

ASSET PURCHASE AGREEMENT

by and between

GARDEN CITY HOSPITAL

AND

PRIME HEALTHCARE SERVICES – GARDEN CITY, LLC

Dated as of January 30, 2014

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RECITALS

THIS ASSET PURCHASE AGREEMENT (the "Agreement"), dated as of January 30, 2014 is by and between Garden City Hospital, a Michigan not-for-profit corporation ("*Seller*"), and **Prime Healthcare Services – Garden City, LLC**, a Delaware limited liability company ("*Purchaser*").

WHEREAS, upon the terms and conditions of this Agreement, Seller desires to sell, assign, transfer, convey and deliver to Purchaser, and Purchaser desires to purchase, the Purchased Assets, and assume the Assumed Liabilities.

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

ARTICLE I DEFINITIONS

1.1. **Definitions.** The following terms used in this Agreement have the following respective meanings:

"*Affiliate*" means an entity which, directly or indirectly, controls, is controlled by, or is under common control with, the referenced party. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of management policies of such Person.

"*Aggregate Damage*" has the meaning given it in Section 2.9(a).

"*Agreement*" has the meaning given it in the heading paragraph.

"*Assumed Liabilities*" means, collectively:

(a) the obligations of Seller that arise or accrue subsequent to the Effective Time under the Contracts;

(b) all liabilities, obligations and commitments included in the calculation of the Projected Net Working Capital;

(c) the Reserve for Professional Liability Claims (\$10.2 Million as of September 30, 2013);

(d) all liabilities, obligations and commitments associated with Seller's frozen pension plan (the "*Pension Plan*") (\$19.7 Million as of September 30, 2013) and assumption of sponsorship of Seller's Pension Plan and all responsibilities and obligations attendant thereto;

(e) the Long-Term Portion of Capital Leases (\$1.7 Million as of September 30, 2013);

(f) all liabilities, obligations and commitments with respect to the Hired Employees (or any dependent or beneficiary of any Hired Employee) that Purchaser has specifically agreed to assume pursuant to Section 12.1;

(g) the Permitted Encumbrances;

(h) all liabilities, obligations and commitments arising from Seller Cost Reports, and any other liability, obligation or commitment arising under the Medicare, Medicaid, Tricare or any other third-party payor program;

(i) all liabilities, obligations and commitments arising from Seller's employee retirement, health, welfare and other Employee Benefit Plans set forth on Schedule 4.15 hereto; and

(j) The long term portion of certain indebtedness (unrelated to the bonds) that is characterized as "Other" on the Hospital's audited financial statements.

"*Board Designated Funds*" means those funds specifically identified by the Garden City Hospital Board of Trustees to be used for the defeasance of the bonds of Hospital, along with the Hospital's bond escrow account.

"*Business Day*" means a day other than a Saturday, Sunday or other day on which commercial banks in New York or Michigan are authorized or required by Law to close.

"*Capitalized Leases*" means those leases that are designated as capital leases on the Financial Statements.

"*Closing*" has the meaning given it by Section 3.1.

"*Closing Date*" has the meaning given it by Section 3.1.

"*COBRA*" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, Section 4980B of the Code, Title I Part 6 of ERISA, and any similar state group health plan continuation law, together with all legislation thereunder.

"*Code*" means the Internal Revenue Code of 1986, as amended.

"*Contracts*" has the meaning given it by Section 2.1(c).

"*Domain Name*" means www.gchosp.org, as well as such other domain names, websites, and social media addresses belonging or licensed to Hospital and/or its Affiliates.

"*Copyrights*" has the meaning given it in the definition for Intellectual Property.

"*Effective Time*" has the meaning given it by Section 3.1.

"*Employee Benefit Plans*" has the meaning given it by Section 4.15.

"*Encumbrance*" means any mortgage, deed of trust, pledge, assessment, security interest, lease, sublease, lien (including mechanic's or materialmen's liens and judgment liens), adverse claim, judgment, levy, right of way, easement, covenant, charge or other encumbrance of any kind, or any conditional sale contract, title retention contract, or other contract to give or to refrain from giving any of the foregoing, including any interest of any Governmental Entity.

"*Enforceability Exceptions*" has the meaning given it by Section 4.3.

"*ERISA*" means the Employee Retirement Income Security Act of 1974, as amended to the date hereof.

"*ERISA Affiliate*" means any Person that is a member of a "controlled group of corporations" with, or is under "common control" with, or is a member of the same "affiliated service group" with, as the context requires, Seller or any of its Affiliates, as defined in Section 414 of the Code.

"*Estimate*" has the meaning given it in Section 2.9(a).

"*Excluded Assets*" means, collectively

- (a) Board Designated Funds and the Hospital's bond escrow account;
- (b) all intercompany accounts between Garden City Hospital and Garden City Foundation;
- (c) corporate and fiscal policies, procedures and records and other records pertaining to the Hospital which Seller is required by law to retain in its possession;
- (d) Seller's assets specifically described on "Schedule 1.1 - Excluded Assets";
- (e) licenses, permits, certifications and governmental approvals with respect to the Hospital that are not assignable or transferrable to Purchaser;
- (f) the assets of Garden City Hospital Foundation; and
- (g) Intellectual Property owned by or licensed to Seller or its Affiliates and used in the operations of the Hospital Business that is not transferable or assignable.

"*Excluded Liabilities*" means, collectively, any and all liabilities and obligations of Seller other than the Assumed Liabilities (as defined herein), whether known or unknown, fixed or contingent, recorded or unrecorded.

"*Financial Statements*" has the meaning given it in Section 4.4.

"*GAAP*" means United States generally accepted accounting principles and practices as in effect from time to time, as modified as described in Schedule 4.4 and applied by Seller

consistently throughout the periods involved and in accordance with Seller's prior practices and policies.

"*Governmental Entity*" means any federal, state or local court, legislative body, governmental body, municipality, political subdivision, department, agency or authority, including the Michigan Department of Community Health, the Charitable Trust Division of the Michigan Department of Attorney General and the Medicare and Medicaid programs (including their fiscal intermediaries).

"*Hired Employees*" has the meaning given it in Section 12.1(a).

"*Hospital*" means the 323 licensed bed hospital in Garden City, Michigan owned and operated by Seller.

"*Hospital Material Adverse Effect*" means any event, circumstance, development, condition, occurrence, state of facts, change or effect that is or is reasonably likely to have (i) a material adverse effect on the business, assets, results of operations or financial condition of the Hospital or (ii) a material adverse effect on the ability of Seller to consummate the transactions contemplated by this Agreement, in either case, other than any event, circumstance, development, condition, occurrence, state of facts, change or effect resulting from any one or more of the following: (A) any change in the United States or foreign economies or securities or financial markets in general; (B) any change that affects any industry in which the Hospital operates; (C) any change arising in connection with natural disasters or acts of nature, hostilities, acts of war, sabotage or terrorism or military actions or any escalation or material worsening of any such hostilities, acts of war, sabotage or terrorism or military actions existing or underway as of the date hereof; (D) any changes in applicable Laws, accounting rules or the interpretation thereof; (E) compliance with the terms of, or taking any action required by, this Agreement; (G) actions required to be taken by the Seller under applicable Law or contracts; or (H) the public announcement of this Agreement or the consummation of the transactions contemplated by this Agreement.

"*Improvements*" means all buildings, structures, fixtures, landscaping, utility lines, roads, driveways, fences, parking areas, and all other improvements to the Real Property owned by Seller and located in and upon the Real Property.

"*Inactive Employee*" and "*Inactive Employees*" have the meaning given them in Section 12.1(a).

"*Intellectual Property*" means (a) inventions and discoveries, whether or not patentable, reduced to practice or made the subject of one or more pending patent applications, (b) patents and patent applications (including all reissues, divisions, continuations, continuations-in-part, extensions and reexaminations thereof) registered or applied for in the U.S. and all other nations throughout the world (collectively, "Patents"), national and multinational statutory invention registrations, and all improvements to the inventions disclosed in each such registration, patent or patent application, (c) trademarks, service marks, trade dress, logos, domain names (including the Domain Names), trade names and corporate names (whether or not registered) in the US and all other nations throughout the world, including all variations, derivations, combinations,

registrations and applications for registration of the foregoing and all goodwill and other rights associated therewith (collectively, "Marks"), (d) copyrights (whether or not registered) and registrations and applications for registration thereof in the US and all other nations throughout the world, including all derivative works, moral rights, renewals, extensions, reversions or restorations associated with such copyrights, now or hereafter provided by law, regardless of the medium of fixation or means of expression, including but not limited to publications, online media and content (collectively, "Copyrights"), (e) computer software, (including source code, object code, firmware, operating systems and specifications), (f) trade secrets and, whether or not confidential, know-how, (g) databases and data collections, (h) copies and tangible embodiments of any of the foregoing, in whatever form or medium, (i) all rights to obtain and rights to apply for Patents, and to register trademarks and copyrights, (j) all rights in all of the foregoing and (k) all rights to sue or recover and retain damages and costs and attorneys' fees for past, present and future infringement or misappropriation of any of the foregoing.

"*Knowledge*" when used in this Agreement to refer to the knowledge of Seller shall mean the actual knowledge without inquiry of the chief executive officer and the chief nursing officer of the Hospital.

"*Law*" means any applicable law, statute, rule or regulation issued by any Governmental Entity.

"*Licenses and Permits*" means, collectively, the Michigan Department of Community Health licenses, and other licenses, permits, certificates, registrations, consents, orders, authorizations and approvals with respect to the Hospital or the Purchased Assets.

"*Loss Consultant*" has the meaning given it in Section 2.9(c).

"*Mark*" has the meaning given it in the definition of Intellectual Property.

"*Material Contracts*" has the meaning given it in Section 4.9.

"*Nonassignable Contract*" has the meaning given it in Section 2.8.

"*Patent*" has the meaning given it in the definition of Intellectual Property.

"*Permitted Encumbrances*" means: (a) any Encumbrance approved in writing by Purchaser, (b) any Encumbrance for Taxes or other governmental charges or assessments which are not delinquent or which are being contested in good faith through appropriate proceedings, (c) any Encumbrance of any landlord, carrier, warehouseman, mechanic or materialman and any like Encumbrance arising in the ordinary course of business for sums that are not delinquent or which are being contested in good faith through appropriate proceedings and adequate reserves to pay the same have been established in the Financial Statements to the extent required by GAAP, (d) any Encumbrance of the lender, lessor or other financing source on assets leased under a capitalized lease obligation included in the Assumed Liabilities, (e) easements and rights of way which do not interfere with the use of the Purchased Assets consistent with Seller's current operations ; (f) laws regulating the use or enjoyment of the applicable property, (g) all leases set forth on Schedule 2.1(c), (h) liens securing obligations which are Assumed Liabilities,

(i) any conditions that would be disclosed by a current, accurate survey or physical inspection of the Real Property made prior to the Closing, (j) any other Encumbrances which do not interfere with the use of the Purchased Assets consistent with Seller's current operations, (k) with respect to leased real property (with respect to which Seller is tenant), Encumbrances which encumber the fee interest in such property, and (l) the terms, conditions, and restrictions on the possession and use of any Intellectual Property as provided in Contracts set forth on Schedule 2.1(c).

