

13-017

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD
APPLICATION FOR PERMIT

RECEIVED

APR 12 2013

SECTION I. IDENTIFICATION, GENERAL INFORMATION, AND CERTIFICATION

HEALTH FACILITIES &
SERVICES REVIEW BOARD

This Section must be completed for all projects.

Facility/Project Identification

Facility Name: Gold Coast Surgcenter		
Street Address: 845 North Michigan Avenue, Suite 985 West		
City and Zip Code: Chicago 60611		
County: Cook	Health Service Area: VI	Health Planning Area: Cook

Applicant /Co-Applicant Identification

[Provide for each co-applicant [refer to Part 1130.220].

Exact Legal Name: Gold Coast Surgcenter, LLC		
Address: 5252 North Western Avenue, Chicago, Illinois 60625		
Name of Registered Agent: Harold Rosen		
Name of Chief Executive Officer: Roberto Diaz, MD		
CEO Address: 5252 North Western Avenue, Chicago, Illinois 60625		
Telephone Number: (773) 988-8111		

Type of Ownership of Applicant/Co-Applicant

<input type="checkbox"/> Non-profit Corporation	<input type="checkbox"/> Partnership
<input type="checkbox"/> For-profit Corporation	<input type="checkbox"/> Governmental
<input checked="" type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Sole Proprietorship
	<input type="checkbox"/> Other

- o Corporations and limited liability companies must provide an **Illinois certificate of good standing**.
- o Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.

APPEND DOCUMENTATION AS ATTACHMENT 1 IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Primary Contact

[Person to receive all correspondence or inquiries during the review period]

Name: Charles H. Foley
Title: Health Care Consultant
Company Name: Charles H. Foley & Associates, Inc.
Address: 1638 South MacArthur Boulevard
Telephone Number: (217) 544-1551
E-mail Address: foley.associates@sbcglobal.net
Fax Number: (217) 544-3615

Additional Contact

[Person who is also authorized to discuss the application for permit]

Name: Mark J. Silberman
Title: Attorney at Law
Company Name: Duane Morris LLP
Address: 190 South LaSalle Street, Suite 3700, Chicago, Illinois 60603-3433
Telephone Number: (312) 499-6713
E-mail Address: mjsilberman@DuaneMorris.com
Fax Number: (312) 499-6701

Post Permit Contact

[Person to receive all correspondence subsequent to permit issuance-THIS PERSON MUST BE EMPLOYED BY THE LICENSED HEALTH CARE FACILITY AS DEFINED AT 20 ILCS 3960

Name: Roberto Diaz, MD
Title:
Company Name: Gold Coast Surgicenter, LLC
Address: 5252 North Western Avenue, Chicago, Illinois 60625
Telephone Number: (773) 988-8111
E-mail Address: rdmd78@msn.com
Fax Number: (312) 202-0409

Site Ownership

[Provide this information for each applicable site]

Exact Legal Name of Site Owner: Gold Coast Surgicenter, LLC
Address of Site Owner: 5252 North Western Avenue, Chicago, Illinois 60625
Street Address or Legal Description of Site: 845 North Michigan Avenue, Suite 985 West
Proof of ownership or control of the site is to be provided as Attachment 2. Examples of proof of ownership are property tax statement, tax assessor's documentation, deed, notarized statement of the corporation attesting to ownership, an option to lease, a letter of intent to lease or a lease.
APPEND DOCUMENTATION AS ATTACHMENT-2, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Operating Identity/Licensee

[Provide this information for each applicable facility, and insert after this page.]

Exact Legal Name: Gold Coast Surgicenter, LLC
Address: 5252 North Western Avenue, Chicago, Illinois 60625
<input type="checkbox"/> Non-profit Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> For-profit Corporation <input type="checkbox"/> Governmental <input checked="" type="checkbox"/> Limited Liability Company <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other
<ul style="list-style-type: none"> o Corporations and limited liability companies must provide an Illinois Certificate of Good Standing. o Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner. o Persons with 5 percent or greater interest in the licensee must be identified with the % of ownership.
APPEND DOCUMENTATION AS ATTACHMENT-3, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Organizational Relationships

Provide (for each co-applicant) an organizational chart containing the name and relationship of any person or entity who is related (as defined in Part 1130.140). If the related person or entity is participating in the development or funding of the project, describe the interest and the amount and type of any financial contribution.

APPEND DOCUMENTATION AS ATTACHMENT-4, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.
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Flood Plain Requirements

[Refer to application instructions.]

Provide documentation that the project complies with the requirements of Illinois Executive Order #2005-5 pertaining to construction activities in special flood hazard areas. As part of the flood plain requirements please provide a map of the proposed project location showing any identified floodplain areas. Floodplain maps can be printed at www.FEMA.gov or www.illinoisfloodmaps.org. This map must be in a readable format. In addition please provide a statement attesting that the project complies with the requirements of Illinois Executive Order #2005-5 (<http://www.hfsrb.illinois.gov>).

APPEND DOCUMENTATION AS ATTACHMENT -5, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Historic Resources Preservation Act Requirements

[Refer to application instructions.]

Provide documentation regarding compliance with the requirements of the Historic Resources Preservation Act.

APPEND DOCUMENTATION AS ATTACHMENT-6, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

DESCRIPTION OF PROJECT**1. Project Classification**

[Check those applicable - refer to Part 1110.40 and Part 1120.20(b)]

<p>Part 1110 Classification:</p> <p><input type="checkbox"/> Substantive</p> <p><input checked="" type="checkbox"/> Non-substantive</p>	<p>Part 1120 Applicability or Classification: [Check one only.]</p> <p><input type="checkbox"/> Part 1120 Not Applicable</p> <p><input type="checkbox"/> Category A Project</p> <p><input checked="" type="checkbox"/> Category B Project</p> <p><input type="checkbox"/> DHS or DVA Project</p>
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2. Narrative Description

Provide in the space below, a brief narrative description of the project. Explain **WHAT** is to be done in **State Board defined terms**, **NOT WHY** it is being done. If the project site does NOT have a street address, include a legal description of the site. Include the rationale regarding the project's classification as substantive or non-substantive.

The Applicant of Gold Coast Surgicenter, located at 845 North Michigan Avenue, Suite 985 West, Chicago, Illinois 60611, is Gold Coast Surgicenter, LLC. This project is only for the change of ownership as there are eleven entities who desire to purchase a total of 65 shares or nine parties with 6.6 percent of shares and two who will share 4.9 percent shares (individually 1.6 shares and 3.3 shares). The interest is currently held by Roberto Diaz, MD 85% shareholder. Upon project completion, Dr. Diaz will still be the largest single share holder with 20 shares.

It should be noted that the Applicant entity does not change as part of this transaction. The services to be provided are not changing, only the utilization of this existing health care resource will be enhanced along with the patient accessibility. As this project is simply a transfer in the majority shares of the Applicant entity, this project is considered as non-substantive in accordance with 77 Illinois Administrative Code, Chapter II, Subchapter a, criterion 1110.40.b.

Project Costs and Sources of Funds

Complete the following table listing all costs (refer to Part 1120.110) associated with the project. When a project or any component of a project is to be accomplished by lease, donation, gift, or other means, the fair market or dollar value (refer to Part 1130.140) of the component must be included in the estimated project cost. If the project contains non-reviewable components that are not related to the provision of health care, complete the second column of the table below. Note, the use and sources of funds must equal.

Project Costs and Sources of Funds			
USE OF FUNDS	CLINICAL	NONCLINICAL	TOTAL
Preplanning Costs			
Site Survey and Soil Investigation			
Site Preparation			
Off Site Work			
New Construction Contracts			
Modernization Contracts			
Contingencies			
Architectural/Engineering Fees			
Consulting and Other Fees			
Movable or Other Equipment (not in construction contracts)			
Bond Issuance Expense (project related)			
Net Interest Expense During Construction (project related)			
Fair Market Value of Leased Space or Equipment			
Other Costs To Be Capitalized (ATTACHMENT-7)	\$1,950,000		\$1,950,000
Acquisition of Building or Other Property (excluding land)			
TOTAL USES OF FUNDS	\$1,950,000		\$1,950,000
SOURCE OF FUNDS	CLINICAL	NONCLINICAL	TOTAL
Cash and Securities			
Pledges			
Gifts and Bequests			
Bond Issues (project related)			
Mortgages			
Leases (fair market value)			
Governmental Appropriations			
Grants			
Other Funds and Sources – Purchase Escrow			\$1,950,000
TOTAL SOURCES OF FUNDS			\$1,950,000
NOTE: ITEMIZATION OF EACH LINE ITEM MUST BE PROVIDED AT ATTACHMENT-7, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.			

Related Project Costs

Provide the following information, as applicable, with respect to any land related to the project that will be or has been acquired during the last two calendar years:

Land acquisition is related to project	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Purchase Price: \$	_____	
Fair Market Value: \$	3,000,000	

The project involves the establishment of a new facility or a new category of service
 Yes No

If yes, provide the dollar amount of all **non-capitalized** operating start-up costs (including operating deficits) through the first full fiscal year when the project achieves or exceeds the target utilization specified in Part 1100.

Estimated start-up costs and operating deficit cost is \$ N/A

Project Status and Completion Schedules

Indicate the stage of the project's architectural drawings:

<input checked="" type="checkbox"/> None or not applicable	<input type="checkbox"/> Preliminary
<input type="checkbox"/> Schematics	<input type="checkbox"/> Final Working

Anticipated project completion date (refer to Part 1130.140): July 1, 2013

Indicate the following with respect to project expenditures or to obligation (refer to Part 1130.140):

Purchase orders, leases or contracts pertaining to the project have been executed.
 Project obligation is contingent upon permit issuance. Provide a copy of the contingent "certification of obligation" document, highlighting any language related to CON Contingencies
 Project obligation will occur after permit issuance.

APPEND DOCUMENTATION AS ATTACHMENT-S, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

State Agency Submittals

Are the following submittals up to date as applicable:

Cancer Registry
 APORS
 All formal document requests such as IDPH Questionnaires and Annual Bed Reports been submitted
 All reports regarding outstanding permits

Failure to be up to date with these requirements will result in the application for permit being deemed incomplete.

Cost Space Requirements

Provide in the following format, the department/area **DGSF** or the building/area **BGSF** and cost. The type of gross square footage, either **DGSF** or **BGSF**, must be identified. The sum of the department costs **MUST** equal the total estimated project costs. Indicate if any space is being reallocated for a different purpose. Include outside wall measurements plus the department's or area's portion of the surrounding circulation space. **Explain the use of any vacated space.**

Dept. / Area	Cost	Gross Square Feet		Amount of Proposed Total Gross Square Feet That Is:			
		Existing	Proposed	New Const.	Modernized	As Is	Vacated Space
REVIEWABLE		9,448	9,448			9,448	
Medical Surgical							
Intensive Care							
Diagnostic Radiology							
MRI							
Total Clinical		9,448	9,448			9,448	
NON REVIEWABLE							
Administrative		1,895	1,895			1,895	
Parking							
Gift Shop							
Total Non-clinical		1,895	1,895			1,895	
TOTAL		11,343	11,343			11,343	

APPEND DOCUMENTATION AS ATTACHMENT-9, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD

APPLICATION FOR PERMIT- May 2010 Edition

CERTIFICATION

The application must be signed by the authorized representative(s) of the applicant entity. The authorized representative(s) are:

- o in the case of a corporation, any two of its officers or members of its Board of Directors;
- o in the case of a limited liability company, any two of its managers or members (or the sole manger or member when two or more managers or members do not exist);
- o in the case of a partnership, two of its general partners (or the sole general partner, when two or more general partners do not exist);
- o in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and
- o in the case of a sole proprietor, the individual that is the proprietor.

This Application for Permit is filed on the behalf of Gold Coast Surgicenter, LLC *
 in accordance with the requirements and procedures of the Illinois Health Facilities Planning Act. The undersigned certifies that he or she has the authority to execute and file this application for permit on behalf of the applicant entity. The undersigned further certifies that the data and information provided herein, and appended hereto, are complete and correct to the best of his or her knowledge and belief. The undersigned also certifies that the permit application fee required for this application is sent herewith or will be paid upon request.



 SIGNATURE
ROBERTO DIAZ, MD

 PRINTED NAME
PRESIDENT / CEO

 PRINTED TITLE

 SIGNATURE

 PRINTED NAME

 PRINTED TITLE

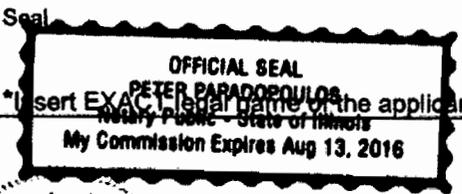
Notarization:
 Subscribed and sworn to before me
 this 10th day of April

Notarization:
 Subscribed and sworn to before me
 this _____ day of _____



 Signature of Notary

 Signature of Notary



Seal

* Insert EXACT legal name of the applicant



SECTION III – BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES - INFORMATION REQUIREMENTS

This Section is applicable to all projects except those that are solely for discontinuation with no project costs.

Criterion 1110.230 – Background, Purpose of the Project, and Alternatives

READ THE REVIEW CRITERION and provide the following required information:

BACKGROUND OF APPLICANT

1. A listing of all health care facilities owned or operated by the applicant, including licensing, and certification if applicable.
2. A certified listing of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application.
3. Authorization permitting HFSRB and DPH access to any documents necessary to verify the information submitted, including, but not limited to: official records of DPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. **Failure to provide such authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.**
4. If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this criterion. In such instances, the applicant shall attest the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed, to update and/or clarify data.

APPEND DOCUMENTATION AS ATTACHMENT-11, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM. EACH ITEM (1-4) MUST BE IDENTIFIED IN ATTACHMENT 11.

PURPOSE OF PROJECT

1. Document that the project will provide health services that improve the health care or well-being of the market area population to be served.
2. Define the planning area or market area, or other, per the applicant's definition.
3. Identify the existing problems or issues that need to be addressed, as applicable and appropriate for the project. [See 1110.230(b) for examples of documentation.]
4. Cite the sources of the information provided as documentation.
5. Detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being.
6. Provide goals with quantified and measurable objectives, with specific timeframes that relate to achieving the stated goals as appropriate.

For projects involving modernization, describe the conditions being upgraded if any. For facility projects, include statements of age and condition and regulatory citations if any. For equipment being replaced, include repair and maintenance records.

NOTE: Information regarding the "Purpose of the Project" will be included in the State Agency Report.

APPEND DOCUMENTATION AS ATTACHMENT-12, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM. EACH ITEM (1-6) MUST BE IDENTIFIED IN ATTACHMENT 12.

ALTERNATIVES

- 1) Identify **ALL** of the alternatives to the proposed project:

Alternative options **must** include:

- A) Proposing a project of greater or lesser scope and cost;
- B) Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or a portion of the project's intended purposes; developing alternative settings to meet all or a portion of the project's intended purposes;
- C) Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project; and
- D) Provide the reasons why the chosen alternative was selected.

- 2) Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of total costs, patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation. **FOR EVERY ALTERNATIVE IDENTIFIED THE TOTAL PROJECT COST AND THE REASONS WHY THE ALTERNATIVE WAS REJECTED MUST BE PROVIDED.**

- 3) The applicant shall provide empirical evidence, including quantified outcome data that verifies improved quality of care, as available.

APPEND DOCUMENTATION AS ATTACHMENT-13, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

SECTION VI - MERGERS, CONSOLIDATIONS AND ACQUISITIONS/CHANGES OF OWNERSHIP

This Section is applicable to projects involving merger, consolidation or acquisition/change of ownership.

NOTE: For all projects involving a change of ownership THE TRANSACTION DOCUMENT must be submitted with the application for permit. The transaction document must be signed dated and contain the appropriate contingency language.

A. Criterion 1110.240(b), Impact Statement

Read the criterion and provide an impact statement that contains the following information:

1. Any change in the number of beds or services currently offered.
2. Who the operating entity will be.
3. The reason for the transaction.
4. Any anticipated additions or reductions in employees now and for the two years following completion of the transaction.
5. A cost-benefit analysis for the proposed transaction.

B. Criterion 1110.240(c), Access

Read the criterion and provide the following:

1. The current admission policies for the facilities involved in the proposed transaction.
2. The proposed admission policies for the facilities.
3. A letter from the CEO certifying that the admission policies of the facilities involved will not become more restrictive.

C. Criterion 1110.240(d), Health Care System

Read the criterion and address the following:

1. Explain what the impact of the proposed transaction will be on the other area providers.
2. List all of the facilities within the applicant's health care system and provide the following for each facility.
 - a. the location (town and street address);
 - b. the number of beds;
 - c. a list of services; and
 - d. the utilization figures for each of those services for the last 12 month period.
3. Provide copies of all present and proposed referral agreements for the facilities involved in this transaction.
4. Provide time and distance information for the proposed referrals within the system.
5. Explain the organization policy regarding the use of the care system providers over area providers.
6. Explain how duplication of services within the care system will be resolved.
7. Indicate what services the proposed project will make available to the community that are not now available.

APPEND DOCUMENTATION AS ATTACHMENT-19, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

The following Sections **DO NOT** need to be addressed by the applicants or co-applicants responsible for funding or guaranteeing the funding of the project if the applicant has a bond rating of A- or better from Fitch's or Standard and Poor's rating agencies, or A3 or better from Moody's (the rating shall be affirmed within the latest 18 month period prior to the submittal of the application):

- Section 1120.120 Availability of Funds – Review Criteria
- Section 1120.130 Financial Viability – Review Criteria
- Section 1120.140 Economic Feasibility – Review Criteria, subsection (a)

VIII. - 1120.120 - Availability of Funds

The applicant shall document that financial resources shall be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources from the following sources, as applicable: **Indicate the dollar amount to be provided from the following sources:**

\$1,950,000	a)	Cash and Securities – statements (e.g., audited financial statements, letters from financial institutions, board resolutions) as to:
	1)	the amount of cash and securities available for the project, including the identification of any security, its value and availability of such funds; and
	2)	interest to be earned on depreciation account funds or to be earned on any asset from the date of applicant's submission through project completion;
_____	b)	Pledges – for anticipated pledges, a summary of the anticipated pledges showing anticipated receipts and discounted value, estimated time table of gross receipts and related fundraising expenses, and a discussion of past fundraising experience.
_____	c)	Gifts and Bequests – verification of the dollar amount, identification of any conditions of use, and the estimated time table of receipts;
_____	d)	Debt – a statement of the estimated terms and conditions (including the debt time period, variable or permanent interest rates over the debt time period, and the anticipated repayment schedule) for any interim and for the permanent financing proposed to fund the project, including:
	1)	For general obligation bonds, proof of passage of the required referendum or evidence that the governmental unit has the authority to issue the bonds and evidence of the dollar amount of the Issue, including any discounting anticipated;
	2)	For revenue bonds, proof of the feasibility of securing the specified amount and interest rate;
	3)	For mortgages, a letter from the prospective lender attesting to the expectation of making the loan in the amount and time indicated, including the anticipated interest rate and any conditions associated with the mortgage, such as, but not limited to, adjustable interest rates, balloon payments, etc.;
	4)	For any lease, a copy of the lease, including all the terms and conditions, including any purchase options, any capital improvements to the property and provision of capital equipment;
	5)	For any option to lease, a copy of the option, including all terms and conditions.
_____	e)	Governmental Appropriations – a copy of the appropriation Act or ordinance accompanied by a statement of funding availability from an official of the governmental unit. If funds are to be made available from subsequent fiscal years, a copy of a resolution or other action of the governmental unit attesting to this intent;
_____	f)	Grants – a letter from the granting agency as to the availability of funds in terms of the amount and time of receipt;
_____	g)	All Other Funds and Sources – verification of the amount and type of any other funds that will be used for the project.
\$1,950,000	TOTAL FUNDS AVAILABLE	

APPEND DOCUMENTATION AS ATTACHMENT-39, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

IX. 1120.130 - Financial Viability

All the applicants and co-applicants shall be identified, specifying their roles in the project funding or guaranteeing the funding (sole responsibility or shared) and percentage of participation in that funding.

Financial Viability Waiver

The applicant is not required to submit financial viability ratios if:

1. All of the projects capital expenditures are completely funded through internal sources
2. The applicant's current debt financing or projected debt financing is insured or anticipated to be insured by MBIA (Municipal Bond Insurance Association Inc.) or equivalent
3. The applicant provides a third party surety bond or performance bond letter of credit from an A rated guarantor.

See Section 1120.130 Financial Waiver for information to be provided

APPEND DOCUMENTATION AS ATTACHMENT 40, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

The applicant or co-applicant that is responsible for funding or guaranteeing funding of the project shall provide viability ratios for the latest three years for which audited financial statements are available and for the first full fiscal year at target utilization, but no more than two years following project completion. When the applicant's facility does not have facility specific financial statements and the facility is a member of a health care system that has combined or consolidated financial statements, the system's viability ratios shall be provided. If the health care system includes one or more hospitals, the system's viability ratios shall be evaluated for conformance with the applicable hospital standards.

Financial Viability Waiver met

Provide Data for Projects Classified as:	Category A or Category B (last three years)			Category B (Projected)
Enter Historical and/or Projected Years:				
Current Ratio				
Net Margin Percentage				
Percent Debt to Total Capitalization				
Projected Debt Service Coverage				
Days Cash on Hand				
Cushion Ratio				

2012 is not yet available

Provide the methodology and worksheets utilized in determining the ratios detailing the calculation and applicable line item amounts from the financial statements. Complete a separate table for each co-applicant and provide worksheets for each.

2. Variance

Applicants not in compliance with any of the viability ratios shall document that another organization, public or private, shall assume the legal responsibility to meet the debt obligations should the applicant default.

APPEND DOCUMENTATION AS ATTACHMENT 41, IN NUMERICAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

X. 1120.140 - Economic Feasibility

This section is applicable to all projects subject to Part 1120.

A. Reasonableness of Financing Arrangements

The applicant shall document the reasonableness of financing arrangements by submitting a notarized statement signed by an authorized representative that attests to one of the following:

- 1) That the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation; or
- 2) That the total estimated project costs and related costs will be funded in total or in part by borrowing because:
 - A) A portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order to maintain a current ratio of at least 2.0 times for hospitals and 1.5 times for all other facilities; or
 - B) Borrowing is less costly than the liquidation of existing investments, and the existing investments being retained may be converted to cash or used to retire debt within a 60-day period.

B. Conditions of Debt Financing

This criterion is applicable only to projects that involve debt financing. The applicant shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:

- 1) That the selected form of debt financing for the project will be at the lowest net cost available;
- 2) That the selected form of debt financing will not be at the lowest net cost available, but is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs and other factors;
- 3) That the project involves (in total or in part) the leasing of equipment or facilities and that the expenses incurred with leasing a facility or equipment are less costly than constructing a new facility or purchasing new equipment.

C. Reasonableness of Project and Related Costs

Read the criterion and provide the following:

- 1. Identify each department or area impacted by the proposed project and provide a cost and square footage allocation for new construction and/or modernization using the following format (insert after this page). **NOT GERMANE**

COST AND GROSS SQUARE FEET BY DEPARTMENT OR SERVICE											
Department (list below)	A	B	C		D		E	F	G	H	Total Cost (G + H)
	Cost/Square Foot New	Mod.	Gross Sq. Ft. New	Circ.*	Gross Sq. Ft. Mod.	Circ.*	Const. \$ (A x C)	Mod. \$ (B x E)			
Surgery											
Contingency											
TOTALS											

* Include the percentage (%) of space for circulation

D. Projected Operating Costs

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct cost means the fully allocated costs of salaries, benefits and supplies for the service.

E. Total Effect of the Project on Capital Costs

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

APPEND DOCUMENTATION AS ATTACHMENT -42, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

XI. Safety Net Impact Statement

SAFETY NET IMPACT STATEMENT that describes all of the following must be submitted for **ALL SUBSTANTIVE AND DISCONTINUATION PROJECTS**:

1. The project's material impact, if any, on essential safety net services in the community, to the extent that it is feasible for an applicant to have such knowledge.
2. The project's impact on the ability of another provider or health care system to cross-subsidize safety net services, if reasonably known to the applicant.
3. How the discontinuation of a facility or service might impact the remaining safety net providers in a given community, if reasonably known by the applicant.

Safety Net Impact Statements shall also include all of the following:

1. For the 3 fiscal years prior to the application, a certification describing the amount of charity care provided by the applicant. The amount calculated by hospital applicants shall be in accordance with the reporting requirements for charity care reporting in the Illinois Community Benefits Act. Non-hospital applicants shall report charity care, at cost, in accordance with an appropriate methodology specified by the Board.
2. For the 3 fiscal years prior to the application, a certification of the amount of care provided to Medicaid patients. Hospital and non-hospital applicants shall provide Medicaid information in a manner consistent with the information reported each year to the Illinois Department of Public Health regarding "Inpatients and Outpatients Served by Payor Source" and "Inpatient and Outpatient Net Revenue by Payor Source" as required by the Board under Section 13 of this Act and published in the Annual Hospital Profile.
3. Any information the applicant believes is directly relevant to safety net services, including information regarding teaching, research, and any other service.

A table in the following format must be provided as part of Attachment 43.

Safety Net Information per PA 96-0031			
CHARITY CARE			
Charity (# of patients)	2010	2011	2012
Inpatient	N/A	N/A	NYA
Outpatient	0	0	NYA
Total	0	0	NYA
Charity (cost in dollars)			
Inpatient	N/A	N/A	NYA
Outpatient	0	0	NYA
Total	0	0	NYA
MEDICAID			
Medicaid (# of patients)	Year	Year	Year
Inpatient	N/A	N/A	NYA
Outpatient	0	0	NYA

Total	0	0	NYA
Medicaid (revenue)			
Inpatient	N/A	N/A	NYA
Outpatient	0	0	NYA
Total	0	0	NYA

APPEND DOCUMENTATION AS ATTACHMENT-43, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

XII. Charity Care Information

Charity Care information **MUST** be furnished for **ALL** projects.

1. All applicants and co-applicants shall indicate the amount of charity care for the latest three **audited** fiscal years, the cost of charity care and the ratio of that charity care cost to net patient revenue.
2. If the applicant owns or operates one or more facilities, the reporting shall be for each individual facility located in Illinois. If charity care costs are reported on a consolidated basis, the applicant shall provide documentation as to the cost of charity care; the ratio of that charity care to the net patient revenue for the consolidated financial statement; the allocation of charity care costs; and the ratio of charity care cost to net patient revenue for the facility under review.
3. If the applicant is not an existing facility, it shall submit the facility's projected patient mix by payer source, anticipated charity care expense and projected ratio of charity care to net patient revenue by the end of its second year of operation.

Charity care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer. (20 ILCS 3960/3) Charity Care **must** be provided at cost.

A table in the following format must be provided for all facilities as part of Attachment 44.

CHARITY CARE			
	Year 2010	Year 2011	Year 2012
Net Patient Revenue	(\$218,596)	(\$805,488)	Not Yet Available
Amount of Charity Care (charges)	0	0	Not Yet Available
Cost of Charity Care	0	0	Not Yet Available

APPEND DOCUMENTATION AS ATTACHMENT-44, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

After paginating the entire, completed application, indicate in the chart below, the page numbers for the attachments included as part of the project's application for permit:

INDEX OF ATTACHMENTS		
ATTACHMENT NO.		PAGES
1	Applicant/Coapplicant Identification including Certificate of Good Standing	19-20
2	Site Ownership	21
3	Persons with 5 percent or greater interest in the licensee must be identified with the % of ownership.	21-161
4	Organizational Relationships (Organizational Chart) Certificate of Good Standing Etc.	162
5	Flood Plain Requirements	163
6	Historic Preservation Act Requirements	164
7	Project and Sources of Funds Itemization	
8	Obligation Document if required	
9	Cost Space Requirements	
10	Discontinuation	
11	Background of the Applicant	165-191
12	Purpose of the Project	192-210
13	Alternatives to the Project	211-214
14	Size of the Project	
15	Project Service Utilization	
16	Unfinished or Shell Space	
17	Assurances for Unfinished/Shell Space	
18	Master Design Project	
19	Mergers, Consolidations and Acquisitions	215-227
	Service Specific:	
20	Medical Surgical Pediatrics, Obstetrics, ICU	
21	Comprehensive Physical Rehabilitation	
22	Acute Mental Illness	
23	Neonatal Intensive Care	
24	Open Heart Surgery	
25	Cardiac Catheterization	
26	In-Center Hemodialysis	
27	Non-Hospital Based Ambulatory Surgery	
28	General Long Term Care	
29	Specialized Long Term Care	
30	Selected Organ Transplantation	
31	Kidney Transplantation	
32	Subacute Care Hospital Model	
33	Post Surgical Recovery Care Center	
34	Children's Community-Based Health Care Center	
35	Community-Based Residential Rehabilitation Center	
36	Long Term Acute Care Hospital	
37	Clinical Service Areas Other than Categories of Service	
38	Freestanding Emergency Center Medical Services	
	Financial and Economic Feasibility:	
39	Availability of Funds	228-272
40	Financial Waiver	273-274
41	Financial Viability	275-299
42	Economic Feasibility	300-303
43	Safety Net Impact Statement	304
44	Charity Care Information	

SECTION I. IDENTIFICATION, GENERAL INFORMATION AND CERTIFICATION

Continue i

Applicant /Co-Applicant Identification

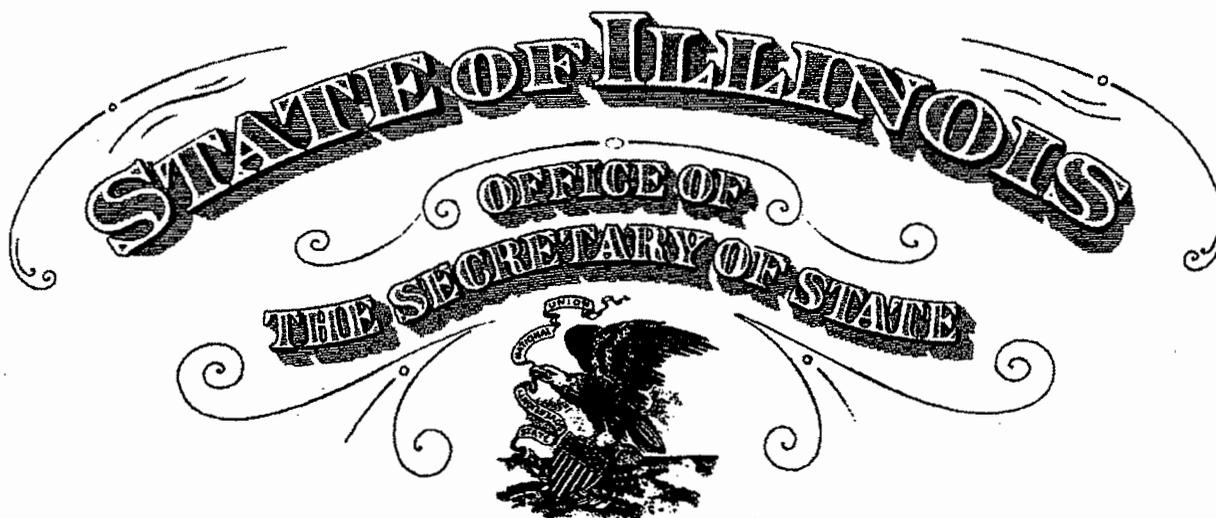
[Provide for each co-applicant [refer to Part 1130.220].

- Corporations and limited liability companies must provide an Illinois certificate of good standing.
- Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.

The applicant (operator) for Gold Coast Surgicenter is Gold Coast Surgicenter, LLC.

It should be noted that the Applicant entity is not changing for this Ambulatory Surgical Treatment Center (hereafter known as ASTC), only the control of this entity. An Illinois Certificate of Good Standing is appended as ATTACHMENT-1A.

ATTACHMENT-1



To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that

GOLD COAST SURGICENTER, LLC, HAVING ORGANIZED IN THE STATE OF ILLINOIS ON DECEMBER 07, 2009, APPEARS TO HAVE COMPLIED WITH ALL PROVISIONS OF THE LIMITED LIABILITY COMPANY ACT OF THIS STATE, AND AS OF THIS DATE IS IN GOOD STANDING AS A DOMESTIC LIMITED LIABILITY COMPANY IN THE STATE OF ILLINOIS.



Authentication #: 1306401994

Authenticate at: <http://www.cyberdriveillinois.com>

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this 5TH day of MARCH A.D. 2013 .

Jesse White

SECRETARY OF STATE

ATTACHMENT - 1A

SECTION I. IDENTIFICATION, GENERAL INFORMATION AND CERTIFICATION

Continue II

Site Ownership

Proof of ownership or control of the site is to be provided as Attachment 2. Examples of proof of ownership are property tax statement, tax assessor's documentation, deed, notarized statement of the corporation attesting to ownership, an option to lease, a letter of intent to lease or a lease.

The landlord of the ASTC is the same entity controlling the entire site and building known as Water Tower Place. This entity is Water Tower, LLC. This entity is not considered a co-Applicant as it has no "control" over the ASTC other than as set forth by the lease.

ATTACHMENT-2

SECTION I. IDENTIFICATION, GENERAL INFORMATION AND CERTIFICATION

Continue iii

Operating Identity/Licensee

- Corporations and limited liability companies must provide an Illinois Certificate of Good Standing.

A certificate of Good Standing from the Illinois Secretary of State for Gold Coast Surgicenter, LLC is appended as **ATTACHMENT-3A**.

- Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.

This project is essentially for the sale of 65% or shares in the Applicant entity by Roberto Diaz, MD to eleven physicians or their assigns. The proposed partners of the entity will have interest as specified in the Membership Interest Purchase Agreement (see **ATTACHMENT-3B**). It should be noted that Dr. Diaz will retain 20% interest, the largest single shareholder of the entity.

- Persons with 5 percent or greater interest in the licensee must be identified with the % of ownership.

Members of Gold Coast Surgicenter, LLC:

Brian J. Cole, M.D., S.C. (Brian Cole, M.D.)	6.6667%
Anthony A. Romeo, M.D., S.C. (Anthony Romeo, M.D.)	6.6667%
SC SRK Ventures LLC (Kern Singh, M.D.)	6.6667%
NSV Investments, LLC (Nikhil Verma, M.D.)	6.6667%
Gregory P. Nicholson, M.D., P.C. (Gregory Nicholson, M.D.)	6.6667%
Mark S. Cohen 2009 Declaration of Trust U/A DTD March 14, 2009 (Mark Cohen, M.D.)	6.6667%
John Fernandez, M.D.	6.6667%
Fraden, Inc. (Frank Phillips, M.D.)	6.6667%
EJG LLC (Edward Goldberg, M.D.)	6.6667%
S2 Ventures LLC (Shane Nho, M.D.)	3.3333%
Robert Wysocki, M.D.	1.6667%
Neuro One, LLC	5.0000%
Roberto Diaz, M.D.	20.0000%
Smithfield Surgical Partners, LLC	5.0100%
Greg Horner, M.D.	4.9900%

ATTACHMENT-3



To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that

GOLD COAST SURGICENTER, LLC, HAVING ORGANIZED IN THE STATE OF ILLINOIS ON DECEMBER 07, 2009, APPEARS TO HAVE COMPLIED WITH ALL PROVISIONS OF THE LIMITED LIABILITY COMPANY ACT OF THIS STATE, AND AS OF THIS DATE IS IN GOOD STANDING AS A DOMESTIC LIMITED LIABILITY COMPANY IN THE STATE OF ILLINOIS.



Authentication #: 1306401994

Authenticate at: <http://www.cyberdriveillinois.com>

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this 5TH day of MARCH A.D. 2013 .

Jesse White

SECRETARY OF STATE

MEMBERSHIP INTEREST PURCHASE AGREEMENT

This Membership Interest Purchase Agreement (this "Agreement"), dated January 31, 2013 (the "Execution Date"), is by and among Gold Coast Surgicenter, LLC, an Illinois limited liability company (the "Company"), Smithfield Surgical Partners, LLC ("Smithfield"), Roberto Diaz, M.D. ("Dr. Diaz"), Neuro One, LLC ("Neuro One"), Greg Horner, M.D. ("Dr. Horner", and together with Smithfield, Neuro One, and Dr. Diaz, the "Owners") and Brian J. Cole, M.D. S.C., Anthony A. Romeo, M.D., S.C., SC SRK Ventures LLC, NSV Investments, LLC, Gregory P. Nicholson, MD, P.C., Mark S. Cohen 2009 Declaration of Trust U/A DTD March 14, 2009, John Fernandez, M.D., Fraden, Inc., EJG LLC, S2 Ventures LLC and Robert Wysocki, M.D. (each, a "Purchaser" and collectively, the "Purchasers").

Recitals:

WHEREAS, the Company owns and operates a licensed freestanding surgery center located at 845 North Michigan Avenue, Suite 985W, Chicago, Illinois 60611 (the "Center");

WHEREAS, Dr. Diaz owns eighty-five (85) units of membership interest in the Company (each, a "Unit"), which equates to an eighty-five percent (85%) ownership in the Company;

WHEREAS, Dr. Diaz desires to sell to the Company sixty-five (65) of his eighty-five (85) Units (the "Redeemed Units"), for a purchase price of One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000);

WHEREAS, the Purchasers desire to purchase from the Company a total of sixty-five (65) Units in the Company as set forth in Exhibit A hereto (collectively, the "Purchased Units"), which in the aggregate shall represent a sixty-five percent (65%) ownership interest in the Company, for a total purchase price of One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000); and

WHEREAS, the ownership of the Company immediately after Closing shall be as set forth in Exhibit A hereto.

NOW, THEREFORE, in consideration of the premises and the mutual representations, warranties and covenants of the parties hereinafter set forth, the parties agree as follows:

1. SALE OF COMPANY INTERESTS TO PURCHASER; OPTION

1.1. **Sale of Units.** In reliance upon the representations and warranties of Purchasers contained herein, upon receipt of the Purchase Price (as defined in Section 2.1 herein) and on the terms and conditions hereinafter set forth, the Company hereby agrees to issue and deliver to Purchasers at the Closing, the Purchased Units free and clear of all Liens. In reliance upon the representations and warranties of the Company contained herein, and on the terms and conditions hereinafter set forth, Purchasers hereby agree to purchase the Purchased Units from the Company for the Purchase Price set forth in Section 2 hereof.

