control. The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate's use and disclosure of Protected Health Information.

In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect. In addition, in the event a party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of the HIPAA Security and Privacy Rule, such party shall notify the other party in writing. For a period of up to thirty days, the parties shall address in good faith such concern and amend the terms of this Agreement, if necessary to bring it into compliance. If, after such thirty-day period, a party believes in good faith that the Agreement fails to comply with the HIPAA Security and Privacy Rule, then either party has the right to terminate upon written notice to the other party.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written above.

COVERED ENTITY:

BUSINESS ASSOCIATE:

By: _____
Title: _____

By: _____
Title: _____

EXHIBIT A (to BUSINESS ASSOCIATE AGREEMENT)

CONTACT INFORMATION

To report to Covered Entity any use or disclosure of Protected Health Information not in compliance with the terms of this Agreement that might be considered a privacy breach, Business Associate should contact **[FILL THIS IN]**.

To report to Covered Entity any Security Incident (as defined in the Agreement), Business Associate should contact **[FILL THIS IN]**, or the Security Officer at The University of North Carolina Health Care System.

EXHIBIT H

LIST OF UNCHCS's AFFILIATED ENTITIES

Caldwell Memorial Hospital
Chatham Hospital, Inc.
Carolina Dialysis, LLC
Health System Properties, LLC
High Point Regional Health
NC Imaging Centers, LLC
NC Healthcare Innovations, LLC
Rex Healthcare, Inc.
Rex Hospital, Inc.
Triangle Physician Network, LLC
UNC Faculty Physicians (UNC-Chapel Hill, School of Medicine)
UNC Hospitals