"*Person*" means any individual, company, body corporate, association, partnership, limited liability company, joint venture, trust or Governmental Entity.

"*Projected Accounts Receivable*" has the meaning given it in Section 2.5(g).

"*Projected Net Working Capital*" means: (i) the aggregate current assets of Seller, other than the Excluded Assets, projected as of the Closing Date, and expressly including the value of the inventory as determined consistent with past practice, minus (ii) the aggregate current liabilities of Seller assumed by Purchaser projected as of the Closing Date, expressly including but not limited to the PTO Accrued Liabilities. Projected Net Working Capital shall be determined in accordance with GAAP, applied on a basis consistent with past practices using the same policies, methodologies and assumptions used in connection with the preparation of the determination of Projected Net Working Capital set forth on Schedule 2.5. Purchaser and Seller agree that Projected Net Working Capital as of Closing Date is as set forth on Schedule 2.5.

"*PTO Accrued Liabilities*" means the accrued liability as recorded in the Seller's Financial Statements as of the Effective Time for vacation and holiday benefits related to the Hired Employees.

"*Purchase Price*" has the meaning given it by Section 2.5.

"*Purchased Assets*" has the meaning given it by Section 2.1.

"*Purchaser*" has the meaning given it in the heading paragraph.

"*Purchaser Material Adverse Effect*" means any event, circumstance, development, condition, occurrence, state of facts, change or effect that is or is reasonably likely to have a material adverse effect on the ability of Purchaser to consummate the transactions contemplated by this Agreement.

"*Real Property*" has the meaning given it by Section 2.1(a).

"*Seller*" has the meaning given it in the heading paragraph.

"*Seller Cost Reports*" has the meaning given to it in Section 12.4(a).

"*Taxes*" means, collectively, federal, state and local income, payroll, withholding, excise, sales, use, real and personal property, use and occupancy, business and occupation, mercantile, real estate, capital stock and franchise or other taxes, including penalties and interest thereon and estimated taxes.

"Title Company" means First American Title Insurance Company – NCS Ontario.

1.2. **Interpretation.** In this Agreement, unless the context otherwise requires: (a) references to "Articles" and "Sections" are to the Articles or Sections of this Agreement and references to "Schedules" are to the Schedules annexed hereto; (b) references to any party to this Agreement include references to its respective successors and permitted assigns; (c) references to judgment include any order, writ, injunction, decree, determination or award of any court or tribunal; (d) references to a Person or entity include references to any individual, company, body corporate, association, partnership, firm, joint venture, trust or Governmental Entity; (e) any of the terms defined herein may, unless the context requires otherwise, be used in the singular or the plural depending on the reference; (f) the masculine pronoun includes the feminine and the neuter, and vice versa, as appropriate in the context; (g) with respect to any matter or thing, the terms "including" or "include" mean including but not limited to such matter or thing. The divisions of this Agreement into articles, sections and subsections and the use of captions and headings in connection therewith are solely for convenience and have no legal effect in construing the provisions of this Agreement.

ARTICLE II BASIC TRANSACTIONS

2.1. **Purchase of Purchased Assets.** At Closing, Seller will sell, assign and transfer to Purchaser (and, if necessary will cause any of its Affiliates to sell, assign and transfer to Purchaser) all of Seller's (or its Affiliates') right, title and interest in and to the following, except as otherwise provided in the last provision of this Section (collectively, the "*Purchased Assets*"):

(a) all real property owned by Seller associated with the Hospital which is more particularly described on Schedule 2.1(a), together with all Improvements thereon and interests therein and all rights, privileges, and easements appurtenant thereto (all collectively referred to as "*Real Property*");

(b) all furniture, furnishings, equipment, machinery, data processing hardware, vehicles and other tangible personal property owned at the Effective Time by Seller and used in connection with the operation of the Hospital, including, but not limited to, the items described in Schedule 4.10, and all other assets, tangible or intangible, rights, privileges and franchises owned or held at the Effective Time by Seller, other than Intellectual Property, relating to the operation or development of, or associated with, the Hospital;

(c) the contracts, leases, real property leases, agreements and commitments of Seller relating to the operations of the Hospital listed on Schedule 2.1(c), but excluding any such contracts, agreements, or commitments relating to Intellectual Property (the contracts to be assumed described in this Section 2.1(c) are collectively referred to herein as the "*Contracts*");

(d) Seller's inventories of goods and supplies as of the Effective Time to be used or maintained in connection with or located in the Hospital, whether or not shown on the Financial Statements or reflected in the books and records of the Hospital;

(e) to the extent transferable, all Licenses and Permits and all Medicare and Medicaid provider numbers held as of the Effective Time by Seller, and all other rights, privileges, franchises, certificates, and applications held by Seller or its Affiliates relating to the operations or development of the Hospital;

(f) all goodwill associated with the Hospital and any Marks used in connection with the Hospital, and all assignable warranties (expressed or implied) and, except as otherwise provided in this Agreement, assignable rights and claims assertable by Seller related to the operation of the Hospital;

(g) to the extent transferable, all Intellectual Property used in the operations of the Hospital;

(h) all insurance proceeds (including applicable deductibles, co-payments or self-insured requirements) arising in connection with damage to the Purchased Assets prior to the Effective Time to the extent not expended for the repair and restoration of the Purchased Assets;

(i) to the extent transferable, all financial, patient, medical staff and personnel records whether in electronic or paper form (including, without limitation, all accounts receivable records, equipment records, medical/administrative libraries, medical records, patient billing records including forms UB-04, documents, catalogs, books, records, files, operating manuals and current personnel records) relating to the operations of the Hospital, whether in the possession of Seller or a third party, with Seller retaining copies or being furnished copies or originals, if needed, of any of such records as it may reasonably request after closing;

(j) all other assets, tangible or intangible, rights, privileges or interests (other than Excluded Assets and Intellectual Property) owned or held by Seller or its Affiliates and used in the operations of the Hospital, including those items (if any) set forth in Schedule 2.1(j);

(k) Seller's cash and cash equivalents (other than Board Designated Funds and funds in the Hospital's bond escrow account) and all prepaid expenses of Seller; and

(l) all accounts receivable of Seller, whether billed or unbilled, recorded or unrecorded, accrued and existing, whether or not written off, as of the Effective Time with respect to the operation of the Hospital and other rights of payment for goods and services with respect to the operation of the Hospital in respect of services rendered prior to the Effective Time;

(m) rights to settlement and retroactive adjustments for services rendered prior to and on and after the Effective Time, if any, for cost reporting periods ending on, prior to or after the Effective Time arising from or against the U.S. Government under the terms of the Medicare program or Tricare and against any state under its Medicaid program and against any third-party payor programs that settle on a cost report basis,

including without limitation any payments under the "Upper Payment Limit" program with respect to pre- and post-Effective Time periods;

(n) to the extent assignable by Seller and assumable by Purchaser, Seller's membership interests and/or stock interests in the following entities: (i) Amerigard Diagnostics Center, LLC; (ii) Garden Nursing Center, Inc.; (iii) Amerigard Development, Inc.; (iv) United Home Health, Inc.; (v) GCH Assurance Company, Ltd.; (vi) Pulse EMS, LLC; and (vii) Garden City Home Medical, LLC;

(o) the employee retirement, health, welfare and other Employee Benefit Plans and associated assets set forth on Schedule 4.15 hereto.

provided, however, that the Purchased Assets do not include any of the Excluded Assets.

2.2. Assets Excluded from Transactions. The Excluded Assets are not intended by the parties to be transferred to Purchaser at Closing and are excluded from the any and all transactions contemplated by this Agreement.

2.3. Assumption of Certain Liabilities. As of the Effective Time, Purchaser will assume and agrees to pay, perform and discharge in accordance with their respective terms the Assumed Liabilities of the Seller as documented on the financial statements of Seller, including but not limited to current liabilities (\$17.2 million as of September 30, 2013); Reserve for Professional Liability Claims (\$10.2 million as of September 30, 2013); Pension Liability (\$19.7 million as of September 30, 2013); the LT Portion of Capital Leases (\$1.7 million as of September 30, 2013); and the long-term portion of certain indebtedness (other than the bonds) (\$112,901 as of September 30, 2013). Purchaser will indemnify, defend and hold Seller harmless with respect to the Assumed Liabilities. Seller shall provide Purchaser a written update of the amounts of these Assumed Liabilities within ten (10) Business Days prior to Closing.

2.4. Exclusion of Certain Liabilities. The Excluded Liabilities are not intended by the parties to be assumed by Purchaser at Closing and Seller will indemnify, defend and hold Purchaser harmless with respect to the Excluded Liabilities. Excluded Liabilities include, but are not limited to those liabilities identified as bonds payable on the Hospital's balance sheet, including the portion of those liabilities identified as current installments of long-term debt on the Hospital's balance sheet that relate to bonds payable and non-current portion of Long Term Debt.

2.5. Consideration/Purchase Price and Projected Net Working Capital/Projected Accounts Receivable. Subject to the terms and conditions of this Agreement, and in reliance upon the representations and warranties of Seller set forth herein, Purchaser shall provide to Seller, as consideration for the sale, conveyance and assignment of the Purchased Assets, free and clear of any Encumbrances, other than the Permitted Encumbrances, the following consideration:

(a) An amount equal to the sum of \$20 Million *plus* the amount of any positive Projected Net Working Capital ("*Purchase Price*").

(b) Purchaser shall assume Seller's Assumed Liabilities. Purchaser will indemnify, defend and hold Seller harmless with respect to the Assumed Liabilities.

(c) Such other covenants and commitments of Purchaser hereunder, including but not limited to, the Capital Commitment Amount under Section 12.3 hereof.

(d) In the event the Purchase Price *plus* Seller's cash and cash equivalents (including Board Designated Funds and the balance of the Hospital's bond escrow account), is less than the sum of: (i) Seller's cost to retire or defease its outstanding bonds; *plus* (ii) the amount of Seller's obligations to repay any other outstanding debt due at Closing and not otherwise assumed by Purchaser; *plus* (iii) transactional costs due and owing at Closing, including, but not limited to, fees due to Juniper Advisory, LLC, First River Advisory, LLC, and Hall, Render, Killian, Heath & Lyman, P.C. ("*Debt Deficit*"), then Purchaser will pay to Seller at Closing, as additional consideration, the amount of the Debt Deficit, not to exceed \$4 Million.

No later than ten (10) business days prior to Closing, Seller shall prepare and deliver to Purchaser a good-faith estimate of the Purchase Price with supporting detail and documentation satisfactory to Purchaser in its reasonable discretion. Such calculation will be attached hereto as Schedule 2.5.

(e) Payment of Purchase Price. At the Closing, Purchaser shall pay the Purchase Price by wire transfer of immediately available funds into an account designated by Seller by notice to Purchaser given not less than five (5) Business Days prior to the Closing Date.

(f) Projected Net Working Capital. At least ten (10) Business Days prior to Closing, Seller shall deliver to Purchaser a certificate setting forth a determination of the Projected Net Working Capital (the "*Projected Net Working Capital*") as of the Closing Date, based on the last day of the most recently ended calendar month prior to the Closing Date for which financial statements are available and any updated information available to Seller at that time. Such determination shall be made in accordance with GAAP and consistent with the definition of Projected Net Working Capital. The certificate shall contain reasonable detail and supporting documentation with respect to such determination. The Projected Net Working Capital shall be used for purposes of calculating the Purchase Price as of the Closing.