1.2. Option to Purchase Additional Units.

(a) The Owners hereby grant to Purchasers the option (the "Option") to purchase, for an amount equal to the Option Purchase Price (as defined below) (to be divided between Dr. Diaz, Smithfield, Dr. Horner and Neuro One in proportion to the number of Option Units sold by each) five (5) additional Units in the Company (the "Option Units"), two (2) of which shall be sold by Diaz, one (1) of which shall be sold by Smithfield, one (1) of which shall be sold by Dr. Horner and one (1) of which shall be sold by Neuro One representing, in the aggregate an additional five percent (5%) ownership interest in the Company (i.e., the Purchasers shall have the right to exercise the Option with respect to Units needed to increase their collective ownership from sixty-five percent (65%) of one hundred (100) total Units to seventy percent (70%) of one hundred (100) Units. The "Option Purchase Price" shall be defined as the Formula Amount multiplied by five percent (5%). The "Formula Amount" shall be equal to the product of four and one-half ($4\frac{1}{2}$), times the Company's net operating income (in accordance with generally accepted accounting principles), excluding extraordinary gains and losses, calculated before deduction of interest, taxes, depreciation and amortization ("EBITDA"), then minus all of the Company's outstanding long-term debt and long-term liabilities (including equipment lease financing obligations) excluding facilities lease obligations (ERGO, leases of space for the surgery center and offices) as of the date (the "Exercise Date") on which the Purchasers deliver to the Company the Exercise Notice (as defined below), determined in accordance with generally accepted accounting principles, provided, however, the following percentages of long term debt incurred after the Closing shall be excluded based on the exercise date: one hundred percent (100%) of debt incurred in the first fiscal year following the Closing, eighty percent (80%) of debt incurred in the second fiscal year following the Closing, sixty percent (60%) of debt incurred in the third fiscal year following the Closing, forty percent (40%) of debt incurred during the fourth fiscal year following the closing, twenty percent (20%) of debt incurred during the fifth fiscal year following Closing. For this purpose, the annual net operating income of the Company and its EBITDA shall be based on (i) the first completed fiscal year after the Closing Date, or (ii) the close of the completed fiscal year immediately prior to the Exercise Date, whichever is later. All calculations used to determine the Option Purchase Price shall be performed by the Company's regularly retained accountants and such accountants shall issue a report to the Owners and the Purchasers setting forth their calculations and supporting documentation for each such calculation. For example, assuming on the Exercise Date that the Purchasers collectively own a sixty-five percent (65%) ownership interest or sixty-five (65) Units, Dr. Diaz owns a twenty percent (20%) ownership interest or twenty (20) Units, Smithfield and Horner collectively own a ten percent (10%) ownership interest or ten (10) Units, and Neuro One owns a five percent (5%) ownership interest or five (5) Units and the Option Purchase Price equals One Hundred Thousand Dollars (\$100,000), then the Purchasers shall have the right collectively to purchase two percent (2%) or two (2) Units for Forty Thousand Dollars (\$40,000) from Dr. Diaz and two percent (2%) or two (2) Units for Forty Thousand Dollars (\$40,000) from Smithfield and Horner and one percent (1%) or one (1) Unit for Twenty Thousand Dollars (\$20,000) from Neuro One.

(b) Purchasers shall exercise the Option, in whole or in part (but may only exercise the Option once), by written notice delivered to the Company ("Exercise Notice") at any time on or after the first anniversary of the Closing Date, but not later than the sixth (6th) anniversary of the Closing Date. Each Purchaser shall have the right to purchase a ratable portion of the Option Units determined by the ratio of (A) the number of Units then held by such Purchaser to (B) the total number of Units then held by all Purchasers, or as otherwise determined by Purchasers, but

if any Purchaser fails to close his/her purchase, the option shall be deemed waived to the extent of that portion of the purchase.

(c) Consummation of the Option (the "Option Closing") shall occur on the date specified by Purchasers after having given the Exercise Notice but in any event, within one hundred twenty (120) days following the date of the Exercise Notice (the "Closing Deadline"), or sixty (60) days following the resolution of dispute in accordance with Section 1.2(e) below, whichever is later.

(d) Notwithstanding anything to the contrary contained herein, until the Option has been exercised by Purchasers or has expired, Dr. Diaz, Smithfield, Dr. Horner and Neuro One shall not Transfer their Units without prior written consent of each and every Purchaser, provided, however, Neuro One may transfer five (5) of its Units (but no more) to Smithfield without consent from Purchasers. Time is of the essence and the option shall expire on the sixth anniversary of the Closing Date. Further, a failure to close after exercise of the option strictly in accordance with its terms and deadlines will waive the option. Only full payments of the option purchase price will be considered payment of the option purchase price and part payment shall not extend any deadline.

(e) In the event of a dispute regarding the calculation of the Option Purchase Price, such dispute shall be settled in accordance with this Section 1.2(e).

(i) If the Purchasers or the Owners disagree in any respect with the calculation of the Option Purchase Price, then within thirty (30) days immediately following the Purchasers' or Owners' receipt of the calculation (the "Review Period"), the Purchasers or Owners may deliver a notice to the non-disputing party setting forth, in reasonable detail, each disputed item or amount and the basis for such disagreement, together with supporting calculations (the "Dispute Notice"). The Dispute Notice shall set forth the disputing party's position as to the proper calculation of the Option Purchase Price. If no Dispute Notice is delivered on or prior to the last day of the Review Period, then the calculation of Option Purchase Price shall be deemed accepted by the parties. The Dispute Notice shall be deemed properly delivered to Purchasers so long as it is delivered to Nikhil Verma, MD with a copy to Purchasers' counsel - McGuireWoods LLP - in accordance with Section 13.5.

(ii) Within five (5) business days after receipt of a Dispute Notice, the parties shall meet and attempt to resolve in writing the issues set forth in the Dispute Notice, and any issues resolved and agreed upon in any such writing will be deemed final and binding upon the parties. In the event that the parties do not resolve and settle such issues within such five (5) business days, or such extended time period as the parties may agree upon in writing, then and in such event (such period, the "Discussion Period"), the parties shall jointly retain a nationally-recognized independent accounting firm (the "Accountant") to resolve the issues set forth in the Dispute Notice (if the Parties shall be unable to agree on the Accountant within twenty (20) days immediately following the Discussion Period, then the Accountant shall be Ron Ralph at Crowe Chizek. The Accountant shall, acting as an expert and not as an arbitrator, conduct such review of the disputed items, any related work papers of the parties and the Dispute Notice, and any supporting documentation as the Accountant in its sole discretion deems necessary, and the Accountant shall consult with both sides to any dispute and, in its sole discretion, conduct

such hearings or hear such presentations by the parties as the Accountant deems necessary. The Accountant's determination shall be conclusive and binding upon the parties. The scope of the disputes to be resolved by the Accountant shall be limited to whether the calculation of Option Purchase Price was done in a manner consistent with the Company's historical accounting principles, consistently applied, and otherwise in accordance with this Agreement, and the Accountant is not to make any other determination unless jointly requested in writing by the parties.

(f) The Accountant shall as promptly as practicable, and in no event later than forty-five (45) days following the date of its retention, deliver to the parties a report setting forth its determination of Option Purchase Price. The fees, expenses and costs of the Accountant for the services described herein shall be paid by the party whose aggregate dollar amount determinations of the issues contained in the Dispute Notice are farthest from the aggregate determinations of the Accountant.

1.3. **Ownership of Company Following Transactions.** As a result of the sales described in this Section 1, the ownership of the Company (before and after purchase of the Option Units based on present ownership) will be as set forth in Exhibit A hereof.

2. PURCHASE PRICE; WORKING CAPITAL

2.1. Purchase Price; Use of Proceeds.

(a) The aggregate purchase price for the Purchased Units shall be One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000) (the "Purchase Price").

(b) The Company shall use the Purchase Price to redeem the Redeemed Units from Dr. Diaz. The entire Purchase Price, subject to adjustment pursuant to Section 2.3 below, shall be distributed to Diaz.

2.2. **Satisfaction of Excess Funded Debt.** At Closing, the Company shall pay or cause to be paid all Funded Debt of the Company in excess of Zero Dollars (\$0) (the "Funded Debt Cap"). As used herein "Funded Debt" shall mean (A) all indebtedness (whether or not contingent) for borrowed money, (B) all obligations (contingent or otherwise) for the deferred purchase price of assets, property or services, (C) all obligations evidenced by notes, bonds, debentures or other similar instruments, (D) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property, (E) all obligations under capital leases (excluding any lease back payments, which are included in the calculation of Net Working Capital), (F) all outstanding payment obligations, as an account party under acceptance, letter of credit or similar facilities, (G) all obligations under any currency, interest rate or other hedge agreement or any other hedging arrangements, (H) all direct or indirect guarantee, support or keep well obligations in respect of obligations of the kind referred to in clauses (A) through (G) immediately preceding, and (I) all obligations of the kind referred to in clauses (A) through (H) immediately preceding secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any lien or encumbrance on any asset of the Company. "Funded Debt" for purposes of determining debt which must be paid off shall not include debt incurred after the Execution Date solely to the extent such debt is approved by Purchasers.

2.3. Net Working Capital; Adjustment to Purchase Price.

(a) **Purchase Price Adjustment.** The Purchase Price is conditioned upon the following: (i) as of the Closing, the Company will have no Funded Debt in excess of the Funded Debt Cap; and (ii) as of the Closing, the Company's Net Working Capital (as defined below) will equal or exceed Four Hundred Thirty-Five Thousand Thirty Five and 27/100 Dollars (\$435,035.27) (the "Target Amount"); (iii) as of Closing, any amounts accrued or owed by the Company to any Owner or any Affiliate of an Owner ("Related Party Debt") shall have been forgiven by such Owner or Affiliate through a written instrument of forgiveness and eliminated from the Company's Balance Sheet; and (iv) the Company shall not have made any distributions or other payments to the Owners between execution and Closing unless all of the Company's short-term and long-term liabilities are current with a zero past due balance as of the date of distribution, and only then, distributions may be made solely as necessary to satisfy each Owner's tax obligations with respect to his, her or its ownership of Units and chargeable income in the Company that has not been received by the Owners (e.g., forty percent (40%) of income of the Company, if any, allocated to a Member due to the Company's status as limited liability company that is taxed as a partnership). In the event that any of the above conditions is not satisfied as of the Closing, the following adjustments shall be made: (a) if Net Working Capital is below the Target Amount (the "Working Capital Deficiency"), the Purchase Price shall be reduced by the amount equal to the Working Capital Deficiency; (b) if the Funded Debt exceeds the Funded Debt Cap (a "Funded Debt Surplus"), the Purchase Price shall be reduced by the amount of the Funded Debt Surplus; (c) if the Company has not obtained the forgiveness of all Related Party Debt, or has used Company funds to satisfy any Related Party Debt (except payments to Midwest Medical Billing Services Inc. for billing and collection services rendered between the execution of this Agreement and the Closing as contemplated by Section 6.17), the Purchase Price shall be reduced by the amount of the remaining balance of all Related Party Debt outstanding as of the Closing Date, plus all amounts paid to satisfy Related Party Debt prior to Closing (and in such case, the payment of such amounts shall be set forth in Schedule 2.3(a) hereto and match amounts owed by the Company on the Company's Interim Balance Sheet); and (d) if the Company has made any distributions not in accordance with subsection (iv) above, then the Purchase Price will be reduced by the total amount of any distributions or payments made by the Company to the Owners not permitted by subsection (iv) above. The aggregate Purchase Price shall be adjusted, dollar for dollar, to the extent of the variances described above; provided, in no event shall the Purchase Price be adjusted below Zero Dollars (\$0). Further, the parties acknowledged that the adjustments described herein shall operate solely to reduce the Purchase Price and there shall be no adjustments to increase the Purchase Price. Any such adjustment shall be due and payable by the Company within thirty (30) business days of written demand. Interest at the prime rate of interest as published on the date of demand in the *Wall Street Journal*, shall accrue with respect to any adjustment amount not paid within thirty (30) business days of demand therefore. For purposes of this Agreement, "Affiliate" shall mean with reference to a specified person, (a) any member of such person's immediate family, (b) any person who owns directly or indirectly ten percent (10%) or more of the beneficial ownership in such person, (c) any one or more legal representatives of such person and/or any persons referred to in the preceding clauses (a) or (b); and (d) any entity in which any one or more of such person and/or the persons referred to in the preceding clauses (a), (b) or (c) owns directly or indirectly ten percent (10%) or more of the beneficial ownership.

(b) **Net Working Capital.** "Net Working Capital" shall mean the aggregate of (i) accounts receivable, inventories, cash and prepaid accounts of the Company, as listed in Schedule 2.3(b)(i), minus (ii) accounts payable as listed in Schedule 2.3(b)(ii) (none of which shall include any Related Party Debt, which shall be forgiven at Closing or deducted from the Purchase Price in accordance with Section 2.3(a) above), accrued expenses and accrued taxes of the Company, in each case, calculated consistent with past accounting practices. No portion of the Funded Debt shall be included in the calculation of Net Working Capital.

(c) **Preparation and Review of Closing Balance Sheet.**

(i) As promptly as practicable, but no later than thirty (30) days after the Closing, the Company will cause to be prepared and delivered to Purchasers at the Company's expense (i) the closing balance sheet (the "Closing Balance Sheet") accompanied by a compilation statement thereon from the Company's accountants and (ii) a certificate of the Company, including a determination of Funded Debt and a calculation of Net Working Capital as of the end of the business day of the Closing (the "Adjustment Certificate"). Purchasers shall have forty-five (45) days from the date on which such Closing Balance Sheet and the Adjustment Certificate are delivered to the Company to review such documents (the "Review Period"). Purchasers and its accountants, along with reasonable assistance of the Company's employees, shall be provided with full access to the work papers of the Company's accountants and the Company's books and records in connection with such review. If Purchasers disagree in any respect with the calculation of any amount shown or reflected in the Closing Balance Sheet or Adjustment Certificate or with the calculation of the Purchase Price for the Purchased Units, Purchasers may, on or prior to the last day of the Review Period, deliver a notice to the Company setting forth, in reasonable detail, each disputed item or amount and the basis for Purchasers' disagreement therewith, together with supporting calculations (the "Dispute Notice"). The Dispute Notice shall set forth Purchasers' position as to the proper calculations. If no Dispute Notice is received by the Company on or prior to the last day of the Review Period, the Closing Balance Sheet and the Adjustment Certificate shall be deemed accepted by Purchasers.

(ii) Within five (5) business days after the Company's receipt of a Dispute Notice, Purchasers and the Company shall meet and attempt to resolve the issues set forth in the Dispute Notice. In the event Purchasers and the Company do not resolve and settle such issues within such five (5) business days, or such extended time period as the parties may agree upon in writing, then and in such event, Purchasers and the Company shall jointly retain an independent accounting firm (the "Accountant") to resolve the issues set forth in the Dispute Notice. The Accountant shall conduct such review of the disputed Closing Balance Sheet, any related work papers of Purchasers or the Company's accountants, the Adjustment Certificate and the Dispute Notice, and any supporting documentation as the Accountant in its sole discretion deems necessary, and the Accountant shall consult with both sides to any dispute and, in its sole discretion, conduct such hearings or hear such presentations by the parties as the Accountant deems necessary.

(iii) The Accountant shall, as promptly as practicable, and in no event later than forty-five (45) days following the date of its retention, deliver to Purchasers and the Company a report (the "Adjustment Report"), in which the Accountant shall, after considering all matters set forth in the Dispute Notice (and only the matters set forth in the Dispute Notice), determine what adjustments, if any, should be made to the disputed Closing Balance Sheet in order for it to comply with the requirements of this Agreement. The fees, expenses and costs of the Accountant for the services described herein shall be paid by the party whose aggregate dollar amount determinations of the issues contained in the Dispute Notice are farthest from the aggregate determinations of the Accountant. The Adjustment Report shall be final and binding upon Purchasers and the Company.

(iv) Effective upon the end of the Review Period (if a timely Dispute Notice is not delivered), or upon the resolution of all matters set forth in the Dispute Notice by agreement of the parties or by the issuance of the Adjustment Report (if a timely Dispute Notice is delivered) (the "Resolution Date"), if appropriate, the Closing Balance Sheet shall be adjusted to reflect the final resolution of any disputed items, and the Purchase Price shall be conclusively determined, based upon the Closing Balance Sheet.

(d) **Balance Sheet Preparation.** The Closing Balance Sheet shall (i) fairly present the financial position of the Company as of the Closing Date, with the Company getting credit for all cash and receivables received through 11:59 P.M. on the day immediately preceding the Closing Date and not swept from the Company's bank accounts or lock boxes by 11:59 P.M. on the day immediately preceding the Closing Date and (ii) be prepared in accordance with GAAP, applied in a manner consistent with past accounting practices.

3. CLOSING

3.1. **Escrow.** On or prior to the Execution Date, the parties hereto shall execute this Agreement, the Amended Operating Agreement and the Management Agreement (as each term is defined below) and escrow the three fully-executed documents with McGuireWoods LLP, which shall act as escrow agent pursuant to the Escrow Agreement attached hereto as Exhibit 3.1 (the "Escrow Agreement") by and among the parties hereto and McGuireWoods LLP. The Escrow Agreement shall provide, among other things, that the Purchasers shall deposit One Hundred Fifty Thousand Dollars (\$150,000) (the "Deposit") to be held in trust pending the Closing or termination of this Agreement. McGuireWoods LLP shall provide confirmation of its receipt of the Deposit to the Company in accordance with Section 13.5. This Agreement shall be not be binding on the Company or any of the Owners until the Deposit is escrowed with McGuireWoods LLP.

3.2. **Closing.** The closing of the transactions that are the subject of this Agreement related to the purchase of the Purchased Units (the "Closing") shall take place at the offices of the Company within ten (10) business days after the satisfaction of all conditions to the parties' obligations to consummate the transactions contemplated hereby, which shall in no event be later than August 1, 2013, or at such other time as shall be agreed upon by all the parties hereto (the "Closing Date"). Anything in the foregoing to the contrary notwithstanding, it is acknowledged that this transaction involves a change of ownership which must be approved by the Illinois Health Facilities and Services Review Board ("IHFSRB"). Accordingly, the Closing shall not

occur until after such approval is obtained. Moreover, this Agreement requires approval of the Landlord of the Center. Thus, the Closing Date shall be after approval of the Landlord is obtained. All parties agree to cooperate in all reasonable efforts to obtain both consents and understand that this may require financial disclosures. Time is of the essence in all matters related to the requisite consents.

3.3. Obligations of the Parties at the Closing.

(a) At the Closing, Purchasers will deliver to the Company:

(i) the Purchase Price as specified in Article 2, less the amount of the Deposit and the Escrowee shall deliver the deposit to the Company free of all claims which Purchasers may have;

(ii) a certificate of Purchasers certifying as to the accuracy of the representations and warranties of Purchasers, and that Purchasers have performed or complied with all of the covenants, agreements, terms, provisions and conditions of this Agreement;

(iii) a Second Amended and Restated Operating Agreement of the Company, in substantially the form of Exhibit 3.3(a)(iii) attached hereto (the "Amended Operating Agreement") duly executed by Purchasers; and

(iv) a Medical Director Agreement (as defined in Section 6.15), duly executed by the Purchaser (or physician owner of a Purchaser) designated to serve as Medical and Executive Director.

(b) At the Closing, the Company and the Owners will deliver to Purchasers:

(i) a certified copy of the articles of organization of the Company;

(ii) a certificate from the Class B Managers of the Company certifying that its board of managers and members have authorized the execution, delivery and performance of this Agreement and the other documents referred to herein, and the consummation of the transactions contemplated hereby;

(iii) a certificate of the Company certifying as to the accuracy of its representations and warranties at and as of the Closing and that it has performed or complied with all of the covenants, agreements, terms, provisions and conditions to be performed or complied with by the Company at or before the Closing;

(iv) a certificate of each Manager certifying as to the accuracy of such Managers' representations and warranties, and a certificate from each Owner certifying

that such Owner has performed or complied with all of the covenants, agreements, terms, provisions and conditions of this Agreement applicable to the Owners;

(v) the Second Amended Operating Agreement (as defined in Section 3.3(a)(iii) hereof), duly executed by the Company and the Owners;

(vi) the Management Services Agreement, entered into by the Company and Smithfield, in substantially the form of Exhibit 3.3(b)(vi) (the "Management Agreement"), duly executed by the Company and Smithfield;

(vii) a Medical Director Agreement (as defined in Section 6.15), duly executed by the Company;

(viii) a claims history showing, at a minimum, open, closed and reserved incidents and claims involving the Center (as defined in Section 4.5(d)) during the period from the inception of the Company to the Closing Date or since the date of opening of the Center, if sooner;

(ix) a good standing certificate of the Company issued by the Secretary of State of Illinois; and

(x) such other certificates and documents as Purchasers or their counsel may reasonably request.

4. REPRESENTATIONS AND WARRANTIES BY THE COMPANY AND THE MANAGERS

The Company and each Manager represent and warrant, jointly and severally, to Purchasers as of the Execution Date and the Closing Date as follows. "Managers" mean solely Dr. Diaz and Todd Borst. The representations and warranties being made in this Article 4 are not being made by any Owner in his capacity as Owner.

4.1. **Organization.** The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Illinois with full power and authority to conduct its business as now conducted and to own, lease or operate its properties and assets as now owned, leased or operated.

4.2. **Authorization.** Each of the Owners and the Company has full power and authority to enter into this Agreement and perform its obligations hereunder and carry out the transactions contemplated hereby. The execution, delivery and performance by the Company and the Owners of this Agreement and the consummation of the transactions contemplated hereby, including the issuance and delivery of the Purchased Units, have been duly authorized and approved by the Company and the Owners. This Agreement, when executed, will constitute a valid and binding obligation of the Company and the Owners, enforceable against all in

accordance with its terms, but it is acknowledged to be conditioned upon consents from both the Landlord of the Center and the IHFSRB.

4.3. **No Violation.** Except as set forth in Schedule 4.3, the execution and delivery of this Agreement by the Company and the Owners does not, and the consummation of the transactions contemplated hereby will not, (a) violate any provision of, or result in the creation of any lien or security interest under, any contract or agreement to which the Company or an Owner is a party or by which any of the Company's or the Owners' assets or properties are bound; (b) violate any provision of the articles of organization or operating agreement of the Company; (c) violate any order, arbitration award, judgment, writ, injunction, decree, statute, rule or regulation applicable to the Company or any Owner; or (d) violate any other contractual or legal obligation or restriction to which the Company or the Owners are subject.

4.4. **Financial Statements.** Attached as Schedule 4.4 are true and complete copies of (a) accrual basis balance sheets of the Company as of December 31 in each of 2010 and 2011, and the related unaudited statements of income, changes in members' equity and cash flows for the fiscal years then ended, compiled without disclosures and (b) an accrual basis balance sheet of the Company (the "Interim Balance Sheet") as of September 30, 2012 (the "Interim Balance Sheet Date"), compiled without disclosures, and related compiled statements of income for the nine (9) months then ended (such financial statements contained therein in clauses (a) and (b), collectively, the "Financial Statements"). The Financial Statements fairly present in all material respects the financial condition and the results of operations, changes in members' equity, and cash flows of the Company as at the respective dates of and for the periods referred to in the Financial Statements. The Financial Statements have been prepared from the books and records of the Company (which are true and correct in all material respects). There has not been any change between the Interim Balance Sheet Date and the date of this Agreement which has had or is likely to have an adverse effect on the financial position, results of operations or business or prospects of the Company. The Company and the Owners acknowledge and agree that Purchasers relied upon the financial information set forth in the Financial Statements in order to determine the consideration paid under Section 2 hereof.

4.5. **Ownership of Purchased Units and Assets.**

(a) Dr. Diaz has good and marketable title to all of the Redeemed Units and the Company has good and marketable title to all of the Purchased Units, and except as listed in Schedule 4.5(a) attached hereto, the Company owns and possesses and has good and marketable title to all of the Assets (defined below), free and clear of all mortgages, pledges, liens, security interests, conditional sale agreements, defects, charges, encumbrances and rights of third parties, and no conditions exist which could give rise to any such mortgage, pledge, lien, security interest, defect, charge, encumbrance on, or right of any such third party to, the Purchased Units or the Assets (defined below).

(b) Attached as Schedule 4.5(b) is a true and complete list of all of the owners of the Company immediately prior to the Closing and their ownership interest.

(c) Except as listed on Schedule 4.5(c), the Company does not own or have any interest in any land, buildings or other real property.

(d) As of the Closing, the assets then owned by the Company comprise all of the assets and property (the "Assets") necessary to conduct its business as conducted prior to the Closing (the "Business"), including, without limitation the following:

(i) cash, cash equivalents and short-term investments;

(ii) all of the tangible personal property owned by the Company or the Owners with respect to the operation of the Business, including all equipment, furniture, fixtures, machinery, vehicles, office furnishings, leasehold improvements and inventories of supplies, drugs and other disposables and consumables related to the operation of the Business (the "Personal Property");

(iii) all of the real property that is leased by the Company or the Owners and used with respect to the operation of the Business, together with the Company's rights to all buildings, improvements and fixtures located thereupon and all construction in progress and appurtenances belonging thereto (collectively, the "Leased Real Property");

(iv) all of each Owner's and the Company's rights to all licenses, provider numbers, permits, approvals, certificates of need, certificates of exemption, franchises, accreditations and registrations and other governmental licenses, permits or approvals issued to the Company or such Owner with respect to the operation of the Business;

(v) all of the Owners and the Company's interest in and to all of the Contracts (as defined below in Section 4.12);

(vi) all advance payments, prepayments, prepaid expenses and deposits related to the operation of the Business;

(vii) all documents, records, operating manuals, files and computer software with respect to the operation of the Business;

(viii) the names, symbols and telephone numbers used with respect to the operation of the Business;

(ix) all insurance proceeds arising in connection with property damage to the Assets, to the extent not expended on the repair or restoration of the Assets;

(x) all goodwill with respect to the operation of the Business and the Assets;

and

(xi) subject to Section 6.18 hereof, all accounts receivable of the Business and other rights of payment of the Company or the Owners with respect to services performed at the Business through and including the Closing Date.

4.6. **No Liabilities or Adverse Conditions.** Except as reflected in the Financial Statements or set forth in Schedule 4.6, the Company has no liabilities or obligations of any nature with respect to the Business, whether absolute, accrued, contingent or otherwise and whether due or to become due (including, without limitation, liabilities for taxes and interest, penalties and other charges payable with respect thereto). Neither the Company nor the Managers know or have reason to know of any basis for the assertion against the Company of any such liability or obligation of any nature not fully reflected in the Financial Statements or set forth in Schedule 4.6. Except for the requirement of consent from the Landlord of the Center and the IHFSRB for the consummation of this Agreement, there are no actual or threatened disputes between the Company and any Owner. There are no conditions existing with respect to any of the Company's facilities, properties, assets or personnel that might materially and adversely affect the Purchased Units or the Business or prospects of the Business.

4.7. **Absence of Certain Changes.** Except as set forth in Schedule 4.7, since the Interim Balance Sheet Date, with respect to the Business, the Company has not:

- (a) suffered any material casualty loss (whether or not insured);
- (b) made any change in its business or operations or in the manner of conducting its business, other than changes in the ordinary course of business;
- (c) incurred any obligations or liabilities (whether absolute, accrued, contingent or otherwise and whether due or to become due), except items incurred in the ordinary course of business and consistent with past practice, or experienced any change in any assumptions or methods of calculating any bad debt, contingency or other reserve;
- (d) paid, discharged or satisfied any claim, lien, encumbrance or liability (whether absolute, accrued, contingent or otherwise and whether due or to become due), other than claims, liens, encumbrances or liabilities:
 - (i) which are reflected in the Financial Statements and which were paid, discharged or satisfied since the date thereof in the ordinary course of business consistent with past practice, or
 - (ii) which were incurred and paid, discharged or satisfied since the Balance Sheet Date in the ordinary course of business consistent with past practice;
- (e) written off as uncollectible any notes or accounts receivable or any portion thereof, except for immaterial write-offs made in the ordinary course of business consistent with past practice;

- (f) canceled any other debts or claims, or waived any rights, of substantial value;
- (g) sold, transferred or conveyed any of its properties or assets, except in the ordinary course of business consistent with past practice;
- (h) made any capital expenditures or commitments in excess of Ten Thousand Dollars (\$10,000) in the aggregate for replacements or additions to property, plant, equipment or intangible capital assets;
- (i) declared, paid or made or set aside for payment of, any distribution of membership interests in respect of its outstanding membership interests other than distributions made in the ordinary course of business consistent with past practice, or directly or indirectly redeemed, purchased or otherwise acquired any of its membership interests;
- (j) made any change in any method of accounting or accounting practice;
- (k) granted any increase in the compensation of any officer, employee or agent of the Company who performs services for or on behalf of the Business, (including without limitation any increase pursuant to any bonus, pension, profit sharing or other plan or commitment), other than increases in the ordinary course of business consistent with past practice, or adopted any such plan or other arrangement; and no such increase or the adoption of any such plan or arrangement, is planned or required; or
- (l) agreed, whether in writing or otherwise, to take any action described in this Section 4.7.

4.8. **Taxes.** The Company has filed all federal, state and local tax returns required to be filed by it and has paid or made provision for the payment of all taxes and assessments (including without limitation income, excise, unemployment, social security, occupation, franchise, property, sales and use taxes, services taxes, import duties or charges, and all penalties and interest with respect thereto) that are due and payable, whether or not in connection with such returns. The Company has not signed any extension agreement with any taxing authority and knows of no open matters for any prior periods.

4.9. **Litigation.** There is no claim, litigation, investigation or proceeding ("Litigation") pending or, to the Company's and the Managers' knowledge, threatened at law or in equity or before any court, legislative or administrative tribunal or governmental agency relating to or affecting the Company with respect to the Purchased Units, the Assets or the operation of the Business. There is no Litigation pending or, to the Company's and the Managers' knowledge, threatened, which questions the validity of this Agreement or which, if adversely determined or publicly disclosed, could reasonably be expected to (i) adversely affect the ability of the Company to consummate the transactions contemplated by this Agreement, (ii) result in a material adverse effect on the Business or the Assets or (iii) impair the operation of the Business after the Closing Date in substantially the same manner as currently conducted. The Company is not subject to any judgment, order, decree or other governmental restriction

applicable to the Company or the Assets which would be material to the Company, its Assets or the Business. Schedule 4.9 sets forth a true and accurate description of all Litigation relating to the Business and its operations initiated since December 7, 2009.

4.10. Compliance with Laws; Regulatory Compliance.

(a) The Company has at all times been in material and substantial compliance with all applicable statutes, rules, regulations, orders, ordinances, judgments, decrees and requirements of all federal, state and local commissions, boards, bureaus and agencies having jurisdiction over the Company and the operations of the Company, including, but not limited to, the false claims, false representations, anti-kickback and all other provisions of the Medicare/Medicaid fraud and abuse laws (42 U.S.C. § 1320a-7 et seq.) and the physician self-referral provisions of the Stark Law (42 U.S.C. § 1395nn) (collectively, "Laws").

(b) Neither the Company nor any Owner has received any notice of, or notice of any investigation of, a possible violation of any applicable Laws, or any other Law or requirement relating to or affecting the operations of the Business. Neither the Company nor any Owner has received a notice from the regulatory authorities which enforce the statutory or regulatory provisions in respect to either the Medicare or Medicaid program of any pending or threatened investigations.

(c) The Company has timely filed all reports, returns, data and other information required by federal, state, municipal or other governmental authorities which control, directly or indirectly, any of the Company's activities required to be filed with any commissions, boards, bureaus and agencies and has paid all sums heretofore due with respect to such reports and returns. No such report or return has been inaccurate, incomplete or misleading in any material respect.

(d) Neither the Company nor any Owner has engaged in any activities that are prohibited under 42 U.S.C. Section 1320a-7b, or the regulations promulgated thereunder, or under any statutes or regulations, or which are prohibited by rules of professional conduct.

(e) The Company has adopted a voluntary compliance program to promote compliance with laws and regulations, a copy of which has been delivered to Purchasers. To the Company's knowledge, no individual employed by or contracting independently with the Company is excluded from participation in the Medicare or Medicaid programs or is listed on the excluded individuals list published by the United States Department of Health and Human Services Office of the Inspector General.

(f) Any certificate of need required for the construction or operation of the Center's business location were duly obtained and subject to obtaining approval of this transaction from the IHFSRB, such certificate of need, will remain in full force and effect immediately after the consummation of the transactions provided for herein; provided that required regulatory filings are timely submitted.

4.11. **Licenses.** The Company has all required licenses, permits, certificates, authorizations and agreements needed for the ownership and efficient operation of the Business, all of which

are in full force and effect and listed in Schedule 4.11 (and copies of which have been provided to Purchasers). No act or omission has occurred on or before the date hereof which would subject the Company or the Business to any fine or penalty or the suspension, withdrawal, cancellation, termination or revocation of any license, permit, certificate, authorization or agreement. The Company is presently in compliance with all the terms, conditions and provisions of such licenses, permits, certificates, authorizations and agreements. The Business facilities, equipment, staffing and operations satisfy the applicable state licensing requirements in all material respects. The Business is accredited by the Joint Commission.

4.12. Contracts; Significant Payors. All contracts and agreements with respect to the operation of the Business (the "Contracts") are listed in Schedule 4.12 (and copies of which have been provided to Purchasers). Such Contracts constitute the all of the Contracts necessary to conduct the Business as conducted prior to the Closing. Each Contract is in full force and effect and is the valid and binding obligation of the Company and, to the Company's and its Managers' knowledge, each other party thereto. There have been no threatened cancellations of any Contract that have not been resolved and there are no outstanding disputes under any Contract. Neither the Company nor, to the Company's and its Managers' knowledge, any other party thereto, has breached any provision of, and there does not exist any default by the Company or, to the Company's and its Managers' knowledge, any other party thereto, under any Contract that has not been cured. No event has occurred (including the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby) which is, or with the giving of notice or the passage of time or both would become, a breach or default under the terms of any Contract. Schedule 4.12 contains a list of the individual payor, or group of affiliated payors, that accounted for more than 5% of the Business's revenues in any two of the previous three years or is expected to account for more than 5% of the Business's revenues in the current year or the next year (the "Significant Payors"). No Significant Payor has given notice that has not been withdrawn that it intends to terminate any such contract, instrument or agreement, nor does the Company or any of its Managers know of any basis for such termination which has not been cured.

4.13. Billing Practices; Accounts Receivable.

(a) The Company's billing practices are in compliance in all material respects with all federal and state laws (including all workers' compensation and insurance laws and regulations), and, where applicable, all contracts with insurance companies, health maintenance organizations and other third party payors.

(b) Schedule 4.13 sets forth an aging by payor of patient accounts receivable for the Business at the Closing. All accounts and notes receivable of the Business, whether reflected in the Financial Statements or otherwise, represent services actually provided in the ordinary course of business, and such receivables are to the knowledge of the Company and its Managers current and collectible in accordance with their respective terms other than normal discounts, allowances and bad debts consistent with past practice; and none of such receivables is to the knowledge of the Company and its Managers subject to any defense, counterclaim or set-off.

4.14. **Reports and Returns.** All reports and returns heretofore required by federal, state or municipal authorities with respect to the operations of the Business have been filed and all sums heretofore due to any such governmental authorities have been paid.

4.15. **Employees.** Schedule 4.15(i) and (ii) sets forth the names and titles of all persons leased or employed by the Company who perform services in or on behalf of the Business, and the annual rate of compensation (including bonuses) being paid to each such person as of the most recent practicable date, listed by Company. The person listed in Schedule 4.15(i) and (ii), constitute all of the persons who are in any way necessary to the continued operation of the Business as it is now being conducted. The Company has complied in all material respects with all applicable laws concerning the employer-employee relationship and with all contracts relating to the employment of the Company's employees, including applicable wage and hour laws, the Fair Labor Standards Act, safety laws, worker compensation laws, unemployment, anti-discrimination and harassment laws, and social security laws.

4.16. **Consents and Approvals.** Except as set forth in Schedule 4.16, no consent, approval or authorization of any governmental authority or other third party is necessary for the authorization, execution and performance of this Agreement by the Company or for the continued operation and governmental reimbursement of the Business following the consummation of the transactions contemplated hereby.

4.17. **Pension, Etc.** Schedule 4.17 contains a list of each employment, bonus, deferred compensation, pension, stock option, stock appreciation right, profit sharing or retirement plan, arrangement or practice and each other agreement or fringe benefit plan, arrangement or practice of the Company, whether formal or informal, whether legally binding or not and whether affecting one or more of its employees who perform services in or on behalf of the Business (collectively, the "Benefit Plans"). Copies of each such agreement or plan have heretofore been delivered to Purchasers. The Company do not have any commitment, whether formal or informal, and whether legally binding or not (i) to create any additional such agreement, plan, arrangement or practice; (ii) to modify or change any such agreement, arrangement, plan or practice; or (iii) to maintain for any period of time any such agreement, arrangement, plan or practice, except as described in Schedule 4.17. All Benefit Plans, including all employee pension benefit plans and employee health or welfare benefits plans (as such terms are defined in the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), have been administered in accordance with ERISA and the applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"). There are no "accumulated funding deficiencies" within the meaning of ERISA or the Code or any federal excise tax or liability on account of any deficient fundings in respect of the Benefit Plans. No reportable event(s) (within the meaning of ERISA) or prohibited transaction(s) (within the meaning of the Code) has occurred in respect of the Benefit Plans. There are not pending or, to the Company's knowledge, threatened any claims by or on behalf of the Benefit Plans or by any employee of the Company alleging a breach or breaches of fiduciary duties or violations of other applicable state or Federal law which could result in liability on the part of the Company or the Benefit Plans under ERISA or any other law, nor is there any reasonable basis for such a claim. The Benefit Plans do not discriminate in operating in favor of employees who are officers or highly compensated. Except as set forth in Schedule 4.17 hereto, all returns, reports, disclosure statements and premium payments required

to be made under ERISA and the Code with respect to the Benefit Plans have been timely filed or delivered. The Benefit Plans have not been audited or investigated by any of the Internal Revenue Service, the Department of Labor or the Pension Benefit Guaranty Corporation within the last five years, and there are no outstanding issues with reference to the Benefit Plans pending before said governmental agencies.

4.18. Payments to Members. Schedule 4.18 sets forth a general description of payments by the Company to any of its members since December 7, 2009, other than distributions made to members solely in respect of their ownership interests in the Company and other than reimbursements for misdirected payments of third party payors.