(g) Projected Accounts Receivable. Included in Seller's Projected Net Working Capital, Seller shall set forth a projection as to its Accounts Receivable as of the Closing Date (the "*Projected Accounts Receivable*"). Seller's determination of its Projected Accounts Receivable shall be made in accordance with GAAP and contain reasonable detail and supporting documentation with respect to such a determination of Seller's Projected Accounts Receivable.

2.6. Allocation of Purchase Price. The Purchase Price shall be allocated among the Purchased Assets in the manner set forth in Schedule 2.6 (and in accordance with the requirements of Treasury Regulation §1.141-12), to be determined by mutual agreement of Seller

and Purchaser before the Closing. The parties agree that this allocation will be used by them for all purposes including tax, reimbursement and other purposes. Each party, if applicable, agrees that it will report the transaction in accordance with such allocation, including under Section 1060 of the Code, and that it will not take a position inconsistent with such allocation except with the written consent of the other party hereto.

2.7. **Proration.** The parties will use all reasonable efforts to determine appropriate prorations as of the Closing for each of the items set forth in this Section 2.7. To the extent not included in Estimated Net Working Capital or Actual Net Working Capital or otherwise prorated at Closing, within ninety (90) days after the Closing Date, Purchaser and Seller shall prorate as of the Effective Time any amounts with respect to (i) the Contracts, but only to the extent the event giving rise to such obligation occurred prior to the Effective Time, or to the extent that any prepayments have been made with respect to the delivery of goods or services for periods ending on or after the Effective Time, (ii) ad valorem taxes, if any, on the Purchased Assets, (iii) property taxes on the Purchased Assets, and (iv) if cut off statements cannot be obtained as of Closing, all utilities servicing the Hospital, including water, sewer, telephone, electricity and gas service, except that payments for ad valorem and property taxes shall initially be determined based on the previous year's taxes and shall later be adjusted to reflect the current year's taxes when the tax bills are finally rendered. The parties shall cooperate to avoid, to the extent legally possible, the payment of duplicate taxes, and each party shall furnish, at the request of the other, proof of payment of any taxes or other documentation which is a prerequisite to avoid payment of a duplicate tax. Any such amounts which are not available within ninety (90) days after the Closing Date shall be similarly prorated as soon as practicable thereafter. Seller shall pay to Purchaser, or Purchaser shall pay to Seller, as the case may be, within ten (10) Business Days after the determination thereof, any unpaid prorated amount attributable to periods prior to, or following, the Effective Time.

2.8. **Nonassignable Contracts.** To the extent that: (a) the rights of Seller under any Contract may not be assigned to Purchaser without the consent of another Person; and (b) such consent has not been obtained; then this Agreement will not constitute an agreement to assign or assume such Contract (each, a "*Nonassignable Contract*") if an attempted assignment and assumption would constitute a breach thereof or be unlawful. If any such consent is not obtained, or if any attempted assignment or assumption of a Nonassignable Contract would be ineffective or would impair Purchaser's rights thereunder so that Purchaser would not in effect acquire the benefit of all such rights, then: (i) the Nonassignable Contract will not be an assigned Contract hereunder; (ii) Seller, to the maximum extent permitted by Law, will act after the Closing Date as Purchaser's agent in order to obtain for Purchaser the benefits thereunder (including enforcement for the account of Purchaser of such rights against the other party to the Nonassignable Contract) and will reasonably cooperate, to the maximum extent permitted by Law, with Purchaser in any other reasonable arrangement designed to provide such benefits to Purchaser; and (iii) Purchaser will, to the maximum extent permitted by Law, (x) act after the Closing Date as Seller's agent in the performance of all of Seller's obligations under the Nonassignable Contract in accordance with the terms and conditions thereof, which shall include without limitation honoring the pricing terms under Seller's payor contracts until such contracts may be terminated in accordance with their terms and (y) indemnify and hold Seller harmless with respect to any liabilities arising from or related to such Nonassignable Contracts.

2.9. Casualty Loss.

(a) The risk of loss or damage to any of the Purchased Assets shall remain with Seller until the Effective Time and Seller shall maintain insurance policies covering the Purchased Assets and all other property through the Effective Time. If any material part or portion of the Purchased Assets is damaged, condemned, lost or destroyed (whether by fire, theft or other casualty event) prior to the Effective Time, Seller shall notify Purchaser ("*Casualty Notice*") as soon as possible of such damage, loss or destruction. The Casualty Notice shall set forth Seller's good faith, reasonable estimate (the "*Estimate*") of the fair market value of the cost to repair, replace or restore (as applicable) such damage, loss or destruction, net of any insurance proceeds due Seller for such loss (the "*Aggregate Damage*").

(b) If there is damage, loss or destruction to the Purchased Assets and the Estimate of the cost to repair, replace or restore (as applicable) such damage, loss or destruction is greater than Three Million Dollars (\$3,000,000.00), net of any insurance proceeds due Seller for such loss (a "*Material Loss*"), then Purchaser may, within 10 days after receipt of the Casualty Notice, by written notice to Seller, terminate this Agreement.

(c) If the Estimate is less than a Material Loss and Purchaser objects to the Estimate, then Purchaser shall notify Seller of such objection (the "*Purchaser Notice*") within 5 days after receipt of the Casualty Notice. The Purchaser Notice shall indicate whether Purchaser objects to the Estimate and whether Purchaser believes that the value of the Aggregate Damage is in excess of a Material Loss. If the parties are unable to resolve their disagreement concerning the value of the Aggregate Damage within three (3) Business Days after Seller's receipt of the Purchaser Notice, then they shall promptly agree upon an independent valuation consultant (the "*Loss Consultant*") who shall, as promptly as possible, determine the Aggregate Damage and confirm in writing either that the Aggregate Damage is less than a Material Loss or exceeds a Material Loss. If the Loss Consultant's report indicates a Material Loss, then Purchaser may submit a termination notice within five (5) Business Days after the receipt of the Loss Consultant's report. The Loss Consultant's determination shall be final and binding on the parties. The fees and costs of the Loss Consultant shall be shared equally by Purchaser and Seller.

(d) If, prior to the Effective Time, any part or portion of the Purchased Assets is destroyed, lost or damaged, (i) to an extent that does not result in a Material Loss, or (ii) to an extent that would be a Material Loss and Purchaser fails to terminate this Agreement, then the parties shall consummate the transactions contemplated in this Agreement, subject to the other terms and conditions of this Agreement, and, at the Effective Time, Seller shall deliver possession of the Purchased Assets to Purchaser in such physical condition as the same may then exist; provided that, in such event, Seller will assign to Purchaser the right to receive any net insurance proceeds received for the property loss or damage to the Purchased Assets and reduce the cash portion of the Purchase Price by an amount equal to any deductible in connection therewith.

ARTICLE III CLOSING

3.1. **Closing.** Subject to the satisfaction or waiver by the appropriate party of all the conditions precedent to Closing specified in Articles VIII and IX, the closing of the transactions under this Agreement (the "*Closing*") will take place at the offices of the Hospital in Garden City, Michigan (or such other place as the parties may mutually agree) on _____, 2014 (the "*Closing Date*"). The parties agree that the transfer and sale of the Purchased Assets shall be calculated and made effective as of 12:01 a.m., Eastern Time, on the Closing Date (the "*Effective Time*").

3.2. **Actions of Purchaser at Closing.** At Closing, and unless otherwise waived by Seller in writing, Purchaser will deliver to Seller the following:

(a) the Purchase Price, and all other amounts due under this Agreement delivered by wire transfer of immediately available funds;

(b) an Assignment and Assumption Agreement substantially in the form attached hereto as Exhibit 3.2(b) (the "*Assignment and Assumption Agreement*"), fully executed by Purchaser, pursuant to which Purchaser shall assume the Assumed Liabilities;

(c) copies of resolutions duly adopted by the Board of Directors of Purchaser, authorizing and approving the performance of the transactions contemplated hereby and the execution and delivery of this Agreement and the other documents described herein, each certified as true, complete and in full force and effect as of the Closing Date by appropriate officers of Purchaser;

(d) certificate of a duly authorized officer of Purchaser certifying that each covenant and agreement of Purchaser to be performed prior to or as of Closing pursuant to this Agreement has been performed in all material respects;

(e) certificate of incumbency of the officers of Purchaser executing this Agreement and the other documents described herein, dated as of the Closing Date;

(f) certificate of existence and good standing of Purchaser from the State of Michigan, dated the most recent practical date prior to the Closing Date; and

(g) a certificate of a duly authorized officer of Purchaser certifying that the representations and warranties of Purchaser set forth in this Agreement are true and correct in all material respects as of the Closing Date.

3.3. **Actions of Seller at Closing.** At Closing, or unless otherwise stated herein or waived by Purchaser in writing, Seller will deliver to Purchaser the following:

(a) One or more Special Warranty Deeds, fully executed by Seller in recordable form, conveying with limited warranty, subject to the Permitted Encumbrances title to the Real Property owned in fee by Seller to Purchaser;

(b) a General Assignment, Conveyance and Bill of Sale substantially in the form attached hereto as Exhibit 3.3(b), fully executed by Seller, conveying to Purchaser good and marketable title to all tangible assets which are a part of the Purchased Assets and valid title to all intangible assets which are a part of the Purchased Assets, free and clear of all Encumbrances other than Permitted Encumbrances;

(c) the Assignment and Assumption Agreement, fully executed by Seller, pursuant to which Seller shall convey to Purchaser Seller's interest in the Contracts and Employee Benefit Plans set forth on Schedule 4.15;

(d) a Domain Name Assignment Agreement substantially in the form attached hereto as Exhibit 3.3(d), fully executed by Seller, assigning Seller's interest in the Domain Names;

(e) a Trademark Assignment Agreement substantially in the form attached hereto as Exhibit 3.3(e), fully executed by Seller, assigning Seller's interest in the Marks included within the Purchased Assets and all goodwill associated therewith and the right to seek any recovery for any past infringement of such Marks;

(f) at least ten (10) days prior to Closing, UCC financing statement searches, together with evidence reasonably satisfactory to Purchaser of the full release at Closing of all Encumbrances noted thereon (or a binding written agreement in a form reasonably acceptable to Purchaser to release the same upon payment), except for the Permitted Encumbrances;

(g) copies of resolutions duly adopted by the Board of Directors of Seller, authorizing and approving Seller's performance of the transactions contemplated hereby and its execution and delivery of this Agreement and the other documents described herein, certified as true, complete and in full force and effect as of the Closing Date by appropriate officers of Seller;

(h) certificate of the appropriate officers of Seller certifying that each covenant and agreement of Seller to be performed prior to or as of Closing pursuant to this Agreement has been performed in all material respects;

(i) a certificate of incumbency of the officers of Seller executing this Agreement and the other documents described herein, dated as of the Closing Date;

(j) a certificate of existence and good standing of Seller from the State of Michigan, dated within the most practical date prior to the Closing Date;

(k) a certificate of a duly authorized officer of each Seller certifying that the representations and warranties of Seller set forth in this Agreement are true and correct in all material respects, in each case, as of the Closing Date; and

(l) executed notices of the sale, assignment and transfer of the Hospital, to be furnished to all third-party payors in a form reasonably approved by Purchaser.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the disclosure schedules delivered by Seller to Purchaser on or prior to the date hereof, including any documents attached to or incorporated by reference in such disclosure schedules (the "*Disclosure Schedules*"), Seller hereby represents and warrants to Purchaser that the statements contained in this Article IV are true and correct as of the date hereof and as of the Closing Date. The disclosure in any section or subsection of the Disclosure Schedules corresponding to any Section in this Article IV shall be deemed to qualify all other Sections and subsections in this Article IV.