4.19. Certain Representations with Respect to the Business.

(a) As of the Closing Date, the Company will be qualified for participation in the Medicare program. Complete and accurate copies of the Company's existing Medicare contracts for the Business have been furnished or made available to the Purchasers. As of the Closing Date, the Company will be in compliance in all material respects with all of the terms, conditions and provisions of all such contracts. It is understood that as of the execution of this Agreement, Medicare certification has not yet been obtained and Medicare Contracts are not in force. These items shall be conditions of Closing and failure to obtain them shall not give rise to liability.

(b) The Business is licensed by the State of Illinois as an ambulatory surgery center. The Business is presently in compliance with all the terms, conditions and provisions of such license. The facilities, equipment, and operations of the Business satisfy, without material exception, the applicable ambulatory surgery center licensing requirements of the State of Illinois.

4.20. Certain Payments. Neither the Company nor any Owner or anyone acting on the Company's behalf, has made or received any "sensitive" payments, and no such person has maintained any unrecorded cash or non-cash assets out of which any "sensitive" payments might be made. "Sensitive" payments mean, whether or not illegal, (a) payments to or from governmental officials or employees, (b) commercial bribes or kick-backs, (c) amounts paid with an understanding that rebates or refunds will be made in contravention of the laws of any applicable jurisdiction, either directly or through a third party, (d) political contributions, (e) payments or commitments (whether made in the form of commissions, payments of fees for goods or services received, or otherwise) made with the understanding or under circumstances which would indicate that all or part thereof is to be paid by the recipient to government officials or employees or as a commercial bribe or inducement, influence payment or kickback and (f) payments made in violation of Medicare or Medicaid laws or the laws of the state in which the Company does business.

4.21. No Broker's Fees. Neither the Company nor the Managers have done anything to cause or incur any liability or obligation for investment banking, brokerage, finder's, agent's or other fees, commissions, expenses or charges in connection with the negotiation, preparation, execution or performance of this Agreement or the consummation of the transactions

contemplated hereby, and neither the Company nor the Managers know of any claim by anyone for such a fee, commission, expense or charge.

4.22. Medical Staff Matters. There are no pending, or to the Company or its Managers knowledge, threatened disputes with applicants, medical staff members, or allied health professionals, which (1) assert or are based upon a violation of the Business's medical staff bylaws, including any "fair hearing" procedures conducted thereunder or (2) are in the process of being adjudicated or resolved pursuant to the Business's medical staff bylaws. Except as set forth in Schedule 4.22, all appeal periods in respect of any medical staff member or applicant against whom an adverse action has been taken have expired. The Company has made available to Purchasers a written description of all adverse actions taken against medical staff members or applicants since December 7, 2009, a list of which is set forth in Schedule 4.22.

4.23. Full Disclosure. To the individual knowledge of each of the Managers executing this Agreement, neither this Agreement, nor any schedule, exhibit, list, certificate or other instrument or document delivered to Purchasers pursuant to this Agreement by or on behalf of the Company, contains any untrue statement of a material fact or omits to state any material fact required to be stated herein or therein or necessary to make the statements, representations or warranties and information contained herein or therein not misleading. Neither the Company nor any individual Manager has withheld from Purchasers disclosure of any event, condition or fact which the Company or said Manager knows, or has reasonable grounds to know, may materially adversely affect the Assets, the Purchased Units or the operations of the Business.

4.24. Rates and Reimbursement Policies. The Company does not have any rate appeal currently pending before any Governmental Authority or any administrator of any third-party payor program. Except for the recent changes in workmen's compensation reimbursement rates, neither the Company nor the Managers have knowledge of any applicable state or local law, which affects rates or reimbursement procedures which has been enacted, promulgated or issued within the eighteen (18) months preceding the Closing Date or any such legal requirement proposed or currently pending in the applicable state or at the federal level which has resulted or may result in any reductions in rates and reimbursement.

4.25. Physicians. None of the physicians who utilize the Company's Center (collectively, the "Physicians") have threatened to discontinue or to terminate his or her relationship with the Company and the provision of services at such Company's Center. To the Company's and the individual knowledge of each Manager, none of the Physicians have expressed plans (i) to retire from the practice of medicine in the next five (5) years, (ii) to be involved in the development or operations of another ambulatory surgery business, or (iii) to relocate their residence and/or primary medical practice outside of the metropolitan area around Chicago, Illinois. Further, to the respective knowledge of each Manager individually, during the three (3) years preceding the Closing Date, each of the Physicians:

(a) Has been duly licensed and registered, and is in good standing by their state to engage in the practice of medicine, and said license and registration have not been suspended, revoked or restricted in any manner, and

(b) Has had valid professional liability insurance in place in amounts not less than commercially reasonable levels and has not indicated any intent to terminate or reduce his or her professional liability coverage.

4.26. **Affiliate Transactions.** Except as set forth in Schedule 4.18 and excluding ordinary course distributions to its equity holders, there are no transactions involving the transfer of any cash, property or rights to or from the Company from, to or for the benefit of any affiliate or former affiliate of the Company or any Owner ("Affiliate Transactions") during the period commencing two (2) years prior to the date hereof and continuing through the Closing Date or any existing commitments of the Company to engage in the future in any Affiliate Transactions.

5. REPRESENTATIONS AND WARRANTIES OF PURCHASERS

Each Purchaser represents and warrants as follows:

5.1. **Authorization.** Each Purchaser has full power and authority to enter into this Agreement and perform his or its obligations hereunder and carry out the transactions contemplated hereby. This Agreement, when executed, will constitute a legal, valid and binding obligation of Purchaser enforceable against him or it in accordance with its terms.

5.2. **No Violation.** The execution and delivery of this Agreement by Purchaser does not, and the consummation of the transactions contemplated hereby will not, (a) violate any provision of, or result in the creation of any lien or security interest under, any material contract or agreement to which Purchaser is a party or by which any of Purchaser's assets or properties are bound; (b) violate any order, arbitration award, judgment, writ, injunction, decree, statute, rule or regulation applicable to Purchaser; or (c) violate any other contractual or legal obligation or restriction to which Purchaser is subject.

5.3. **Litigation.** There is no Litigation pending or, to Purchaser's knowledge, threatened against Purchaser at law or in equity or before any court, legislative or administrative tribunal or governmental agency which questions the validity of this Agreement or which, if adversely determined or publicly disclosed, would have a material adverse effect on the business or operations of Purchaser.

6. COVENANTS AND AGREEMENTS OF COMPANY AND OWNERS

The Company and the Owners further covenant and agree that from the Execution Date until the Closing, and thereafter if so specified, they will fulfill the following covenants and agreements unless otherwise consented to by Purchasers in writing:

6.1. Access; Further Assurances.

(a) The Company and the Owners will accord to each Purchaser, his counsel, accountants and other representatives, from the date hereof and at any time after the Closing, full

access to all of the properties, books, contracts, commitments, financial information and records of the Business, and will furnish Purchasers during such period with all such information concerning the business and operations of the Business, as Purchasers reasonably may request. At any time and from time to time after the Closing, at any Purchaser's request and without further consideration, the Company and the Owners agree to execute and deliver such certificates and documents as may be required in connection with any audit of the Business or its operations.

(b) From the date hereof until the Closing, as soon as reasonably practicable after the end of each month, but not later than the 15th day of the next succeeding month, the Company will deliver to Purchasers (i) an internal statement prepared by the Company on a cash basis of income for the Business for the month then ended, and an unaudited balance sheet and a detail of patient accounts receivable for the Business as at the quarter then ended, monthly (ii) the number of procedures performed, (iii) a statement of the billed charges, and (iv) a statement of the cash collections, all with respect to the prior month (collectively the "Ongoing Monthly Financial Statements"). All such Ongoing Monthly Financial Statements shall be prepared on a basis consistent with prior practice and shall fairly reflect the results of operations and financial condition of the Business. The Company shall change its regularly retained accountant to Tony Mentz CPA at FGMK within thirty (30) days of the Execution Date, and the Company hereby authorizes Tony Mentz to share all Company information with the Purchasers.

(c) At any time and from time to time after the Closing, at Purchasers' request and without further consideration, the Company and the Owners will execute and deliver such other instruments of issuance, delivery and confirmation and take such action as Purchasers may reasonably deem necessary or desirable in order to confirm the Purchasers' title to, the Purchased Units, and to assist Purchasers in exercising all rights and enjoying all benefits with respect thereto.

6.2. Confidentiality.

(a) In the event the transactions contemplated by this Agreement are not consummated for any reason, the Company and the Owners will treat as confidential and maintain confidentiality of all records and information provided to the Company or any Owner from any Purchaser. Upon any Purchaser's request, the Company and the Owners will return to the requesting Purchaser or destroy all such records and information.

(b) Except as otherwise required by law, following the Closing, neither the Company nor the Owners will disclose at any time to any other person not an employee of the Company or the Owners (or a person otherwise involved in the carrying out of the transactions contemplated by this Agreement), nor make any public announcement of, the transactions or terms of the transactions contemplated by this Agreement.

6.3. Conduct of Business Pending the Closing. From the date hereof until the Closing, and except as otherwise consented to by Purchasers in writing, the Company shall not:

(a) take any action described in Section 4.7;

(b) fail to maintain in effect adequate insurance coverage of the Assets or the Business; or

(c) fail to use its best efforts to (i) maintain the Assets in their present condition, (ii) comply with all applicable laws, rules and regulations of governmental agencies or authorities, and (iii) operate its business in the manner necessary to maintain the goodwill of its patients and physicians and its reputation.

6.4. **Consents.** The Company and the Owners shall use their best efforts to obtain the consents, approvals and authorizations listed in Schedule 4.16 prior to Closing.

6.5. **Notice of Adverse Change.** The Company and the Owners will advise Purchasers in writing of any material adverse change in the Assets from the date of this Agreement to the Closing Date.

6.6. **Ownership and Investment Restrictions.** The Owners acknowledge and agree that in order to assure that the Business will retain its value as a "going concern," it is necessary that the Owners undertakes not to utilize their present special knowledge of the Business to compete with the Company and the Business during the Restricted Period (as defined in Section 6.7 below) after Purchasers' acquisition of the Purchased Units. The Owners further acknowledge that (a) the Company has been and will be engaged in the Business; (b) the Owners possess extensive knowledge and a unique understanding of the Business, as well as proprietary and confidential information concerning the Business; (c) the agreements and covenants contained in this Section 6 are essential to protect Purchasers and the Company and the value of the Business and are a condition precedent to the Purchasers' willingness to pay for the Purchased Units; (d) the Company and the Purchasers would be irreparably damaged if the Owners were to violate the terms and conditions of this Section 6; and (e) the geographic, temporal and business scope of the restrictive covenants in this Section 6 are reasonable.

6.7. **Non-Compete.** For a period of three (3) years following the Closing Date (the "Restricted Period"), none of the Owners nor any of their respective affiliates, shall, without the prior written approval of all of the Purchasers, directly or indirectly, own, manage, operate, control or participate in any manner in the ownership, management, operation or control of, or serve as a partner, employee, principal, agent, consultant or otherwise contract with, or have any financial interest in, or aid or assist any person or entity other than the Company that operates a facility (including an ambulatory surgical center, hospital or office-based or practice-based facility or operating site or room that provides any of the services offered by the Company) to provide outpatient surgical services including, without limitation, a state-licensed, Medicare-certified or accredited surgery center or hospital or office-based surgical facility within seven (7) miles from the address of the Center (the "Restricted Area"). For the purposes of this Section 6.7, it shall be presumed that a person or entity competes with the Company and violates this provision if it has any interest in any facility or center of any type whatsoever for the conduct of or compensation relationship with any outpatient surgery center, hospital or office-based or practice-based facility or operating site or room that provides any of the services offered by the Company within the Restricted Area.

6.8. **Non-Solicitation.**

(a) Each Owner agrees that during the Restricted Period, it, he or she shall not, directly or indirectly: (i) hire, engage, offer to hire, divert, entice away, solicit or in any other manner persuade or attempt to persuade any member of the Company to enter into any relationship with such Owner or any of its, his or her affiliates, for any business venture located within the Restricted Area, or discontinue, terminate or adversely alter his or her relationship with either of the Company or any of its affiliates; (ii) divert, entice away, solicit or encourage, or attempt to divert, entice away, solicit or encourage, any member or any surgeon utilizing the Business to become an owner or user of another surgical facility within such area; or (iii) approach any such person for any of the foregoing purposes or authorize and assist in the taking of any such action by any third party.

(b) Neither the Owners nor their respective affiliates shall, during the Restricted Period, directly or indirectly, for himself or herself or for any other person or entity, solicit, entice, persuade or induce or attempt to solicit, entice, persuade or induce any employee of the Company (whether employed or leased by the Company) to terminate such employee's employment or other relationship with the Company or to become employed or retained by any person or entity other than the Company, or approach any such employee for any of the foregoing purposes or authorize and assist in the taking of any such action by any third party. Solicitations and advertisements in a publication of general circulation shall not be interpreted as a violation of this Section 6.8.

6.9. **Blue-Pencil.** If any court of competent jurisdiction shall at any time deem the term of this Agreement or any particular restrictive covenant contained in this Section 6 too lengthy or the territory too extensive, the other provisions of this Section 6 shall nevertheless stand, the Restricted Period herein shall be deemed to be the longest period permissible by law under the circumstances and the territory described in Section 6.7 shall be deemed to comprise the largest territory permissible by law under the circumstances. The court in each case shall reduce the Restricted Period and/or territory described in Section 6.7 to permissible duration or size.

6.10. **Remedies.** The Owners acknowledge and agree that the covenants set forth in this Section 6 are reasonable and necessary for the protection of the Company and the Company's business interests, that irreparable injury will result if any Owner breaches any of the terms of said restrictive covenants, and that in the event of actual or threatened breach of any such restrictive covenants, the Company and Purchasers will have no adequate remedy at law. The Owners accordingly agree that in the event of any actual or threatened breach by any of them of any of the covenants set forth in this Section 6, the Company and Purchasers shall be entitled to immediate temporary injunctive and other equitable relief, without bond and without the necessity of showing actual monetary damages, subject to hearing as soon thereafter as possible. Nothing contained herein shall be construed as prohibiting the Company or Purchasers from pursuing any other remedies available to it for such breach or threatened breach, including the recovery of any damages which it is able to prove. The parties also agree that the existence of any claim or cause of action by any Owner against the Company or any Purchaser, whether predicated upon this Agreement or otherwise, shall not constitute a defense to the enforcement of the restrictive covenants set forth herein, but shall be litigated separately.

6.11. **Assignment. [Intentionally Deleted]**

6.12. **Patient Freedom.** The parties hereto agree that the benefits afforded either party hereunder are not payment for, and are not in any way contingent upon the referral, admission or any other arrangement for, the provision of any item or service offered by any party hereto. Nothing in this Agreement shall be construed to limit the freedom of any patient of an Owner to choose the facility or physician from whom any patient shall receive health care services or limit or interfere with any Owner's ability to exercise professional judgment in treating patients or his or her ability to provide medical services to patients.

6.13. **Tax Returns.** The Company shall prepare or cause to be prepared and file or cause to be filed all of its tax returns for all periods ending on or prior to the Closing Date which are filed after the Closing Date. The Company shall provide such tax returns to Purchasers at least forty-five (45) days prior to the due date of same (except in circumstances in which the Company is unable, despite diligent efforts, to prepare tax returns sufficiently in advance of the filing deadlines to permit a forty-five (45) day review period, in which case the review period shall be as close to forty-five (45) days as is reasonably possible) to permit Purchasers to review and comment on each such tax return prior to filing. To the extent required by applicable law, the Company shall include any income, gain, loss deduction or other tax items for such periods on the Company's tax returns in a manner consistent with the Schedule K-1s for such periods.

6.14. **Transfer of CON.** Prior to the Closing, Dr. Diaz, with the cooperation of Purchasers as needed, shall cause the transfer of the Certificate of Need issued by the Illinois Health Facilities and Services Review Board, pursuant to which the Center is operated, to the Company. Such approval and transfer is a condition of Closing.

6.15. **Appointment of a Medical and Executive Director.** As of the Closing, the parties hereto shall appoint a physician from among the Purchasers as the Medical and Executive Director of the Center and approve a fair market value stipend for the Medical and Executive Director, which stipend shall initially be set at Two Thousand Dollars (\$2,000). This arrangement will be memorialized in the Medical Director Agreement between the appointed physician and the Company, in substantially the form of Exhibit 6.15 (the "Medical Director Agreement").

6.16. **Medicare Certification.** On or prior to the Closing, the Company shall become Medicare certified.

6.17. **Payment of Debt and Distributions.**

(a) The Company shall use funds collected from its accounts receivable and other cash flow to pay and keep current all short-term and long-term liabilities of the Company, excluding any liabilities owed to any of the Owners or their Affiliates, but including amounts owed to Midwest Medical Billing Services Inc. in connection with services rendered between the execution of this Agreement and the Closing. The parties hereto acknowledge and agree that Midwest Medical Billing Services Inc. shall continue to provide billing and collection services to the Company until Closing.

(b) The Company shall obtain the forgiveness of any Related Party Debt through a written instrument of forgiveness and such debts shall be eliminated from the Company's Balance Sheet. Payment of any Related Party Debt shall result in adjustment of the Purchase Price as set forth in Section 2.3(a).

(c) The Company shall not have made any distributions or other payments to the Owners unless all of the Company's short-term and long-term liabilities are current with a zero past due balance as of the date of distribution, and only then, distributions may be made solely as necessary to satisfy the Owners tax obligations with respect to his, her or its ownership of Units and attributed income in the Company (e.g., forty percent (40%) of income of the Company, if any, allocated to a Member due to the Company's status as limited liability company that is taxed as a partnership). Any distributions made in violation of this Section 6.17(c) shall result in adjustment of the Purchase Price as set forth in Section 2.3(a).

6.18. Accounts Receivable Prior to Execution Date. The parties agree that the Company shall distribute to Dr. Diaz all accounts receivable of the Company collected after the Closing Date relating to the provision of services to patients on dates prior to the Execution Date (the "Pre-Execution Date AR"), and such Pre-Execution Date AR shall belong to Dr. Diaz. The Pre-Execution Date AR that is collected after the Execution Date, but before the Closing Date (the "Interim Period"), shall be used to pay and keep current all short-term and long-term liabilities of the Company during the Interim Period, excluding any liabilities owed to any of the Owners or their Affiliates (the "Interim Period Liabilities"), in accordance with Section 6.17(a). During the Interim Period, the collections from the Pre-Execution Date AR shall be applied first to satisfy pre-execution date liabilities and the Interim Period Liabilities before collections from accounts receivable relating to the provision of services to patients on dates after the Execution Date may be applied to the Interim Period Liabilities. In the event that BlueCross/BlueShield ("BCBS") initiates a recoupment action against the Company related to any Pre-Execution Date AR, then Dr. Diaz shall refund such amounts directly to BCBS, or pay such amounts to the Company in the case BCBS recoups such amounts through an offset of payments due to the Company, without the Purchasers having to pursue indemnification from the Company or the Owners pursuant to Section 10.1 hereof. Furthermore, where the Company is owed payment from Dr. Diaz in connection with the foregoing, the Company shall have the right to set-off such amount against distributions payable by the Company to Dr. Diaz pursuant to the Second Amended Operating Agreement.

6.19. Release of Claims. Effective as of the date hereof, Smithfield, its current owners Todd Borst and Steve Mohebi, and Dr. Horner, currently an owner of Smithfield who is in the process of dissociating from or otherwise terminating his ownership interest in Smithfield pursuant to an agreement to be entered into by and among the Smithfield Parties (collectively referred to in this Section as "Smithfield Parties"), each hereby releases and forever discharges the Company and the Purchasers and the Company's and the Purchaser's owners, officers, directors, employees, agents, successors and assigns, from any claim, right, demand, damage, charge, complaint, action, cause of action, obligation or liability ("Claims"), known or unknown, anticipated or unanticipated, suspected or unsuspected and whether at law or in equity, which the Smithfield Parties have or ever may have arising out of or in any way relating to Smithfield Parties' disputes among themselves related to their ownership in the Company, or the provision of management services to the Company and any payments owed to the Smithfield Parties by the Company arising from such ownership or management services. Each Smithfield Party hereby further

indemnifies, saves and holds harmless the Company, the Purchasers and their owners, officers, directors, employees, agents, successors and assigns from and against any and all Claims brought by third parties arising out of or related to Smithfield Parties' disputes among themselves or with such third parties related to the Smithfield Parties' ownership in the Company or provision of management services to the Company.

7. COVENANTS AND AGREEMENTS OF PURCHASERS

Each Purchaser further covenants and agrees that from the date hereof until the Closing, unless otherwise consented to by the Company in writing, it will fulfill the following covenants and agreements:

7.1. Confidentiality.

(a) In the event the transactions contemplated by this Agreement are not consummated for any reason, Purchasers will treat as confidential and maintain confidentiality of all records and information provided to Purchasers from the Company. At each Purchaser's election, Purchaser may return to the Company or destroy all such records and information.

(b) Except as otherwise required by law, following the Closing, Purchasers will not disclose at any time to any other person not an employee of a Purchaser (or a person otherwise involved in the carrying out of the transactions contemplated by this Agreement), nor make any public announcement of, the transactions or terms of the transactions contemplated by this Agreement.

8. CONDITIONS TO PURCHASERS' OBLIGATIONS

Purchasers shall not be obligated to consummate the transactions contemplated hereby, unless each of the following conditions is fulfilled or performed (unless expressly waived in writing by Purchasers) prior to or at the Closing:

8.1. **Compliance.** The representations and warranties made by the Company and the Owners in this Agreement and the statements contained in the Schedules attached hereto or in any instrument, list, certificate or writing delivered by the Company or the Owners pursuant to this Agreement shall be true and accurate in all material respects (except where qualified by materiality, in which case they shall be true and accurate in all respects) when made and at and as of the time of the Closing as though such representations and warranties were made at and as of the Closing.

8.2. **Performance by the Company.** The Company and the Owners shall have performed and complied with all covenants, agreements, obligations and conditions required by this Agreement to be so complied with or performed by it.

8.3. **Delivery of Documents.** The Company and the Owners shall have delivered to Purchasers the certificates, instruments and other documents required to be delivered by the Company and the Owners pursuant to Section 3.3(b).

8.4. **Consents and Licenses.** All consents, approvals and authorizations listed in Schedule 4.16 shall have been obtained.

8.5. **No Material Adverse Change.** No material adverse change in the Company, the Assets or the business or operations of the Business shall have occurred since the date of this Agreement.

8.6. **Litigation.** No Litigation shall be pending or threatened which challenges or seeks to challenge, or which could prevent or cause the rescission of, the consummation of the transactions contemplated hereby.

9. CONDITIONS TO THE COMPANY AND OWNERS' OBLIGATIONS

The Company and the Owners shall not be obligated to consummate the transactions contemplated hereby unless each of the following conditions is fulfilled or performed (unless expressly waived in writing by the Company and the Owners) prior to or at the Closing:

9.1. **Compliance.** The representations and warranties made by Purchasers in this Agreement and the statements contained in the Schedules attached hereto or in any instrument, list, certificate or writing delivered by Purchasers pursuant to this Agreement shall be true and accurate in all material respects (except where qualified by a materiality, in which case they shall be true and accurate in all respects) when made and at and as of the time of the Closing as though such representations and warranties were made at and as of the Closing.

9.2. **Performance by Purchasers.** Purchasers shall have performed and complied with all agreements, obligations and conditions required by this Agreement to be so complied with or performed by Purchasers.

9.3. **Payment of Purchase Price.** The Purchase Price shall have been paid in full (including transfer of the Deposit to the Company).

9.4. **Necessary Approvals.** Consents and approvals for this transaction shall have been obtained from the Landlord of the Center and the IHSRB.

9.5. **Delivery of Documents.** Purchasers shall have delivered to the Company and the Owners the consideration, certificates, instruments and other documents required to be delivered by Purchasers pursuant to Section 3.3(a).

10. INDEMNIFICATION

10.1. Indemnification by the Company and Owners.

(a) The Company and each Owner other than Neuro One and Dr. Horner ("Active Owner"), jointly and severally, hereby agrees to defend, indemnify and hold harmless Purchasers and shall reimburse Purchasers for, from and against each claim, loss, liability, cost and expense (including without limitation interest, penalties, costs of preparation and investigation, and the reasonable fees, disbursements and expenses of attorneys, accountants and other professional advisors) (collectively, "Losses"), directly or indirectly relating to, resulting from, arising out of or incidental to:

(i) any untrue representation, misrepresentation, breach of warranty or non-fulfillment of any covenant, agreement or other obligation by or of the Company or the Managers contained herein, any Schedule hereto or in any certificate, document or instrument delivered to Purchasers pursuant hereto;

(ii) any tax liability of the Company or the Business not previously paid, which may at any time be asserted or assessed against the Company or the Business for any event or period prior to the Closing Date (regardless of whether the possibility of the assertion or assessment of any such tax liability shall have been disclosed to Purchasers at or prior to the Closing);

(iii) any liability for any amounts owed by the Company or the Business to any governmental third party or private payors because of overpayments to the Company or the Business prior to the Closing for services rendered to patients, which liability is due to a recomputation of rates, field audit adjustments, overpayments, improper billing practices or otherwise;

(iv) any event having occurred or arrangement having been entered into prior to the Closing Date involving Paul Madison, MD; and

(v) the operation of the Business prior to the Closing Date except the accounts payable listed in Schedule 2.3(b).

(b) Neuro One hereby agrees to defend, indemnify and hold harmless Purchasers and shall reimburse Purchasers for, from and against Losses, directly or indirectly relating to, resulting from, arising out of or incidental to non-fulfillment of any covenant, agreement or other obligation by or of Neuro One contained herein, any certificate, document or instrument delivered to Purchasers pursuant hereto.

(c) Dr. Horner hereby agrees to defend, indemnify and hold harmless Purchasers and shall reimburse Purchasers for, from and against Losses, directly or indirectly relating to, resulting from, arising out of or incidental to non-fulfillment of any covenant, agreement or other obligation by or of Dr. Horner contained herein, any certificate, document or instrument delivered to Purchasers pursuant hereto.

(d) If Purchasers have a right to indemnification under this Section 10.1, then the Purchasers may set-off the amount of such recovery against any amounts payable by the

Purchasers to the indemnifying party under this Agreement or any other agreement entered into by the parties in connection with the transactions contemplated by this Agreement, including without limitation, the Second Amended Operating Agreement. As an extension of this right, Purchasers shall have the right to direct the Company to withhold the amount of any such recovery from distributions payable to the indemnifying party under the Second Amended Operating Agreement and remit such withheld amount to Purchasers. Notwithstanding the foregoing, in the event an indemnifying party disputes Purchasers' right to indemnification or amount of recovery and such party has initiated dispute resolution under Section 13.11 hereof, then until resolution of such dispute in favor of Purchasers, Purchasers shall not be entitled to set-off or direct the Company to withhold distributions.

10.2. **Indemnification by Purchasers.** Each Purchaser hereby severally agrees to defend, indemnify and hold harmless the Owners and the Company, and shall reimburse the Owners and the Company for, from and against Losses directly or indirectly relating to, resulting from, arising out of or incidental to any untrue representation, misrepresentation, breach of warranty or non-fulfillment of any covenant, agreement or other obligation by or of such Purchaser, contained herein or in any certificate, document or instrument delivered to the Company and/or the Owners pursuant hereto.

10.3. **Procedure.** The indemnified party shall promptly notify the indemnifying party of any claim, demand, action or proceeding for which indemnification will be sought under Sections 10.1 or 10.2 of this Agreement, and, if such claim, demand, action or proceeding is a third party claim, demand, action or proceeding, the indemnifying party will have the right at its expense to assume the defense thereof using counsel reasonably acceptable to the indemnified party. The indemnified party shall have the right to participate, at its own expense, with respect to any such third party claim, demand, action or proceeding. In connection with any such third party claim, demand, action or proceeding, the Company, the Owners and the Purchasers shall cooperate with each other and provide each other with access to relevant books and records in their possession. No such third party claim, demand, action or proceeding shall be settled without the prior written consent of the indemnified party. If a firm written offer is made to settle any such third party claim, demand, action or proceeding and the indemnifying party proposes to accept such settlement and the indemnified party refuses to consent to such settlement, then: (i) the indemnifying party shall be excused from, and the indemnified party shall be solely responsible for, all further defense of such third party claim, demand, action or proceeding; and (ii) the maximum liability of the indemnifying party relating to such third party claim, demand, action or proceeding shall be the amount of the proposed settlement if the amount thereafter recovered from the indemnified party on such third party claim, demand, action or proceeding is greater than the amount of the proposed settlement.

11. SURVIVAL OF REPRESENTATIONS AND WARRANTIES

11.1. **Survival of Representations and Warranties.** The representations and warranties contained herein shall survive the Closing Date and any investigation made by or on behalf of any party hereto, and shall survive for a period of three (3) years after the Closing Date, except for the representations and warranties contained in Sections 4.2, 4.5(a), 4.8, 4.10, 4.11,

4.13(a), 4.17, 4.19 and 4.20 which shall survive for the longer of (i) three (3) years after the Closing Date or (ii) until the expiration of the applicable statute of limitations.

11.2. **Remedies Cumulative.** The remedies provided herein shall be cumulative and shall not preclude the assertion by any party hereto of any other rights or the seeking of any other remedies against the other party hereto.

12. TERMINATION OF AGREEMENT

This Agreement may be terminated at any time prior to the Closing:

- (a) by mutual agreement of all Purchasers, the Company and the Owners;
- (b) by all Purchasers, if there has been a material violation or breach by the Company or any Owner of any of the agreements, representations or warranties contained in this Agreement which has not been waived in writing, or if any of the conditions set forth in Section 8 hereof have not been satisfied by the Closing or have not been waived in writing by Purchasers;
- (c) by the Company or the Owners, if there has been a material violation or breach by Purchasers of any of the agreements, representations or warranties contained in this Agreement which has not been waived in writing, or if any of the conditions set forth in Section 9 hereof have not been satisfied by the Closing or have not been waived in writing by the Company;
- (d) by the Company, any Owner or any Purchaser if the transactions contemplated by this Agreement shall not have been consummated on or before August 1, 2013;
- (e) by the Company, any Owner or any Purchaser if any party makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy or seeks or consents to any reorganization or similar relief under any present or future bankruptcy act or similar law, or is adjudicated a bankrupt or insolvent, or if a third party commences any bankruptcy, insolvency, reorganization or similar proceeding involving any party; or
- (f) by the Purchasers for any or no reason upon voluntary surrender of the Deposit and the executed copies of this Agreement, the Amended Operating Agreement and the Management Agreement, each marked "cancelled", to the Company. In the event of any dispute over which party has the right to the Deposit, the prevailing party shall be entitled to be reimbursed by the non-prevailing party for all reasonable attorney's fees incurred in connection with such dispute.

13. MISCELLANEOUS

13.1. **Expenses.** All fees and expenses incurred by each party hereto, including without limitation legal fees and expenses, in connection with the negotiation of this Agreement, the

Amended Agreement and the Management Agreement will be borne by such party. All other expense shall be borne by the Company.

13.2. Assignability; Parties in Interest.

(a) Neither the Company nor any Owner may assign, transfer or otherwise dispose of any of its or his rights hereunder without the prior written consent of Purchasers.

(b) No Purchaser may assign, transfer or otherwise dispose of any of his rights hereunder without the prior written consent all of the Owners.

(c) All the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the respective heirs, successors, assigns and legal or personal representatives of the parties hereto.

13.3. Entire Agreement; Amendments; Waiver. This Agreement, including the exhibits, Schedules, lists and other documents and writings referred to herein or delivered pursuant hereto, which form a part hereof, contains the entire understanding of the parties with respect to its subject matter. There are no restrictions, agreements, promises, warranties, covenants or undertakings other than those expressly set forth herein or therein. This Agreement supersedes all prior agreements and understandings between the parties with respect to its subject matter. This Agreement may be amended only by a written instrument duly executed by all parties or their respective heirs, successors, assigns or legal personal representatives. Any condition to a party's obligations hereunder may be waived but only by a written instrument signed by the party entitled to the benefits thereof. The failure or delay of any party at any time or times to require performance of any provision or to exercise its rights with respect to any provision hereof, shall in no manner operate as a waiver of or affect such party's right at a later time to enforce the same.

13.4. Severability. The invalidity of any term or terms of this Agreement shall not affect any other term of this Agreement, which shall remain in full force and effect.

13.5. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed (registered or certified mail, postage prepaid, return receipt requested, by overnight courier service or by facsimile) as follows:

If to the Company: Gold Coast Surgicenter, LLC
845 North Michigan Avenue, Suite 985W
Chicago, Illinois 60611
Attn: Roberto Diaz, M.D.

With a copy to: Wolin & Rosen
55 W. Monroe Street, Suite 3600
Chicago, Illinois 60603

Attn: Harold Rosen

If to the Owners: The address of each Owner on file with the Company.

If to Purchasers: 1611 West Harrison
3rd Floor
Chicago, Illinois 60612
Attn: Nikhil Verma, M.D.

With a copy to: McGuireWoods LLP
77 West Wacker Drive
Suite 4100
Chicago, Illinois 60601-1818
Attn: Scott Becker, Esq.

or to such other address as any party may have furnished to the others in writing in accordance herewith, except that notices of change of address shall only be effective upon receipt.

13.6. Section and Other Headings. The section and other headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

13.7. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission or electronically by the parties or the parties' respective attorneys, will constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or electronically will be deemed to be their original signatures for any purpose whatsoever.

13.8. Parties in Interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns. The parties acknowledge that they have independently negotiated the provisions of this Agreement, that they have relied upon their own counsel as to matters of law and application and that neither party has relied on the other party with regard to such matters. The parties expressly agree that there shall be no presumption created as a result of either party having prepared in whole or in part any provisions of this Agreement.

13.9. Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO DEMAND THAT ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE RELATIONSHIPS OF THE PARTIES HERETO BE TRIED BY JURY. THIS WAIVER EXTENDS TO ANY AND ALL RIGHTS TO DEMAND A

TRIAL BY JURY ARISING FROM ANY SOURCE INCLUDING, BUT NOT LIMITED TO, THE CONSTITUTION OF THE UNITED STATES OR ANY STATE THEREIN, COMMON LAW OR ANY APPLICABLE STATUTE OR REGULATIONS. EACH PARTY HERETO ACKNOWLEDGES THAT IT IS KNOWINGLY AND VOLUNTARILY WAIVING ITS RIGHTS TO DEMAND TRIAL BY JURY.

13.10. **Applicable Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Illinois, without regard to its conflict of laws rules.

13.11. **Dispute Resolutions.** Any dispute between the parties hereto relating to this Agreement must first be submitted to non-binding mediation in accordance with procedures agreed upon by the parties. If the dispute is not resolved through mediation within forty-five (45) days of the initial request for mediation or within a time frame mutually agreed upon by the parties, the dispute must then be submitted for binding arbitration in accordance with procedures set forth by the American Health Lawyers Association.

(a) Pre-Arbitration Procedure.

(i) Any dispute shall be submitted to arbitration by notifying the other party or parties, as the case may be, hereto in writing of the submission of such dispute to arbitration (the "Arbitration Notice"). The party delivering the Arbitration Notice shall specify therein, to the fullest extent then possible, its version of the facts surrounding the dispute and the amount of any damages and/or the nature of any injunctive or other relief such party claims.

(ii) The party (or parties, as the case may be) receiving such Arbitration Notice shall respond within sixty (60) days after receipt thereof in writing (the "Arbitration Response"), stating its version of the facts to the fullest extent then possible and, if applicable, its position as to damages or other relief sought by the Party initiating arbitration.

(iii) The parties shall then endeavor, in good faith, to resolve the dispute outlined in the Arbitration Notice and Arbitration Response. In the event the parties are unable to resolve such dispute within sixty (60) days after receipt of the Arbitration Response, the parties shall initiate the arbitration procedure outlined below.

(b) Arbitration Procedure.

(i) If the parties hereto are unable to resolve the dispute within sixty (60) days after receipt of the Arbitration Response as set forth above, then the parties must submit the dispute to binding arbitration in accordance with the American Health Lawyers arbitration program. If the parties are unable to agree on an arbitrator within sixty (60) days after receipt of the Arbitration Response, each of the parties shall, within sixty (60) days after receipt of the Arbitration Response, choose an arbitrator selector ("Selector"). The two Selectors shall then have forty (40) days to select an arbitrator who shall serve as the final arbitrator for the dispute. (The arbitrator chosen by the parties hereto or by the Selectors, as the case may be, shall hereinafter be as the "Arbitrator"). The Arbitrator shall not be an Affiliate of any of the parties hereto.

(ii) The arbitration shall be held in Chicago, Illinois. The parties shall submit to the Arbitrator the Arbitration Notice and the Arbitration Response and any other facts regarding the dispute of which any party desires.

(iii) The Arbitrator shall apply the arbitration rules set forth below in making his or her decision. The decision of the Arbitrator shall be rendered within sixty (60) days of the close of the hearing record, shall be in writing and shall contain findings of fact and conclusions of law.

(c) Arbitration Rules.

(i) The Arbitrator shall allow reasonable discovery, which he determines is necessary for determination of the issues presented.

(ii) The Arbitrator shall agree to resolve all factual disputes prior to resolving legal disputes.

(iii) The Arbitrator shall be guided by, and shall substantially comply with, the then-applicable Federal Rules of Evidence.

(iv) The Arbitrator is empowered to include in any award made hereunder such relief as the Arbitrator deems appropriate (other than punitive damages and attorneys' fees, including, without limitation, injunctive relief in addition to or in lieu of monetary damages).

(v) Should any party refuse or neglect to appear or participate in the arbitration proceedings, including the procedures relating to the selection of an Arbitrator, the participating Party may select the Arbitrator and the Arbitrator is empowered to decide the controversy in accordance with whatever evidence is presented.

(vi) The Arbitrator's award shall be in a form sufficient to clearly inform the Parties of the Arbitrator's decision.

(d) Arbitrator's Award. The award of the Arbitrator shall be binding on the Parties and may be entered as a final judgment in a court of competent jurisdiction.

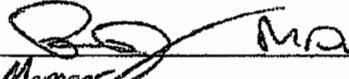
(e) Other Disputes. All disputes relating to breaches of Sections 6.2 and 6.6 through 6.8 shall be resolved by a court of law with the site of venue in Chicago, Illinois

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have duly executed this Membership Interest Purchase Agreement as of the date first above written.

COMPANY:

Gold Coast Surgicenter, LLC.

By: 
Its: Manager
Name: Roberto Diaz M.D.

OWNERS:

Smithfield Surgical Partners, LLC

By: _____
Its: _____
Name: _____

Neuro One, LLC

By: _____
Its: _____
Name: _____


Roberto Diaz, M.D.

Greg Horner, M.D.

SOLELY FOR THE PURPOSE OF
AGREEING TO SECTION 6.19 ABOVE,
ACKNOWLEDGED AND AGREED BY:

Todd Borst

Steve Mohebi

Being the members of Smithfield Surgical Partners, LLC.

IN WITNESS WHEREOF, the parties have duly executed this Membership Interest Purchase Agreement as of the date first above written.

COMPANY:

Gold Coast Surgicenter, LLC.

By: _____
Its: _____
Name: _____

OWNERS:

Smithfield Surgical Partners, LLC

By: _____
Its: _____
Name: _____

Neuro One, LLC

By:  _____
Its: Manager _____
Name: Jonathan Citow MD _____

Roberto Diaz, M.D.

Greg Horner, M.D.

SOLELY FOR THE PURPOSE OF
AGREEING TO SECTION 6.19 ABOVE,
ACKNOWLEDGED AND AGREED BY:

Todd Borst

Steve Mohebi

Being the members of Smithfield Surgical Partners, LLC.

IN WITNESS WHEREOF, the parties have duly executed this Membership Interest Purchase Agreement as of the date first above written.

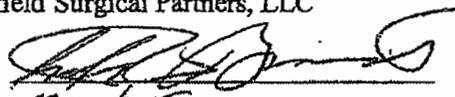
COMPANY:

Gold Coast Surgicenter, LLC.

By: _____
Its: _____
Name: _____

OWNERS:

Smithfield Surgical Partners, LLC

By: 
Its: MOBI
Name: Todd P. Borst

Neuro One, LLC

By: _____
Its: _____
Name: _____

Roberto Diaz, M.D.

Greg Horner, M.D.

SOLELY FOR THE PURPOSE OF
AGREEING TO SECTION 6.19 ABOVE,
ACKNOWLEDGED AND AGREED BY:



Todd Borst



Steve Mohebi

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By: _____
Its: _____
Name: _____

OWNERS:

Smithfield Surgical Partners, LLC

By: _____
Its: _____
Name: _____

Neuro One, LLC

By: _____
Its: _____
Name: _____

Roberto Diaz, M.D.



Greg Horner, M.D.

SOLELY FOR THE PURPOSE OF
AGREEING TO SECTION 6.19 ABOVE.
ACKNOWLEDGED AND AGREED BY:

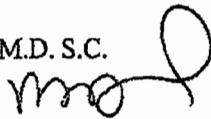
Todd Borst

Steve Mohebi

Being the members of Smithfield Surgical Partners, LLC.

PURCHASERS:

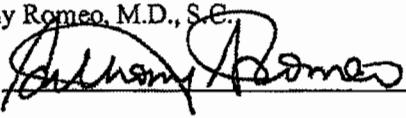
Brian J. Cole, M.D. S.C.

By: 

Its: _____

Name: Brian Cole, M.D.

Anthony Romeo, M.D., S.C.

By: 

Its: _____

Name: Anthony Romeo, M.D.

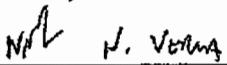
SC SRK Ventures LLC

By: 

Its: Manager

Name: Kern Singh, M.D.

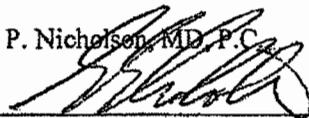
NSV Investments, LLC

By: 

Its: _____

Name: Nikhil Verma, M.D.

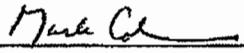
Gregory P. Nicholson, MD, P.C.

By: 

Its: _____

Name: Gregory Nicholson, M.D.

Mark S. Cohen 2009 Declaration of Trust
U/A DTD March 14, 2009

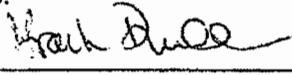
By: 

Its: _____

Name: Mark Cohen, M.D.


John Fernandez, M.D.

Fraden, Inc.

By: 

Its: _____

Name: Frank Phillips, M.D.

EJG LLC

By: _____

Its: _____

Name: Edward Goldberg, M.D.

S2 Ventures LLC

By: _____

Its: _____

Name: Shane Nho, M.D.



Robert Wysocki, M.D.

EIG LLC

By: *Edward Goldberg* EIG LLC
Its: *Edward Goldberg*
Name: Edward Goldberg, M.D.

S2 Ventures LLC

By: _____
Its: _____
Name: Shane Nho, M.D.

Robert Wysocki, M.D.

EJG LLC

By: _____

Its: _____

Name: Edward Goldberg, M.D.

S2 Ventures LLC

By: Shane Nho

Its: _____

Name: Shane Nho, M.D.

Robert Wysocki, M.D.

EXHIBIT A

OWNERSHIP POST-CLOSING

NAMES OF MEMBERS	TOTAL UNITS	OWNERSHIP PERCENTAGE
<u>Class A Members</u>		
Brian J. Cole, M.D. S.C. (Brian Cole, M.D.)	6.6667 Units	6.6667%
Anthony Romeo, M.D., S.C. (Anthony Romeo, M.D.)	6.6667 Units	6.6667%
SC SRK Ventures LLC (Kern Singh, M.D.)	6.6667 Units	6.6667%
NSV Investments, LLC (Nikhil Verma, M.D.)	6.6667 Units	6.6667%
Gregory P. Nicholson, MD, P.C. (Gregory Nicholson, M.D.)	6.6667 Units	6.6667%
Mark S. Cohen 2009 Declaration of Trust U/A DTD March 14, 2009 (Mark Cohen, M.D.)	6.6667 Units	6.6667%
John Fernandez, M.D.	6.6667 Units	6.6667%
Fraden, Inc. (Frank Phillips, M.D.)	6.6667 Units	6.6667%
EIG LLC (Edward Goldberg, M.D.)	6.6667 Units	6.6667%
S2 Ventures LLC (Shane Nho, M.D.)	3.3333 Units	3.3333%
Robert Wysocki, M.D.	1.6667 Units	1.6667%
Neuro One, LLC	5.0000 Units	5.0000%
CLASS A TOTAL:	70 Units	70.0000%
<u>Class B Member:</u>		
Roberto Diaz, M.D.	20.0000 Units	20.0000%
Smithfield Surgical Partners, LLC	5.0100 Units	5.0100%
Greg Horner, M.D.	4.9900 Units	4.9900%
Class B Total:	30.0000 Units	30.0000%
<u>Total:</u>	100 Units	100.0000%

OWNERSHIP POST-EXERCISE OF OPTION*

<u>Class A Members</u>	<u>Units</u>	<u>Percentage Ownership</u>
Brian J. Cole, M.D. S.C. (Brian Cole, M.D.)	7.1795	7.18%
Anthony A. Romeo, M.D., S.C. (Anthony Romeo, M.D.)	7.1795	7.18%
SC SRK Ventures LLC (Kern Singh, M.D.)	7.1795	7.18%
NSV Investments, LLC (Nikhil Verma, M.D.)	7.1795	7.18%
Gregory P. Nicholson, MD, P.C. (Gregory Nicholson, M.D.)	7.1795	7.18%
Mark S. Cohen 2009 Declaration of Trust U/A DTD March 14, 2009 (Mark Cohen, M.D.)	7.1795	7.18%
John Fernandez, M.D.	7.1795	7.18%
Fraden, Inc. (Frank Phillips, M.D.)	7.1795	7.18%
EJG LLC (Edward Goldberg, M.D.)	7.1795	7.18%
S2 Ventures LLC (Shane Nho, M.D.)	3.5897	3.59%
Robert Wysocki, M.D.	1.7949	1.79%
Neuro One, LLC	4.0000	4.00%
CLASS A TOTAL:	74.0000	74.00%
<u>Class B Member:</u>		
Roberto Diaz, M.D.	18.0000	18.00%
Smithfield Surgical Partners, LLC	4.0100	4.01%
Greg Horner, M.D.	3.9900	3.99%
CLASS B TOTAL:	26.0000	26.00%
<u>Total:</u>	100.0000	100.00%

*Assume option has been fully exercised by all parties.

EXHIBIT 3.3(a)(iii)

SECOND AMENDED AND RESTATED OPERATING AGREEMENT

GOLD COAST SURGICENTER, LLC

An Illinois Limited Liability Company

SECOND AMENDED AND RESTATED OPERATING AGREEMENT

DATED _____, 2013

GOLD COAST SURGICENTER, LLC

SECOND AMENDED AND RESTATED OPERATING AGREEMENT

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GOLD COAST SURGICENTER, LLC

SECOND AMENDED AND RESTATED OPERATING AGREEMENT

This Second Amended and Restated Operating Agreement ("Agreement") is made and entered into as of the _____ day of _____, 2013, by and among the persons identified as Members (collectively the "Members") in Exhibit A which is incorporated herein by reference. Except as otherwise provided, the capitalized terms used in this Agreement shall have the meanings set forth in Article I hereof.

WHEREAS, Gold Coast Surgicenter, LLC ("Company") has been formed as a limited liability company under the laws of the State of Illinois by the filing on or about the 7th day of December, 2009 (the "Effective Date"), of the Articles of Organization in the office of the Secretary of State;

WHEREAS, the Company has been formed to develop, own and operate a Medicare certified ambulatory surgery center located at 845 North Michigan Avenue, Suite 985W, Chicago, Illinois 60611;

WHEREAS, the Company has two classes of Members: (1) a Class B Member class, comprised of Smithfield Surgical Partners, LLC ("Smithfield"), Greg Horner ("Horner") and Roberto Diaz, M.D. ("Diaz"); and (2) a Class A Member class, comprised of physicians practicing in the Chicago, Illinois area or entities owned by such physicians;

WHEREAS, the Members own all of the membership interests in the Company (the "Units");

WHEREAS, one or more Members previously executed and entered into an Amended and Restated Operating Agreement, dated of August 1, 2011 (the "Original Operating Agreement"), which is replaced in its entirety with this Agreement; and

WHEREAS, the Members desire to enact this Agreement and to provide for their respective rights and obligations, the management and governance of the Company, and their duties with respect to the Company.

NOW, THEREFORE, in consideration of the mutual covenants herein expressed, and for other valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I
Definitions

The following defined terms used in this Agreement shall have the meanings specified below:

"Act" shall mean the Illinois Limited Liability Company Act, in effect at the time of the initial filing of the Articles, and as thereafter amended from time to time.

"Adjusted Capital Account Deficit" shall mean, with respect to any Member, the deficit balance, if any, in such Member's aggregate Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

(a) Credit to such Capital Account any amounts which such Member is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to Regulations Section 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) Debit to such Capital Account the items described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

The foregoing definition is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"Adjusted Capital Contribution" shall mean a Member's aggregate Capital Contribution to the Company reduced by all distributions made to such Member under Article VI.

"Adverse Terminating Event" shall have the meaning set forth in Section 4.3.

"Affiliated Person" or "Affiliate" shall mean, with reference to a specified Person, (a) any member of such Person's Immediate Family, (b) any Person who owns directly or indirectly ten percent (10%) or more of the beneficial ownership in such Person, (c) any one or more Legal Representatives of such Person and/or any Persons referred to in the preceding clauses (a) or (b); and (d) any entity in which any one or more of such Person and/or the Persons referred to in the preceding clauses (a), (b) or (c) owns directly or indirectly ten percent (10%) or more of the beneficial ownership.

"Agreement" shall mean this Operating Agreement as it may be amended, supplemented, or restated from time to time.

"Applicable Federal Rate" shall mean the Applicable Federal Rate as that term is defined in Code Section 1274(d)(1), whether the short-term, mid-term or long-term rate, as the case may be, as published from time to time by the Secretary of the Treasury.

"Approval of the Board" or "Board acting by Approval" and any grammatical variation thereof, shall mean consent, approval or vote of a majority of the Managers then in office, with each Manager having one (1) vote.

"Articles" shall mean the Articles of Organization creating the Company, as they may, from time to time, be amended in accordance with the Act.

"Bankruptcy" shall mean any of the following:

(a) If any Member shall file a voluntary petition in bankruptcy, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state, or other statute or law relating to bankruptcy, insolvency, or other relief for debtors, or shall file any answer or other pleading admitting or

failing to contest the material allegations of any petition in bankruptcy or any petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief filed against such Member, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver, conservator, or liquidator of such Member or of all or any substantial part of his or her properties or his or her interest in the Company (the term "acquiesce" as used herein includes but is not limited to the failure to file a petition or motion to vacate or discharge any order, judgment, or decree within thirty days after such order, judgment or decree and/or failure to perfect an appeal of a final order denying such petition or take a further appeal where further appeal is available, and to have the original order stayed pending appeal in each instance);

(b) If a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against any Member seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state, or other statute or law relating to bankruptcy, insolvency, or other relief for debtors and such Member shall acquiesce in the entry of such order, judgment, or decree, or if any Member shall suffer the entry of an order for relief under Title 11 of the United States Code and such order, judgment, or decree shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or if any trustee, receiver, conservator, or liquidator of any Member or of all or any substantial part of his or her properties or his or her interest in the Company shall be appointed without the consent or acquiescence of such Member and such appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive); or

(c) If any Member shall make an assignment for the benefit of creditors or take any other similar action for the protection or benefit of creditors.

"Board" or "Board of Managers" shall refer collectively to the Persons named to be the Board in this Agreement and any Person who becomes an additional, substitute or replacement Manager as permitted by this Agreement, in each such Person's capacity on the Board of Managers of the Company.

"Book Value" shall mean, with respect to any asset of the Company, such asset's adjusted basis for federal income tax purposes, except that:

(d) The initial Book Value of any asset contributed by a Member of the Company shall be the gross fair market value of such asset (reduced for any liabilities to which it is subject or which the Company assumes), as such value is determined by Approval of the Board, and for which credit is given to the contributing Member under this Agreement;

(e) The Book Values of all assets of the Company shall be adjusted to equal their respective gross fair market values, as determined by Approval of the Board, at and as of the following times:

(i) The acquisition of an additional or new interest in the Company by a new or existing Member in exchange for other than a *de minimis* Capital Contribution by such

Member, if the Board, acting by Approval, reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Members;

(ii) The distribution by the Company to a Member of more than a *de minimis* amount of any asset of the Company (including cash or cash equivalents) as consideration for all or any portion of an interest in the Company, if the Board, acting by Approval, reasonably determine that such adjustment is necessary or appropriate to reflect the relative economic interests of the Members; and

(iii) The liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g).

(f) The Book Value of the assets of the Company shall be increased (or decreased) to reflect any adjustment to the adjusted basis of such assets pursuant to Section 734(b) or Section 743(b) of the Code, but only to the extent such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Book Value shall not be adjusted pursuant to this clause (c) to the extent that the Managers, acting by Approval, determine that an adjustment pursuant to the immediately preceding clause (b) is necessary or appropriate in connection with the transaction that would otherwise result in an adjustment pursuant to this clause (c).

If the Book Value of an asset has been determined or adjusted pursuant to the preceding clauses (a), (b) or (c), such Book Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits or Losses.

“Capital Account” shall mean a capital account maintained and adjusted in accordance with the Code and the Regulations, including the Regulations under Section 704(b) and (c) of the Code. The Capital Account of each Member shall be:

(g) Credited with all payments made to the Company by such Member on account of Capital Contributions (and as to any property other than cash or a promissory note of the contributing Member, the agreed (as indicated by the Approval of the Board) fair market value of such property, net of liabilities secured by such property and assumed by the Company or subject to which such contributed property is taken) and by such Member’s allocable share of Profits and items in the nature of income and gain of the Company;

(h) Charged with the amount of any distributions to such Member (and as to any distributions of property other than cash or a promissory note of a Member or the Company, by the agreed fair market value of such property, net of liabilities secured by such property and assumed by such Member or subject to which such distributed property is taken), and by such Member’s allocable share of Losses and items in the nature of Losses and deductions of the Company;

(i) Adjusted simultaneously with the making of any adjustment to the Book Value of the Company’s assets pursuant to the definition thereof, to reflect the aggregate net adjustments to such Book Value as if the Company recognized Profit or Loss equal to the respective amount of such aggregate net adjustments immediately before the event causing such adjustments; and

(j) Otherwise appropriately adjusted to reflect transactions of the Company and the Members.

"Capital Contribution" shall mean the amount of cash and the value of any other property contributed to the Company by a Member.

"Center" shall mean the ambulatory surgery center operated by the Company and located at 845 North Michigan Avenue, Suite 985W, Chicago, Illinois 60611.

"Class A Member" shall mean any Member holding Class A Units in the Company, in each such Member's capacity as a holder of Class A Units. Except as otherwise indicated herein, Class A Units shall be held only by physicians or entities owned by physicians who meet the Safe Harbor Requirements set forth in Section 2.3 hereof and who qualify as Eligible Physicians as defined in Section 2.4(b) hereof. Any Units acquired by a Class A Member shall be considered/converted to Class A Units, including Class B Units acquired from a Class B Member.

"Class B Member" shall mean any Member holding Class B Units in the Company, in each such Member's capacity as a holder of Class B Units. Any Units acquired by a Class B Member shall be considered/converted to Class B Units, including Class A Units acquired from a Class A Member.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"Consent of the Members" or "Member Consent" and any grammatical variation thereof, shall mean consent, approval or vote of the Members holding sixty percent (60%) of the Class A Units and Class B Units then issued and outstanding, voting as one class.

"Depreciation" shall mean, for each year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such year or other period, except that if the Book Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount that bears the same relationship to the Book Value of such asset as the depreciation, amortization or other cost recovery deduction computed for tax purposes with respect to such asset for such period bears to the adjusted tax basis for such asset, or if such asset has a zero adjusted tax basis, Depreciation shall be determined with reference to the initial Book Value of such asset using any reasonable method selected by Approval of the Board, but not less than depreciation allowable for tax purposes for such year.

"Disability" shall mean the inability of a Class A Member by reason of mental or physical illness, disease or injury, to perform the usual surgical procedures within such Member's medical specialty for a minimum period of six (6) consecutive months or six (6) months cumulatively in any twelve (12) month period as determined by the Approval of the Board.

"Eligible Physician" shall have the meaning set forth in Section 2.4(b) hereof.

"Formula Amount" shall mean the deemed value of the Company for purposes of redemption of a Member's ownership interest in the Company pursuant to Section 4.3 hereof. The Formula Amount shall be equal to the product of (x) a multiple (which, except for purposes of the Call Options set forth in Sections 3.8(a) and (b) and (c), shall initially be three and one-half (3.5)) (the "Multiple") times (y) the Company's annual net operating income (in accordance with United States generally accepted accounting principles), excluding extraordinary gains and losses, calculated before deduction of interest, taxes, depreciation and amortization (the "EBITDA"), then minus all of the Company's outstanding long-term debt and long-term liabilities (including equipment lease financing obligations) as of the date of the Terminating Event determined in accordance with United States generally accepted accounting principles. For this purpose, the EBITDA shall be the EBITDA determined based on the twelve (12) months (on a rolling basis) immediately following the date on which Terminating Event occurred. With respect to the Call Options set forth in Sections 3.8(a) and (b) and (c), the applicable Multiple shall be four and one-half (4.5)).

"Immediate Family" with respect to any individual, shall mean his or her ancestors, spouse, issue, spouses of issue, any trust principally for the benefit of any one or more of such individuals, his or her estate, and any entity beneficially owned by such individuals or trusts for their principal benefit.

"Individual Physician Owner" shall have the meaning set forth in Section 2.5(a).

"Legal Representative" shall mean, with respect to any individual, a duly appointed executor, administrator, guardian, conservator, personal representative or other legal representative appointed as a result of the death, minority or incompetency of such individual.

"Losses" shall have the meaning provided below under the heading "Profits and Losses."

"Manager" shall refer to each Person named as a Manager by the Members pursuant to this Agreement and any Person who becomes an additional, substitute or replacement Manager as permitted by this Agreement, in each such Person's capacity as a Manager of the Company. "Managers" or "Board" shall refer collectively to the Persons named as Managers by the Members pursuant to this Agreement and any Person who becomes an additional, substitute or replacement Manager as permitted by this Agreement, in each such Person's capacity as a Manager of the Company.

"Member" shall mean any Person named as a Member in this Agreement and any Person who becomes an additional, substitute or replacement Member as permitted by this Agreement, in each such Person's capacity as a Member of the Company.

"Member Minimum Gain" shall mean "partner nonrecourse debt minimum gain" as that term is defined in Regulations Section 1.704-2(i)(2).

"Member Nonrecourse Debt" shall mean "partner nonrecourse debt" or "partner nonrecourse liability" as those terms are defined in Regulations Section 1.704-2(b)(4).

"Member Nonrecourse Deductions" shall mean "partner nonrecourse deductions" as that term is defined in Regulations Section 1.704-2(i)(1).

"Membership Units" shall mean those Class A Units and Class B Units then authorized and outstanding and held by Class A Members and Class B Members.

"Minimum Gain" shall have the meaning given in Regulations Section 1.704-2(d).

"Net Operating Cash Flow of the Company" shall mean the Company's taxable income or loss arising in the ordinary course of its business activities, increased by tax-exempt interest and by depreciation and any other deductions that do not involve cash expenditures, and decreased by principal payments, capital expenditures (other than those made from borrowings), and any other nondeductible cash expenditures.

"Non-Adverse Terminating Event" shall have the meaning set forth in Section 4.3.

"Nonrecourse Deductions" shall have the meaning given in Regulations Section 1.704-2(b)(1).

"Person" or "Party" shall mean any natural person, partnership (whether general or limited), limited liability company, trust, estate, association or corporation.

"Profits and Losses" shall mean, for each year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this provision shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this provision, shall be subtracted from such taxable income or added to such loss;

(c) Gain or loss from a disposition of property of the Company with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Book Value of such property, rather than its adjusted tax basis;

(d) In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there shall be taken into account the Depreciation on the assets for such fiscal year or other period; and

(e) Any items which are separately allocated pursuant to Sections 6.5 and/or 6.6 which otherwise would have been taken into account in calculating Profits and Losses pursuant to the above provisions shall not be taken into account and, as the case may be, shall be added to or deducted from such amounts so as to be not part of the calculation of the Profits or Losses.

If the Company's taxable income or loss for such year, as adjusted in the manner provided above, is a positive amount, such amount shall be the Company's Profits for such year; and if negative, such amount shall be the Company's Losses for such year.

"Purchase Agreement" shall have the meaning set forth in Section 3.7.

"Reasonable Reserves" shall mean such amount as the Board, acting by Approval, shall deem reasonably necessary to meet the foreseeable liabilities or obligations of the Company taking into consideration historic costs as well as reasonably projected cash flow, and including, but not limited to, (i) the normal expenses of the operation and management of its activities, as such liabilities and obligations become due and payable, and (ii) the expenses of any redemptions pursuant to the provisions of this Agreement.

"Regulations" shall mean the Regulations promulgated under the Code, and any successor provisions to such Regulations, as such Regulations may be amended from time to time.

"Retirement" shall mean when a Class A Member ceases to practice medicine and publicly announces such retirement or, if he or she does not publicly announce such retirement, the Board of Managers, acting by Approval, shall have determined that such person no longer practices medicine or performs ambulatory surgical procedures on at least a substantially (i.e., at least thirty-five (35) hours per week for at least forty (40) weeks per year) full-time basis. For the sake of clarity, the term "Retirement" is not applicable to Class B Members including Diaz, Smithfield and Horner and hence they are not subject to being declared "Retired".

"Rush Physician Members" shall mean Class A Members listed on Schedule 4.3(b)(ii).

"Supermajority Approval" shall mean the written consent or approval of the Members holding at least eighty percent (80%) of the Class A Units and Class B Units then issued and outstanding, voting as one class.

"Terminating Capital Transaction" shall mean a sale or other disposition of all or substantially all of the assets of the Company.

"Terminating Event" shall mean an Adverse Terminating Event or a Non-Adverse Terminating Event, as those terms are defined in Section 4.3.

"Transfer" and any grammatical variation thereof shall refer to any sale, exchange, issuance, redemption, assignment, distribution, encumbrance, hypothecation, gift, pledge, retirement, resignation, transfer or other withdrawal, disposition or alienation in any way as to any interest of a Member. Transfer shall specifically, without limitation of the above, include assignments and distributions resulting from death, incompetency, Bankruptcy, liquidation and dissolution.

"Unit" shall mean a unit or share of interest in the Company. The interest of each Unit in the Company shall be equal to one (1) divided by the total number of Units then authorized and outstanding (including, but not limited to; Class A Units and Class B Units).

"Unit Proportion" shall mean the number of Units held by a Member divided by all of the Units then issued and outstanding.

The definitions set forth in the Act shall be applicable, to the extent not inconsistent herewith, to define terms not defined herein and to supplement definitions contained herein.

ARTICLE II Organizational Powers and Membership

2.1 Organization. The Board of Managers shall file such articles, certificates and documents as appropriate to comply with the applicable requirements for the operation of a limited liability company in accordance with the laws of any jurisdictions in which the Company shall conduct business and shall continue to do so as long as the Company conducts business therein. By Approval of the Board, the Company may establish places of business within and without the State of Illinois, as and when required by its business and in furtherance of its purposes set forth in Section 2.2 hereof, and may appoint agents for service of process in all jurisdictions in which the Company shall conduct business.

2.2 Purposes and Powers of the Company. The Company is organized for the general purposes of (i) developing, owning and operating an ambulatory surgical center in Chicago, Illinois, (ii) engaging in other activities in connection therewith which are necessary or beneficial to the Center, and (iii) engaging in any other lawful business activity permitted under the Act consistent with the foregoing. To that end, the Company, subject to the terms of this Agreement, may enter into any kind of activity and perform and carry out contracts of any kind necessary to, or in connection with, or incidental to the accomplishment of, the purposes of the Company, so long as said activities and contracts may be lawfully carried on or performed by a limited liability company under the laws of the State of Illinois.

2.3 Permissible Relationships.

(a) The Members understand that the Company's and the Center's operations are subject to various state and federal laws regulating permissible relationships between the Members and entities such as the Company, including 42 U.S.C. § 1320a-7b(b) (the "Anti-Kickback Statute" or "Fraud and Abuse Statute"), and 42 U.S.C. § 1395nn (the "Stark Act"). It is the intent of the parties that the Company and the Center operate in a manner consistent with the foregoing statutes. Accordingly, each Member represents and warrants that he or she (i) has not received loans for the purpose of investing in the Center from the Company or from any investor in the Company; (ii) has not been barred or suspended from participation in the Medicare and/or Medicaid programs; (iii) if a Class A Member or Individual Physician Owner other than a spine surgeon or orthopedic spine surgeon, shall derive at least one-third (1/3) of his or her medical practice income from all sources for the previous fiscal year or previous 12-month period from his or her own performance of procedures that are ambulatory surgery procedures; (iv) if a Class A Member or Individual Physician Owner other than a spine surgeon or orthopedic spine surgeon, shall perform at least one-third (1/3) of such physician's procedures that require or can be performed at an ambulatory surgery center at the Center; (v) if a Class A Member,

Individual Physician Owner or other Member who is a licensed physician, shall fully inform each patient, prior to referring such patient to the Center, of such physician's investment interest in the Center; (vi) if a Class A Member, Individual Physician Owner or other Member who is a licensed physician, shall treat patients receiving medical benefits or assistance under any federal health care program in a nondiscriminatory manner; and (vii) if a Class A Member or other Member who is a licensed physician, the Units were not offered to such Member based upon such Member or Individual Physician Owner's previous or expected volume or value of referrals, services furnished, or the amount of business otherwise generated for the Company. These requirements shall be referred to herein as the "Safe Harbor Requirements." The Board of Managers, acting in its sole discretion after consultation with the Company's legal counsel but subject to the approval requirements set forth in Section 7.4, shall be able to waive a Member's compliance with the one-third (1/3) tests set forth in Sections 2.3(iii) and (iv) hereof (the "One-Third Tests"), if such Member is constrained from complying with such tests due to such Member's or the Center's exclusion from managed care contracts or other reasons; provided, such Member is using best efforts to comply with such tests and the Board of Managers believes that the Member is not indirectly referring patients to the Center. The Members and Managers hereby acknowledge and agree that Class A Members or Individual Physician Owners who are spine surgeons or orthopedic spine surgeons shall be exempt from complying with the One-Third Tests.

(b) The intent of the One-Third Tests and the other requirements set forth in Section 2.3 hereof is to help the Company to substantially comply with the safe harbor for ambulatory surgical centers promulgated by the Office of Inspector General. For a waiver to be granted, the Member must be acting in good faith to comply with the Safe Harbor Requirements. Further, the Board of Managers may request from each Member such information as it deems necessary to assess compliance by such Class A Member with the Safe Harbor Requirements set forth above.

(c) Diaz specifically acknowledges and accepts the following provisions as compliance safeguards applicable to this Agreement:

- (i) Diaz shall not refer patients to the Center;
- (ii) Physicians associated with Diaz's practice, Michigan Avenue Medical Associates ("MMA"), ("MMA-Affiliated Physicians"), may choose to use the Center, but Diaz shall refrain from any actions to require or encourage MMA-Affiliated Physicians to refer patients to the Center;
- (iii) Neither Diaz nor MMA shall track referrals, if any, by MMA-Affiliated Physicians to the Center;
- (iv) Any compensation paid by Diaz or MMA to MMA-Affiliated Physicians will not take into account, in any way, any referrals MMA-Affiliated Physicians may make to the Center; and
- (v) Diaz will inform the MMA-Affiliated Physicians annually of the foregoing measures.

(d) Notwithstanding anything to the contrary contained herein, a Class A Member or Individual Physician Owner who is a spine surgeon or orthopedic spine surgeon shall not be required to meet the One-Third Tests. Further, Each Class A Member or Individual Physician Owner who is a spine surgeon or orthopedic spine surgeon shall covenant that he or she:

- (i) shall directly provide services at the Center;
- (ii) shall abide by all other requirements applicable to Class A Members in Section 2.4(a);
- (iii) shall not generate or profit from indirect referrals to the Center and acknowledges that his or her ownership is not intended to reward or encourage indirect referrals to other Members of the Company;
- (iv) shall inform any surgeon(s) to which he or she refers patients that such referrals are not conditioned upon the surgeons' performance of surgery at the Center, and that the surgeon(s) are free to perform the surgery at any facility;
- (v) shall not pressure such surgeon(s) in any way to perform surgery at the Center;
- (vi) shall inform such patients and surgeons in writing at the time of a referral for surgery that he or she has an ownership interest in the Center, provide to each referred patient a list of at least two (2) appropriate-alternate facilities where the patient may elect to obtain care and inform each referred patient that he or she is not in any way required to receive services at the Center and will not be treated differently if the patient elects to be treated at an alternate facility;
- (vii) shall refer such patients only for services or procedures which are medically necessary. "Medically necessary" shall mean (a) health care services and procedures that a prudent physician would provide to a patient for the purpose of preventing, diagnosing or treating an illness, injury, disease or its symptoms in a manner that is (i) in accordance with generally accepted standards of medical practice, (ii) clinically appropriate in terms of type, frequency, extent, site and duration, and (iii) not primarily for the convenience of the patient, physician or other health care provider or (b) as otherwise specifically defined in the patient's health care plan;
- (viii) shall not issue any blanket orders to his or her employees (including physicians and staff) to refer patients to the Center for such services. Rather, such referrals shall be made on an individual, case-by-case basis based upon the condition of the patient and the appropriateness of treatment at the Center;

- (ix) shall ensure that all financial relationships with the Company (such as for example a lease or medical director agreement) shall comply with one of the safe harbors to the Fraud and Abuse Statute and, if applicable, an exception to the Stark Act;
- (x) shall invest substantial capital in the Company (or Entity Investor, as applicable) and guarantee, if required, a proportionate share (based on ownership in the Company or Entity Investor) of debt of the Company; and
- (xi) shall represent and warrant that the intent of his or her investment is not for him or her to generate or profit from indirect referrals to the Center.

(e) The Company and the Members acknowledge that all activities and contracts of any kind necessary to, or in connection with, or incidental to the accomplishment of, the purposes of the Company shall be lawfully carried on or performed under the laws of the State of Illinois and various federal laws. The Members also acknowledge that the Stark Act and the regulations promulgated thereunder may restrict the Center (as presently formed) from providing "designated health services" (as defined by the Stark Act) or other services to patients referred by Members. The Center shall not provide and bill separately for "designated health services." If, in the future, any of the services that the Center provides are deemed to be "designated health services," such services shall be provided by the Center only if such services may be provided in compliance with one or more exceptions to the ban on self-referrals set forth in the Stark Act, the regulations promulgated thereunder, or any successor statutes and/or regulations thereto. Furthermore, if the owner of a Member is a pension plan, trust or other entity, all of the owners and beneficiaries of such pension plan, trust or other entity who are practicing physicians shall also comply with the Stark Act and its regulations.

2.4 Membership.

(a) There shall initially be two (2) authorized classes of Members of the Company: Class A Members and Class B Members. All Members shall have (based on Units held) the same economic rights. The Members, acting as Members, shall have no right to act for or bind the Company. The Class A Members and the Class B Members as of the date hereof are identified in Exhibit A hereto.

(b) No Person shall be eligible to become a Class A Member (or remain a Class A Member, as applicable) unless the following eligibility requirements are satisfied, as applicable, or in the case of an Entity Investor, unless all of the Entity Investor's Individual Physician Owners satisfy the following eligibility requirements, as applicable: (1) such Class A Member or Individual Physician Owner shall be a physician, licensed and registered, in good standing, to practice medicine in the State of Illinois; (2) such Class A Member or each Individual Physician abides by the Safe Harbor Requirements of Section 2.3 (provided, however, that Members or Individual Physician Owners who are spine surgeons or orthopedic spine surgeons shall not be required to comply with the One-Third Tests); (3) such Class A Member or Individual Physician Owner shall maintain an active practice of medicine in the greater Chicago,

Illinois metropolitan area and, if permitted by the Stark Act and the Safe Harbor Requirements to refer patients to the Center for services, shall be able to perform surgical services at the Center (such physician shall maintain active medical staff membership and unrestricted clinical privileges at the Center (as defined in the Center's medical staff bylaws) and at least one hospital within thirty (30) miles of the Center); and (4) under applicable law, such Class A Member's ownership shall not disqualify (and, without further action, would not disqualify) the Company or the Center from engaging in operations as a Medicare certified ambulatory surgical center for any reason or from having such physician perform cases at the Center. A physician who meets such requirements may be referred to herein as an "Eligible Physician." The requirements of this Section 2.4(b) shall not apply to Class B Members unless otherwise required elsewhere in this Agreement.

2.5 Class A Members Owning Units Through an Entity. The Members agree that a Class A Member may invest in the Company through or as an entity ("Entity Investor") and such Entity Investor and each of its owners must make, agree to and abide by the agreements and make the following representations and warranties, with such additions or modifications as the Board of Managers may require from time to time, and further, each Entity Investor and each individual owner of the same must sign a counterpart signature page, attached hereto as Exhibit D, agreeing to be bound by the following terms and conditions:

(a) All of the interests in an Entity Investor that are owned by Persons who are physicians shall be held by Eligible Physicians (the "Individual Physician Owners");

(b) Each of the Individual Physician Owners are physicians or podiatrists who satisfies the requirements for an Eligible Physician set forth in Sections 2.3 and 2.4 hereof, and each further satisfies the representations and warranties set forth in Section 10.9 hereof;

(c) Each of the Individual Physician Owners agrees to be bound by each of the covenants contained in this Agreement, including, without limitation, all confidentiality and non-competition covenants and agrees to abide by the requirements for an Eligible Physician in Sections 2.3 and 2.4 hereof and to sign personally for their pro rata share of guarantees of the Entity Investor when and if Member guarantees are required;

(d) Each of the Individual Physician Owners has read this Agreement and has had the opportunity to discuss this Agreement with counsel. Each of the Individual Physician Owners understands and agrees to abide by the eligibility requirements and all the other provisions of this Agreement as though the Individual Physician Owner was a direct owner of the Company's Units;

(e) The Entity Investor does not and shall not distribute income from the Company based on the value or volume of referrals or other business between the parties;

(f) Any Terminating Event applicable to the Entity Investor due to the action of an Individual Physician Owner requires the redemption of the Individual Physician Owner from the Entity Investor as set forth in Article IV and may serve as a full or partial Terminating Event as to the Entity Investor's Units except as otherwise provided in Section 4.3 below; and

(g) There shall be no changes in the ownership or control of the Entity Investor without the Approval of the Board and if otherwise required, consent and approval from the Illinois Health Facilities and Services Review Board ("IHFRB"); provided, however, changes in the ownership or control of an Entity Investor owned by one or more Rush Physician Members shall not require Approval of the Board.

ARTICLE III
Capital Contributions and Liability of Members

3.1 Capital Accounts. A separate Capital Account shall be maintained for each Member, including any Member who shall hereafter acquire an interest in the Company.

3.2 Capital Contributions.

(a) Capital Contributions.

(i) Each Member's initial Capital Contribution shall be made to the Company upon his or her execution of this Agreement and the amount of such Capital Contribution, and any additional Capital Contributions, shall be memorialized and set forth on Exhibit A attached hereto, which Exhibit A may be updated from time to time.

(ii) As proportionate ownership changes based on the occurrence of events such as the redemption of Membership Units, the non-exercise of the right to acquire Units on a proportionate basis, or for any other reason, such offers to acquire additional Units shall be made based on the then proportionate ownership of the classes.

(iii) All offerings for this purpose shall be provided to the Members via a written purchase notice. Such purchase notice shall include the specific terms of the offering, which terms shall include without limitation the identity of purchasers, the proposed number of Units to be acquired, and price per Unit. Members shall have no more than sixty (60) days from the receipt of the purchase notice to respond with a check for the tendered amount needed to buy additional Units, if desired. If a Member does not respond to said purchase notice with a check within sixty (60) days after a purchase notice is received, such Member shall be deemed to have waived such purchase right. Each new physician subscriber shall be required to complete a subscription or purchase agreement, including a counterpart to this Agreement. Such subscription agreement shall evidence the subscriber's acceptance of the terms and conditions of this Agreement and shall be returned to the Company with such subscriber's Capital Contribution.