4.1. **Existence and Corporate Capacity.** Seller is a nonprofit corporation which is duly organized, validly existing and in good standing under the laws of the State of Michigan. Seller has the requisite limited partnership power and authority to enter into this Agreement, perform its obligations hereunder and to conduct its business as now being conducted.

4.2. **Powers; Consents; Absence of Conflicts With Other Agreements, Etc.** To the best of Seller's knowledge, the execution, delivery and performance of this Agreement by Seller and all other agreements referenced herein or ancillary hereto to which it is a party and the consummation of the transactions contemplated herein by Seller: (i) are within its corporate powers, are not in contravention of law or of the terms of its governing documents, or any amendments thereto and have been duly authorized by all appropriate corporate action; (ii) except as otherwise expressly herein provided, do not require any approval or consent of, or filing with, any governmental agency or authority bearing on the validity of this Agreement which is required by law or the regulations known to Seller of any such agency or authority; (iii) subject to any required consent, will neither conflict with nor result in any material breach or contravention of, nor permit the acceleration of the maturity of the Assumed Liabilities, or the creation of any lien, charge or encumbrance affecting any Purchased Assets; (iv) will not violate any statute, law, rule or regulation of any governmental authority known to Seller to which Seller or the Assets are subject; and (v) will not violate any judgment of any court or governmental authority to which Seller or the Assets is subject, other than, in the cases of clauses (ii), (iii), (iv) and (v) above, any such matters that, individually or in the aggregate, have not had a Hospital Material Adverse Effect.

4.3. **Binding Agreement.** Assuming the due execution and delivery of this Agreement by the other parties hereto, this Agreement constitutes the valid and legally binding obligations of Seller and is enforceable against Seller in accordance with its terms, except as enforceability may be restricted, limited or delayed by applicable bankruptcy or other laws

affecting creditors' rights generally and except as enforceability may be subject to general principles of equity (collectively, the "*Enforceability Exceptions*").

4.4. **Financial Statements.** Seller has delivered to Purchaser copies of the following financial statements of the Hospital on an accrual-basis (Schedule 4.4) (the "*Financial Statements*"): (i) Unaudited Balance Sheet dated as of _____, 2014 (the "*Balance Sheet Date*"); (ii) Unaudited Income Statement for the _____ month period ended on the Balance Sheet Date; and (iii) audited Balance Sheets and Income Statements for the fiscal year of the Hospital ended on September 30, 2013. To the best of Seller's knowledge, such unaudited Financial Statements materially conform to generally accepted accounting principles and practices in the United States, consistently applied, except as to the absence of footnotes and normal audit adjustments and as otherwise may be set forth in Schedule 4.4. Such Balance Sheets and such Income Statements present fairly in all material respects in accordance with foregoing accounting principles the financial condition of the Hospital as of the dates indicated thereon, and the results of operations of the Hospital for the periods indicated thereon.

4.5. **Extraordinary Liabilities.** Except as set forth in the Financial Statements, there are no liabilities of any nature of Seller or its Affiliates relating to the Hospital or the Purchased Assets required in accordance with GAAP to be disclosed on the Financial Statements.

4.6. **Licenses.** The Hospital is duly licensed by the State of Michigan to operate as a 323-bed hospital. The ancillary departments located at the Hospital which are required to be specifically licensed are duly licensed by the appropriate state agencies. Seller has all other licenses, permits and approvals from any governmental entity which are needed or required by law to operate the business related to or affecting the Hospital other than such licenses, permits and approvals the absence of which, individually or in the aggregate, has not had and would not reasonably be expected to have a Hospital Material Adverse Effect. Seller has delivered to Purchaser a list and summary description (Schedule 4.6) of all known material licenses and permits, franchises, certificates of need and certificate of need applications owned or held by Seller relating to the ownership, development or operations of the Hospital and the Purchased Assets.

4.7. **Medicare Participation/Accreditation.** The Hospital is qualified for participation in the Medicare and Medicaid programs, has a current and valid provider contract with the Medicare and Medicaid programs, is in compliance with the conditions of participation in such programs, except for instances of noncompliance that, individually or in the aggregate, have not had and would not reasonably be expected to have a Hospital Material Adverse Effect, and has received all approvals or qualifications necessary for capital reimbursement on the Purchased Assets. The Hospital is duly accredited by the Healthcare Facilities Accreditation Program (the "HFAP") for the three (3) year period ending May, 2016. Except as may be disclosed in Schedule 4.7 hereto, Seller has not received any written notice from either the Medicare or Medicaid programs of any pending or threatened investigations or surveys. Seller has provided to Purchaser complete and correct copies of Seller's Medicare cost reports for Seller's fiscal year ended on September 30, 2012.

4.8. **Regulatory Compliance.** Except as set forth on Schedule 4.8 hereto, to the best of Seller's knowledge, Seller is in material compliance with all applicable Laws, except for instances of noncompliance that, individually or in the aggregate, have not had and would not reasonably be expected to have a Hospital Material Adverse Effect. Seller has filed all reports, data and other information required to be filed with such commissions, boards, bureaus and agencies where a failure to file would have a Hospital Material Adverse Effect on the operations of the Hospital or the Purchased Assets.

4.9. **The Contracts.** To the best of Seller's knowledge, Seller has delivered to Purchaser an accurate list (Schedule 4.9) of all Contracts which affect the Hospital, the Purchased Assets or the operation thereof, to which Seller is a party or by which Seller or any of the Purchased Assets is bound which both involve an annual obligation on the part of Seller of \$25,000 or more and are not cancelable within ninety (90) days ("*Material Contracts*"). To the best of Seller's knowledge, Seller has delivered true and correct copies of the Material Contracts to Purchaser. Except for the Material Contracts, there are not: (i) any contracts or commitments involving any obligation which affects the Assets and which both involve an annual obligation on the part of Seller of \$25,000 or more and are not cancelable within ninety (90) days.

4.10. **Equipment.** Seller has delivered to Purchaser a depreciation schedule as of September 30, 2013 (Schedule 4.10), which has been updated to the Balance Sheet Date and takes into consideration substantially all the equipment constituting any part of the Purchased Assets. No representation is made that such schedule is comprehensive. Since the Balance Sheet Date, Seller has not sold or otherwise disposed of any item of equipment not replaced having a net book value in excess of \$15,000 associated with, or constituting any part of, the Purchased Assets, except in the ordinary course of business.

4.11. **Title.** As of Closing, Seller shall hold good title to all tangible assets, real, personal or mixed and valid title to all intangible assets owned by Seller, and at Closing Seller will convey to Purchaser good title to all tangible properties and assets, real, personal and mixed, and Seller's interest in all leasehold estates constituting the Purchased Assets or any part thereof (other than the fee title interest in the Real Property), subject to no Liens except for Permitted Encumbrances.

4.12. **Real Property.** Seller owns fee title to the Real Property described in Schedule 2.1(a) hereto and all appurtenances and rights thereto, and: (i) if any Liens are asserted against the Real Property by, through or under Seller or any Affiliate of Seller which are not Permitted Encumbrances, Seller shall obtain the release of such Liens(s) prior to Closing; (ii) no party has been granted any license, lease or other right relating to the use or occupancy of the Real Property, or any part thereof, except Seller and except for Permitted Encumbrances; and (iii) at Closing, Seller shall convey to Purchaser good and marketable fee title to the Real Property, free and clear of any Lien, except for the Permitted Encumbrances. Except as set forth on Schedule 4.12, the Real Property comprises all of the real property used in the conduct of the operations of the Hospital.

4.13. **Quality and Condition of Assets.** Other than with respect to representations and warranties as herein provided, Seller shall transfer the Purchased Assets to Purchaser and

Purchaser shall accept the Purchased Assets from Seller on an "as is, where is" basis. Schedule 4.13 describes all Life Safety Code deficiencies related to the Purchased Assets of which Seller has received written notice.

4.14. **Insurance.** Seller has delivered to Purchaser an accurate schedule (Schedule 4.14) disclosing the insurance policies covering the ownership and operations of the Assets, which Schedule reflects the policies' numbers, terms, identity of insurers, amounts and coverage. All of such policies are now and will be until Closing in full force and effect on a claims made basis with no premium arrearages.

4.15. **Employee Benefit Plans.** Except as set forth on Schedule 4.15 hereto, Seller does not have and has never had any pension, profit sharing, deferred compensation or other employee pension or health or welfare benefit plan or arrangement relating to the operations of the Hospital. To the best of Seller's knowledge, all employee pension benefit plans and employee health or welfare benefits plans (as such terms are defined in ERISA, collectively "*Benefit Plans*") have been administered in compliance with ERISA and the applicable provisions of the Internal Revenue Code of 1986, as amended (the "*Code*"), except for instances of noncompliance that, individually or in the aggregate, have not had and would not reasonably be expected to have a Hospital Material Adverse Effect.

4.16. **Employee Relations.** There is no pending or threatened employee strike, work stoppage or labor dispute with respect to employees of Seller. No union representation question exists respecting any employees of Seller, no collective bargaining agreement exists or is currently being negotiated by Seller, no demand has been made for recognition by a labor organization by or with respect to any employees of Seller, no union organizing activities by or with respect to any employees of Seller are taking place, and none of the employees of Seller is represented by any labor union or organization. There is no unfair practice claim against Seller before the National Labor Relations Board, or any strike, dispute, slowdown, or stoppage pending or threatened against or involving the Hospital and none has occurred. Except as set forth on Schedule 4.16, there are no pending or threatened EEOC claims, wage and hour claims, unemployment compensation claims, workers' compensation claims or the like.

4.17. **Litigation or Proceedings.** Seller has delivered to Purchaser an accurate list and summary description (Schedule 4.17) of all material litigation or proceedings with respect to the Hospital and the Assets to which Seller is a party. Except to the extent set forth on Schedule 4.17, there are no claims, actions, suits, proceedings or investigations pending, or to the knowledge of Seller, threatened against or affecting Seller with respect to the Hospital or the Assets, at law or in equity, or before or by any Governmental Entity.

4.18. **Medical Staff Matters.** Seller has heretofore provided to Purchaser true, correct, and complete copies of the bylaws and rules and regulations of the medical staff of the Hospital. With regard to the medical staff of the Hospital and except as set forth on Schedule 4.18 hereto, there are no pending or, to the knowledge of Seller, threatened disputes with applicants, staff members or health professional affiliates and all appeal periods in respect of any medical staff member or applicant against whom an adverse action has been taken have expired.