(b) Member Guarantees of Debt: Loans. The Company may attempt to secure loans to finance the purchase of certain initial equipment of the Center. It is hereby agreed and acknowledged that each Member shall be required to guarantee debt of the Company in an amount to be agreed upon by the Board of Managers, following Supermajority Approval pursuant to Section 7.4(b), on a limited pro rata basis which is proportionate to each such Member's ownership of Units and, in such event, each Member further agrees to execute and deliver such agreements and instruments as the Company or the Center may require with respect to such Member's guarantee. If one or more Members are required to make any payments under the guaranties of Company financing that Members are required to provide under this

Agreement, all Persons who are Members at the time that demand for payment was made under such guarantee agree to contribute towards such payments in proportion to their ownership interests.

(c) Loans. Except as set forth in this Article III, and except with Consent of the Members pursuant to Section 7.4 hereof, no Member or Manager shall be entitled to make any loan to the Company. No loan made to the Company by any Member or Manager shall constitute a Capital Contribution to the Company for any purpose.

(d) Additional Capital Contributions. Additional Capital Contributions may be required only with Supermajority Approval pursuant to Section 7.4(b) hereof and otherwise in accordance with Article V hereof.

3.3 No Withdrawal of or Interest on Capital. Except as otherwise provided in this Agreement, (i) no Member shall have any right to demand and receive property of the Company in exchange for all or any portion of his or her Capital Contribution or Capital Account, and (ii) no interest or preferred return shall accrue or be paid on any Capital Contribution or Capital Account.

3.4 Liability of Members. No Member, in his or her capacity as a Member, shall have any liability to restore any negative balance in his or her Capital Account or to contribute to, or in respect of, the liabilities or the obligations of the Company, or to restore any amounts distributed from the Company, except as may be required specifically under this Agreement, the Act or other applicable law. Except to the extent otherwise provided pursuant to Section 3.2(b) hereof or otherwise agreed to, or as required by law, in no event shall any Member, in his or her capacity as a Member, be personally liable for any liabilities or obligations of the Company or any of its Members.

3.5 Managers as Members. No Manager is required to hold any Membership Units in the Company in order to serve as a Manager.

3.6 Additional Members. Additional Members may be admitted to the Company only upon Consent of the Members, including the terms of admission, and the Approval of the Board of Managers in accordance with the terms of Article VII hereof and upon execution and delivery by the new Member of a counterpart of this Agreement, delivery of the required Capital Contribution (as determined by the Board of Managers) and execution and delivery of such other documents, instruments and items as the Members may require. Issuance of Membership Units to new Members shall be subject to compliance with Section 3.2 hereof. All such issuances shall be structured such that the amount paid for Units is not less than fair market value, payments are made in cash and such that the issuance of Units does not take into account the potential volume or value of referrals to the Center of the Member.

3.7 Option to Purchase Additional Units. The Parties acknowledge that the Rush Physician Members have been granted the option (the "Option") to purchase additional Units (the "Option Units"), which in the aggregate shall represent a five percent (5%) ownership interest in the Company, which option is set forth and contained in that certain Membership

Purchase Agreement dated on or about the date hereof (the "Purchase Agreement"). The option shall be exercised, and closed, if at all, in accordance with the terms of the Purchase Agreement.

3.8 Call Option.

(a) Following the tenth (10th) anniversary of the closing of the transactions contemplated by the Purchase Agreement, upon written notice, the Company shall have the right to require Diaz to sell to the Company up to fifty percent (50%) of his ownership interest in the Company at that time (the "Diaz Call Option"). The purchase price of such ownership interest shall equal the Formula Amount, utilizing a Multiple equal to 4.5, determined as of the date of the Company's exercise notice, multiplied by the ownership percentage being acquired by the Company. The Company's decision to exercise the Diaz Call Option shall be subject to Approval of the Board. A Manager appointed by Diaz shall not be entitled to vote on the decision to exercise the Diaz Call Option with respect to Diaz.

(b) Following the tenth (10th) anniversary of the closing of the transactions contemplated by the Purchase Agreement, upon written notice, the Company shall have the right to require Smithfield to sell to the Company up to fifty percent (50%) of its ownership interest in the Company at that time (the "Smithfield Call Option"). The purchase price of such ownership interest shall equal the Formula Amount, utilizing a Multiple equal to 4.5, determined as of the date of the Company's exercise notice, multiplied by the ownership percentage being acquired by the Company. The Company's decision to exercise the Smithfield Call Option shall be subject to Approval of the Board. A Manager appointed by Smithfield shall not be entitled to vote on the decision to exercise the Smithfield Call Option with respect to Smithfield.

(c) Following the tenth (10th) anniversary of the closing of the transactions contemplated by the Purchase Agreement, upon written notice, the Company shall have the right to require Horner to sell to the Company up to fifty percent (50%) of his ownership interest in the Company at that time (the "Horner Call Option"). The purchase price of such ownership interest shall equal the Formula Amount, utilizing a Multiple equal to 4.5, determined as of the date of the Company's exercise notice, multiplied by the ownership percentage being acquired by the Company. The Company's decision to exercise the Horner Call Option shall be subject to Approval of the Board. A Manager appointed by Horner shall not be entitled to vote on the decision to exercise the Horner Call Option with respect to Horner.

(d) Notwithstanding anything to the contrary contained herein, the Multiple applicable to subsection 3.8(a) or (b) or (c) may not be changed without the consent, approval or vote of the Members holding all of the Class B Units then issued and outstanding.

(e) If a Change of Control transaction is effectuated within six (6) months of the closing of the Diaz Call Option or the Smithfield Call Option or the Horner Call Option (collectively a "Call Option") and if the per Unit purchase price of the Units with respect to such Change of Control transaction is higher than the per Unit price received by Diaz and/or Smithfield and/or Horner, as applicable (collectively referred to as a "Selling Member") in exchange for ownership interest sold to the Company pursuant to Section 3.8(a) or (b) or (c), such Selling Member shall be entitled to receive, an amount equal to (i) the aggregate number of Units sold by the applicable Selling Member under Sections 3.8(a) or (b) or (c), multiplied by (ii)

the result of (A) the aggregate dollar amount distributable with respect to the outstanding Units as a result of such Change of Control transaction divided by the number of fully-diluted Units of the Company that are outstanding as of the date of such Change of Control transaction, minus (B) the applicable per Unit purchase price paid by the Company under Section 3.8(a) or (b) or (c), as applicable (the "Lookback Amount"). The Lookback Amount shall be paid to an applicable Selling Member in the same manner as paid to the Company and the other remaining Members at the time of the closing of the Change of Control transaction

(f) "Change of Control" means the occurrence of any of the following events: (i) a sale of Units or a merger or consolidation of the Company in which the Members of the Company as of immediately prior to such sale, merger or consolidation do not continue to hold at least a fifty percent (50%) interest in the surviving entity; or (ii) the sale or other disposition of all or substantially all of the assets of the Company to any Person (which is not an Affiliate of any of the Members of the Company).

ARTICLE IV **Members And Membership Units**

4.1 Classification of Members. There shall be two (2) classes of Members of the Company: a Class A Member Class and Class B Member Class. All Members shall have (based on Units held) the same economic rights.

4.2 Withdrawal of a Member. No Member has the right to withdraw or resign from the Company at any time, except upon Approval of the Board. In the event that a Member withdraws from the Company in violation of this Agreement, such Member shall be liable to the Company for damages for breach of this Agreement and the Company shall have no obligation whatsoever to make any special distribution or payments to such Member as a result of such withdrawal. Notwithstanding the foregoing, in the event that the Act or a final court ruling entitles the Member to receive a distribution upon withdrawal in violation of this Section 4.2, such distribution shall be equal to the Member's Capital Account. The foregoing represents the parties' reasonable best efforts to determine the damages that would stem from a Member's breach of this Section 4.2. The Company may offset any damages due to such a breach against any amounts otherwise distributable to such Member. No assessment of damages shall account for or be based on the volume or value of business generated by such Member.

4.3 Redemption of a Member.

(a) Terminating Events are categorized as either Adverse Terminating Events or Non-Adverse Terminating Events for purposes of differentiating the Company's redemption obligations to the Member to whom or which an event occurs.

(b) For purposes of this Section, an "Adverse Terminating Event" means:

- (i) with respect to any Member or Individual Physician Owner:
 - A. a prohibited Transfer (or attempt to Transfer) of Units;

- B. the exclusion, suspension or debarment of a Member from participation in the Medicare or Medicaid programs or by any Illinois State health care licensing authority;
- C. the conviction of any felony involving moral turpitude or noncompliance with health care laws, including, but not limited to, the false claims, false representations, anti-kickback and all other provisions of the Medicare/Medicaid fraud and abuse laws and the physician self-referral provisions of the Stark Law;
- D. any material breach of a provision of this Agreement, including without limitation, breach of Section 2.3;
- E. any event of Bankruptcy;
- F. the resignation or withdrawal of a Member prior to the later of seven (7) years after the date on which the Center become Medicare-certified or seven (7) years from the date on which such Member became a Member (other than due to death, the adjudication of incompetence, Disability or Retirement).

(ii) with respect to a Class A Member or Individual Physician Owner, in addition to Section 4.3(b)(i) above:

- A. the relocation of the primary site of such Class A Member's or Individual Physician Owner's medical practice to a location more than fifty (50) miles away from the Center;
- B. the revocation or suspension of such Class A Member's or Individual Physician Owner's license to practice medicine in the State of Illinois;
- C. the failure by such Class A Member or Individual Physician Owner to maintain active medical staff membership and unrestricted clinical privileges (as defined in the Center's medical staff bylaws) at the Center; or
- D. the failure by the Class A Member or Individual Physician Owner to meet any of the Eligible Physician requirements set forth in Section 2.4(b), including, without limitation, the requirement to comply with the requirements of Section 2.3 (provided, however, that a Class A Member or Individual Physician Owner who is a spine surgeon or orthopedic spine surgeon shall be exempt from complying with the One-Third Tests).

- (iii) with respect to Smithfield, in addition to Section 4.3(b)(i) above:
 - A. termination of the Management Agreement (as defined in Section 7.6) by the Company for cause; or
 - B. the Board of Managers determines in its reasonable discretion that Smithfield's ownership in the Company would disqualify (or, without further action, would disqualify) the Company or the Center from engaging in operations as a Medicare certified ambulatory surgical center for any reason.

- (iv) with respect to Diaz, in addition to Section 4.3(b)(i) above:
 - A. the Board of Managers determines in its reasonable discretion that Diaz's ownership in the Company would disqualify (or, without further action, would disqualify) the Company or the Center from engaging in operations as a Medicare certified ambulatory surgical center for any reason.

(c) For purposes of this Section, a "Non-Adverse Terminating Event" means:

- (i) With respect to any Member or Individual Physician Owner,
 - A. the resignation or withdrawal of a Member after the later of seven (7) years after the date on which the Center became Medicare-certified or seven (7) years after the date on which such Member became a Member, and such withdrawal or resignation does not occur in the one (1) year period following an Adverse Terminating Event relating to such Member;
 - B. death;
 - C. the adjudication of incompetence;
 - D. the determination by the Company, which determination shall require Consent of the Members, to redeem Class A Units with or without cause. This subparagraph D shall not apply to Class B Members or Class B Units.

(ii) With respect to a Class A Member or Individual Physician Owner, in addition to Section 4.3(c)(i) above;

- A. Disability; or
- B. Retirement.

(d) Each Terminating Event, if subject to cure within thirty (30) days, shall trigger termination only after written notice is provided and if a cure has not been made of the Terminating Event within such thirty (30) day period.

(e) If a Terminating Event (whether Adverse or Non-Adverse) shall occur with respect to any Member, the Company may elect, at the Company's sole option and upon written notice to such Member within three (3) years after the Company has received actual knowledge of the Terminating Event (meaning knowledge of a majority of the Board of Managers excluding the party suffering the Terminating Event without knowledge being imputed from one Manager to another), to purchase the Member's Units and the Member must sell such Units to the Company at a price as determined as follows. No Member subject to a Terminating Event shall vote, as a Member or Manager, in any action related to the Company's exercise of its right to redeem such Member's Units hereunder and such Member's vote shall be discounted for the purposes of determining whether voting or consent thresholds are met.

(f) Notwithstanding the foregoing, in the event the Member subject to the Terminating Event is a Rush Physician Member, each remaining Rush Physician Member shall have the right to purchase his or her pro rata share of the affected Rush Physician Member's Units at the Non-Adverse Purchase Price (defined below). The remaining Rush Physician Members shall exercise such right within sixty (60) days of receipt of notice by the Board of the occurrence of the Terminating Event. Should a Rush Physician Member fail to give written notice of his or her intent to exercise his or her right hereunder within such sixty (60) day period, he or she shall be deemed to have waived his or her right hereunder and the Company shall have the right to redeem any remaining portion of the affected Rush Physician Member's Units pursuant to Section 4.3(e) above.

(g) With respect to an Entity Investor, if an Adverse or Non-Adverse Terminating Event occurs with respect to an Individual Physician Owner of the Entity Investor, it shall be a Terminating Event which shall require the Entity Investor to redeem the ownership interest in the Entity Investor held by the Individual Physician Owner subject to the Terminating Event. If the Entity Investor fails to so redeem the affected Individual Physician Owner, such failure shall be deemed a material breach of this Agreement and the Company may elect, at the Company's sole option, upon written notice to such Entity Investor, to purchase the portion of the Units indirectly held by the affected Individual Physician Owner immediately prior to the occurrence of the subject Terminating Event. The purchase price for the redeemed Units shall be based on whether the Terminating Event applicable to the latest Individual Physician Owner of the Entity Investor was Adverse or Non-Adverse, in accordance with the formulas provided below

(h) If any Member's Units are purchased by the Company because of the occurrence of an Adverse Terminating Event, the amount the Company shall pay for the Units owned by such Member shall be the Formula Amount determined as of the date of the Terminating Event multiplied by the Member's Unit Proportion, discounted by forty percent (40%) (the "Adverse Purchase Price").

(i) If any Member's Units are purchased by the Company because of the occurrence of a Non-Adverse Terminating Event, the amount the Company shall pay for the

Units owned by such Member shall be the Formula Amount multiplied by the Member's Unit Proportion (the "Non-Adverse Purchase Price"). The "Adverse Purchase Price" and the "Non-Adverse Purchase Price" may be referred to collectively as the "Valuation Price."

(j) For purposes of this Section 4.3, the Formula Amount (as defined in Article I) is intended as a means of approximating fair market value while minimizing disputes and appraisal-related costs and expenses regarding valuation of Units for purposes of redemption.

(i) All calculations used to determine the Formula Amount shall be performed by the Company's regularly retained accountants and such calculations shall be final and binding upon all parties to this Agreement. All Members acknowledge and agree that the Formula Amount may be an inexact approximation of fair market value, and all Members waive any and all rights to contest the use of the Formula Amount for any and all purposes in lieu of an appraisal or other method.

(ii) Subject to Sections 3.8(d) and 7.4(a)(iii) hereof, the Board of Managers, upon Consent of the Members, shall have the ability to adjust the Multiple used to arrive at the Formula Amount (as defined in Article I) based on its assessment of the market conditions for ambulatory surgery centers on an annual basis or whenever determined; provided, once adjusted, the Multiple may not be adjusted for the next twelve (12) months; and provided further, a Multiple adjustment taking effect after the occurrence of a Terminating Event will not affect the Formula Amount with respect to the Member for whom the Terminating Event had occurred. Rather, in that case, the Multiple shall remain the Multiple in effect on the effective date of such Member's Terminating Event.

(k) Payments for Units hereunder shall be made as follows. Twenty percent (20%) of the estimated Valuation Price (the "Estimated Valuation Price"), as determined in good faith by the Board of Managers based on the Company EBITDA for the twelve (12) months immediately preceding the date on which the Terminating Event occurred (the "Initial Payment"), shall be made within ninety (90) days after the determination of the Estimated Valuation Price (the "Purchase Date"). Within fourteen (14) months of the Purchase Date (the "Valuation Price Determination Date"), the Company shall deliver to the redeemed Member a calculation of the Valuation Price based on the Formula Amount. In the event that the Valuation Price exceeds the Estimated Valuation Price, the Company shall deliver an amount equal to the difference between twenty percent (20%) of the Valuation Price and the Initial Payment to the redeemed Member together with the Valuation Price calculation. In the event the Valuation Price is less than the Estimated Valuation Price, the redeemed Member shall deliver to the Company an amount equal to the difference between the Initial Payment and twenty percent (20%) of the Valuation Price within five (5) days following the delivery of the Valuation Price calculation. Thereafter, the Company shall pay the redeemed Member twenty percent (20%) of the Valuation Price on the Valuation Price Determination Date and on each of the anniversaries of the Valuation Price Determination Date, with interest on the outstanding principal balance accruing at the Prime Rate shown in the Money Rates Section of the *Wall Street Journal* on the Purchase Date, until the principal is paid in full.

(l) Notwithstanding any delay in the payment of amounts due, a Member's rights as a Member shall cease on the Purchase Date. Aggregate payments to be made in connection with all redemptions shall not exceed seven and one-half percent (7.5%) of the Company's collected revenues in any year. If payments are so restricted, payments shall be made in proportion to amounts owed to all Members being redeemed. In sum, notwithstanding the provisions of this Article IV, the Company shall not be required to make payments to former Members pursuant to this Section which, in the aggregate, would exceed seven and one-half percent (7.5%) of the aggregate collections of the Company for any such period. If the aggregate amount of payments otherwise due to former Members pursuant to this Section 4.3 would reasonably be expected to exceed this limitation in any calendar year or portion thereof, the Company, with the Approval of the Board, shall pay such former Members, on a pro rata basis, based on the amount still owed such Members, quarterly payments totaling seven and one-half percent (7.5%) of the Company's anticipated aggregate collections for such period, and the balance of that period's payment obligations to such former Members shall be deferred to the following calendar year or years, until such amounts can be paid without violating such limitation with respect to any such year or years. Within thirty (30) days following the end of each calendar year, the Company shall make a pro rata adjusted payment to the former Members if and to the extent that actual aggregate collections during the prior year (or relevant portion thereof) have exceeded the anticipated amount.

(m) Notwithstanding anything to the contrary contained herein, this Section 4.3 shall not prevent a Class A Member or his or her group from participating as a provider with any hospital affiliated accountable care organization or payor. Further, this Section 4.3 shall not prevent a Class A Member from providing services at any hospital or surgery center where such Class A Member does not have a financial relationship.

ARTICLE V **Additional Capital**

5.1 Funding Capital Requirements.

(a) In the event that the Company requires additional funds to carry out its purposes, to conduct its business, or to meet its obligations, the Company may borrow funds from such lender(s), including Members and Managers, on such terms and conditions as are Approved by the Board of Managers, all on such terms as reflect fair market value. It is specifically provided that (except as set forth in Section 3.2 and 5.1(c)) no such terms or conditions shall impose any personal liability on any Member without the prior written consent of such Member.

(b) No Member or Manager shall be obligated to make any Capital Contributions or loans to the Company (except as provided in Section 3.2), or otherwise supply or make available any funds to the Company, even if the failure to do so would result in a default of any of the Company's obligations or the loss or termination of all or any part of the Company's assets or business.

(c) The Company may require that additional Capital Contributions be made by the Members upon Supermajority Approval pursuant to Section 7.4(b) hereof. If a Member

fails to deliver to the Company such an additional requested Capital Contribution within ten (10) business days of a request by the Board to do so, the Company, acting by Supermajority Approval, after giving thirty (30) days notice of such default, may elect (i) to treat such failure as a breach of this Agreement and an Adverse Terminating Event and redeem such Member's Units in accordance with Article IV hereof; or (ii) to dilute such Member's Unit Proportion by issuing to those Members who have made the required additional Capital Contribution a number of Units equal to the Dilution Issuance Amount; provided, however, the Company may elect to treat such failure to make an additional Capital Contribution as a dilution event only if the approved capital call permits each Member the opportunity to contribute additional Capital Contribution pro rata to such Member's ownership in the Company. The "*Diluted Issuance Amount*" for each contributing Member shall mean a number of Units equal to: (1) the total amount of the additional Capital Contribution made by the particular Member with respect to the specific additional Capital Contribution required, *divided by* (2) the Deemed Unit Value. The "*Deemed Unit Value*" shall mean an amount equal to: (I) the product of (A) the Book Value of the Company, *multiplied by* (II) the Member's Unit Proportion immediately prior to the additional Capital Contribution; or (II) if the Book Value of the Company is a negative number, the quotient of (A) One Hundred Thousand Dollars (\$100,000) *divided by* (II) the aggregate number of Units issued and outstanding immediately prior to the additional Capital Contribution. Any Member who fails to make the required additional Capital Contribution shall not be issued any additional Units under this subsection 5.1(c)(ii).

5.2 Third Party Liabilities. The provisions of this Article and of Section 3.2 hereof are not intended to be for the benefit of any creditor or other Person (other than a Member in his or her capacity as a Member) to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) the Company or any of the Members. Moreover, notwithstanding anything contained in this Agreement, including specifically but without limitation this Article, no such creditor or other Person shall obtain any rights under this Agreement or shall, by reason of this Agreement, make any claim in respect of any debt, liability or obligation (or otherwise) against the Company or any Member.

5.3 Indemnification of Diaz. The Members acknowledge that Diaz is the sole guarantor to the Company's obligations under that certain Lease (the "Lease") between the Company and Water Tower, LLC, ("Landlord") pursuant to the certain Guaranty, (the "Guaranty"), and additionally maintains a letter of credit (the "LOC") in order to secure payment under the Lease, all in accordance with the terms of the Lease. In the event that Diaz is required to make payment to the Landlord under the Guaranty or draw on the LOC as required by the Lease, the Company hereby agrees to indemnify and hold Diaz harmless for any amounts actually paid to the Landlord under the Guaranty and the LOC. The Company, the Members and Diaz hereby agree that the Members (other than Diaz) shall have no obligations under the Lease, the Guaranty, the LOC or the indemnification provided to Diaz under this Section 5.3, and that this Section 5.3 shall in no way be construed to require the Members to make any payments to the Company or Diaz under this Section 5.3 or to the Landlord under the Lease, the Guaranty, the LOC or any other agreement.

ARTICLE VI

Distributions; Profits and Losses

6.1 Distribution of Company Funds - In General.

(a) Except as necessary to comply with the Sections of this Article VI, all Net Operating Cash Flow of the Company over and above payment of the Company's obligations, including obligations to Smithfield, and Reasonable Reserves shall be distributed at least quarterly to the Members on a pro rata basis based on the proportion of Units then held by each such Member to the total number of Units then issued and outstanding.

(b) Except as necessary to comply with certain of the following Sections of this Article VI, all other cash flow of the Company shall be distributed among the Members of the Company as determined by Approval of the Board on a pro rata basis based on each Member's Unit Proportion.

(c) To the extent funds are available, the Company shall make mandatory distributions to Members sufficient for them to pay taxes on income attributed to them by reason of their ownership interests in proportion to the tax amount due from each Member.

6.2 Distribution Upon Dissolution. Proceeds from a Terminating Capital Transaction and/or other amounts or assets available upon dissolution, and after payment of, or adequate provision for, the debts and obligations of the Company, shall be distributed and applied in the following priority:

(a) First, to fund reserves for liabilities not then due and owing and for contingent liabilities to the extent deemed reasonable by Approval of the Board, provided that, upon the expiration of such period of time as the Board, acting by Approval, shall deem advisable, the balance of such reserves remaining after payment of such contingencies shall be distributed in the manner hereinafter set forth in this Section; and

(b) Second, to the Members, an amount sufficient to reduce the Members' Capital Accounts to zero, in proportion to the positive balances in such Capital Accounts after reflecting in such Capital Accounts all adjustments thereto necessitated by (i) all other Company transactions (distributions and allocations of Profits and Losses and items of income, gain, deduction and loss) and (ii) such Terminating Capital Transaction.

6.3 Distribution of Assets in Kind. No Member shall have the right to require any distribution of any assets of the Company in kind. If any assets of the Company are distributed in kind, such assets shall be distributed on the basis of their respective fair market values as determined by the Approval of the Board. Any Member entitled to any interest in such assets shall, unless otherwise determined by the Approval of the Board, receive separate assets of the Company and not an interest as tenant-in-common, with other Members so entitled, in each asset being distributed.

6.4 Allocation of Profits and Losses. After giving effect to the allocations set forth in Sections 6.5 and 6.6 which affect the Members' distributive shares, Profits and Losses shall be allocated among the Members on a pro rata basis, based on the proportion of Units then held by each such Member to the total number of Units then issued and outstanding.

6.5 Required Regulatory Allocations.

(a) Limitation on and Reallocation of Losses. At no time shall any allocations of Losses, or any item of loss or deduction, be made to a Member if and to the extent such allocation would cause such Member to have, or would increase the deficit in, any Adjusted Capital Account Deficit of such Member at the end of any fiscal year. To the extent any Losses or items are not allocated to one or more Members pursuant to the preceding sentence, such Losses shall be allocated to the Members to which such losses or items may be allocated without violation of this Section 6.5(a).

(b) Minimum Gain Chargeback. If there is a net decrease in the Minimum Gain of the Company during any fiscal year, then items of income or gain of the Company for such fiscal year (and, if necessary, subsequent fiscal years) shall be allocated to each Member in an amount equal to such Member's share of the net decrease in the Minimum Gain, determined in accordance with Regulations Section 1.704-2(d)(1). A Member's share of the net decrease in the Minimum Gain of the Company shall be determined in accordance with Regulations Section 1.704-2(g). The items of income and gain to be so allocated shall be determined in accordance with Regulations Section 1.704-2(j)(2)(i).

(c) Nonrecourse Deductions. Nonrecourse Deductions for any fiscal year or other period (not including any Member Nonrecourse Deductions allocated pursuant to Section 6.5(d)) shall be allocated among the Members on a pro rata basis, based on the proportion of Units then held by each such Member to the total number of Units then issued and outstanding. Solely for purposes of determining each Member's proportionate share of the "excess nonrecourse liabilities" of the Company, within the meaning of Regulations Section 1.752-3(a)(3), the Company Profits shall be allocated among the Members on a pro rata basis, based on the proportion of Units then held by each such Member to the total number of Units then issued and outstanding. The items of losses, deductions and Code Section 705(a)(2)(B) expenditures to be so allocated shall be determined in accordance with Regulations Section 1.704-2(j)(1)(ii).

(d) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any fiscal year or other period shall be allocated to the Member who bears the economic risk of loss with respect to the nonrecourse liability, as determined and defined under Regulations Section 1.704-2(b)(4), to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1). The items of losses, deductions and Code Section 705(a)(2)(b) expenditures to be so allocated shall be determined in accordance with Regulations Section 1.704-2(j)(1)(ii).

(e) Member Minimum Gain Chargeback. Notwithstanding any contrary provisions of this Article VI, other than Section 6.5(b) above, if there is a net decrease in Member Minimum Gain attributable to Member Nonrecourse Debt during any fiscal year, then each Member who has a share of such Member Minimum Gain, determined in accordance with Regulations Section 1.704-2(i), shall be allocated items of income and gain of the Company, determined in accordance with Regulations Section 1.704-2(j)(2)(ii), for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to each such Member's share of the net decrease in such Member Minimum Gain, determined in accordance with Regulations Section 1.704-2(i)(3) and 2(i)(5).

(f) Qualified Income Offset. If any Member unexpectedly receives an item described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of income and gain shall be allocated to each such Member in an amount and manner sufficient to eliminate, as quickly as possible and to the extent required by Regulations Section 1.704-1(b)(2)(ii)(d), the Adjusted Capital Account Deficit of such Member, provided that an allocation pursuant to this Section 6.5(f) shall only be made if and to the extent that such Member would have an Adjusted Capital Account Deficit after accounting for all other allocations provided for in this Article VI other than that described in this Section 6.5(f).

(g) Basis Adjustment. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to either of Code Sections 734(b) or 743(b) is required to be taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m), the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to said Section of the Regulations.

(h) Gross Income Allocation. If at the end of any Company fiscal year any Member has a Capital Account deficit which is in excess of the sum of the items to be credited to a Member's Capital Account under clause (a) of the definition of Adjusted Capital Account Deficit, then each such Member shall be allocated items of income and gain in the amount of such excess as quickly as possible provided that an allocation pursuant to this Section 6.5(h) shall only be made if and to the extent that such Member would have a Capital Account deficit in excess of such sum after accounting for all other allocations provided for in this Article VI other than that described in this Section 6.5(h). As among Members having such excess, if there are not sufficient items of income and gain to eliminate all such excess, such allocations shall be made in proportion to the amount of each Member's respective excess.

6.6 Curative Allocations. The allocations set forth in Section 6.5 are intended to comply with certain requirements of Regulations Sections 1.704-1(b) and 1.704-2 and shall be interpreted consistently therewith. Such allocations may not be consistent with the manner in which the Members intend to divide Company distributions and to make Profit and Loss allocations. Accordingly, by the Approval of the Board, after effecting the allocations required pursuant to Section 6.5, other allocations of Profits, Losses and items thereof shall be divided among the Members so as to prevent the allocations in Section 6.5 from distorting the manner in which Company distributions will be divided among the Members pursuant to Sections 6.1 and 6.2 hereof. In general, the Members anticipate that this will be accomplished by specifically allocating other Profits, Losses and items of income, gain, loss and deduction among the Members so that the net amount of allocations under Section 6.5 and allocations under this Section 6.6 to each such Member is zero. However, the Board shall have discretion to accomplish this result in any reasonable manner.

6.7 Tax Allocations and Book Allocations.

(a) Except as otherwise provided in this Section 6.7, for federal income tax purposes, each item of income, gain, loss and deduction shall, to the extent appropriate, be

allocated among the Members in the same manner as its correlative item of "book" income, gain, loss or deduction has been allocated pursuant to the other provisions of this Article VI.

(b) In accordance with Code Section 704(c) and the Regulations thereunder, depreciation, amortization, gain and loss, as determined for tax purposes, with respect to any property whose Book Value differs from its adjusted basis for federal income tax purposes shall, for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Book Value, such allocation to be made by the Approval of the Managers in any manner which is permissible under said Code Section 704(c) and the Regulations thereunder and the Regulations under Code Section 704(b).

(c) In the event the Book Value of any property of the Company is subsequently adjusted, subsequent allocations of income, gain, loss and deduction with respect to any such property shall take into account any variation between the adjusted basis of such asset for federal income tax purposes and its respective Book Value in the manner provided under Section 704(c) of the Code and the Regulations thereunder.

(d) Allocations pursuant to this Section 6.7 are solely for federal, state, and local income tax purposes, and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

6.8 General Allocation and Distribution Rules.

(a) For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Approval of the Board of Managers using any permissible method under Code Section 706 and the Regulations thereunder. Except as otherwise provided in this Agreement, all items of income, gain, loss, and deduction shall be allocated among the Members in the same proportions as the allocations of Profits or Losses for the fiscal year in which such items are to be allocated.

(b) Upon the admission of a new Member or the Transfer of an interest, the new and old Members or the transferor and transferee shall be allocated shares of Profits and Losses and other allocations and shall receive distributions, if any, based on the portion of the fiscal year that the new or transferred Company interest was held by the new and old Members, or the transferor and transferee, respectively. For the purpose of allocating Profits and Losses and other allocations and distributions, (i) such admission or Transfer shall be deemed to have occurred on the first day of the month in which it occurs, or if such date shall not be permitted for allocation purposes under the Code or the Regulations, on the nearest date otherwise permitted under the Code or the Regulations, and (ii) if required by the Code or the Regulations, the Company shall close its books on an interim basis on the last day of the previous calendar month.

6.9 Tax Withholding. If the Company incurs a withholding tax obligation with respect to the share of income allocated to any Member, (a) any amount which is (i) actually

withheld from a distribution that would otherwise have been made to such Member and (ii) paid over in satisfaction of such withholding tax obligation shall be treated for all purposes under this Agreement as if such amount had been distributed to such Member, and (b) any amount which is so paid over by the Company, but which exceeds the amount, if any, actually withheld from a distribution which would otherwise have been made to such Member, shall be treated as an interest-free advance to such Member. Amounts treated as advanced to any Member pursuant to this Section shall be repaid by such Member to the Company within thirty (30) days after the Board, acting by Approval of the Board of Managers, give notice to such Member making demand therefore. Any amounts so advanced and not timely repaid by such Member shall bear interest, commencing on the expiration of said 30-day period, compounded monthly on unpaid balances, at an annual rate equal to the lowest Applicable Federal Rate as of such expiration date. The Company shall collect any unpaid amounts so advanced from any Company distributions that would otherwise be made to such Member.

6.10 Tax Matters Partner. The Board of Managers will designate a "Tax Matters Partner" (as defined in Code Section 6231) of the Company. The Tax Matters Partner is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including, without limitation, administrative and judicial proceedings (collectively, "Audits"), and to expend Company funds for professional services and costs associated therewith. The Members agree to cooperate with each other and to do or refrain from doing any and all things reasonably required to conduct such proceedings. The Company shall indemnify and hold harmless the Tax Matters Partner and its directors, officers, employees and agents from and against any loss, expense, damage or injury suffered or sustained by them by reason of any acts, omissions or alleged acts or omissions arising out of its activities on behalf of the Company as Tax Matters Partner absent the gross negligence of the Tax Matter Partner. The Members specifically acknowledge that the Tax Matters Partner shall not be liable, responsible or accountable in damages or otherwise to the Company or any Member with respect to any action taken by the Tax Matters Partner with respect to an Audit absent the gross negligence of the Tax Matter Partner. The Tax Matters Partner shall take such action as may be necessary to cause each Member to be entitled to notice as set forth in Code Section 6223. The Tax Matters Partner shall not take any action contemplated by Code Section 6224 through 6230 without the prior authorization of the Members.

ARTICLE VII

Management

7.1 Management of the Company. The overall management and Control (as defined by the IHFSRB from time to time) of the business and affairs of the Company shall be vested in the Board of Managers, acting by Approval of the Board of Managers, but subject to the Member protections as set forth in Section 7.4 hereof. All management and other responsibilities not specifically reserved to the Members in this Agreement, or specifically requiring Class A Member and/or Class B Member Consent, shall be vested in the Board of Managers, and the Members shall have no voting rights except as specifically provided in this Agreement. Each Manager shall devote such time to the affairs of the Company as is reasonably necessary for performance by such Manager of his or her duties, provided such Manager shall not be required to devote full time to such affairs. Moreover, each Manager shall act in good faith with the care

an ordinary, prudent person in a like position would exercise under similar circumstances and in the best interest of the Company.

7.2 Board of Managers. The business and affairs of the Company shall be managed by the Board of Managers.

(a) Effective for all purposes on the date of the Closing Date (as defined in the Purchase Agreement), the Members shall elect the Board of Managers, comprised of four (4) representatives elected by the individual Class A Members as a class, one (1) representative appointed by Smithfield, and one (1) representative appointed by Diaz. Representatives to the Board of Managers appointed by Smithfield and Diaz shall also be referred to herein as Class B Managers.

(b) Each Manager elected or appointed to the Board shall have the right to sit on the Board and to vote as a Manager. Unless terminated sooner, each Manager shall serve for a one (1) year term and, until a new election or appointment is made, such Manager shall continue to serve as a Manager. Each Manager shall have one (1) vote. The powers of the Board shall be exercised subject to the Member protections set forth in Section 7.4 hereof. Smithfield shall be allowed to appoint the successor of the Board Member appointed by Smithfield. Diaz shall be allowed to appoint and/or replace a Member of the Board to serve in his place.

(c) There shall be at least one (1) meeting of the Managers per annum and at least one (1) meeting of the Members per annum. The Managers or Members, as applicable, may provide, by resolution, the time for the holding of this or additional meetings. Written notice shall be provided to all Managers and Members of such resolution. Meetings shall be at the Center and be open to all Members and Managers.

(d) Special meetings of the Board of Managers also may be called at the request of any two (2) Managers upon ten (10) days advance written notice to all other Managers. The time and purpose or purposes for such special meetings shall be stated in the notice of such meeting. Special meetings shall be at the Center and shall be open to all Members and Managers.

(e) Special meetings of the Members also may be called at the request of any Member upon ten (10) days advance written notice to other Members. The time and purpose or purposes for such special meetings shall be stated in the notice of such meeting. Special meetings shall be at the Center and shall be open to all Members and Managers.

(f) Three (3) Managers shall constitute a quorum at any meeting of the Board of Managers. Members representing a majority of Membership Units shall constitute a quorum at any meeting of the Members.

(g) Regarding Board meetings, Managers may provide a proxy to attend a Board meeting who shall have powers to vote as a Manager. Members and Managers may also attend their respective Member and Board meetings by phone, proxy or video conference.

(h) A Class A Manager's status as a Manager may be terminated at any time, with or without cause, by the Class A Members who appointed him or her or upon the consent of the holders of at least seventy-five percent (75%) of all Class A Units issued and outstanding. In the event that any Class A Manager ceases to serve as a Manager (whether by reason of termination, resignation, removal or any other cause), thereby creating a vacancy in the position of Class A Manager, the Class A Members who appointed such Manager (and is not the same Class A Manager who is terminated) shall designate a successor Class A Manager to fill such vacancy.

(i) A Class B Manager's status as a Manager may be terminated at any time, with or without cause, by the Class B Member who appointed him or her (Diaz shall be deemed to be appointed by himself). In the event that any Class B Manager ceases to serve as a Manager (whether by reason of termination, resignation, removal or any other cause), thereby creating a vacancy in the position of Class B Manager, the Class B Member who appointed such Manager, or the transferee of his, her or its Units, as applicable, shall designate a successor Class B Manager to fill such vacancy. If a Class B Member's interest in the Company is terminated for any reason whatsoever, then the Class B Manager appointed by such Member shall be removed, and the number of Class B Managers shall be decreased by one (1).

(j) A Member who holds Units in more than one (1) class shall be allowed to appoint only one (1) Manager of the Company. For purposes of applying this Section 7.2, a Manager shall be deemed to have the voting interest and Units of the Member who appointed the Manager.

(k) No Manager may resign from, retire from, abandon or otherwise terminate his status as a Manager except after thirty (30) days notice to the Board and to the Member who appointed him or her to the Board, unless such Member or the Board otherwise consents in writing.