4.19. Tax Liabilities.

(a) All tax returns, including, without limitation, income tax returns, employee payroll tax returns, employee unemployment tax returns and franchise tax returns, for periods prior to and including Closing which are required to be filed by Seller (collectively "*Returns*") have been filed or will be filed within the time and in the manner provided by law (including any valid extensions thereof), and tax liabilities of Seller shown thereon have been paid by Seller;

(b) All taxes, penalties, interest, and any other statutory additions which have become due by Seller pursuant to Returns, and any assessments received by Seller (collectively "*Payable Tax Items*") have been paid or adequately provided for by the reserves shown in the Balance Sheet of Seller as of the Balance Sheet Date;

(c) There are no tax Liens on any of the Assets, except for Permitted Encumbrances.

4.20. **Solvency.** Seller is solvent and Seller will not be rendered insolvent as a result of any of the transactions contemplated by this Agreement. For purposes hereof, the term "solvency" means that: (a) the fair salable value of Seller's tangible assets equal to the total amount of its respective liabilities (including for purposes of this definition all liabilities, whether or not reflected on a balance sheet prepared in accordance with generally accepted accounting principles, and whether direct or indirect, fixed or contingent, secured or unsecured, and disputed or undisputed); (b) Seller is able to pay its debts or obligations in the ordinary course as they mature; and (c) Seller has capital sufficient to carry on its businesses.

4.21. **No Other Representations or Warranties.** Except as expressly set forth in this Article IV, neither Seller nor any other party on Seller's behalf makes any other representation or warranty, express or implied, at law or in equity, of any nature whatsoever, including in respect of the Hospital, the Purchased Assets, or any asset, liability or operations (and including that with respect to merchantability or fitness for any particular purpose), and any such other representations or warranties are hereby expressly disclaimed.

**ARTICLE V
REPRESENTATIONS AND WARRANTIES OF PURCHASER**

As of the date hereof and, except as otherwise expressly provided, as of the Closing, Purchaser represents and warrants to Seller the following:

5.1. **Organization and Authorization of Purchaser.** Purchaser is a limited liability company duly organized, validly existing and with active status under the laws of the State of Delaware and is duly authorized to transact business in the State of Michigan. Purchaser has the requisite power and authority to enter into this Agreement and the other documents contemplated hereby and thereby, perform its obligations hereunder and thereunder.

5.2. **Corporate Authority; Absence of Conflicts With Other Agreements.** Purchaser's execution, delivery and performance of this Agreement and the other documents

contemplated hereby and thereby to which Purchaser is a party, and the consummation by Purchaser of the transactions contemplated hereby: (a) are within the corporate power of Purchaser, are not in contravention of Law or of the terms of any governing instruments of Purchaser, as appropriate, and have been duly authorized by all appropriate corporate or limited liability company action, as appropriate; (b) will not violate, conflict with or constitute on the part of Purchaser a breach or a default under any existing Law or any agreement, indenture, mortgage or lease to which Purchaser may be subject; and (c) will not violate any order or judgment of any Governmental Entity to which Purchaser may be subject.

5.3. Binding Obligations. This Agreement and any other agreements or instruments to which Purchaser, or its Affiliates will become a party pursuant hereto constitute or will constitute the valid and legally binding obligation of Purchaser or such Affiliates and are or will be enforceable against Purchaser or such Affiliates in accordance with the terms hereof or thereof, except as enforceability against Purchaser or its Affiliates may be restricted or limited by any or all of the Enforceability Exceptions.

5.4. No Broker's Fees. Purchaser has not employed any investment banker, broker, finder, agent or other intermediary in connection with the negotiation or consummation of this Agreement or of any of the transactions contemplated hereby as to which Seller may have any liability.

5.5. Purchaser's Experience and Investigation.

(a) Purchaser has extensive knowledge and experience in financial, regulatory and business matters relating to owning and operating general acute care hospitals. Purchaser has reviewed all information it deems necessary to its satisfaction with respect to the Hospital, the Purchased Assets and Assumed Liabilities. Purchaser has relied solely upon its own investigation of the business, assets, risks and prospects of the Hospital and the Purchased Assets (which it has completed prior to entering into this Agreement) and those express representations and warranties of Seller made in this Agreement or in any instrument or document delivered by Seller pursuant to Section 3.3 hereto. Purchaser acknowledges that neither the Seller nor any of its officers, directors, employees, representatives, Affiliates or agents assumes any responsibility for the accuracy or adequacy of any information heretofore or hereafter furnished to the Purchaser by or on behalf of Seller with respect to the Hospital, the Purchased Assets or the Assumed Liabilities except as expressly provided in this Agreement and the Disclosure Schedules. Without limiting the generality of the foregoing, Purchaser understands that any cost estimates, projections or other forward-looking information provided to Purchaser by or on behalf of Seller are not and shall not be deemed to be representations and warranties of Seller, except to the extent reflected in the express representations and warranties of Seller made in this Agreement or in any instrument or document delivered by Seller pursuant to Section 3.3. Except with respect to the express representations and warranties of Seller made in this Agreement or in any instrument or document delivered by Seller pursuant to Section 3.3, Purchaser acknowledges that (a) there are uncertainties inherent in attempting to make such estimates, projections and other predictions; (b) Purchaser is familiar with such uncertainties; (c) Purchaser is

taking full responsibility for making its own evaluation of the adequacy and accuracy of all estimates, projections or other predictions so furnished to it; and (d) Purchaser shall have no claim against Seller or any of its officers, directors, employees, representatives, Affiliates or agents with respect thereto.

(b) PURCHASER ACKNOWLEDGES THAT, SHOULD THE CLOSING OCCUR, PURCHASER WILL ACQUIRE THE PURCHASED ASSETS WITHOUT ANY EXPRESS, IMPLIED OR STATUTORY REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, STRICTLY IN AN "AS IS" CONDITION AND ON A "WHERE IS" BASIS, IN EACH CASE EXCEPT AND ONLY TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT.

5.6. **Sufficiency of Funds.** Purchaser has, and at Closing will have, sufficient cash on hand or other sources of immediately available funds to enable it to pay the Purchase Price and consummate the transactions contemplated by this Agreement.

5.7. **Solvency.** Purchaser is solvent and will not be rendered insolvent as a result of any of the transactions contemplated by this Agreement. For purposes hereof, the term "solvency" means that: (a) the fair salable value of Purchaser's tangible assets is in excess of the total amount of its liabilities (including for purposes of this definition all liabilities, whether or not reflected on a balance sheet prepared in accordance with generally accepted accounting principles, and whether direct or indirect, fixed or contingent, secured or unsecured, and disputed or undisputed); (b) Purchaser is able to pay its debts or obligations in the ordinary course as they mature; and (c) Purchaser has capital sufficient to carry on its businesses and all businesses which it is about to engage.

ARTICLE VI PRE-CLOSING ACTIONS BY SELLER

6.1. **Access.** Seller will permit the officers and authorized representatives and agents of Purchaser (at Purchaser's expense) reasonable access to the medical staff, employees and other personnel of the Hospital, and to the Purchased Assets and the books and records of Seller and of the Hospital relating thereto, including the right to inspect the same and conduct audits and verifications thereof, provided however, that: (a) none of the foregoing violates patient or other confidentiality requirements or impairs any other privilege or requirement of confidentiality under law or contract; (b) Purchaser first provides reasonable notice of such access and inspection and conducts the same in such a manner as not to interfere unreasonably with the operation of the Hospital or the conduct of Seller's business; and (c) no such inspections will take place, and no members of the medical staff, employees or other personnel of the Hospital will be contacted by Purchaser, without Purchaser first coordinating such inspection or contact with Gary Ley, Chief Executive Officer, or his designees.

6.2. **Operations.** Prior to Closing, except as listed on Schedule 6.2 or otherwise with Purchaser's prior written approval (not to be unreasonably withheld, conditioned or delayed), Seller will carry on the business of the Hospital in the ordinary course and will not

make any material change in the operations of the Hospital except in the ordinary course of Seller's business or with prior written approval from Purchaser.

6.3. Regulatory Approvals. Prior to Closing, Seller will reasonably cooperate with Purchaser in Purchaser's efforts to obtain, as promptly as practicable, approvals, authorizations and clearances of Governmental Entities required for Purchaser to purchase the Purchased Assets and all Licenses and Permits required to operate the Hospital as currently operated by Seller and shall use reasonable efforts to obtain, as promptly as practicable, all approvals, authorizations and clearances of Governmental Entities required by Law of Seller to consummate the transactions contemplated hereby, including, but not limited to, approval of the Michigan Department of the Attorney General. Seller shall be apprised of Purchaser's efforts in obtaining such approvals, authorizations and clearances and shall be provided with copies of correspondence pertaining to requests and applications submitted by Purchaser. Except as otherwise provided by this Agreement, Seller will bear all costs and expenses associated with obtaining all approvals, authorizations and clearances of Governmental Entities (if any) required by Law of Seller or its Affiliates to consummate the transactions contemplated hereby.

6.4. Additional Financial Information. Within thirty (30) days following the end of each calendar month prior to Closing, Seller will deliver to Purchaser true and complete copies of the unaudited balance sheets and the related unaudited statements of revenues and expenses of the Hospital (if any) that have been prepared by Seller for each month then ended subsequent to the date of the Financial Statements, which will be prepared in accordance with GAAP.

6.5. Exclusivity. Seller will not, nor will it permit any of its Affiliates to, nor will they authorize or permit any of their respective officers, directors, partners or employees or any investment banker, financial advisor, attorney, accountant or other representative retained by them or by any of its Affiliates to, initiate, solicit, encourage (by way of furnishing access, non-public information or otherwise), negotiate or take any other action to facilitate any inquiries or the making of any proposal which constitutes, or may reasonably be expected to lead to, any proposal or offer to acquire all or any substantial part of the business or assets of the Hospital, whether by merger, consolidation, purchase of assets, tender offer, joint venture, investment, exchange, lease or otherwise, whether for cash, securities or any other consideration or combination thereof, nor entertain, agree to, endorse, participate in any discussions or negotiations or recommend any such transaction. In the event that Seller, any of its Affiliates or any of their respective officers, directors or partners receives any bona fide proposals or offers contemplated by this Section 6.5, Seller will promptly inform Purchaser of that fact and furnish to Purchaser the specifics thereof. The restriction set forth in this Section 6.5 shall expire upon the termination of this Agreement.

6.6. Supplement to Disclosure Schedules. From time to time prior to the Closing, Seller shall have the right (but not the obligation) to supplement or amend the Disclosure Schedules hereto with respect to any matter hereafter arising or of which it becomes aware after the date hereof (each a "Schedule Supplement"), and each such Schedule Supplement shall be deemed to be incorporated into and to supplement and amend the Disclosure Schedules as of the Closing Date; provided, however, that in the event such event, development or occurrence which is the subject of the Schedule Supplement constitutes or relates to something that has had a

Hospital Material Adverse Effect, then Purchaser shall have the right to terminate this Agreement for failure to satisfy the closing condition set forth in Section 10.1; provided, further, that if Purchaser has the right to, but does not elect to terminate this Agreement within five (5) Business Days of its receipt of such Schedule Supplement, then Purchaser shall be deemed to have irrevocably waived any right to terminate this Agreement with respect to such matter under any of the conditions set forth in Section 10.1 hereof.

6.7. **Closing Conditions.** Prior to Closing, Seller shall use reasonable efforts (and, to the extent necessary, will cause its Affiliates to use reasonable efforts) to cause the conditions specified in Articles VI and VIII over which Seller has reasonable control to be satisfied as soon as reasonably practicable, but in any event prior to Closing; provided, however, that Seller shall not be obligated to pay any consideration or initiate legal proceedings to obtain any approval required from a Governmental Entity.

ARTICLE VII PRE-CLOSING ACTIONS BY PURCHASER

7.1. **Regulatory Approvals.** Prior to Closing, Purchaser, as promptly as practicable, shall file all required notices to, and use all reasonable efforts to obtain the transfer or issuance, as the case may be, of all approvals, authorizations and clearances by, Governmental Entities required to purchase the Purchased Assets and to obtain all Licenses and Permits to operate the Hospital as currently operated by Seller. Except as otherwise provided by this Agreement, Purchaser will bear all costs and expenses associated with obtaining all approvals, authorizations and clearances of Governmental Entities (if any) required by Law of Purchaser or its Affiliates to consummate the transactions contemplated hereby.

7.2. **Title.**

(a) As soon as reasonably practical after the execution of this Agreement, Purchaser shall (i) request a preliminary title report ("*PTR*") and all underlying documents from the Title Company and (ii) order and obtain at Buyer's sole cost an as-built ALTA Survey (the "*Survey*") of the Real Property acceptable to the Title Company for purposes of deleting the standard survey exception and deliver complete copies of the *PTR*, Underlying Documents and the Survey thereof to Seller. Within ten (10) days after Purchaser's receipt of the *PTR*, legible copies of all Underlying Documents, and the Survey and the delivery of copies thereof to Seller (the "*Approval Date*"), Purchaser shall provide written notice to Seller of whether Purchaser approves or disapproves the *PTR* and the Underlying Documents and the Survey.

(b) Purchaser shall notify Seller in writing by the Approval Date of its disapproval of any defects, exceptions, liens, encroachments or encumbrances other than the Permitted Encumbrances shown in the *PTR* or in the related Survey. Any exceptions or defects not so disapproved by Purchaser in writing by the Approval Date shall be deemed approved.

(c) In the event of Purchaser's disapproval of any material exceptions or material defects shown on the *PTR* or Survey, pursuant to Section 7.2(c), Seller shall

have seven (7) business days after receipt of Purchaser's objections to give Purchaser written notice either that (a) Seller has removed any objectionable exceptions from title and provide Purchaser with evidence satisfactory to Purchaser of such removal or provide Purchaser with evidence reasonably satisfactory to Purchaser that said exceptions will be removed on or before the Closing Date, or (b) Seller is unwilling to cause such exceptions to be removed. Seller shall have no obligation to remove or cure the Permitted Exceptions or any of Purchaser's objections to title other than mortgages, deeds of trust, delinquent taxes and assessments, judgment liens, and mechanic's liens arising from work performed by Seller or at Seller's direction or any other monetary lien or obligations encumbering the Real Property.

(d) If Seller gives Purchaser notice under Section 7.2(c) above, Purchaser shall have three (3) business days to give Seller written notice of Purchaser's intent to either (i) proceed with the purchase and take the Real Property subject to such exceptions; or (ii) terminate this Agreement by written notice to Seller, whereupon this Agreement will be null and void, provided that such rejected exceptions would materially and adversely affect Purchaser's right or ability to operate the Hospital after the Closing Date. The premium for issuance of the Title Policy shall be paid by Purchaser. If Purchaser shall fail to give Seller such notice within said three (3) business days, Purchaser shall be deemed to have elected to proceed with the purchase and take the Real Property subject to such exceptions.

7.3. **Closing Conditions.** Prior to Closing, Purchaser will use reasonable efforts to cause the conditions specified in Articles VII and IX over which Purchaser has reasonable control to be satisfied as soon as reasonably practicable, but in any event prior to Closing.

ARTICLE VIII CONDITIONS PRECEDENT TO PURCHASER'S OBLIGATIONS

The obligations of Purchaser hereunder are subject to satisfaction, on or before the Closing Date, of all of the conditions precedent set forth in this Article VIII, any of which may be waived in writing by Purchaser.

8.1. **Representations and Warranties.** The representations and warranties of Seller contained in this Agreement will be true and correct in all material respects on and as of the date hereof and as of the Closing Date, except to the extent such representations and warranties that speak only as of an earlier date (in which case they shall be true and correct in all material respects as of such date), and except where the failure of such representations and warranties to be so true and correct would not, individually or in the aggregate, have a Hospital Material Adverse Effect. In the event that there are breaches of representations and warranties made by Seller hereunder that have not had or are not reasonably likely to have a Hospital Material Adverse Effect (i) Purchaser shall not be excused from performance hereunder as a result of such breaches and shall be obligated to complete the transaction described herein, and (ii) Purchaser shall not assert the breach of such representations and warranties as a basis for not consummating the transaction contemplated by this Agreement. The sole remedy of Purchaser

for breaches of representations and warranties that constitute a Hospital Material Adverse Effect is set forth in Section 10.1.

8.2. **Performance of Covenants.** Seller shall have in all material respects performed all obligations and complied with all covenants and conditions required by this Agreement to be performed or complied with by it at or prior to the Closing Date; provided that this condition will be deemed to be satisfied unless both (i) Seller were given written notice of such failure to perform or comply and did not or could not cure such failure to perform or comply within fifteen (15) days after receipt of such notice and (ii) the respects in which such covenants and obligations have not been performed have had or are reasonably likely to have a Hospital Material Adverse Effect.

8.3. **Actions or Proceedings.** No order, ruling or judgment of any Governmental Entity will remain in effect which restrains, enjoins and/or otherwise prohibits the completion of the transactions contemplated hereby. As of the Closing Date, no action or proceeding before any Governmental Entity shall have been instituted and remain in effect which seeks to restrain or prohibit the transactions contemplated hereby.

8.4. **Approvals by Governmental Entities; Licenses and Permits.** The thirty (30) day period following notice to the Michigan Department of Community Health and Michigan Board of Pharmacy of change of ownership of the Hospital shall have expired or been waived. Purchaser will not have received written or oral notice: (i) from the Michigan Department of Community Health and other Governmental Entities that upon Closing (or shortly thereafter and in the ordinary course) all Licenses and Permits required by Law to operate the Hospital as currently operated will not be transferred to or reissued in the name of Purchaser; (ii) that Seller's Medicare and Medicaid Provider Agreements cannot be assigned to Purchaser.

8.5. **Title Matters.** Subject to Section 7.2, Purchaser shall have approved in writing the PTR issued by the Title Company.

8.6. **No Hospital Material Adverse Effect.** There shall not have been a Hospital Material Adverse Effect.

8.7. **Other Instruments and Documents.** Seller shall have delivered to Purchaser each of the instruments and documents required to be delivered by it by Section 3.3.

ARTICLE IX CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS

The obligations of Seller hereunder are subject to satisfaction on or before the Closing Date, of all of the conditions precedent set forth in this Article IX, any of which may be waived in writing by Seller:

9.1. **Representations and Warranties.** The representations and warranties of Purchaser contained in this Agreement will be true and correct in all material respects on and as of the Closing Date, except to the extent such representations and warranties that speak only as of an earlier date (in which case they shall be true and correct in all material respects as of such

date), and except where the failure of such representations and warranties to be so true and correct would not, individually or in the aggregate, have a Purchaser Material Adverse Effect.

9.2. **Performance of Covenants.** Purchaser shall have in all material respects performed all obligations and complied with all covenants and conditions required by this Agreement to be performed or complied with by it at or prior to the Closing Date; provided that this condition will be deemed to be satisfied unless both (i) Purchaser was given written notice of such failure to perform or comply and did not or could not cure such failure to perform or comply within fifteen (15) days after receipt of such notice and (ii) the respects in which such covenants and obligations have not been performed have had a material adverse effect on the ability of Purchaser to timely consummate the transactions described herein.

9.3. **Actions or Proceedings.** No order, ruling, or judgment of any Governmental Entity will remain in effect which restrains, enjoins and/or otherwise prohibits the completion of the transactions contemplated hereby. As of the Closing Date, no action or proceeding before any Governmental Entity shall have been instituted and remain in effect which seeks to restrain or prohibit the transactions contemplated hereby.

9.4. **Approvals by Governmental Entities.** The thirty (30) day periods following the notices to the Michigan Department of Health and Michigan Board of Pharmacy of the changes of ownership of the Hospital shall have expired or been waived.

9.5. **Approval by Michigan Attorney General.** The transaction contemplated pursuant to this Agreement shall have been approved and/or otherwise consented to in writing by the Charitable Trust Division of the Michigan Department of Attorney General

9.6. **Other Instruments and Documents.** Purchaser will have delivered to Seller each of the instruments and documents required to be delivered to it pursuant to Section 3.2.

ARTICLE X TERMINATION

10.1. **Termination.** This Agreement may be terminated and the transactions contemplated hereby abandoned prior to the Closing (a) upon the mutual written consent of Purchaser and Seller; (b) by either Purchaser or Seller if Closing shall not have occurred on or before September 30, 2014, provided that the party electing to terminate this Agreement shall not then be in breach of this Agreement and shall have used all reasonable and good faith efforts to close the transaction; (c) by Purchaser, if (without any breach by Purchaser of any of its obligations hereunder) compliance with any condition set forth in Article VIII becomes impossible, and such failure of compliance is not waived by Purchaser; (d) by Seller, if (without any breach by Seller of any of its obligations hereunder) compliance with any condition set forth in Article IX becomes impossible, and such failure of compliance is not waived by Seller; or (e) by Purchaser pursuant to the terms of Sections 2.9(b) or 7.2(d).

10.2. **Effect of Termination.** In the event of any termination of this Agreement, as provided by Section 10.1, this Agreement will thereupon become void and of no effect, no party will have any liability to any other party arising out of such termination, and no party will have

any further rights or obligations hereunder, except for the obligations of the parties contained in this Section 10.2 and in Sections 12.5 (Confidentiality), 12.6 (Costs of Transaction), 13.1 (Enforcement Expenses), 13.2 (Notice), 13.4 (Choice of Law), 13.6 (Public Disclosure) and 13.12 (Entire Agreement) and any related definitional provisions set forth in this Agreement.

ARTICLE XI REMEDIES; DAMAGES LIMITED

11.1. **No Survival Period.** The parties intend to shorten the statute of limitations and agree that no claims or causes of action may be brought (a) at any time against the Seller based upon, directly or indirectly, any of the representations or warranties contained in this Agreement or, (b) after the Closing or any termination of this Agreement, based upon, directly or indirectly, any agreements contained in Article VI or Article VII.

11.2. **Limitation on Damages.** NOTWITHSTANDING ANYTHING TO THE CONTRARY ELSEWHERE IN THIS AGREEMENT, NO PARTY TO THIS AGREEMENT (OR ANY OF ITS AFFILIATES) SHALL, IN ANY EVENT, BE LIABLE TO THE OTHER PARTY (OR ANY OF ITS AFFILIATES) FOR SPECIAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, COSTS, EXPENSES, CHARGES OR CLAIMS.