7.3 Manner of Exercise of Board's Authority. All responsibilities granted to the Board or under this Agreement shall be exercised by the Board as a body, and no Manager, acting alone and without prior Approval of the Board, shall have the authority to act on behalf of the Board. The Company shall act by vote of a majority of the Managers then in office, with each Manager having one (1) vote. None of the following actions shall be taken by the Company except upon Approval of the Board of Managers, subject to the requirements of Section 7.4 hereof:

(a) Borrow money and otherwise obtain credit and other financial accommodations in the ordinary course of the business of the Company;

(b) Perform or cause to be performed all of the Company's obligations under any agreement to which the Company is a Party, including without limitation, any obligations of the Company or otherwise in respect of any indebtedness secured in whole or in part by, or by lien on, or security interest in, any asset(s) of the Company;

(c) Employ, engage, retain or deal with any Persons to act as employees, agents, brokers, accountants, lawyers or in such other capacity as may be necessary or desirable;

(d) Appoint individuals to act as officers of the Company and delegate to such individuals such authority to act on behalf of the Company and such duties and functions as would normally be delegated to officers of a corporation holding similar offices;

(e) Adjust, compromise, settle or refer to arbitration any claim in favor of or against the Company or any of its assets;

(f) Make elections in connection with the preparation of any federal, state and local tax returns of the Company and institute, prosecute, and defend any legal action or any arbitration proceeding;

(g) Acquire and enter into any contract of insurance necessary or proper for the protection of the Company and/or any Member and/or any Manager, including without limitation to provide the indemnity described in Section 7.8 or any portion thereof;

(h) Approve technical amendments to this Agreement or the Articles of Organization;

(i) Establish a record date for any distribution to be made under Article VI hereof;

(j) Perform any other act which the Managers may deem necessary or desirable for the Company as well as the Company's business

(k) Except as contemplated by Article IV hereof, authorize, or set aside any sums for, the purchase, repurchase, redemption or other acquisition by the Company of any Member's Units of any class or make loans or distributions to Members;

(l) Waive any Member obligations, approve the Transfer of Units, approve the withdrawal of a Member, or change the accounting firm employed by the Company or hire or select a valuation firm;

(m) Effect any Bankruptcy event with regard to the Company; and

(n) With regard to staff privileges of the Center, approve the credentialing requirements of the Center, close the staff privileges of the Center, approve all medical staff bylaws, manuals, policies and procedures and approve all medical staff terminations and privileges.

7.4 Restrictions.

(a) Notwithstanding any other provision in this Agreement to the contrary, the Company shall not take any of the following actions without Consent of the Members:

(i) Approve a Member's loan to the Company;

(ii) Approve the redemption of a Class A Member without Cause under Section 4.3(c)(i)(D);

(iii) Change the Multiple used to determine the Formula Amount; provided, however, as applied the Diaz Call Option or the Smithfield Call Option as set forth in Section 3.8, the consent, approval or vote of each Class B Member shall be required in addition to Consent of the Members;

(iv) Enter into, renew, amend or terminate any arrangement or agreement with any Company administrator, management company, consulting company or other senior employee or executive of the Company; provided, however that Smithfield shall not have the right to vote on or consent to these matters and the outcome of any vote or consent regarding these matters shall be determined without taking into account the votes held by Smithfield; or

(v) Authorize, create, designate, determine or issue any new class of Units or issue new Units, or securities convertible into Units or issue options or warrants to purchase Units or authorize the merger, consolidation or similar combination with any other entity, or authorize the sale of all or substantially all the assets of the Company or the dissolution or liquidation of the Company;

(b) Notwithstanding any other provision in this Agreement to the contrary, the Company shall not take any of the following actions without Supermajority Approval:

(i) Require a Member to make an additional Capital Contribution or guarantee an obligation of the Company;

(ii) Except for Smithfield's Management Agreement, and the Medical Director Agreement, any compensation to any Member or Affiliate or enter into any transaction with a Member or Affiliate, except to the extent that all Members are paid compensation on a pro rata basis, based on the proportion of Units then held by each such Member to the total number of Units then issued and outstanding. Except as expressly provided in the preceding sentence, the Company shall not pay any compensation or provide any economic benefit of any kind whatsoever, directly or indirectly, to any Member, Manager, or officer of the Company, or to any Affiliate of any Member, Manager, or officer of the Company, including, but not limited to, the payment of any social or professional association or club dues or fees, and the provision of goods or services having economic value; or

(iii) Except for technical amendments (including without limitation, updating the ownership chart, replacing outdated references, correcting typographical errors or making such other changes to eliminate any confusion and redundancy), amend this Agreement or the Articles of Organization of the Company.

7.5 Binding the Company. Subject to the provisions of Sections 7.3 and 7.4 hereof, any action taken by a Manager, with Approval of the Board, shall bind the Company and any other Managers and shall be deemed to be the action of the Company.

7.6 Compensation of Managers and Members. No direct or indirect payment shall be made by the Company to any Manager, Member, or officer of the Company or to any Affiliate of any Manager, Member, or officer of the Company, for such Manager's, Member's, or officer's services as a Manager, Member, or officer. Each Manager and officer shall be entitled to

reimbursement from the Company for all reasonable expenses incurred by such Manager or officer in managing and conducting the business and affairs of the Company. Also, it is intended that Smithfield and the Company will enter into a contract to manage the Center substantially in the form of Exhibit B hereof (the "Management Agreement").

7.7 Contracts with Affiliated Persons. Subject to Section 7.4(b) hereof, the Company may enter into one or more agreements, leases, contracts or other arrangements for the furnishing to or by the Company of goods, services or space with any Member, Manager or Affiliated Person, and may pay compensation thereunder for such goods, services or space, provided in each case the amounts payable thereunder are reasonably comparable to those which would be payable to unaffiliated Persons under similar agreements, and if the determination of such amounts is made in good faith it shall be conclusive absent manifest error.

7.8 Indemnification. The Company shall indemnify the officers and Managers of the Company, and the officers, directors and shareholders of any Manager which is a corporation in accordance with applicable law and the articles of organization, by-laws and other governing documents of such corporation, for any liability incurred and/or for any act performed by them within the scope of the authority conferred on them by this Agreement, and/or for any act omitted to be performed, except for their gross negligence or willful misconduct, which indemnification shall include all reasonable expenses incurred, including reasonable legal and other professional fees and expenses. The doing of any act or failure to do any act by an officer or a Manager, the effect of which may cause or result in loss or damage to the Company, if done in good faith to promote the best interests of the Company, shall not subject the officer or Manager to any liability to the Members except for gross negligence or willful misconduct.

7.9 Other Activities. Subject to any other restrictions set forth in this Agreement, the Members, Managers and any Affiliates of any of them may engage in and possess interests in other business ventures and investment opportunities of every kind and description, independently or with others as long as they do not violate Article X hereof.

7.10 Financial Statements. The Board shall authorize and cause to be prepared financial statements on an annual basis within ninety (90) days after the end of each fiscal year of the Company. The Board shall determine whether such financial statements will be audited.

ARTICLE VIII

Officers

8.1 Number; Election; Resignation. The Company shall have a President, a Treasurer, a Secretary, and such other officers as the Board may in its discretion create. All officers shall be elected annually by the Board, acting by Approval, at any duly convened meeting of the Board. In selecting officers, the Board shall consider the skill, qualifications, dedication, and loyalty of officer candidates, and with respect to such officers, the Board shall select only those individuals who, in the Board's sole opinion, shall best promote and advance the interests of the Company. Each officer shall hold office for automatically renewing one (1) year terms until his or her successor is chosen and qualified, unless terminated earlier and except as otherwise provided at the meetings respectively at which he or she is elected or appointed.

Any officer may resign by delivering his written resignation to the Company at its office, or to the Board, and such resignation shall be effective upon receipt, unless it is specified to be effective at some other time or upon the happening of some other event.

8.2 Same Person Holding Two or More Offices. To the extent permitted by the Act, any two or more of the offices referred to in this Article VIII may be filled by the same person.

8.3 Officers Need Not Be Members or Managers. Except as otherwise provided by the Act, any person shall be eligible for election to be an officer of the Company without the necessity of being a Member or Manager.

8.4 Removal of Officers. Any officer may be removed by the Board, acting by Approval, with or without cause.

8.5 Vacancies. In case a vacancy in any office shall occur due to any cause, the Board of Managers, acting by Approval, may elect a person to fill such vacancy who shall hold office until the date on which the office would ordinarily be filled, and until a successor is chosen and qualified.

8.6 President. The President shall be the chief executive officer of the Company and shall, subject to the provisions set forth hereinafter, have the authority to oversee such administrative activities and to take such administrative actions as shall be customary for a chief executive officer. The President shall perform such additional duties as may be delegated to the President by the Board or as may be imposed by law. It shall be the duty of the President, and the President shall have the power to see to it, that all orders and resolutions of the Board are carried into effect. The President shall, from time to time, report to the Board all matters within his or her knowledge which the interests of the Company may require to be brought to its notice.

8.7 Treasurer. The Treasurer shall, subject to the supervision and control of the Board, have custody of the funds and of all the valuable papers of the Company. The Treasurer shall keep the accounts of the Company in a clear manner, and shall, at all times, when requested by the Board, exhibit a true statement of the affairs of the Company. The Treasurer shall, if required by the Board, give a bond for the faithful discharge of his or her duties, at the expense of the Company, with satisfactory sureties in such penal sum as the Board may determine, if so required by the Board. Except as the Board may otherwise order, the Treasurer shall sign and/or endorse all promissory notes, bills, checks, drafts, trade acceptances, and bankers' acceptances, and may execute all deeds, mortgages, reports, contracts, agreements, and other legal documents of the Company, but the Board may authorize any other officer or officers, or agent or agents, to sign any obligations, instruments, or papers on behalf of the Company, and/or may limit the authority of the Treasurer in any of said matters. The Treasurer shall perform such other duties as may be delegated to him or her by the Board or as may be imposed by law.

When the Treasurer shall be absent or for any other reason unable to perform his or her duties, the Treasurer may appoint any other officer of the Company to act as Temporary Treasurer, and said Temporary Treasurer shall have all the duties herein delegated to the Treasurer during the term of his or her appointment.

8.8 Secretary. The Secretary shall keep the records of the Company, of its Members, and of the Board, and shall perform such duties and have such powers additional to the foregoing as the Board shall designate.

ARTICLE IX **Fiscal Matters**

9.1 Books and Records. The Center's Administrator shall perform day to day bookkeeping for the Center and shall keep complete and accurate records of the same. The Company shall engage the services of a certified public accounting firm ("Accounting Firm") to audit the Company's books and records using the same methods of accounting which are used in preparing the federal income tax returns of the Company to the extent applicable and otherwise in accordance with United States generally accepted accounting principles consistently applied. The Accounting Firm shall be selected by Approval of the Managers. The Company's books and records shall be maintained and updated monthly, and shall be available, in addition to any documents and information required to be furnished to the Members under the Act, at an office of the Company or the Accounting Firm for examination and copying by any Member, or his or her duly authorized representative, upon reasonable request therefor and at the expense of such Member. Alternately, copies of such books, records, documents and information shall be sent by the Company to any Member, or his or her duly authorized representative, upon reasonable request therefor and at the expense of such Member. The Company shall keep at its registered office all items required pursuant to the Act. Within ninety (90) days after the end of each fiscal year of the Company, each Member shall be furnished with audited financial statements which shall contain a balance sheet as of the end of the fiscal year and statements of income and cash flows for such fiscal year. Any Member may, at any time, at his or her own expense, cause an audit or review of the Company books to be made by a certified public accountant of his or her own selection.

9.2 Bank Accounts. Bank accounts and/or other accounts of the Company shall be maintained in such banking and/or other financial institution(s) as shall be selected by Approval of the Board, and withdrawals shall be made and other activity conducted on such signature or signatures as determined by Approval of the Board. Any and all records with respect to such bank accounts and/or other accounts, including, but not limited to, copies of any checks written on such account or records or other withdrawal activity, shall be available at an office of the Company or the Accounting Firm for examination and copying by any Member, or his or her duly authorized representative, upon reasonable request therefor and at the expense of such Member. Alternately, copies of such records shall be sent by the Company to any Member, or his or her duly authorized representative, upon reasonable request therefor and at the expense of such Member.

9.3 Fiscal Year. The fiscal year of the Company shall end on December 31 of each year.

ARTICLE X **Transfer of Interests** **and Admission of Transferees**

10.1 Restriction on Transfers.

(a) Except as indicated below, no Member may sell, Transfer, pledge, hypothecate, gift or otherwise dispose of or encumber all or any portion of his, her or its Membership Units without Approval of the Board (if a Class B Member, the Manager appointed by the Class B Member proposing to Transfer his, her or its Units shall not be entitled to vote); provided, however, any Transfer of Class A Units must be to a Person who meets the Safe Harbor Requirements and the Eligible Physician requirements set forth in Sections 2.3 and 2.4 hereof, and provided further, that any decision of whether to approve such Transfer shall not take into account the volume or value of referrals of a transferee. Any Transfer in violation hereof shall be treated as an Adverse Terminating Event. The Units of a Member and any interest of such Member's spouse in such Units, shall remain subject to this Agreement regardless of the termination, for any reason, of the marital relationship of any Member and the Member's spouse. During the marriage of the Member and such Member's spouse, such Member's obligations to sell or offer to sell Units pursuant to this Agreement shall include any interest of such Member's spouse in the Units. Any Units transferred in contravention of this Section shall be void of all voting, inspection and other rights with respect to the pledgee/transferee and any such transfer shall be null and void *ab initio* and shall be subject to purchase by the Company as an Adverse Terminating Event. Each spouse of a Member shall sign a Consent of Spouse form, substantially in the form of Exhibit C, agreeing to be bound by the terms hereof including, without limitation, the term providing that ownership by a spouse is not permitted. Any transferee must sign a counterpart to this Agreement agreeing to be bound by all terms hereof prior to such Transfer being deemed effective.

(b) Notwithstanding the foregoing, a Rush Physician Member may, at any time, without Approval of the Board, freely Transfer his or her Units to one or more other Rush Physician Members, or an Eligible Physician affiliated with Rush University Medical Center, or into a holding company wholly owned by one or more Rush Physician Members, or into a trust for the benefit of a Rush Physician Member or his family; provided that if the transfer is to a trust, the transferring Rush Physician Member is the trustee of the trust and that while any Units are in the trust, such Rush Physician Member has sole voting and dispositive power over such Units.

(c) Further, without Approval of the Board, but subject to the restrictions on transfer applicable to Class B Members in connection with the Option referenced in Section 3.7 and in Section 1.2(d) of the Purchase Agreement, a Class B Member may freely transfer his/its Units to another Class B Member or family member, or a trust for the benefit of one or more of his family members, and Smithfield may transfer its Units to another Class B Member or to its owners of its equity or to family members of its owners or trusts for the benefit of one or more of them; provided however, the transferee and transferor shall remain and agree to be bound by this Agreement. A Class B Member's transfer of Units pursuant to this subsection (c) shall not affect such Class B Member's rights to appoint a Manager to the Board of Managers pursuant to Sections 7.2(a) and 7.2(i) hereof.

(d) In addition, any Member may pledge his, her or its Units to a bank or financial institution.

10.2 Irreparable Harm. Each Member specifically acknowledges that a breach of Section 10.1 would cause the Company and the Members to suffer immediate and irreparable harm, which could not be remedied by the payment of money. In the event of a breach or threatened breach by a Member of the provisions of Section 10.1, the Company or other Members shall be entitled to injunctive relief to prevent or end such breach, without the requirement to post bond. Nothing herein shall be construed to prevent the Company or other Members from pursuing any other remedies available to it for such breach or such threatened breach, including the recovery of damages, reasonable attorneys' fees and expenses.

10.3 Assignee of a Member's Membership Units. If, notwithstanding the prohibitions in Section 10.1, a Member Transfers all or any portion of his, her or its Membership Units and a Person acquires such Membership Units (but is not admitted as a substituted Member pursuant to the terms of this Agreement), such Person shall:

(a) be treated as an assignee of a Member's Membership Units, as provided in the Act, and not as a Member of the Company;

(b) have no right to participate in the business and affairs of the Company or to exercise any rights of a Member under this Agreement or the Act;

(c) share in distributions from the Company with respect to the transferred Membership Units on the same basis as the transferring Member previously had; and

(d) be required to transfer the Units to the Company in accordance with the redemption provisions hereof relating to Adverse Terminating Events.

10.4 Obligations of Permitted Transferees. In the case of any approved Transfer or disposition of Membership Units, the transferee shall execute and deliver an appropriate instrument agreeing to be bound by this Agreement as a Member and such additional agreements or instruments as the Board may reasonably require. Any permitted transferee of Membership Units shall receive and hold such Membership Units subject to this Agreement and all of the restrictions, obligations and rights created hereunder, and the Members and each transferee shall be bound by their obligations under this Agreement with respect to each subsequent transferee.

10.5 Non-competition. During the term of a Member's membership in the Company, and for a period of one (1) year thereafter, other than through the Company, no Member nor any of its Affiliates, except as provided below, shall, without the prior written Approval of the Board, directly or indirectly, own in an entity that operates a licensed freestanding ambulatory surgical center within a seven (7) mile radius of the address of the Center. For the avoidance of doubt, the parties agree that the preceding sentence shall not be construed to prevent a Member or any of its Affiliates from (a) maintaining staff privileges at any facility, or (b) providing professional surgical services and earning a professional fee thereon (but not acting as an owner) in any other ambulatory surgical center.

Notwithstanding anything to the contrary contained herein, Rush Physician Members shall not, in any way, be restricted from directly or indirectly acquiring an ownership interest in, or maintaining, modifying or entering into any arrangement, whether or not compensated, with,

Rush University Medical Center, Midwest Orthopedics at Rush or any current or future surgery centers located on the Rush University Medical Center Campus.

Each party hereby acknowledges and agrees that any breach or threatened breach of the provisions of this Section 10.6 hereof binding on a party will result in irreparable harm and injury to the other party and that monetary damages will not provide an adequate remedy to a party. Accordingly, each Member hereby agrees that in the event of a breach or threatened breach of the provisions of this Section 10.6, the non-breaching party shall be entitled to: (a) a temporary restraining order, preliminary injunction and permanent injunction to enjoin such breach or threatened breach; (b) an accounting for any and all monies, earnings, profits and other benefits that the breaching party has derived or received, directly or indirectly, as a result of such breach or threatened breach; and (c) recover from the breaching party the reasonable attorneys' fees and costs incurred by the non-breaching party in enforcing the provisions of this Section 10.5. The breaching party further agrees that in the event of a breach or threatened breach of the provisions of this Section 10.5, the restrictions set forth in this Section 10.5 shall be extended during the period of any breach or threatened breach by the breaching party. The rights and remedies set forth herein are cumulative and shall be in addition to any other rights or remedies to which a party may be entitled.

Each party hereby acknowledges that the restrictions set forth in this Section 10.5 are minimal, reasonable in scope and duration and necessary to protect the legitimate interests of the parties and that any breach or threatened breach of these restrictions will result in irreparable harm to the non-breaching party. In the event that any of the restrictions are found by a court of competent jurisdiction to be too broad to permit enforcement to its full extent, then such restrictions shall be enforced to the maximum extent allowable by law and the parties hereby consent to and authorize the court to modify the restrictions in a manner to permit their enforcement.

10.6 Confidential Information.

(a) Each Member acknowledges that the Confidential Information is valuable property of the Company and undertakes that for so long as he, she or it is a Member, and thereafter until such information otherwise becomes publicly available other than through breach of this Section 10.7, he, she or it shall:

- (i) treat the Confidential Information as secret and confidential;
- (ii) not disclose (directly or indirectly, in whole or in part) the Confidential Information to any third Party except with the prior written consent of Company;
- (iii) not use (or in any way appropriate) the Confidential Information for any purpose other than the performance of the business of the Company and otherwise in accordance with the provisions of this Agreement;
- (iv) recognize and acknowledge that the Company's trade secrets and other confidential or proprietary information, as they may exist from time to time, are valuable, special and unique assets of the Company's business. Accordingly, during the term of the Company, each Member shall hold in strict confidence and shall not, directly or indirectly,

disclose or reveal to any person, or use for its own personal benefit or for the benefit of anyone else, any trade secrets, confidential dealings or other confidential or proprietary information of any kind, nature or description (whether or not acquired, learned, obtained or developed by a Member alone or in conjunction with others) belonging to or concerning the Company, or any of its customers or clients or others with whom they now or hereafter have a business relationship, except: (i) with the prior written consent of all the other Members; (ii) in the course of the proper performance of the Member's duties hereunder; or (iii) as required by applicable law or legal process. Each Member confirms that all such information constitutes the exclusive property of the Company.

Given the secretive and competitive environment in which the Company does business and the fiduciary relationship that the Members have with the Company, each Member agrees to promptly deliver to the Company, at any time when the Company so requests, all memoranda, notes, records, drawings, manuals and other documents (and all copies thereof and therefrom) in any way relating to the business or affairs of the Company or any of its customers and clients, whether made or compiled by such Member or furnished to it by the Company or any of its employees, customers, clients, consultants or agents, which such Member may then possess or have under its control. Each Member confirms that all such memoranda, notes, records, drawings, manuals and other documents (and all copies thereof and therefrom) constitute the exclusive property of the Company. Notwithstanding the foregoing paragraph or any other provision of this Agreement, each Member shall be entitled to retain any written materials received by such Member in its capacity as a Member; and

(v) limit the dissemination of and access to the Confidential Information to such of the Company's and the Member's officers, directors, managers, employees, agents, attorneys, consultants, professional advisors or representatives as may reasonably require such information for the performance of Company business and ensure that any and all such persons observe all the obligations of confidentiality contained in this Section.

(b) "Confidential Information" means any and all policies, procedures, quality assurance techniques, plans, projections, pro formas, financial, statistical and other information of the Company, including (but not limited to) information embodied on magnetic tape, computer software or any other medium for the storage of information, together with all notes, analyses, compilations, studies or other documents prepared by the Company or others on behalf of the Company containing or reflecting such information. Confidential Information does not include information which:

- (i) was lawfully made available to or known by third person on a non-confidential basis prior to disclosure by a Member;
- (ii) is or becomes publicly known through no wrongful act of a Member; or
- (iii) is received by a Member from a third Party other than in breach of confidence.

(c) Notwithstanding anything to the contrary in this Agreement, in the event that any government agency requests any Member to provide information regarding the Center or the Company, such Member shall have the right to provide such information to such government agency without the prior approval of the other Members.

10.7 Nonsolicitation. During the term of a Member's membership in the Company, and for a period of one (1) year thereafter, no Member nor any of its Affiliates shall employ or offer employment to the Center's Administrator or to any person who is employed by the Company or any of its Affiliates during the term of this Agreement without the prior Approval of the Board of Managers.

10.8 Additional Covenants.

(a) If a court of competent jurisdiction should declare this Article X, or any provision hereof, unenforceable because of any unreasonable restriction of duration, activity and/or geographical area, then the Parties hereby acknowledge and agree that such court shall have the express authority to reform this Agreement to provide for reasonable restrictions and/or grant the Company such other relief at law or in equity, reasonably necessary to protect the interests of the Company.

(b) Each Member specifically acknowledges that a breach of this Article X would cause the Company and other Members to suffer immediate and irreparable harm, which could not be remedied by the payment of money. In the event of a breach or threatened breach by a Member of any of the provisions of this Article X, the Company and other Members shall be entitled to injunctive relief to prevent or end such breach, without the requirement to post bond, and shall be entitled to recover reasonable attorneys' fees and expenses. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedies available to it for such breach or such threatened breach, including the recovery of damages.

(c) Each Member warrants and represents that he, she or it:

(i) Is familiar with the confidentiality and non-competition agreements contained herein.

(ii) Is acquiring such Units solely for investment and not resale, the Member is an accredited investor (earned more than Two Hundred Thousand Dollars (\$200,000) per year individually in each of the last two (2) years, and expects to earn more than such amount this year, or along with the Member's spouse earned more than Three Hundred Thousand Dollars (\$300,000) in each of the last two years, and expects to earn more than such amount this year, or has a net worth, with or without the Member's spouse, of at least One Million Dollars (\$1,000,000)), has experience and sophistication in financial matters sufficient to evaluate the merits and risks of the investment, and can afford to lose his or her or its entire investment and has not learned of this investment through any general solicitation or advertising. The Company has relied upon the fact that the Units in the Company are to be held by the Members solely for investment and on each of the representations made hereby.

(iii) Has concluded that his, her or its obligations and the Company's rights and remedies described herein, including, without limitation, the right to equitable relief contained herein, are reasonable.

(iv) Is fully aware of the duties, responsibilities, obligations and liabilities imposed upon him, her or it by this Article.

(v) Acknowledges that the covenants contained herein are fair, reasonable and just, under the circumstances, and are not a penalty.

(vi) Acknowledges that no registration statement is now on file with the Securities and Exchange Commission with respect to any Units in the Company, and the Company has no obligation or current intention to register such Units under the Federal Securities Act 1933 ("33 Act").

(vii) Acknowledges that the Units have not been registered under the 33 Act because the Company is issuing such Units in the belief that such Units are not securities, and if considered securities, that they are being issued in reliance upon the exemptions from registration requirements of the 33 Act providing for issuance of securities not involving a public offering, together with any corresponding exemptions of the Illinois Securities Act.

(viii) Acknowledges that the exemptions from registration under the 33 Act would be unavailable if the Units in the Company were acquired by a Member with a view to distribution.

(ix) Acknowledges that this Agreement does not conflict with or violate any other agreement to which the Member is party.

(x) Agrees to be substantially involved in the operation of the Company and does not expect a return on his, her or its investment due to the efforts of others.

10.9 Preemptive Rights.

(a) No Member shall have any preemptive, preferential or other right with respect to the issuance or sale of any Member interests or any warrants, subscriptions, options or other rights with respect thereto except as otherwise provided in this Section and Article III.

(b) For a period of two (2) years following the Closing Date (as defined in the Purchase Agreement), each of Smithfield, as long as Smithfield owns not more than 5.0100% of all Units outstanding and Diaz, as long as Diaz owns not more than 20.0000% of all Units outstanding, and Horner, as long as Horner owns not more than 4.9900% of all Units outstanding (each, for purposes of this Section 10.5, a "Preemptive Right Holder") shall have a preemptive right to purchase or otherwise acquire, in accordance with the provisions of this Section, a pro rata share of any New Units (as hereafter defined) which the Company, from time to time, may propose to issue.

(i) Prior to issuing any New Units, the Company shall first, in writing, notify each Preemptive Right Holder, stating its intention to issue New Units, and setting forth

the type and number of New Units to be issued ("Offered Units"), the price at which such Offered Units are to be offered and each new investor's anticipated percentage ownership of the Company. During the thirty (30) day period following its receipt of such notice (the "Exercise Period"), each Preemptive Right Holder shall have a right to buy his or its pro rata percentage of the Offered Units (the "Preemptive Units"). Such purchase shall be upon the same terms and for the same price as specified in the notice to the Preemptive Right Holders.

(ii) If and to the extent any Preemptive Right Holder fail to exercise their preemptive rights set forth in the immediately preceding subparagraph (i), or if and to the extent that any Preemptive Right Holders who exercise such foregoing preemptive rights do not complete the purchase, then the Company shall be entitled to issue the Preemptive Units not purchased upon the terms and to the parties specified in the notice to the Preemptive Right Holders.

(c) For purposes of applying this Section, "New Units" shall mean any Units (irrespective of class) which the Company proposes to issue on or after the Effective Date.

ARTICLE XI

Dissolution and Termination

11.1 Events Causing Dissolution.

The Company shall be dissolved and its affairs wound up upon the first to occur of the following events:

(a) The sale or other disposition of all or substantially all of the assets of the Company, unless the disposition is a transfer of assets of the Company in return for consideration other than cash and, by Approval of the Board, a determination is made not to distribute any such non-cash items to the Members (provided no such sale shall be effected until after the IHFSRB has approved the same if such approval is required);

(b) The election for any other reason to dissolve the Company made by Supermajority Approval (and no such election shall be made without IHFSRB approval if required);

(c) When there are no remaining Members, unless the holders of all of the financial rights in the Company agree in writing, within ninety (90) days after the cessation of membership of the last Member, to continue the legal existence and business of the Company and to appoint one or more new Members;

(d) Any consolidation or merger of the Company (subject to approval from the IHFSRB if necessary) with or into any entity unless the Company is the resulting or surviving entity; or

(e) Entry of a decree of judicial dissolution.

11.2 Procedures on Dissolution. Dissolution of the Company shall be effective on the day on which the event occurs giving rise to the dissolution, but the Company shall not terminate

until the Articles shall be canceled in the manner set forth in the Act. Notwithstanding the dissolution of the Company, prior to the termination of the Company, as aforesaid, the business and the affairs of the Company shall be conducted so as to maintain the continuous operation of the Company pursuant to the terms of this Agreement. Upon dissolution of the Company and subject to the Supermajority Approval required by Section 7.4 hereof, the Board, acting by Approval, or, if none, a liquidator elected by Supermajority Approval, shall liquidate the assets of the Company, apply and distribute the proceeds thereof under Article VI, and cause the termination of this Agreement.

ARTICLE XII

General Provisions

12.1 Notices. Any and all notices under this Agreement shall be effective (a) on the fifth (5th) business day after being sent by registered or certified mail, return receipt requested, postage prepaid, or (b) on the first business day after being sent by express mail, telecopy, or commercial expedited delivery service providing a receipt for delivery. All such notices in order to be effective shall be addressed, if to the Company at its principal office, if to a Member at the last address of record on the Company books, and copies of such notices shall also be sent to the last address for the recipient which is known to the sender, if different from the address so specified. A Member may change its address for purposes of this Agreement by giving the Board notice of such change in the manner heretofore provided for the giving of notices.

12.2 Word Meanings. The words "herein," "hereinafter," "hereinbefore," "hereof" and "hereunder" as used in this Agreement refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. All section references, except as otherwise provided herein, are to sections of this Agreement.

12.3 Binding Provisions. Subject to the restrictions on transfers set forth herein, the covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the parties hereto, their heirs, Legal Representatives, successors and assigns.

12.4 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois including the Act, as interpreted by the courts of the State of Illinois, notwithstanding any rules regarding choice of law to the contrary.

12.5 Counterparts. This Agreement may be executed in several counterparts and as so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the original or the same counterpart.

12.6 Separability of Provisions. Each provision of this Agreement shall be considered separable. If for any reason any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid, and if for any reason any provision or provisions herein would cause the Members to be liable for or bound by the obligations of the Company, such provision or provisions shall be deemed void and of no effect.

12.7 Section Titles. Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

12.8 Amendments. This Agreement may be amended or modified only in accordance with Sections 7.3 and 7.4 hereof.

12.9 Entire Agreement. This Agreement embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter.

12.10 Waiver of Partition. Each Member agrees that irreparable damage would be done to the Company if any Member brought an action in court to dissolve the Company. Accordingly, each Member agrees that he or she shall not, either directly or indirectly, take any action to require partition or appraisal of the Company or of any of the assets or properties of the Company, and notwithstanding any provisions of this Agreement to the contrary, each Member (and his or her successors and assigns) accepts the provisions of this Agreement as his or her sole entitlement on termination, dissolution and/or liquidation of the Company and hereby irrevocably waives any and all rights to maintain any action for partition or to compel any sale or other liquidation with respect to his or her interest, in or with respect to, any assets or properties of the Company. Each Member further agrees that he or she or it will not petition a court for the dissolution, termination or liquidation of the Company.

12.11 Survival of Certain Provisions. The Members acknowledge and agree that this Agreement contains certain terms and conditions which are intended to survive the dissolution and termination of the Company, including, but without limitation, the provisions of Sections 10.6 and 10.7. The Members agree that such provisions of this Agreement which by their terms require, given their context, that they survive the dissolution and termination of the Company so as to effectuate the intended purposes and agreements of the Members hereunder shall survive notwithstanding that such provisions had not been specifically identified as surviving and notwithstanding the dissolution and termination of the Company or the execution of any document terminating this Agreement, unless such document specifically provides for nonsurvival by reference to this Section 12.11 and to the specific provisions hereof which are intended not to survive.

12.12 No Impairment. The Company shall not amend, modify or repeal any provision of the Articles of Organization of the Company or this Agreement in any manner which would alter or change the rights, preferences, privileges or powers of, or the restrictions provided for the benefit of, the Members, without the express prior written consent of the holders of a majority of the Units of the class so impacted in each and every such instance; nor shall the Company, through any reorganization, transfer of assets, merger, dissolution, issue, sale or distribution of Units or any other voluntary action, avoid or seek to avoid the observance or performance of any terms of this Agreement for the benefit of the Members, without the express prior written consent of the majority of the holders of the majority of the Class so impacted in each and every such instance, as limited by Section 7.4. The Company shall in good faith take any and all actions which are necessary or appropriate in order to protect the rights of the Members.

12.13 Specific Performance or Injunctive Relief. The Members and the Company hereby declare that it is impossible to measure in money the damages which may accrue to one or more of them by reason of the failure of a Party to perform any of its obligations hereunder. Therefore, if any Party hereto shall institute any action or proceeding to enforce the provisions of this Agreement, any person (including the Company) against whom such action or proceeding is brought hereby waives the claim or defense therein that such Party has or may have an adequate remedy at law and agrees not to urge in any such action or proceeding that such a remedy exists. Furthermore, any Party seeking to enforce the provisions of this Agreement shall have the right to specific performance, injunctive or other equitable relief without the requirement to post bond.

12.14 Dispute Resolution; Binding Arbitration. Except for disputes relating to breaches of Sections 10.6 through 10.9, all disputes shall be resolved under the following provisions of this Agreement.

This Agreement shall be construed to be in accordance with any and all federal and state statutes, including Medicare, Medicaid and all federal and state rules, regulations, principles and interpretations applicable to the Company and the Members, and the relationships among them. It is the intent of this Section to set forth a procedure so that if certain legal developments occur, a dispute arises, or certain circumstances arise in which the Board of Managers should become internally deadlocked (including due to the withholding of Consent of the Members or Supermajority Approval), a procedure will be in place that will bring the terms of this Agreement back into legal compliance and/or resolve a Board deadlock while preserving, to the extent possible, the economic and governance relationships set forth here.

In the event there is any dispute among the parties or there is any legal development, including without limitation a change in (or the interpretation of) Medicare, Medicaid or other federal or state statutes, rules, regulations, principles or interpretations, that renders any of the material terms of this Agreement unlawful or unenforceable (including any services rendered or compensation to be paid hereunder), or a definitive judicial or State of Illinois interpretation of Illinois law that substantially affects the business, governance, or economics of the Company in an adverse manner (collectively a "Negative Legal Development"), or any circumstance in which the Board itself is deadlocked in its decision making hereunder and cannot take action (a "Deadlock Event"), any Member affected by such Negative Legal Development or such Deadlock Event shall have the immediate right upon notice to the other Members (the "Notice") to initiate the renegotiation of the affected term or terms of this Agreement, so as to remedy the impacts of the Negative Legal Development or to seek resolution of the Deadlock Event, each in a manner that substantially maintains the then existing economic and governance relationships of the Members, if it is legal to accomplish the change while maintaining substantially such economic and governance relationship.

If the Parties are not able to renegotiate the affected terms of the Agreement or resolve the Deadlock Event or dispute on a mutually satisfactory basis within forty five (45) days after the Notice, the Parties must submit the issues (the "Dispute") to mediation and arbitration pursuant to the procedure set forth below. The arbitrator selected in accordance with the provisions set forth below (the "Arbitrator") will be asked to determine the following: (a) whether there is a bona fide Negative Legal Development or Deadlock Event; (b) if so, are there modifications to the affected term or terms of the Agreement (the "Modifications") or a

resolution of the Deadlock Event ("Resolution") that are legal and will resolve the Dispute in a manner that substantially maintains the then existing economic and governance relationships of the Members; and (c) if there are curative Modifications or a Resolution, to determine and set forth in writing the specific Resolution or Modifications to each affected term of this Agreement.

A. Right to Mediate; Binding Arbitration. Any dispute between the Parties relating to this Agreement must first be submitted to non-binding mediation in accordance with procedures agreed upon by the Parties. If the dispute is not resolved through mediation within forty-five (45) days of the initial request for mediation or within a time frame mutually agreed upon by the Parties, the dispute must then be submitted for binding arbitration in accordance with procedures set forth by the American Health Lawyers Association.

B. Pre-Arbitration Procedure.

2. Any dispute shall be submitted to arbitration by notifying the other Party or Parties, as the case may be, hereto in writing of the submission of such dispute to arbitration (the "Arbitration Notice"). The Party delivering the Arbitration Notice shall specify therein, to the fullest extent then possible, its version of the facts surrounding the dispute and the amount of any damages and/or the nature of any injunctive or other relief such Party claims.

3. The Party (or Parties, as the case may be) receiving such Arbitration Notice shall respond within sixty (60) days after receipt thereof in writing (the "Arbitration Response"), stating its version of the facts to the fullest extent then possible and, if applicable, its position as to damages or other relief sought by the Party initiating arbitration.

4. The Parties shall then endeavor, in good faith, to resolve the dispute outlined in the Arbitration Notice and Arbitration Response. In the event the Parties are unable to resolve such dispute within sixty (60) days after receipt of the Arbitration Response, the Parties shall initiate the arbitration procedure outlined below.

C. Arbitration Procedure.

5. If the Parties hereto are unable to resolve the dispute within sixty (60) days after receipt of the Arbitration Response as set forth above, then the Parties must submit the dispute to binding arbitration in accordance with the American Health Lawyers arbitration program. If the Parties are unable to agree on an arbitrator within sixty (60) days after receipt of the Arbitration Response, each of the Parties shall, within sixty (60) days after receipt of the Arbitration Response, choose an arbitrator selector ("Selector"). The two Selectors shall then have forty (40) days to select an arbitrator who shall serve as the final arbitrator for the dispute. (The arbitrator chosen by the Parties hereto or by the Selectors, as the case may be, shall hereinafter be as the "Arbitrator"). The Arbitrator shall not be an Affiliate of any of the Parties hereto.

6. The arbitration shall be held in Chicago, Illinois. The Parties shall submit to the Arbitrator the Arbitration Notice and the Arbitration Response and any other facts regarding the dispute of which any Party desires.

7. The Arbitrator shall apply the arbitration rules set forth below in making his or her decision. The decision of the Arbitrator shall be rendered within sixty (60) days of the close of the hearing record, shall be in writing and shall contain findings of fact and conclusions of law.

D. Arbitration Rules.

8. The Arbitrator shall allow reasonable discovery, which he determines is necessary for determination of the issues presented.

9. The Arbitrator shall agree to resolve all factual disputes prior to resolving legal disputes.

10. The Arbitrator shall be guided by, and shall substantially comply with, the then-applicable Federal Rules of Evidence.