11.3. **Specific Performance.** Notwithstanding the right of each party to terminate this Agreement pursuant to Section 10.1, in the event of a breach by either party of its obligation to consummate the transactions contemplated by this Agreement or a breach by either party of a covenant prior to or following the Closing, the non-breaching party shall be entitled to specific performance to force the breaching party to consummate the transactions contemplated by this Agreement or to enforce the covenant, such relief to be without the necessity of posting a bond, cash or otherwise (unless required by applicable Law). A breach by Purchaser of certain of its covenants hereunder will be subject to the terms and conditions of that certain Compliance and Enforcement Agreement among the Michigan Department of the Attorney General, Stout Risius Ross, Inc. ("SRR"), Seller, Purchaser and Prime Healthcare Services, Inc. ("*Compliance and Enforcement Agreement*").

ARTICLE XII FURTHER COVENANTS

12.1. Certain Employee Matters.

(a) Immediately prior to the Closing, Purchaser shall offer to employ, on an "at will" basis, substantially all of the employees of the Seller as of the Closing Date, including employees on military or other types of leave (excluding employees with employment agreements, which Purchaser shall assume) in positions and at compensation levels consistent with those being provided by Seller immediately prior to Closing. All such employees who accept the Purchaser's offer of employment shall be referred to herein as the "*Hired Employees*". The Purchaser will ensure that the level of benefits of each of the Hired Employees immediately following the Closing is comparable, in the aggregate, to those provided the Hired Employees immediately preceding the Closing. Schedule 12.1(a) provides a list of employees of Seller who are

on short-term or long-term disability or on leave of absence pursuant to the Seller's policies or Law (each, an "*Inactive Employee*" and collectively "*Inactive Employees*"), provides the date such absence began, and provides the date, if known, that the employee is expected to return to work. The list of Inactive Employees on Schedule 12.1(a) will be updated as of the Effective Time.

(b) Purchaser shall assume sponsorship of each of the Employee Benefit Plans set forth on Schedule 4.15 hereto and shall assume all assets, liabilities, obligations and commitments arising thereunder. If, after Closing, Purchaser amends or replaces any such Employee Benefit Plan, Purchaser shall grant vesting and eligibility credit to Seller's employees with respect to Purchaser's employee benefit plans. Any amounts which have been applied toward satisfaction of the calendar year 2014 co-payment, maximum out of pocket, or deductible on behalf of any Hired Employee or dependent under any employee welfare benefit plan of the Seller shall be deemed to be so applied toward satisfaction of the calendar year 2014 co-payment, maximum out of pocket, or deductible under the applicable employee welfare benefit plan of Purchaser. Purchaser shall cause its employee welfare benefit plans to waive any exclusions or limitations for pre-existing conditions and waiting periods with respect to conditions affecting any Hired Employees as of the Effective Time. The Purchaser shall take into account all prior service credited to the Hired Employee by the Seller for purposes of determining whether an employee has satisfied the service requirements for eligibility, participation and all other purposes (including without limitation vesting of benefits) under all of the employee welfare benefit plans of the Purchaser, but not for purposes of determining the amount of benefits under such welfare benefit plans.

(c) Notwithstanding anything in this Agreement to the contrary, from and after the Effective Time, Purchaser and each of its ERISA Affiliates will comply in all respects with the group health plan continuation coverage requirements of COBRA. Without limiting the generality of the foregoing, Purchaser and each of its ERISA Affiliates will comply with all COBRA requirements, including the provision of continuation coverage, that arise with respect to employees or former employees who are not Hired Employees and their respective spouses and dependents, of Seller or its ERISA Affiliates, as a result of the transactions contemplated by this Agreement or that have arisen prior to this transaction (each a "*qualified beneficiary*"). Purchaser shall provide at its expense, less the applicable premium paid by the qualified beneficiary, COBRA continuation coverage under its group health plan to individuals who, as of the Closing Date, are COBRA qualified beneficiaries with respect to the Seller's or its ERISA Affiliates' group health plans, each of whom is listed on Schedule 12.1(c), which such schedule shall be updated at Closing.

(d) Purchaser shall give credit to all Hired Employees for their respective unused vacation, holiday and personal days accrued through the Effective Time. Purchaser shall also give credit to all Hired Employees for their respective sick leave and extended illness benefits accumulated through the Effective Time without adjustment to the Purchase Price, provided, however, that Purchaser shall have the right to amend, modify, or eliminate the accrual of such benefits after the Effective Time.

(e) After the Effective Time Purchaser shall continue to withhold funds from the wages of any Hired Employees with respect to any garnishment agreements relating to the Hired Employees and remit to recipients such funds in accordance with the garnishment agreements, including any garnishment agreements between Seller and the Hired Employees.

(f) Notwithstanding the foregoing, nothing contained herein shall (i) be treated as an amendment to any particular employee benefit plan of Purchaser or Seller, (ii) obligate Purchaser or any of its Affiliates to (A) maintain any particular benefit plan or arrangement, other than sponsorship of Seller's Pension Plan, or (B) retain the employment of any particular employee, (iii) prevent Purchaser or any of its Affiliates from amending or terminating any benefit plan or arrangement, other than Seller's Pension Plan, or (iv) give any third party the right to enforce any of the provisions of this Agreement, or create a continued right of employment for any of the Hired Employees. Except as limited in this Section 12.1, Purchaser retains the right to change, modify or terminate any wages, benefits, policies and procedures in its sole discretion as it deems appropriate, other than Seller's Pension Plan.

(g) Subject to review of the agreements, Purchaser will honor employment agreements entered into prior to the Closing Date so long as they were entered into in the ordinary course of business and provide for compensation and other benefits which are within industry norms.

(h) Effective as of the Effective Time, Seller shall cease to serve and Purchaser shall commence to serve as the sponsoring and petitioning employer for U.S. immigration law purposes with respect to the Hired Employees. As a result, Purchaser shall therefore assume all immigration-related obligations and liabilities that have arisen or will hereafter arise in connection with the submission of petitions, applications or other filings to certain bureaus within the U.S. Department of Homeland Security (U.S. Citizenship and Immigration Services, Immigration and Customs Enforcement, and Customs and Border Protection), the U.S. Department of Labor or the U.S. Department of State (including any U.S. embassy or consular post) requesting the grant of employment-based nonimmigrant and immigrant visa benefits on behalf of the Hired Employees. Seller and Purchaser intend that Purchaser (by hiring the Hired Employees formerly employed by Seller, and agreeing, as a sponsoring employer, to assume the immigration-related obligations and liabilities described above) shall be considered the successor in interest to the Seller solely and exclusively for purposes of the obligations and liabilities related to the employment of the such workers.

12.2. **Medical Staff.** Immediately following the Closing, there will be no change or modification to the current medical staff membership of, or staff privileges for, physicians in good standing on the medical staff of the Hospital; provided, however, that the consummation of the transactions contemplated hereby will not limit the ability of the governing body or medical executive committee of the Hospital to grant, withhold or suspend medical staff appointments or clinical privileges in accordance with the terms and provisions of the medical staff by laws of the Hospital. More particularly, in order to ensure a smooth transition for the medical staff of the

Hospital, Purchaser shall cause the governing body of the Hospital, concurrently with the Closing to (a) appoint all of the physicians who are on the medical staff of the Hospital immediately prior to the Closing to the medical staff, in their then-current categories; (b) grant all of such physicians their then current clinical privileges; (c) establish the same medical staff sections and departments, where applicable; (d) appoint to the positions of Chiefs and Assistance Chiefs of Section and Department Chairmen the physicians who hold the positions immediately prior to the Closing (e) take no action to change any of the staff committees or their functions; (f) take no action to change any of the staff officers or committee members; (g) adopt the then current bylaws and incorporated documents, rules, and regulations of the medicals staff of the Hospital to the extent consistent with Law; and (h) adopt the then currently proposed changes to the bylaws and incorporated documents, rules, and regulations of the medical staff, if then approved by the Hospital's medical staff. Notwithstanding the foregoing, nothing herein shall prevent Purchaser from making changes or modifications to any of the foregoing after a reasonable time subsequent to the Closing.

12.3. **Capital Commitment.** During the 5 year period immediately following the Closing, Purchaser, with approval of the advisory board for the Hospital, as defined in Section 12.11, will make or cause to be made capital expenditures for the benefit of the Hospitals in an amount not less than \$7 Million annually, which amount shall be in excess of Hospital's average annual capital expenditure over the last three (3) fiscal years prior to the Closing Date, with no less than \$20 Million being spent or committed to spend during the first two (2) years from Closing (the "*Capital Commitment Amount*"). Within 180 days immediately following the Closing, Purchaser shall develop a strategic master capital plan (the "*Capital Plan*"). For purposes of the Capital Commitment Amount, expenditures for capital improvements shall include expenditures for physician recruitment and retention, increasing the number and scope of medical service offerings, investments in information systems, new equipment (purchased or leased), facilities repair and maintenance spending (excluding routine operating costs), facility renovations, new facilities, new or renovated medical office space, information systems and other capital improvements.

12.4. **Cost Reports.**

(a) Seller will prepare and file all cost reports and all other required reports relating to all Medicare, Medicaid, Tricare and other third-party payor reports in respect to cost reporting years through September 30, 2013 ("*Seller Cost Reports*"). Purchaser shall be responsible to prepare and file all cost reports and other required reports relating to all Medicare, Medicaid, Tricare and other third-party payor reports in respect to all periods subsequent to the 2013 cost reporting year.

(b) Purchaser or any of its Affiliates may retain any amounts received related to the Seller Cost Reports. In the event Seller receives any amounts related to the Seller Cost Reports or any appeal thereof, Seller shall transfer any such funds to Purchaser with ten (10) days following receipt of such funds.

12.5. Taxes.

(a) Seller shall be responsible for the preparation and filing of the federal, state and local tax returns (excluding any property tax returns) of Seller with respect to the Hospital for the periods ending on or prior to the Effective Time. Purchaser shall be responsible for the preparation and filing of federal, state and local tax returns with respect to the Hospital for periods ending after the Effective Time.

(b) Seller shall be responsible for payment of federal, state and local Taxes with respect to the Hospital attributable to periods ending on or prior to the Effective Time, except for any Taxes included in Actual Net Working Capital. Purchaser shall be responsible for payment of federal, state and local taxes with respect to the Hospital attributable to periods ending after the Effective Time.

(c) After the Closing, the parties shall cooperate fully with each other and shall make available to each other, as reasonably requested, all information, records or documents relating to tax liabilities or potential tax liabilities attributable to the Hospital for all periods on or prior to the Closing and shall preserve all such information, records and documents at least until the expiration of any applicable statute of limitations or extensions thereof. The parties shall also make available to each other as reasonably required personnel responsible for preparing or maintaining information, records and documents in connection with tax matters.

(d) In the event that Purchaser or Seller receives written notice from an appropriate taxing authority of any pending or threatened examination, claim, settlement, proposed adjustment or related matter with respect to the Taxes of Seller that could affect Seller or any affiliate of the Seller, or if Seller or any affiliate of Seller receives written notice from an appropriate taxing authority of any such matters that could affect Purchaser, Seller, any of their respective subsidiaries or affiliates, the party receiving notice shall notify in writing the potentially affected party within ten (10) days thereof.