11. The Arbitrator is empowered to include in any award made hereunder such relief as the Arbitrator deems appropriate (other than punitive damages and attorneys' fees, including, without limitation, injunctive relief in addition to or in lieu of monetary damages).

12. Should any Party refuse or neglect to appear or participate in the arbitration proceedings, including the procedures relating to the selection of an Arbitrator, the participating Party may select the Arbitrator and the Arbitrator is empowered to decide the controversy in accordance with whatever evidence is presented.

13. The Arbitrator's award shall be in a form sufficient to clearly inform the Parties of the Arbitrator's decision.

E. Arbitrator's Award. The award of the Arbitrator shall be binding on the Parties and may be entered as a final judgment in a court of competent jurisdiction.

F. Other Disputes. All disputes relating to breaches of Sections 10.6 through 10.9 shall be resolved by a court of law with the site of venue in Chicago, Illinois.

12.15 Waiver of Trial by Jury. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN CONNECTION WITH ANY ACTION OR PROCEEDING INSTITUTED UNDER OR RELATING TO THIS AGREEMENT, OR ANY OTHER DOCUMENT EXECUTED PURSUANT HERETO, OR IN CONNECTION WITH ANY COUNTERCLAIM RESULTING FROM ANY SUCH ACTION OR PROCEEDING.

12.16 Waiver of Conflicts. McGuireWoods LLP represents the Rush Physician Members as a group in negotiating the terms of this Agreement. It is expected that each Member will engage counsel to negotiate the terms of this Agreement on his or her behalf. Wolin & Rosen, Ltd. represents the Company and Diaz and in that regard its representation of the Company has been relied on by Smithfield though it is expected that Smithfield and its owners will engage separate counsel to review and negotiate the terms of this Agreement. Diaz, himself

has both personal interests and interest on behalf of the Company. The same is true of Smithfield. Gilson Labus & Silverman has served as accountants for both the Company and Diaz. All of the foregoing conflicts are hereby waived by all parties.

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the Board of Managers and the Members hereto have executed this Agreement as of the day and year first above written.

CLASS A MEMBERS:

BRIAN J. COLE, M.D. S.C.

By: _____
Name: Brian Cole, M.D.
Its: _____

ANTHONY A. ROMEO, M.D., S.C.

By: _____
Name: Anthony Romeo, M.D.
Its: _____

SC SRK Ventures LLC

By: _____
Name: Kern Singh, M.D.
Its: _____

NSV INVESTMENTS, LLC

By: _____
Name: Nikhil Verma, M.D.
Its: _____

GREGORY P. NICHOLSON, MD, P.C.

By: _____
Name: Gregory Nicholson, M.D
Its: _____

Mark S. Cohen 2009 Declaration of Trust
U/A DTD March 14, 2009

By: _____
Name: Mark Cohen, M.D
Its: _____

John Fernandez, M.D.

FRADEN, INC.

By: _____
Name: Frank Phillips, M.D.
Its: _____

EJG, LLC

By: _____
Name: Edward Goldberg, M.D.
Its: _____

S2 Ventures LLC

By: _____
Name: Shane Nho, M.D.
Its: _____

Robert Wysocki, M.D.

NEURO ONE, LLC

By: _____
Its: _____
Name: _____

CLASS B MEMBERS:

Roberto Diaz, M.D.

SMITHFIELD SURGICAL PARTNERS, LLC

By: _____
Its: _____
Name: _____

Greg Horner, M.D.

THE COMPANY:

GOLD COAST SURGICENTER, LLC

By: _____
Its: _____
Name: _____

BOARD OF MANAGERS:

CLASS A MANAGERS:

Name:

Name:

Name:

Name:

CLASS B MANAGERS:

Name: Roberto Díaz, M.D.

Name:

SCHEDULE 4.3(b)(ii)

1. Brian Cole, M.D.
2. Anthony Romeo, M.D.
3. Kern Singh, M.D.
4. Nikhil Verma, M.D.
5. Gregory Nicholson, M.D.
6. Mark Cohen, M.D.
7. John Fernandez, M.D.
8. Frank Phillips, M.D.
9. Edward Goldberg, M.D.
10. Shane Nho, M.D.
11. Robert Wysocki, M.D.

EXHIBIT A

MEMBERSHIP UNITS

NAMES OF MEMBERS	TOTAL UNITS	OWNERSHIP PERCENTAGE
<u>Class A Members</u>		
Brian J. Cole, M.D. S.C. (Brian Cole, M.D.)	6.6667 Units	6.6667%
Anthony A. Romeo, M.D., S.C. (Anthony Romeo, M.D.)	6.6667 Units	6.6667%
SC SRK Ventures LLC (Kern Singh, M.D.)	6.6667 Units	6.6667%
NSV Investments, LLC (Nikhil Verma, M.D.)	6.6667 Units	6.6667%
Gregory P. Nicholson, MD, P.C. (Gregory Nicholson, M.D.)	6.6667 Units	6.6667%
Mark S. Cohen 2009 Declaration of Trust U/A DTD March 14, 2009 (Mark Cohen, M.D.)	6.6667 Units	6.6667%
John Fernandez, M.D.	6.6667 Units	6.6667%
Fraden, Inc. (Frank Phillips, M.D.)	6.6667 Units	6.6667%
EJG LLC (Edward Goldberg, M.D.)	6.6667 Units	6.6667%
S2 Ventures LLC (Shane Nho, M.D.)	3.3333 Units	3.3333%
Robert Wysocki, M.D.	1.6667 Units	1.6667%
Neuro One, LLC	5.0000 Units	5.0000%
CLASS A TOTAL:	70 Units	70.0000%
<u>Class B Member:</u>		
Roberto Diaz, M.D.	20.0000 Units	20.0000%
Smithfield Surgical Partners, LLC	5.0100 Units	5.0100%
Greg Horner, M.D.	4.9900 Units	4.9900%
Class B Total:	30.0000 Units	30.0000%
<u>Total:</u>	100 Units	100.0000%

EXHIBIT B

MANAGEMENT SERVICES AGREEMENT

EXHIBIT C

CONSENT OF SPOUSE

I acknowledge that I have read the foregoing Agreement and that I understand its contents. I am aware that such Agreement contains provisions whereby my spouse agrees to sell all his/her interest, of any form, in Gold Coast Surgicenter, LLC (the "Company"), including; if any, our community interest in it, upon the occurrence of certain events, and that such Agreement also impose restrictions on the transfer of such ownership interest. I hereby consent to any sale of my spouse's interest in the Company pursuant to the Agreement, approve of the provisions of the Agreement, and agree that our community property interest, if any, is subject to the provisions of the Agreement and that I will take no action at any time to hinder operation of the Agreement in relation to that interest. Further, in the event of dissolution of my marriage or other event which necessitates the division of marital community property, I will assert no right, claim or other entitlement to the interest of my spouse in the Company so that full ownership of the interest therein shall thereafter remain with my spouse as his/her separate property notwithstanding that it may be subject to valuation for the purpose of achieving a fair and equitable division of our community property.

I AM AWARE THAT THE LEGAL, FINANCIAL AND OTHER MATTERS CONTAINED IN THE AGREEMENTS ARE COMPLEX AND I AM FREE TO SEEK ADVICE WITH RESPECT THERETO FROM INDEPENDENT COUNSEL. I HAVE EITHER SOUGHT SUCH ADVICE OR DETERMINED AFTER CAREFULLY REVIEWING THE AGREEMENTS THAT I WILL WAIVE SUCH RIGHT.

The foregoing statement is accepted by the Company as of the following date:

Date: _____.

Name of Member: _____

Name of Spouse: _____

Signature of Spouse: _____

Name of Witness: _____

Signature of Witness: _____

EXHIBIT D

COUNTERPART SIGNATURE PAGE

IN WITNESS WHEREOF, undersigned _____ (“Individual Physician Owner”), desires to hold his or her Units in Gold Coast Surgicenter, LLC (the “Company”), through _____ (“Entity Investor”). The Company will allow such Units to be held through the Entity Investor as long as the Individual Physician Owner agrees to the terms of the Company’s Second Amended and Restated Operating Agreement dated _____, 2012, as amended from time to time (the “Operating Agreement”). The Individual Physician Owner hereby joins in and executes the Operating Agreement, and agrees to all of the terms and conditions of the Operating Agreement as if the undersigned was an original signatory to the Operating Agreement. This Counterpart Signature Page shall be attached to the Operating Agreement. Capitalized terms used herein have the same meanings given to them in the Operating Agreement.

Further, the Individual Physician Owner must satisfy the following conditions and agree to be bound by the following terms and conditions:

1. The Individual Physician Owner has received, analyzed and reviewed the Operating Agreement and has had the opportunity to discuss the Operating Agreement with counsel. The Individual Physician Owner understands the eligibility requirements and other provisions of the Operating Agreement and shall comply with each such requirement.
2. The Individual Physician Owner agrees to be bound by each of the covenants contained in the Operating Agreement, including, without limitation, all confidentiality and non-competition covenants, and agrees to abide by the requirements of an eligible Class A Member in Section 2.3 and Section 2.4(b) of the Operating Agreement, as if such Individual Physician Owner were a direct owner of the Company.
3. Any breach of the Operating Agreement by the Entity Investor or the Individual Physician Owner, or the occurrence of a Terminating Event related to the Individual Physician Owner or the Entity Investor, shall be treated as a Terminating Event under the Operating Agreement, and the Company may pursue any and all rights under the Operating Agreement in connection with such Terminating Event.
4. If a Terminating Event occurs with respect to the Individual Physician Owner or Entity Investor, the Entity Investor’s Units may be redeemed in full or in part in accordance with Section 4.3 of the Operating Agreement.
5. The Individual Physician Owner shall be required to guarantee, on a pro rata and several basis, any properly approved loan pursuant to Section 3.2(b) of the Operating Agreement.

6. The Individual Physician Owner shall abide by the restrictions on transfer of Units.

The Individual Physician Owner shall sign below to indicate his/her agreement to abide by each and every term of the Operating Agreement as though he/she was a direct investor in the Company, including, without limitation, the restrictive covenants and the redemption provisions, and to make each and every representation and warranty contained therein and herein.

INDIVIDUAL PHYSICIAN OWNER:

U9717943

EXHIBIT 3.3(b)(vi)

MANAGEMENT SERVICES AGREEMENT

GOLD COAST SURGICENTER, LLC
MANAGEMENT SERVICES AGREEMENT

THIS MANAGEMENT SERVICES AGREEMENT ("Agreement") is made as of the ____ day of _____, _____ (the "Effective Date") by and between the **Gold Coast Surgicenter, LLC**, an Illinois limited liability company having a principal place of business at 845 North Michigan Avenue, Suite 985W, Chicago, Illinois 60611 ("Surgical Center"), and **Smithfield Surgical Partners, LLC**, a California limited liability company having a principal business address of _____ ("Management Company").

WHEREAS, Surgical Center operates a freestanding outpatient ambulatory surgical center devoted to the practice of performing certain ambulatory surgical procedures ("Center");

WHEREAS, Management Company is engaged in the business of providing ongoing management services to ambulatory surgical centers;

WHEREAS, Surgical Center desires to retain Management Company to provide such management services under the terms and conditions herein;

WHEREAS, Management Company desires to be so retained by Surgical Center under the terms and conditions stated herein; and

WHEREAS, it is the intention of both parties that Surgical Center control shall remain in the ultimate control of its Board of Managers which will be fully responsible for all medical services to be provided at the Surgical Center.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual promises and conditions set forth herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Surgical Center and Management Company hereby agree as follows:

1. Appointment of Management Company; Term. Surgical Center hereby appoints and retains Management Company as Surgical Center's management and administration company, and Management Company hereby accepts such appointment, to provide to Surgical Center all management and administrative services required to manage Surgical Center's business operations, including but not limited to assistance and advice concerning the hiring of staff (and firing of staff where necessary) on behalf of the Surgery Center, financial administration, operational administration, information systems management, facility administration, and other general administrative services related to the day-to-day business operations of Surgical Center.

The term of this Agreement shall be for a period effective as of the Effective Date and ending two (2) years after the Effective Date.

2. Duties and Responsibilities of Management Company. During the term of this Agreement, Management Company, through its duly appointed representative or representatives, shall provide Surgical Center with all management and administrative services necessary or

appropriate for the efficient operation of Surgical Center, except as provided herein and except that any and all activities constituting the practice of medicine shall remain under the exclusive supervision and control of a medical doctor. In addition, notwithstanding anything in this Agreement to the contrary, Management Company expressly acknowledges and agrees that the Surgical Center at all times during the term of this Agreement shall exercise the ultimate control and direction of the operations of the Center. Management Company shall undertake all of its obligations and duties hereunder for the account of the Surgical Center and the Center, and not for the account of Management Company. The specific duties and responsibilities of Management Company shall include the following services in connection with the operations of Surgical Center:

(a) General Business Affairs. Management Company shall oversee the overall day-to-day business affairs of Surgical Center subject to the overall governance of the Surgical Center by the Surgical Center or its board of managers (the "Board of Managers").

(b) Management, Consulting, and Administrative Services. Management Company shall provide Surgical Center with specific overview and direction services related to the administration of the day-to-day business operations of Surgical Center. Management Company's responsibilities shall include the performance of the following functions:

(i) Management Company shall supervise all acts, procedures, authorizations and any and all other matters necessary, appropriate or related to obtaining and maintaining all necessary licenses, permits, provider numbers and approvals from all regulatory authorities having jurisdiction over the Surgical Center and/or its operations and accreditation by the Accreditation Association for Ambulatory Health Care or other accrediting agencies designated by the Surgical Center.

(ii) As specifically directed by the Board of Managers, Management Company shall maintain one or more bank accounts in the name of and for the benefit of the Surgical Center in which it shall deposit the receipts from the business of the Surgical Center. The handling of receipts and disbursements with respect to such bank accounts shall be in accordance with customary business practices.

(iii) Management Company shall supervise management, operational, financial and informational systems in order to conduct the physical and administrative operations of the Surgical Center, including those required for billing and collection of charges, accounting and purchasing.

(iv) Management Company shall assist to implement billing and collection, accounts receivable and accounts payable processing procedures.

(v) Management Company shall supervise the negotiation and consummation of agreements and contracts for and on behalf of the Surgical

Center in the usual course of business, including without limitation radiology, laboratory, and anesthesia contracts, and contracts with insurance carriers; provided, however, that all such agreements and contracts shall be subject to approval by the Board of Managers.

(vi) Management Company shall promptly notify the Surgical Center of all actual or threatened legal claims or actions affecting the Surgical Center.

(vii) Management Company shall recruit and interview, along with the Board of Managers, an Administrator for the Surgical Center. Such Administrator and all other Surgical Center employees shall be hired by the Board of Managers and employed by the Surgical Center. All Surgical Center employees shall participate in and be compensated through the employee benefit programs established from time to time by Surgical Center.

(viii) Management Company shall establish an ongoing evaluation of all quality improvement aspects of the Surgical Center's operation, and will administer quality improvement programs designed to meet the standards imposed by licensing and certifying agencies and to bring about a high standard of surgical care in accordance with the policies of, and resources available to, the Surgical Center.

(ix) As specifically directed and authorized by the Board of Managers, Management Company may act as the agent of the Surgical Center in the procuring of licenses, permits and other approvals, and the payment and collection of accounts.

(x) Management Company shall assist in developing a capital and operating budget for the Surgical Center, which shall be subject to approval by the Board of Managers, and shall assist in establishing and maintaining appropriate accounting procedures, and controls, and systems for the timely generation and preparation of all financial records and reports needed for the efficient administration, supervision, review and planning of operations and affairs of Surgical Center, including, but not limited to, maintaining all accounting and payroll systems, procedures and practices appropriate to the business operation of Surgical Center.

(xi) Management Company shall maximize efforts to operate within each capital and operating budget that is approved by the Surgical Center and shall promptly report deviations and anticipated deviations and the causes thereof to the Board of Managers.

(xii) Management Company shall maximize efforts to operate within all parameters, policies and procedures adopted by the Surgical Center and communicated to Management Company by the Surgical Center and shall promptly report deviations and anticipated deviations and the causes thereof to the Board of Managers.

(xiii) Management Company shall supervise the maintenance of the books of account covering the operations of the Surgical Center. Such books of account shall be maintained on an [accrual basis in accordance with generally accepted accounting principles consistently applied].

(xiv) Management Company shall prepare and furnish to the Surgical Center promptly after the close of each fiscal quarter an unaudited financial statement reflecting the operations of the Surgical Center for such quarter. Management Company shall cause to be prepared and furnished promptly after the close of each fiscal year an unaudited balance sheet of the Surgical Center dated as of the end of the fiscal year and a related statement of income or loss for the Surgical Center for such fiscal year, all of which may (if the Surgical Center so elects) be certified in the customary manner by an independent certified public accountant approved by the Surgical Center. The expense of any independent accountants or internal accounting staff shall be borne by the Surgical Center.

(c) Required Personnel. The Center Administrator and all clinical staff and other Center personnel shall be Surgical Center employees and paid for by Surgical Center. Management Company shall provide overview administrative services for such number of hours and at such times during each month as Management Company and Surgical Center shall reasonably deem necessary and appropriate.

3. Performance Standards. Management Company shall use its best efforts to perform its duties and responsibilities hereunder, in a diligent, professionally responsible and efficient manner and in accordance with all applicable statutory and regulatory requirements and basic industry standards. Management Company agrees to cooperate with Surgical Center in developing timely responses in support of the business needs of Surgical Center.

4. Management Fee.

(a) Fee. As compensation for all services rendered by Management Company under this Agreement, Surgical Center shall pay Management Company a monthly fee (the "Monthly Fee") equal to four percent (4%) of Surgical Center's monthly cash collections net of returns, contractual adjustments and allowances all as reasonably determined by Management Company and approved by the Board of Managers. The calculation of the Monthly Fee shall be subject to audit and review by Surgical Center. The Monthly Fee will be payable monthly as set forth above and is payable by Surgical Center within fifteen (15) days of the end of the previous month.

(b) Arms-Length Arrangement. The Monthly Fee to be paid by Surgical Center to Management Company hereunder has been determined by the parties through good-faith and arm's-length bargaining and is intended to be consistent with the fair market value of the services to be provided hereunder by Management Company. No amount paid hereunder is intended to be, nor shall it be construed to be, an inducement or payment for referral of, or recommending referral of, patients by Management Company (or its affiliates) to Surgical Center. In addition, the Monthly Fee provided for herein

does not include any discount, rebate, kickback, or other reduction in charge in exchange for referrals to the Center or otherwise.

5. Regulatory Matters. Notwithstanding any provisions to the contrary in this Agreement, there has been no delegation of the responsibilities reserved to Surgical Center by applicable law, and Surgical Center shall retain the ultimate authority and responsibility for the operation of the Center, including, without limitation, the following:

(a) No Restriction on Professional/Medical Judgments. Surgical Center shall retain the ultimate authority regarding all services provided at the ambulatory surgery center, including the supervision of all physicians, nurses, technicians and other professional and non-professional staff. Surgical Center's physicians shall at all times be free, in their sole discretion, to exercise their professional/medical judgment on behalf of their patients. No provision of this Agreement is intended, nor shall it be construed, to permit Management Company to affect or influence the professional/medical judgment of any of Surgical Center's physicians. To the extent that any act or service required of or permitted to be taken by Management Company by any provision of this Agreement may be construed or deemed to constitute the practice of medicine, the ownership or control of a medical practice, or the operation of a medical or health care facility, said provision of this Agreement shall be void ab initio and the performance of said act or service by Management Company shall be deemed waived by Surgical Center.

(b) Limitation on Delegation. Nothing in this Agreement is intended to delegate to Management Company any of the powers, duties or responsibilities vested exclusively in Surgical Center by law. Surgical Center expressly retains authority: (i) to hire and request removal of the President (the president is a non paid officer) and to approve of other key officers and management employees, including the Administrator; (ii) over maintenance and control of the books and records of Surgical Center; (iii) over the disposition of assets and the incurring of non-ordinary course liabilities on behalf of Surgical Center; and (iv) over the adoption and enforcement of policies regarding the operation of Surgical Center.

(c) Compliance with Law. Management Company shall be responsible for complying with, and ensuring the Center's compliance with, all applicable federal and state laws, rules and regulations with respect to those actions Management Company is responsible for undertaking pursuant to this Agreement. In providing administrative and consulting services to Surgical Center and performing its obligations hereunder, Management Company shall act in accordance with all applicable federal, state and local statutes.

(d) No Obligation to Refer. The parties hereby acknowledge and agree that no benefits to the parties hereunder require or are in any way contingent upon the admission, recommendation, referral or any other arrangement for the provision of any item or service offered by the Surgical Center or any of its affiliates, to any patients of the Center, or the Surgical Center's employees or agents. The Management Company shall neither have nor exercise any control or direction over the number, type, or recipient of patient referrals made by physicians, and nothing in this Agreement shall be construed as

directing or influencing such referrals. None of the Management Company's activities contemplated under this Agreement or otherwise shall constitute obligations of the Management Company to generate patient flow or business to the Center. Further, there is absolutely no intent for the Management Company in any manner to be compensated to generate patients for the Center. Rather, the Surgical Center has engaged the Management Company to manage the business aspects of the Center in order to enable the Surgical Center to focus on delivering the highest quality of patient care.

6. Insurance.

(a) Surgical Center. Surgical Center hereby agrees during the term of this Agreement and any renewal thereof to maintain, at its own expense, with an A rated carrier or better of recognized responsibility: (i) professional liability insurance covering Surgical Center's employed physicians, if any, with limits of no less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in the aggregate or such greater amounts as may be required to comply with any regulatory or contractual requirements to which Surgical Center or its affiliated physicians may be subject; (ii) workers' compensation coverage for all personnel who are working at the Center and who are employed by either the Management Company or the Surgical Center and (iii) comprehensive liability and property damage insurance covering Surgical Center with limits. All such policies shall require that Management Company shall receive at least ten (10) days written notice prior to any cancellation, termination, reduction or modification of the policy. A duplicate of such policies shall be maintained by Surgical Center on file with Management Company, together with certificates of insurance thereof and evidence by stamping or otherwise of the payment of premiums thereon.

(b) Management Company. Management Company hereby agrees during the Term of this Agreement and any renewal thereof to maintain, at its own expense, with an A rated carrier or better of recognized responsibility: (i) general comprehensive liability insurance with limits of no less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in the aggregate; (ii) property and casualty insurance, (iii) directors and officers insurance, and (d) errors and omissions insurance, and such other policies of insurance, as are usual and customary for business of the type conducted by Management Company, with limits and in a form reasonably acceptable to Surgical Center. Management Company shall, to the extent possible, name Surgical Center as an additional insured under all policies maintained by Management Company hereunder. If such insurance is on a claims-made basis, it shall include a "tail" guarantee covering acts or occurrences during the term of this Agreement as to which claims may be asserted for a period of not less than three (3) years after the expiration or earlier termination of this Agreement. All such policies shall require that Surgical Center shall receive at least ten (10) days written notice prior to any cancellation, termination, reduction or modification of the policy. A duplicate of such policies shall be maintained by Management Company, together with certificates of insurance thereof and evidence by stamping or otherwise of the payment of premiums thereon.

7. Indemnification.

- (a) By Management Company. Management Company shall defend, indemnify and save Surgical Center and Surgical Center's members harmless from any and all liabilities, claims, actions, losses, damages, expenses and costs (including reasonable attorneys' fees) arising out of or in connection with Management Company's provision of services to Surgical Center hereunder, or Management Company's breach of a material provision of this Agreement (other than with respect to any liability, claim, action, damage, expense or cost which was incurred by reason of Surgical Center's or any of its agents or employees negligent act or negligent omission or willful misconduct).
- (b) By Surgical Center. Surgical Center shall defend, indemnify and save Management Company harmless from any and all liabilities, claims, actions, losses, damages, expenses and costs (including reasonable attorneys' fees) arising out of or in connection with the operation of Surgical Center, or Surgical Center's breach of a material provision of this Agreement (other than with respect to any liability, claim, action, damage, expense or cost which was incurred by reason of Management Company's or any of its agents or employees negligent act or negligent omission or willful misconduct).

8. Medical and Other Records.

(a) Ownership of Medical Records. All medical and other records or documents prepared by Surgical Center in connection with the care and services it renders to its patients shall be and remain the property of Surgical Center and shall be treated as confidential pursuant to applicable federal and state law, provided, however, that to the extent permissible, Management Company shall be permitted reasonable access to such records to enable Management Company to perform its duties hereunder and for any and all other reasonable purposes. All records shall remain on file for not less than six (6) years.

(b) HIPAA. Surgical Center shall prepare and maintain such medical records in such form and detail as is consistent with accepted medical standards and the requirements of the State of Illinois and shall, to the extent permitted by law, including but not limited to the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and professional ethics regarding confidentiality and disclosure of medical information, make such information available to Management Company to the extent permissible to enable Management Company to revise and update the Surgical Center's HIPAA compliance plan and to perform its duties hereunder and for any and all other reasonable purposes. For the purposes of this Section 8, Management Company shall be referred to as Surgical Center's Business Associate ("Business Associate"). As a Business Associate, Management Company agrees to enter into a Business Associate Agreement with Surgical Center in the form attached hereto as Exhibit A.

9. Nondisclosure.

(a) For the purpose of this Agreement, the term "Surgical Center Confidential Information" shall include the following: (i) financial information of the Surgical Center or the Center, (ii) medical records of patients receiving services at the Center, (iii) data relating to patient care and outcomes (whether individually identifiable with respect to any one patient or aggregated with information relating to multiple patients), (iv) risk management records and (v) such other information that specifically pertains to the Surgical Center and is proprietary to the Surgical Center.

(b) Notwithstanding anything herein to the contrary, unless otherwise specified under applicable law, the Surgical Center shall be deemed the records owner for purposes of Illinois law of all patient records at the Center. The Management Company acknowledges and agrees that the Surgical Center Confidential Information is owned by the Surgical Center and has been disclosed to it in confidence and with the understanding that it constitutes valuable business information. The Management Company agrees that it shall not, without the express prior written consent of the Surgical Center, use the Surgical Center Confidential Information for any purpose other than the performance of this Agreement or the operation of the Center nor allow anyone access to such except on a need to know basis. The Management Company further agrees to keep strictly confidential and hold in trust all Surgical Center Confidential Information and not disclose or reveal such information to any third party (other than the affiliates of the Management Company) without the express prior written consent of the Surgical Center. In connection with the foregoing, the Management Company shall use commercially reasonable efforts to ensure that its affiliates also maintain the confidentiality of the Surgical Center Confidential Information in accordance with the terms hereof.

If the Management Company or any of its representatives are requested by a person or entity to disclose the Surgical Center Confidential Information in any legal, quasi-legal or administrative proceeding, the Management Company shall promptly notify the Surgical Center of such request so that the Surgical Center may take, at its expense, such steps necessary to protect the Surgical Center Confidential Information. If the Management Company is thereafter required to disclose the Surgical Center Confidential Information to the person or entity compelling such disclosure only the part of such information as is required by law to be disclosed shall be disclosed. Upon termination of this Agreement, the Management Company shall forthwith return to the Surgical Center all material constituting or containing the Surgical Center Confidential Information, in a format that is usable or capable of conversion to a usable format, and the Management Company shall not thereafter use, appropriate, or reproduce such information or disclose such information to any third party, provided, however, Management Company agrees to cooperate with Surgical Center and the Center, after termination, in the transition to different management of the Center. All costs of converting the Surgical Center Confidential Information to a format useable by the recipient shall be born by the recipient.

(c) Each party hereby acknowledges and agrees that any breach or threatened breach of the provisions of Section 9 hereof binding on a party will result in irreparable

harm and injury to the other party and that monetary damages will not provide an adequate remedy to a party. Accordingly, each hereby agrees that in the event of a breach or threatened breach of the provisions of Section 9 hereof, the non-breaching party shall be entitled to: (a) a temporary restraining order, preliminary injunction and permanent injunction (without the need of the posting of a bond or other surety) to enjoin such breach or threatened breach; and (b) recover from breaching party the reasonable attorneys' fees and costs incurred by the non-breaching party in enforcing the provisions of Section 9 hereof. The breaching party further agrees that in the event of a breach or threatened breach of the provisions of Section 9 hereof, the restrictions set forth in Section 9 shall be extended during the period of any breach or threatened breach by the breaching party. The rights and remedies set forth herein are cumulative and shall be in addition to any other rights or remedies to which a party may be entitled.

(d) Each party hereby acknowledges that the restrictions set forth in Section 9 are minimal, reasonable in scope and duration and are necessary to protect the legitimate interests of the parties and that any breach or threatened breach of these restrictions will result in irreparable harm to the non-breaching party. In the event any of the restrictions are found by a court of competent jurisdiction to be too broad to permit enforcement to its full extent, then such restrictions shall be enforced to the maximum extent allowable by law and the parties hereby consent to and authorize the court to modify the restrictions in a manner to permit their enforcement.

10. Termination.

(a) Insolvency. Either party may terminate this Agreement immediately upon the occurrence of any of the following events with regard to the other party: (i) the making of a general assignment for the benefit of creditors; (ii) the filing of a voluntary petition or the commencement of any proceeding by either party for any relief under any bankruptcy or insolvency laws, or any laws relating to the relief of debtors, readjustment of indebtedness, reorganization, composition or extension; (iii) the filing of any involuntary petition or the commencement of any proceeding by or against either party for any relief under any bankruptcy or insolvency laws, or any laws relating to the relief of debtors, readjustment of indebtedness, reorganization, composition or extension, which such petition or proceeding is not dismissed within ninety (90) days of the date on which it is filed or commenced; or (iv) suspension of the transaction of the usual business of either party for a period in excess of ninety (90) days.

(b) Surgical Center Termination for Cause. Surgical Center may terminate this Agreement upon five (5) days' prior written notice to the Management Company for "Cause" (as defined herein). For purposes of this Agreement, "Cause" means the occurrence of any of the following events: (i) the Management Company's suspension or exclusion from participating in the Medicare and/or Medicaid reimbursement program, or (ii) the conviction of an act of fraud, conversion or embezzlement of funds or property of Surgical Center by the Management Company or any of its members, managers, officers, employees, agents or representatives, (iii) the Management Company's material breach of this Agreement which persists and remains uncured after fifteen (15) days written notice and demand for cure provided however that the fifteen (15) day requirement shall be

automatically extended to permit completion of a cure commenced within fifteen (15) days and diligently prosecuted to completion in all cases where a cure cannot be reasonable effected within fifteen (15) days; provided, however, in no event shall such cure period extend beyond sixty (60) days; (iv) Management Company's intentional, willful or grossly negligent undertaking or commission (or failure thereof), as the case may be, of any conduct that is materially detrimental to the business of Surgical Center, including the Center's business of performing ambulatory surgical procedures; or (v) there is any legal development, including without limitation, a change in (or the official interpretation of) Medicare, Medicaid or other federal or state statutes, rules, regulations, principles or interpretations, that renders any of the material terms of this Agreement unlawful or unenforceable (including any services rendered or compensation to be paid hereunder), or a definitive judicial or State of Illinois legal decision or administrative ruling that substantially affects the arrangement set forth in this Agreement in an adverse manner which cannot be corrected by deleting and/or reforming offending provisions and enforcement of the remainder of this Agreement in a way the materially preserves the intent of the parties, it being the intention and desire of the parties that this Agreement shall be enforced to the fullest extent permitted by law, and that if need be, arbitration be utilized to reform this Agreement and save it from being invalidated. Anything in the foregoing to the contrary notwithstanding, a payment default by the Surgery Center shall excuse performance until it is cured, and non-performance during the period of an uncured payment default shall not constitute grounds for termination.

11. Representations, Warranties and Covenants of Management Company. Management Company represents, warrants and covenants to Surgical Center as follows:

(a) Organization; Good Standing and Power. Management Company (a) is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of California, and (b) has all requisite limited liability company power and authority to own, lease and operate its properties, to carry on its business as now being conducted, to execute and deliver this Agreement to perform its obligations hereunder and to consummate the transactions contemplated hereby.

(b) Authority. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary limited liability company action on the part of Management Company. This Agreement has been duly and validly executed and delivered by Management Company, and this Agreement is the valid and binding obligation of Management Company, enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally. Neither the execution, delivery or performance of this Agreement nor the consummation by Management Company of the transactions contemplated hereby, nor compliance by Management Company with any provision hereof, will (a) cause a breach or default (with due notice, lapse of time or both), or give rise to any right of termination, cancellation or acceleration, under any of the terms, conditions or provisions of any agreement, document, instrument or obligation to which Management Company is a party, or (b) to the knowledge of Management Company violate any federal or state law applicable to

Management Company or any of its properties or assets. To the knowledge of Management Company no permit, authorization, consent or approval of or by, or any notification of or filing with, any person or entity (governmental or private) is required in connection with the execution, delivery or performance by Management Company of this Agreement or the consummation by Management Company of the transactions contemplated hereby or thereby. Management Company is not bound by any document, instrument, agreement or obligation which by its terms prohibits Management Company from entering into this Agreement or providing or undertaking any of the services, duties or responsibilities hereunder.

(c) Litigation. There are no (a) actions, suits claims, investigations or legal or administrative or arbitration proceedings pending or, to the knowledge of Management Company, threatened against Management Company, whether at law or in equity, or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, or (b) judgments, decrees, injunctions or orders of any court, governmental department, commission, agency, instrumentality or arbitrator against Management Company or its assets.

(d) Compliance; Governmental Authorizations. Management Company is in compliance, and shall remain in compliance, in all material respects with all applicable federal and state laws. To the knowledge of Management Company, it has and/or shall acquire and maintain during the term of this Agreement all federal, state, local and foreign governmental licenses and permits necessary in the conduct of its business. Management Company has not received any notice indicating that any violations are or have been recorded in respect of any thereof, and no proceeding is pending or, to the knowledge of Management Company, threatened to revoke or limit any thereof. To the knowledge of Management Company, none of its members, managers or officers is presently the subject of any investigation by any federal, state or local governmental agency or authority or any division thereof that would interfere with the performance of its obligations and duties hereunder. Management Company will use all reasonable efforts to manage Surgical Center pursuant to this Agreement and in accordance with all applicable federal and state laws.

(e) Disclosure. Neither this Agreement (including any attachments hereto) nor any other document, certificate or written statement furnished to Surgical Center by or on behalf of Management Company in connection with the business arrangement contemplated hereby contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading. There have been no events or transactions, or information which has come to the attention of Management Company, which, as they relate directly to Management Company, could reasonably be expected to have a material adverse effect on the business, operations, affairs, prospects or condition of Management Company.

12. Miscellaneous.

(a) Status of Parties. In the performance of the work, duties and obligations under this Agreement, it is mutually understood and agreed that each party is at all times

acting and performing as an independent contractor with respect to the other and that no relationship of partnership, joint venture or employment is created by this Agreement.

(b) Force Majeure. Neither party shall be deemed to be in default of this Agreement if prevented from performing any obligation hereunder for any reason beyond its control, including but not limited to, Acts of God, war, civil commotion, fire, flood or casualty, labor difficulties, shortages of or inability to obtain labor, materials or equipment, governmental regulations or restrictions, or unusually severe weather. In any such case, the parties agree to negotiate in good faith (and be bound by the Limited Renegotiation procedures set forth below) with the goal of preserving this Agreement and the respective rights and obligations of the parties hereunder, to the extent reasonably practicable. It is agreed that financial inability shall not be a matter beyond a party's reasonable control, unless such financial inability results in whole or in part from a payment default under this Agreement.

(c) Notices. Any notices to be given hereunder by either party to the other shall be deemed to be received by the intended recipient (a) when delivered personally, (b) the day following delivery to a nationally recognized overnight courier service with proof of delivery, or (c) five (5) days after mailing by certified mail, postage prepaid with return receipt requested, in each case addressed to the parties at the addresses set forth above or at any other address designated by the parties in writing.

(d) Entire Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter of this Agreement.

(e) Amendment. This Agreement may not be changed orally, and may only be amended by an agreement in writing signed by both parties.

(f) No Rights or Liabilities in Third Parties. This Agreement is not intended to, nor shall it be construed to, create any rights or liabilities in any third parties, including, without limitation, in any physician, owners, employee or contractor of Surgical Center.

(g) Governing Law. This Agreement and all questions arising hereunder shall be determined in accordance with the laws of the State of Illinois. The site of any such arbitration or dispute resolution (including any litigation) shall be in Chicago, Illinois.

(h) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

(i) Waiver. The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to that term or any other term of this Agreement. No amendment,

supplement or termination of this Agreement shall affect or impair any rights or obligations which shall have theretofore matured hereunder.

(j) Interpretation. All references made and pronouns used herein shall be construed in the singular or plural, and in such gender, as the sense and circumstances require. The language in all parts of this Agreement shall be construed, in all cases, according to its fair meaning. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement. As used herein, "affiliate" means, as to the Person (as hereinafter defined) in question, any Person that directly or indirectly controls, is controlled by, or is under control with, the Person in question and any successors or assigns of such Person; and the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person whether through ownership of voting securities, by contract or otherwise. "Person" means an association, a corporation, a limited liability company, an individual, a partnership, a limited liability partnership, a trust or any other entity or organization.

(k) Further Actions. Each of the parties agrees that it shall hereafter execute and deliver such further instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the terms hereof.

(l) Assignment and Successors. Neither party hereto may assign this Agreement except with the prior written approval of the other party. This Agreement shall be binding upon and shall inure to the benefit of the parties and their permitted heirs, executors, administrators and assigns.

(m) Non-Discrimination. Both parties shall comply with all applicable federal, state and local laws and regulations prohibiting discrimination against employees or patients. Without limited the generality of the foregoing, (a) neither party shall discriminate against any patient on the basis of age, race, color, sexual orientation, marital status, religion, sex, national origin or sponsor, and (b) both parties shall employ personnel without regard to age, race, color, sexual orientation, religion, sex or national origin.

(n) Access to Books and Records. Management Company shall retain and make available, upon written request of the Secretary of Health and Human Services, the Comptroller General or any of their duly authorized representatives, this Agreement and the books, documents and records necessary to verify the nature and extent of the costs incurred under this Agreement. Access to this Agreement and such books, documents and records shall be provided until the expiration of six (6) years after furnishing of consulting and administrative services by Management Company. Management Company agrees to include a provision to this effect in any subcontract with a value of \$10,000 or more over a 12-month period which Management Company may enter into with a related organization in order to fulfill its obligations under this Agreement.

(o) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall together constitute one agreement.