(e) In the case of any audit, examination or other proceeding with respect to Taxes for which Seller is or may be liable pursuant to this Agreement, Purchaser shall promptly inform Seller, and Purchaser shall execute or cause to be executed powers of attorney or other documents necessary to enable Seller to take all actions reasonably deemed necessary by Seller with respect to such audit, examination or proceeding to the extent such audit, examination or proceeding may affect the amount of Taxes for which Seller is liable pursuant to this Agreement. Seller shall have the right to control any such audit, examination or proceeding, and, if there is a reasonable basis therefor, to initiate any claim for refund, file any amended return or take any other action that they deem appropriate with respect to such Taxes.

12.6. Confidentiality. The Agreement for Use and Non-Disclosure of Confidential Information between Garden City Hospital and Prime Healthcare Services, Inc. dated as of November 19, 2012 shall remain in effect notwithstanding execution of this Agreement.

12.7. **Costs of Transaction.** Whether or not the transactions contemplated hereby are consummated, and except as otherwise expressly provided in this Agreement, each party will bear its own fees, expenses and disbursements, and those of its Affiliates, agents, representatives, accountants, counsel and investment bankers, incurred in connection with the subject matter hereof. Provided, however, Purchaser shall assume the cost of any valuation expert engaged by the Charitable Trust Division of the Michigan Attorney General Department and the cost of any Letter of Credit or similar vehicle that may be required by the Michigan Attorney General to enforce Purchaser's post-closing covenants.

12.8. **Preservation of Books and Records.** Until the later to occur of (a) the final adjudication of any dispute or investigation arising out of the business, operations or affairs of the Hospital before the Closing Date, or (b) 60 days following the running of applicable statutes of limitations, Purchaser will maintain all books and records of the Hospital constituting a part of the Purchased Assets which relate to the use, operations or maintenance of the Purchased Assets or Hospital prior to the Closing Date, and Seller or its assignee will maintain pursuant to its normal record retention policies all such books and records not constituting a part of the Purchased Assets, in each case to the extent reasonably necessary in connection with any tax, Medicare or Medicaid or other liability or matter for any period ending before the Closing Date.

12.9. **Further Assurances; Cooperation.** After the Closing, Seller shall execute and deliver to Purchaser any and all other assignments, consents, approvals, conveyances, documents and instruments reasonably requested by Purchaser for the purpose of more effectively assigning, transferring and conveying the Purchased Assets to Purchaser in accordance with the terms of this Agreement. The parties will use their respective commercially reasonable efforts to pursue and perform all acts, applications, authorizations and consents necessary or appropriate to the fulfillment of the provisions of this Agreement and will cooperate with each other and execute any and all documents reasonably incident thereto. In addition, following the Closing Date, each party will, upon reasonable notice, during normal business hours, at the expense of the requesting party, only to the extent reasonably necessary to facilitate the transactions contemplated hereby, audits, compliance with governmental requirements and regulations and the prosecution or defense of third-party claims, and only to the extent that it does not unreasonably interfere with its business operations: (a) afford to the representatives of the other, including its counsel and accountants, reasonable access to such records and information as may be available relating to the Purchased Assets and the Hospital for periods prior to and subsequent to the Effective Time, and full and complete access to its officers and employees; and (b) reasonably cooperate with, and use all reasonable efforts to cause its officers and employees to reasonably cooperate with the other and with appropriate Governmental Entities and third parties, in furnishing information, evidence, testimony and other reasonable assistance.

12.10. **Use of Controlled Substance Permits.** To the extent permitted by applicable law, Purchaser shall have the right, for a period not to exceed one hundred twenty (120) days following the Closing Date, to operate under the licenses and registrations of Seller relating to controlled substances and the operations of pharmacies and laboratories, until Purchaser is able to obtain such licenses and registrations for itself. Seller shall not be obligated to renew any such license which expires during such period. In furtherance thereof, Seller shall execute and deliver to Purchaser at or prior to the Closing, a limited power of attorney substantially in the form of

Exhibit 12.9 hereto. Purchaser shall promptly apply for such licenses and registrations in its own name as soon as reasonably possible after the date of this Agreement and shall diligently pursue such applications. Purchaser shall indemnify and hold Seller and its directors, officers and employees harmless from and against any and all Losses incurred by Seller and its directors, officers and employees resulting from or arising out of the use of such licenses and registrations by Purchaser.

12.11. **Governance.** Purchaser shall constitute and maintain an advisory board for the operation of the acute care Hospital, subject to the authority of Purchaser's corporate board, comprised of physicians, community members, and hospital executives to provide oversight and guidance regarding the operation of the Hospital.

12.12. **Maintenance of Acute Care Hospital and Use of Name.** Purchaser shall maintain the Hospital as an acute care hospital with an open and accessible emergency department for no less than five (5) years after Closing Date. Purchaser shall continue to use the name "Garden City Hospital" for the Hospital.

12.13. **Transition Services.** Purchaser agrees to allow a limited number of the Hired Employees to assist Seller post-Closing, at such times as are reasonably requested, in winding up, dissolving and liquidating Sellers assets and operations, including disposing of any Excluded Assets, settling any Excluded Liabilities, providing any requisite post-Closing notices, and disposing of any other post-Closing claims or matters related to the transactions contemplated herein.

ARTICLE XIII IN GENERAL

13.1. **Enforcement Expenses.** Except as otherwise expressly provided herein or in the Compliance and Enforcement Agreement, in the event any party elects to incur legal expenses to enforce, defend or interpret any provision of this Agreement as between it and the other party, the prevailing party will be entitled to recover from the non-prevailing party (or non-prevailing parties, jointly and severally) the amount of such legal expenses, including attorneys' fees, costs and necessary disbursements, in addition to any other relief to which such party will be entitled.

13.2. **Notice.** Any notice, demand or communication required, permitted or desired to be given hereunder must be in writing and will be deemed effectively delivered when personally delivered; when actually received by recognized overnight courier; or five days after being deposited in the United States mail, with postage prepaid thereon, by certified or registered mail, return receipt requested, addressed as follows:

if to Seller:	Garden City Hospital 6245 Inkster Road Garden City, MI 48135 Attention: President & CEO
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with a copy to: Hall Render Killian Heath & Lyman
One American Square, Suite 2000, Box 82064
Indianapolis, Indiana 46282
Attention: William H Thompson

if to Purchaser: Prime Healthcare Services – Garden City, LLC
3300 East Guasti Road, 3rd Floor
Ontario, CA 91761
Attn: CEO

with a copy to: Prime Healthcare Services
3300 East Guasti Road, 3rd Floor
Ontario, CA 91761
Attn: General Counsel

or to such other address, or to the attention of such other Person, as any party may designate by notice delivered in like manner.

13.3. **Schedules and Other Instruments.** Each Schedule, provided hereunder and each written disclosure required hereby is incorporated by reference into this Agreement and will be considered a part hereof as if set forth herein in full.

13.4. **Governing Law; Arbitration.**

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Michigan applicable to agreements made and to be performed entirely within such State, without regard to the conflicts of law principles of such State, and any Special Warranty Deeds shall be governed and construed in accordance with the laws of the State of Michigan.

(b) All claims and disputed arising under or relating to this Agreement are to be settled by binding arbitration in the state of Michigan. The arbitration shall be conducted on a confidential basis pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees.

(c) Within 30 days after receipt of a notice requesting arbitration and stating the basis of a party's claim, each party shall appoint an arbitrator. Notice of the appointment shall be given by each party to all other parties when made. Within fifteen (15) days after the date the last arbitrator is selected by a party, the arbitrators shall appoint a neutral arbitrator. If the two (2) arbitrators are unable to agree upon a third arbitrator within such fifteen (15) day period, then either party, on behalf of both, may request that the appointment of the third arbitrator by making an application to the presiding judge of a Michigan court with proper jurisdiction. The party making the

application shall give the other party fifteen (15) days' notice of the application, and the presiding judge's decision as to the appointed arbitrator shall be binding and final.

(d) Any such arbitration shall be conducted by an arbitrator experienced in healthcare transactions and shall include a written record of the arbitration hearing. The parties reserve the right to object to any individual who shall be employed by or affiliated with a competing organization or entity. The parties shall be entitled to discovery as under the Federal Rules of Civil Procedure. An award of arbitration may be confirmed in a court of competent jurisdiction.

13.5. **Public Disclosure.** Except for: (a) necessary disclosures to such party's directors, officers, employees, counsel, accountants, bankers and other agents; (b) disclosures deemed to be required by Purchaser or Seller, upon the advice of counsel, under any Laws, and after reasonable prior notice to the other party; (c) disclosures made with the mutual written consent of Purchaser and Seller; and (d) disclosures pursuant to the approval processes of the Michigan Department of the Attorney General, each party will keep the existence and the provisions of this Agreement confidential both prior and subsequent to the Closing Date, and no party will make any press release with respect to the transactions contemplated hereby.

13.6. **Benefit.** This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors and permitted assigns. This Agreement is not intended to benefit any Person other than Purchaser, Seller and their respective Affiliates. Provided, however, it is specifically recognized by Purchaser that SRR has certain authority, pursuant to the terms and conditions of the Compliance and Enforcement Agreement, to enforce certain of the covenants of Purchaser hereunder.

13.7. **Waivers and Consents.** Any waiver of any provision of this Agreement and any consent given hereunder must be in writing signed by the party sought to be bound. The waiver by any party of a breach or violation of any provision of Agreement will not operate as, or be construed to constitute, a waiver of any subsequent breach or violation of the same or any other provision hereof. No delay or failure on the part of any party in exercising or enforcing any right, power or privilege hereunder will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege.

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

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

13.10. **Amendment.** Subject to the terms of the Compliance and Enforcement Agreement, this Agreement may be amended, and the terms hereof may be modified, only by a writing executed by each of the parties hereto, and any matter referred to herein as mutually agreed to or designated by the parties must be evidenced by such a writing.

13.11. **Counterparts.** This Agreement, and any document or instrument required or permitted hereunder, may be executed in counterparts, each of which will be deemed an original and all of which together will constitute but one and the same instrument.

13.12. **Entire Agreement.** This Agreement, including the Recitals, Exhibits, and Schedules, along with the Escrow Agreement and any other agreement which is incorporated herein by reference including the agreements and documents contemplated by Article III, supersede all previous agreements and constitute the entire agreement of whatsoever kind or nature existing among the parties representing the within subject matter, and no party will be entitled to benefits other than those specified herein. The parties specifically acknowledge that in entering into and executing this Agreement, the parties rely solely upon the representations, warranties and agreements contained herein and therein and no others. All prior representations or agreements, whether written or oral, not expressly referenced herein are superseded.

13.13. **Assignment.** No party to this Agreement may assign any of its rights or obligations under this Agreement without the prior written consent of the other party to this Agreement.

13.14. **Time of Essence.** With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers, all as of the date and year first above written.

PURCHASER:

**PRIME HEALTHCARE SERVICES –
GARDEN CITY, LLC**

Name: _____

Title: _____

SELLER:

GARDEN CITY HOSPITAL

Name: _____

Title: _____