(p) Survival. Provisions of this Agreement which, by their terms or by reasonable implication, are to be performed after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

(t) Resolution of Disputes. Any controversy or claim (i) arising out of this Agreement (including the validity, scope and enforceability of this provision and Exhibit B, or the breach thereof), or (ii) with respect to any Loss arising under this Agreement, the relationship of the parties created hereby or the Management Company's provision of services hereunder ("Disputes"), shall be resolved by arbitration administered as provided in Exhibit B hereto and judgment on the award rendered by the arbitrator(s) may be entered into any court having jurisdiction thereof.

(u) Waiver of Trial by Jury. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN CONNECTION WITH ANY ACTION OR PROCEEDING INSTITUTED UNDER OR RELATING TO THIS AGREEMENT, OR ANY OTHER DOCUMENT EXECUTED PURSUANT HERETO, OR IN CONNECTION WITH ANY COUNTERCLAIM RESULTING FROM ANY SUCH ACTION OR PROCEEDING.

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto affix their signatures below and execute this Agreement under seal.

GOLD COAST SURGICENTER, LLC

By: _____
Name: _____
Its: _____

SMITHFIELD SURGICAL PARTNERS, LLC

By: _____
Name: _____
Its: _____

EXHIBIT A

BUSINESS ASSOCIATE AGREEMENT

THIS AGREEMENT (this "Business Associate Agreement") is made as of this _____ day of _____, _____ (the "Effective Date") by and between Gold Coast Surgicenter, LLC, an Illinois limited liability company (the "ASC"), and Smithfield Surgical Partners, LLC, a California limited liability company ("Business Associate").

WHEREAS, the ASC operates a freestanding Medicare-certified outpatient surgery center at 845 North Michigan Avenue, Suite 985W, Chicago, Illinois 60611 and is a "covered entity," as that term is defined under the Health Insurance Portability and Accountability Act of 1996, as amended, which includes the Standards for the Privacy of Individually Identifiable Health Information (the "Privacy Rule"), the Standards for Electronic Transactions, and the Security Rule (45 C.F.R. Parts 160-64), and the Privacy provisions (Subtitle D) of the Health Information Technology for Economic and Clinical Health Act and its implementing regulations (the "HITECH Act")(collectively "HIPAA");

WHEREAS, the ASC is committed to complying with HIPAA;

WHEREAS, Business Associate is committed to complying with the portions of HIPAA that are applicable to Business Associate and its relationship with ASC;

WHEREAS, Business Associate is engaged in the business of consulting with individuals and entities engaged in the development of freestanding outpatient ambulatory surgical centers and providing ongoing management services to ambulatory surgical centers;

WHEREAS, the ASC and Business Associate (the "Parties") have entered into Management Services Agreement, dated even date herewith (the "Agreement").

WHEREAS, in discharging its duties under the Agreement, the Business Associate will receive protected health information ("PHI"), as defined below, of patients of the ASC;

WHEREAS, the ASC and Business Associate are required under HIPAA to enter into an agreement with each other regarding the Business Associate's use and disclosure of PHI that complies with each of the requirements set forth in 45 C.F.R. 164.504(e), as amended;

NOW, THEREFORE, in consideration of the premises above, the Parties, intending to be legally bound, hereby agree to the following:

1. **Definitions.** Unless otherwise provided in this Agreement, capitalized terms shall have the same meaning as set forth under HIPAA.

(a) "Individual" means the person who is the subject of PHI, and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

(b) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E, and any regulations promulgated in connection therewith.

(c) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.

(d) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

(e) "Security Rule" shall mean the administrative, technical and physical safeguards set forth in 45 C.F.R. Parts 160-64, in compliance with Social Security Act §1473(d) (42 U.S.C. §1320-21d), and any regulations promulgated in connection therewith.

(f) "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of the ASC.

(g) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.

(i) "Breach" shall have the same meaning as the term "breach" in Public Law 111-5 Section 13400 (1).

2. Obligations and Activities of Business Associate. Except as otherwise limited in this Business Associate Agreement or as Required by Law, Business Associate may use or disclose PHI of the patients of the ASC to perform functions, activities, or services for, or on behalf of, the ASC as specified in the Agreement, provided that such use or disclosure would not violate the Agreement, Business Associate Agreement, the minimum necessary policies and procedures of the ASC or the Business Associate's obligations under the Privacy Rule, including 45 C.F.R. § 164.504(e), as amended.

(a) Business Associate agrees not to use or further disclose PHI other than as permitted or required by this Business Associate Agreement, the Privacy Rule as amended, or as Required by law.

(b) Business Associate agrees not to use or further disclose PHI other than as permitted or required by this Business Associate Agreement, the Privacy Rule as amended, or as Required by Law.

(c) Business Associate acknowledges that it is statutorily required to comply with the Security Rule and agrees to develop, implement, maintain and use appropriate administrative, technical and physical safeguards, in compliance with the Security Rule, to preserve the integrity and confidentiality of and to prevent non-permitted or violating use or disclosure of PHI received for or from ASC. Business Associate will document and keep these safeguards current.

(d) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI in violation of this Business Associate Agreement.

(e) Business Associate agrees to promptly report to the ASC any use or disclosure of PHI not provided for by this Agreement or under HIPAA of which it becomes aware including any Breach of unsecured PHI. If Business Associate reports any such Breach to the ASC, the notice provided by the Business Associate must include the identity of the individual whose unsecured PHI has been, or is reasonably believed to have been accessed, acquired or disclosed during such breach, and any additional information required by HIPAA. Business Associate agrees to cooperate with ASC upon report of any such Breach so that ASC may provide the individual affected by such Breach with proper notice as required by HIPAA.

(f) Business Associate agrees to ensure that any agent (including a subcontractor) to whom it provides PHI received from the ASC, or created or received by Business Associate on behalf of ASC, agrees to the same restrictions and conditions that apply through this BA Agreement with respect to such information.

(g) Business Associate agrees to provide access, at the request of the ASC, and in the time and manner designated by the ASC, to PHI in a Designated Record Set to the ASC, or as directed by the ASC, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.

(h) Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the ASC directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the ASC or an Individual, and in the time and manner designated by the ASC.

(i) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from the ASC, or created or received by Business Associate on behalf of the ASC, available to the ASC, or to the Secretary, for purposes of the Secretary determining the ASC's compliance with the Privacy Rule.

(j) Business Associate agrees to document its disclosures of PHI and maintain a log of information related to such disclosures in accordance with the requirements of 45 C.F.R. 164.528, and Public Law 111-5 Section 13405 (c).

(k) Business Associate agrees to provide to the ASC or an Individual, in the time and manner designated by ASC or as Required by Law, information collected in accordance with Section 2(i) of this Business Associate Agreement, to permit the ASC to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and Public Law 111-5 Section 13405 (c).

3. Obligations of the ASC.

(a) The ASC shall notify Business Associate of any limitation(s) in its privacy practices of the ASC in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(b) The ASC shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

(c) The ASC shall notify Business Associate of any restriction to the use or disclosure of PHI that the ASC has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

4. Term and Termination.

(a) Term. The term of this Business Associate Agreement (the "Term") shall be effective as of the Effective Date, and shall terminate when all of the PHI provided by the ASC to Business Associate, or created or received by Business Associate on behalf of the ASC, is destroyed or returned to the ASC, or if it is infeasible to return or destroy such PHI, protections are extended to such information, in accordance with the termination provisions in this Section 4.

(b) Termination for Cause. Upon a party's knowledge of a material breach by the other party, such party shall provide an opportunity for the breaching party to cure the breach or end the violation within a reasonable period of time. A party may terminate this Business Associate Agreement if the breaching party does not cure the breach or end the violation within the time specified by the party.

(c) Effect of Termination.

(1) Upon termination of this Business Associate Agreement, for any reason, Business Associate shall return or destroy all PHI received from the ASC or created or received on behalf of the ASC. This provision shall extend and apply to PHI that is in the possession of subcontractors or agents of Business Associate that is received from, or created or received on behalf of the ASC. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

(2) In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to the ASC notification of the conditions that make return or destruction not feasible. Upon notice to the ASC by Business Associate that return or destruction of the PHI is not feasible, Business Associate shall extend the protections of this Business Associate Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

5. Amendment. The Parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for the ASC to comply with the requirements of HIPAA and the Privacy Rule.

6. Survival. The respective rights and obligations of the Parties under Section 4 of this Business Associate Agreement shall survive the termination of the Term of this Business Associate Agreement.

7. Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits the ASC to comply with HIPAA.

8. Notice. Any and all communications required under this Business Associate Agreement shall be sent by registered or certified mail, return receipt requested, postage prepaid, and shall be addressed to the recipient's last known business address.

9. Counterparts. This Business Associate Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day herein first above written.

GOLD COAST SURGICENTER, LLC

By: _____
Name: _____
Its: _____

SMITHFIELD SURGICAL PARTNERS, LLC

By: _____
Name: _____
Its: _____

EXHIBIT B

DISPUTE RESOLUTION EXHIBIT

(a) **Mandatory Arbitration.** All Disputes, as defined in the Agreement and renegotiation of the Agreement pursuant to Section 12(t) of the Agreement, shall be solely and finally settled by a board of arbitrators consisting of either one arbitrator or three arbitrators, as set forth below (the term "**Arbitrators**" shall refer to the board of arbitrators, whether it consists of one or three members). The arbitration proceedings shall be held in Chicago, Illinois, and except as otherwise may be provided in this Exhibit, the arbitration proceedings shall be conducted in accordance with the Arbitration Rules (*the "Rules"*) of the American Health Lawyers Arbitration Association (the "**AHL**").

(b) **Arbitration Notice.** If any Person determines to submit a dispute for arbitration pursuant to this Exhibit, such Person shall furnish the other parties to the dispute with a dated, written statement (the "**Arbitration Notice**") indicating (i) such Person's intent to commence arbitration proceedings, (ii) the nature, with reasonable detail, of the dispute and (iii) the remedy or remedies such Person will seek.

(c) **Selection of Sole Arbitrator.** Within twenty (20) days of the date of the Arbitration Notice, the Person commencing the arbitration (collectively, the "**Petitioner**") and the party with whom the Petitioner has its dispute (collectively, the "**Respondent**") shall attempt to agree on and then select one neutral arbitrator (the "**Sole Arbitrator**"). A "neutral" arbitrator shall be a Person who would not be subject to disqualification under the Rules.

(d) **Arbitration Panel.** If, within such twenty (20) day period, the Petitioner and Respondent are unable to agree upon a Sole Arbitrator, each of them shall have ten (10) business days (following the expiration of the twenty (20) day period) to select (and provide written notice of such selection to the other Parties and the Company) a qualifying arbitrator. A "qualifying" arbitrator is a Person who is not (i) an Affiliate of either the Petitioner or Respondent or (ii) counsel to any such Person at such time. If either the Petitioner or Respondent fails to select a qualifying arbitrator or provide such notice within the ten (10) day period, the AHL shall have the right to make such selection. (Such qualifying arbitrators hereafter may be referred to, respectively, as the "**First Arbitrator**" and the "**Second Arbitrator**." Within ten (10) days following their selection, the First and Second Arbitrator shall select (and provide written notice to the Petitioner and Respondent of such selection) a third arbitrator (the "**Third Arbitrator**") from a list of members of the AHL's National Panel of Arbitrators. The Third Arbitrator must be "neutral" as that term is defined above and must have at least ten (10) years of experience in representing partners to transactions involving the development and financing of healthcare facilities.

(e) **Discovery Requests.** At any time within fifty (50) days after the date of the Arbitration Notice, the Petitioner and Respondent can make discovery requests of the other (including, but not limited to, requests for delivery of documents, production of witnesses for testimony and delivery of interrogatory responses). The recipient of a discovery request shall have twenty (20) days after the receipt of such request to object to any or all portions of such

request and make an application to the Arbitrators to limit the scope of such discovery request, and shall respond to any portions of such request not so objected to within twenty (20) days of the receipt of such request. All objections shall be in writing and shall indicate the reasons for such objections. Within five (5) business days after the end of the period for the submission by the requested party of an application to limit the discovery request, the Arbitrators shall grant or deny such discovery request, in whole or in part, to the extent the Arbitrators determine such discovery is or is not, as the case may be, reasonably necessary to enable the requesting party to obtain information relevant to the dispute without unreasonably burdening the requested party. The requested party shall comply with a discovery request granted by the Arbitrators within twelve (12) business days after such discovery request is granted, or within such longer period as the Arbitrators may determine upon application of the requested party for extension thereof for reasonable cause. Neither party shall be permitted to make more than one application for discovery to the Arbitrators. All depositions shall be taken in the city in which the Person being deposed resides or has its principal place of business, unless otherwise agreed by the parties. The Arbitrators are not authorized to subpoena documents or perform independent investigations.

(f) Timing of Hearings. Hearings must commence no later than ninety (90) days following the date of the Arbitration Notice and such hearings shall be conducted for no more than five (5) business days.

(g) Format of Hearings. Each of the Petitioner and the Respondent shall submit a brief, outlining such party's claim for relief or defense to any claim, to the other and to the Arbitrators on or before the tenth (10th) day following the date of the last hearing. Reply briefs must be exchanged and submitted to the Arbitrators on or before the twentieth (20th) day following the date of the last hearing. Each of the Petitioner and the Respondent shall submit its proposed order for relief (the "Order") to the Arbitrators and the other party on or before the thirtieth (30th) day following the date of the last hearing. The final decision of the Arbitrators is due on or before the forty-fifth (45th) day following the date of the last hearing. The Arbitrators must choose to render as their decision either the Order of the petitioner or the Order of the Respondent and shall not have the power or authority to reach any other decision. The Arbitrators shall choose the Order that, in their judgment, is most consistent with the terms of the Agreement and the intent of the Parties, as supported by evidence presented by the Petitioner and Respondent in the arbitration proceeding or, if the subject matter of the dispute is not clearly addressed in or determinable under this Agreement, that, in their opinion, would be most fair to the Petitioner and Respondent under the arbitration. The Arbitrators shall not be required to provide reasons for their decision.

(h) Fees and Expenses. The fees of the First and Second Arbitrators shall be borne by the Petitioner and Respondent, respectively and the fees of a sole Arbitrator shall be paid equally by the Petitioner and Respondent. All other expenses of the arbitration shall be borne by the party whose Order is not accepted.

(i) Arbitrators' Discretion. The foregoing time periods and procedural steps may be modified or extended by the Arbitrators in their discretion to the extent they deem necessary to prevent fundamental unfairness; provided that at all times the Arbitrators shall be mindful of the Parties' desire for the most expeditious possible resolution of disputes; and provided, further,

that a final decision of the Arbitrators shall be rendered within 120 days of the Arbitration Notice.

(j) **Enforceability.** To the extent permissible under applicable law, the Parties agree that the award of the Arbitrators shall be final and shall not be subject to judicial review. Judgment on the arbitration award may be entered and enforced in any court having jurisdiction over the parties or their assets. It is the intent of the parties that the arbitration provisions hereof be enforced to the fullest extent permitted by applicable law, including the Federal Arbitration Act, 9 U.S.C. Section 2.

(k) **Injunctive Relief.** Nothing contained in this Exhibit shall prevent a party from seeking injunctive relief or require arbitration of any issue for which injunctive relief is sought by either party hereto.

V2577749

ATTACHMENT - 3B

EXHIBIT 6.15

MEDICAL DIRECTOR AGREEMENT

**GOLD COAST SURGICENTER, LLC
MEDICAL DIRECTOR AGREEMENT**

THIS MEDICAL DIRECTOR AGREEMENT ("Agreement") is effective as of _____, _____ (the "Effective Date") and is made by and between Gold Coast Surgicenter, LLC, an Illinois limited liability company ("Company"), and Nikhil Verma, M.D., an individual ("Medical Director"). Company and Medical Director are sometimes referred to in this Agreement as a "Party" or, collectively, as the "Parties."

RECITALS

WHEREAS, Company operates an outpatient ambulatory surgery center in Chicago, Illinois (the "Facility").

WHEREAS, Medical Director is duly licensed to practice medicine in the State of Illinois. Medical Director is board certified for the practice of medicine in the specialty of orthopedics (the "Specialty").

WHEREAS, Company desires to retain Medical Director to provide certain Medical Director Services (as defined herein) necessary for the day-to-day operations of the Facility and other services relating to the continued development of the Facility.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and mutual promises and conditions set forth herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged the Parties agree as follows:

1. **INDEPENDENT MEDICAL DIRECTOR.** Company hereby contracts with Medical Director, and Medical Director hereby agrees to serve as the Medical Director for the Facility, effective as of the Effective Date. Medical Director shall at all times be an independent contractor with respect to Company in meeting his responsibilities under this Agreement. Nothing in this Agreement is intended nor shall be construed to create a partnership, employer-employee or joint venture relationship between Company and Medical Director. Company shall neither have nor exercise any control or direction over Medical Director's professional medical judgment or the methods by which Medical Director performs professional medical services; provided, however, that Medical Director shall be subject to, and shall at all times comply with, the protocols and the bylaws, guidelines, policies and rules applicable to the Facility.
2. **TERM AND TERMINATION.**
 - a. The term of this Agreement ("Term") shall begin on the Effective Date and shall terminate on the first (1st) anniversary of the Effective Date unless otherwise terminated earlier pursuant to the terms of this Agreement. This Agreement shall automatically renew for successive one (1) year Terms unless a Party provides to the other Party notice of an intent not to renew at least sixty (60) days prior to the expiration of the then-current Term. Upon any termination or expiration of this Agreement, all rights and obligations of the Parties shall cease except those rights and obligations that have accrued or expressly survive such termination or expiration. Upon any termination or expiration of this Agreement, Medical Director shall immediately return to Company all of Company's property, including, but not limited to, Company's equipment, supplies, furniture, furnishings and patient records, which is in Medical Director's possession or under Medical Director's control.
 - b. Company shall have the right to terminate this Agreement upon the occurrence of any one or more of the following events with respect to Medical Director: (i) material breach of this Agreement by Medical Director where the material breach is not cured within thirty (30) calendar days after Company gives written notice of the breach to Medical Director; (ii) death or permanent disability

of Medical Director; (iii) Medical Director's voluntary retirement from the practice of medicine; (iv) neglect of professional duty by Medical Director in a manner that violates Company's material policies, rules or regulations; (v) Medical Director's license to practice medicine is restricted, suspended or terminated; (vi) Medical Director for any reason does not maintain active medical staff membership and unrestricted clinical privileges at the Facility at any time during the term of the Agreement; (vii) Medical Director is charged with or convicted of a felony offense; (viii) Medical Director's performance of this Agreement, in the reasonable determination of Company, jeopardizes the mental or physical health or well-being of patients of Company; or (ix) Medical Director is debarred, suspended or otherwise ineligible to participate in any federal or state health care program.

c. Medical Director shall have the right to terminate this Agreement upon breach of this Agreement by Company where the breach is not cured within thirty (30) calendar days after Medical Director gives written notice of the breach to Company.

3. **POSITION DESCRIPTION.** The Medical Director, a qualified physician on the medical staff of the Facility, shall: (i) oversee medical administrative activities of the Facility; (ii) work cooperatively with physicians and staff members; and (iii) function as liaison between medical staff and the Board of Managers regarding the quality of medical services provided and medical staff performance within the Facility, and for the effectiveness of patient care and the total quality management functions delegated to the staff. The Medical Director shall also comply with all bylaws, medical policies, rules and regulations of the Company. Medical Director shall not differentiate or discriminate in performing the Director Services on the basis of race, color, national origin, ancestry, sex, marital status, age or payor, or on any other basis prohibited by applicable law.
4. **TIME COMMITMENT; TIME REPORTS.** Medical Director shall devote whatever time is necessary to operate Facility; provided, however, it is expected that Director Services shall be provided approximately, on average, two (2) to four (4) hours per month. Medical Director shall provide Company such time reports that provide a true and accurate accounting of time spent on a daily basis providing the Director Services. The Facility administrator shall retain the time reports in a log book or similar record at the Facility.
5. **COMPENSATION.** In exchange for Medical Director's performance of the Director Services, Company shall compensate Medical Director Two Thousand Dollars (\$2,000) per month (the "Medical Director Compensation."). The compensation payable hereunder is acknowledged by the Parties to be the fair market value for the services provided. Such compensation is not intended as a reward for past or future referrals. Medical Director shall be entitled to refer patients to any hospital or other health care facility or provider deemed by Medical Director best qualified to deliver medical services to any particular patient. No term of this Agreement shall be construed as requiring or inducing Medical Director to refer patients to Company. Medical Director's rights under this Agreement shall not be dependent in any way on the referral of patients or business to Company by Medical Director.
6. **USE OF SPACE.** Medical Director shall not use any part of the space that Company designates for the Facility as an office for the private practice of medicine.
7. **INSURANCE.** Medical Director shall obtain and continuously maintain professional malpractice liability insurance coverage in the amount of at least One Million Dollars (\$1,000,000) per occurrence or claim and Three Million Dollars (\$3,000,000) in the annual aggregate for the acts and omissions of Medical Director with an insurance company mutually agreed upon by the Parties. On or before the Effective Date, Medical Director shall provide Company with a certificate evidencing professional malpractice liability insurance coverage, and shall provide Company with proof of continued professional malpractice liability insurance coverage as periodically requested by Company. Medical Director shall provide Company with no less than thirty (30) calendar days' prior written notice of cancellation or any material change in such

professional malpractice liability insurance coverage. If Medical Director's professional malpractice liability insurance is provided on a claims-made basis, upon the expiration or termination of this Agreement for any reason, Medical Director shall continuously maintain such insurance or shall purchase extended reporting period (i.e., "tail") coverage for the longest extended reporting period then available to ensure that insurance coverage in the amount set forth herein is maintained for claims which arise from Director Services provided by Medical Director during the term of this Agreement.

8. **REPORTING.** The Medical Director shall report to the Board of Managers of the Facility (the "Board of Managers").
9. **QUALIFICATIONS FOR POSITION.** The Medical Director shall: (i) have a current unrestricted medical license in Illinois; (ii) have training and expertise in surgery in order to provide adequate supervision of the professional staff; (iii) be Board Certified or Board Eligible by a recognized American Board of Medical Specialties; (iv) hold active medical staff membership and unrestricted clinical privileges at the Facility; and (v) be eligible to participate, without restriction, in the Medicare or Medicaid programs or any other state or federal health care program.
10. **NOTIFICATION OF CERTAIN EVENTS.** Medical Director shall notify Company in writing promptly following the occurrence of any one or more of the following events:
 - a. Medical Director is named in (i) a formally filed malpractice lawsuit relating to his professional services (including but not limited to a malpractice action), or (ii) a formal investigation or inquiry by the Centers for Medicare and Medicaid Services or any other federal or state agency;
 - b. Medical Director is required to pay damages or any other amount in any malpractice action by way of judgment or settlement;
 - c. Medical Director becomes the subject of any disciplinary proceeding or action before any state's medical board or similar agency responsible for professional standards or behavior;
 - d. Medical Director becomes incapacitated or disabled from performing the Director Services, or voluntarily or involuntarily retires from the practice of medicine;
 - e. Medical Director's license to practice medicine is restricted, suspended or terminated;
 - f. Medical Director is charged with or convicted of a felony offense;
 - g. Any act of nature or any other event occurs which has a material adverse effect on Medical Director's ability to provide the Director Services; or
 - h. Medical Director is debarred, suspended or otherwise ineligible to participate in any federal or state health care program.
11. **DUTIES AND RESPONSIBILITIES.** The Medical Director shall provide the following medical director services (the "Director Services") at the Facility upon the terms and subject to the conditions set forth in this Agreement, including, but not limited to the following services:
 - a. Provide oversight responsibility for surgical and anesthesia services delivered at the facility.
 - b. Use knowledge and understanding of applicable laws, regulations and facility protocols to provide leadership for both the medical staff and employees.
 - c. Initiate actions to assure enforcement of medical staff bylaws, rules and regulations, as necessary.

- d. Assist the Administrator with reviews and updates of Facility protocols.
- e. Periodically conduct appraisals and reappraisals of medical staff privileges and privilege delineation of the Medical and Allied Health staff and make recommendations for medical staff appointments to the Board of Managers.
- f. Recommend names of qualified health care practitioners to the Board of Managers for approval to perform approved procedures and recommend appropriate privilege delineations to be granted.
- g. Establish and maintain a quality assurance mechanism to review identified problems and conduct reviews to assure quality performance of the medical/allied health staff and employees and take appropriate actions to correct findings when indicated.
- h. Coordinate, direct and evaluate the professional operations of the Facility.
- i. Evaluate and recommend types and numbers of equipment needed to provide patient care.
- j. Assure that a qualified physician is on the premises in compliance with state licensure, accreditation and Medicare-certification requirements.
- k. Ensure physician documentation is recorded immediately and reflects an accurate description of care provided.
- l. Assure that the planned surgical procedures are within the scope of privileges granted to the physicians.
- m. Actively seek opportunities to recruit new physician users for the Facility.
- n. Represent the Board of Managers in dealing with payors to secure contracts or higher reimbursement for procedures.

12. **AMENDMENT AND ASSIGNMENT.** This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated and signed by the Parties. Except for assignment by Company to an entity owned, controlled by, or under common control with Company, neither Party may assign any interest or obligation under this Agreement without the other Party's prior written consent. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns.

13. **COMPLIANCE WITH AND CHOICE OF LAW.** This Agreement shall be construed in accordance with and governed by the internal laws of Illinois. Medical Director shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments, including without limitation laws that require Medical Director to disclose any economic interest or relationship with Company. To the extent required by law or regulation, Medical Director shall make available, upon written request from Company, the Secretary of Health and Human Services or the Comptroller General of the United States, or any other duly authorized agent or representative, this Agreement and Medical Director's books, documents and records to the extent necessary to certify the nature and extent of Company's costs for Director Services provided by Medical Director. Medical Director shall preserve and make available such books, documents and records for a period of seven (7) years after the expiration or termination of this Agreement, or the length of time required by state or federal law. If Medical Director is requested to disclose books, documents or records pursuant to this Section for any purpose, Medical Director shall notify Company of the nature and scope of such request, and Medical Director shall make available, upon written request of Company, all such books, documents or records.

14. **CONFIDENTIALITY.** Neither Party shall disclose any of the terms of this Agreement to any person or entity, other than to its attorneys and accountants and advisors, without the prior written consent of the other Party, unless and only to the extent such disclosure is required by law.
15. **COUNTERPARTS AND ENTIRE AGREEMENT.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties. No other understanding between the Parties shall be binding on them unless set forth in writing, signed and attached to this Agreement.
16. **DISPUTE RESOLUTION.** In the event of any controversy or dispute related to or arising out of this Agreement, the Parties agree to meet and confer in good faith to attempt to resolve the controversy or dispute without an adversary proceeding. If the controversy or dispute is not resolved to the mutual satisfaction of the Parties within twenty (20) business days of notice of the controversy or dispute, the Parties must submit the issue (the "Dispute") to mediation and binding arbitration pursuant to and in accordance with the American Health Lawyers Association arbitration program.
17. **WAIVER OF TRIAL BY JURY.** Each Party hereto hereby irrevocably and unconditionally waives trial by jury in relating to this agreement, or any other document executed pursuant hereto, or in connection with any counterclaim resulting from any such action or proceeding.
18. **HEADINGS AND MEANING OF CERTAIN WORDS.** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement. Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa.
19. **NO THIRD-PARTY BENEFICIARY RIGHTS.** The Parties do not intend to confer and this Agreement shall not be construed to confer any rights or benefits to any person, firm, group, corporation or entity other than the Parties.
20. **SEVERABILITY AND WAIVER.** If any provision of this Agreement is determined to be illegal or unenforceable, that provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability of the remainder of this Agreement. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing, and shall apply solely to the specific instance expressly stated.
21. **NOTICES.** All notices or communications required or permitted under this Agreement shall be given in writing and delivered personally or sent by United States registered or certified mail with postage prepaid and return receipt requested or by overnight delivery service (e.g., Federal Express, DHL). Notice shall be deemed given when sent, if sent as specified in this paragraph, or otherwise deemed given when received. In each case, notice shall be delivered or sent to:

If to Company, addressed to:

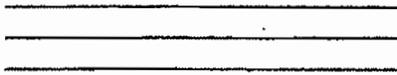
Gold Coast Surgicenter, LLC

If to Medical Director, addressed to:

Nikhil Verma, M.D.

With copies addressed to:

With a copy to:



IN WITNESS WHEREOF, the undersigned have executed this Agreement effective as of the date first above written.

GOLD COAST SURGICENTER, LLC

By:
Its:

MEDICAL DIRECTOR

Nikhil Verma, M.D.

[Signature Page to the Medical Director Agreement]

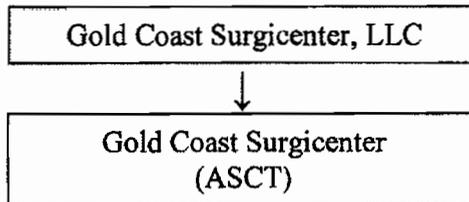
ATTACHMENT - 3B

SECTION I. IDENTIFICATION, GENERAL INFORMATION AND CERTIFICATION

Continue iv

Organizational Relationships

Provide (for each co-applicant) an organizational chart containing the name and relationship of any person or entity who is related (as defined in Part 1130.140). If the related person or entity is participating in the development or funding of the project, describe the interest and the amount and type of any financial contribution.



	Cost of 65%	cost per unit
<u>New Interest Holders</u>	<u>\$ 1,950,000.00</u>	<u>\$ 30,000.00</u>
Anthony Romeo	\$	200,000
Brian Cole	\$	200,000
Edward Goldberg	\$	200,000
Frank Phillips	\$	200,000
Gregory Nicholson	\$	200,000
John Fernandez	\$	200,000
Kern Singh	\$	200,000
Mark Cohen	\$	200,000
Nikhil Verma	\$	200,000
Robert Wysocki	\$	50,001
Shane Nho	\$	99,999
		<hr/>
	\$	1,950,000

ATTACHMENT-4

SECTION I. IDENTIFICATION, GENERAL INFORMATION AND CERTIFICATION

Continue v

Flood Plain Requirements

Provide documentation that the project complies with the requirements of Illinois Executive Order #2005-5 pertaining to construction activities in special flood hazard areas. As part of the flood plain requirements please provide a map of the proposed project location showing any identified floodplain areas. Floodplain maps can be printed at www.FEMA.gov or www.illinoisfloodmaps.org. This map must be in a readable format. In addition please provide a statement attesting that the project complies with the requirements of Illinois Executive Order #2005-5 (<http://www.hfsrb.illinois.gov>).

The Subject facility, Gold Coast Surgicenter, LLC, is an existing facility. As such, the project is neither for the establishment of a category of service nor for any construction.

Therefore, this item is not germane.

ATTACHMENT-5

SECTION I. IDENTIFICATION, GENERAL INFORMATION AND CERTIFICATION

Continue vi

Historic Resources Preservation Act Requirements

Provide documentation regarding compliance with the requirements of the Historic Resources Preservation Act.

No new construction or renovations are to be performed as part of this project.

Therefore, this item is not germane.

**SECTION III. BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES
– INFORMATION REQUIREMENTS** Continue i

Criterion 1110.230 – Background, Purpose of the Project, and Alternatives

BACKGROUND OF APPLICANT

1. A listing of all health care facilities owned or operated by the applicant, including licensing, and certification if applicable.

Gold Coast Surgicenter, LLC does not have any other health care facilities owned or operated by it other than Gold Coast Surgicenter. A copy of its license is appended as ATTACHMENT-11A. It should be noted that the physicians buying individual minority shares already have passive ownership interest in Rush Surgicenter and as such have no control as defined by the Board.

2. A certified listing of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application.

Appended as ATTACHMENT-11B is a letter certifying that no adverse action has been taken against Gold Coast Surgicenter. Moreover, appended as ATTACHMENT-11C are certified letters from each of the purchasing entity also indicating that no health care facility that they may have been involved in has had any adverse action taken against it.

3. Authorization permitting HFSRB and DPH access to any documents necessary to verify the information submitted, including, but not limited to: official records of DPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. Failure to provide such authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.

Appended as ATTACHMENT-11D, are letters from the Applicant and each respective purchasing entity authorizing permission for the HFSRB and DPH access to any documents necessary to verify the information submitted herein.

SECTION III. BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES
- INFORMATION REQUIREMENTS *Continue ii*

4. If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this criterion. In such instances, the applicant shall attest the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed, to update and/or clarify data.

This Applicant has not submitted even one application for permit in the past twelve months, therefore, this item is not germane.



State of Illinois 2093882
Department of Public Health

LICENSE, PERMIT, CERTIFICATION, REGISTRATION

The person, firm or corporation whose name appears on this certificate has complied with the provisions of the Illinois Statutes and/or rules and regulations and is hereby authorized to engage in the activity as indicated below.

Issued under the authority of
 The State of Illinois
 Department of Public Health

LA MAR HASBROUCK, MD, MPH
DIRECTOR

EXPIRATION DATE	CATEGORY	IC NUMBER
06/03/13	8630	7803150
FULL LICENSE AMBUL SURGICAL TREAT ENTR EFFECTIVE: 06/09/12		

BUSINESS ADDRESS

GOLD COAST SURGICENTER, LLC.
845 N. MICHIGAN AVE
985 N

The face of this license has a colored background. Printed by Authority of the State of Illinois • 4/97 •

GOLD COAST SURGICENTER, LLC

March 27, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

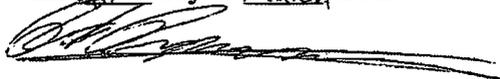
Dear Ms. Avery:

Please be advised that no adverse action as defined under 1110.230.a).3)B has been taken against the Applicant or against any health care facility owned or operated by the Applicant, directly or indirectly, within three years preceding the filing of the Certificate of Need Application.

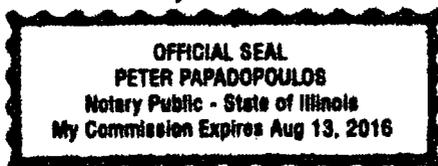
Sincerely,



Subscribed and sworn to me
this 27th day of March 2013



Notary Public



845 NORTH MICHIGAN AVENUE, SUITE 985 WEST, CHICAGO ILLINOIS 60611
TEL: 312-521-5500 FAX: 312-202-0492 & 312-202-0908

ATTACHMENT - 11B

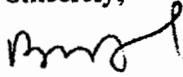
Date, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Dear Ms. Avery:

Please be advised that no "Adverse action" as defined under 1110.230(a)(3)(B) has been taken against the Applicant or against any health care facility owned or operated by the Applicant, directly or indirectly, within three years preceding the filing of the Certificate of Need Application.

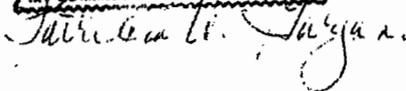
Sincerely,



Co-Applicant

Subscribed and sworn to me
this 6 day of April, 2013

Notary Public



Date, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Dear Ms. Avery:

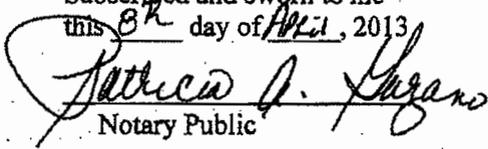
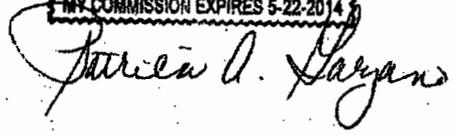
Please be advised that no "Adverse action" as defined under 1110.230(a)(3)(B) has been taken against the Applicant or against any health care facility owned or operated by the Applicant, directly or indirectly, within three years preceding the filing of the Certificate of Need Application.

Sincerely,



Co-Applicant

Subscribed and sworn to me
this 08 day of April, 2013


Notary Public

3/24/ 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Dear Ms. Avery:

Please be advised that no "Adverse action" as defined under 1110.230(a)(3)(B) has been taken against the Applicant or against any health care facility owned or operated by the Applicant, directly or indirectly, within three years preceding the filing of the Certificate of Need Application.

Sincerely,

Grant Pulley
Co-Applicant

Subscribed and sworn to me
this 26 day of March 2013

Notary Public *Tawana Madison*

OFFICIAL SEAL
TAWANA MADISON
Notary Public - State of Illinois
My Commission Expires Sep 8, 2014

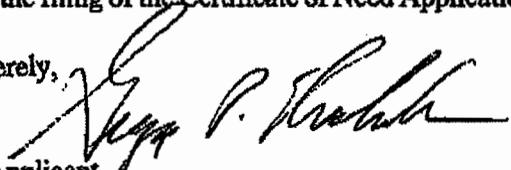
March 18, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Dear Ms. Avery:

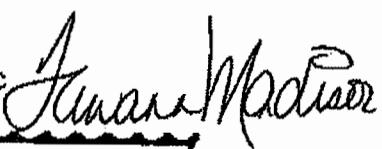
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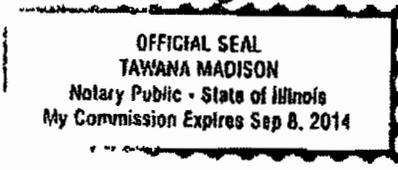
Sincerely,



Co-Applicant
Gregory P. Nicholson

Subscribed and sworn to me
this 20th day of March, 2013

Notary Public 



Date, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Dear Ms. Avery:

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Sincerely,

Co-Applicant

Subscribed and sworn to me
this 10th day of April, 2013

Notary Public



3.21.13

Date, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

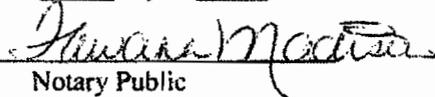
Dear Ms. Avery:

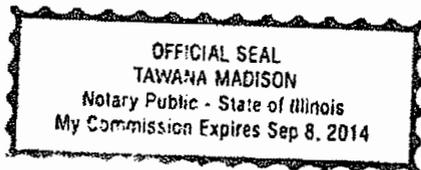
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Sincerely,


Co-Applicant **KERN SINGH, MD**

Subscribed and sworn to me
this 21st day of March, 2013


Notary Public



Date, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Dear Ms. Avery:

Please be advised that no "Adverse action" as defined under 1110.230(a)(3)(B) has been taken against the Applicant or against any health care facility owned or operated by the Applicant, directly or indirectly, within three years preceding the filing of the Certificate of Need Application.

Sincerely,



Co-Applicant

Subscribed and sworn to me
this 27th day of March, 2013

Notary Public



March 19, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

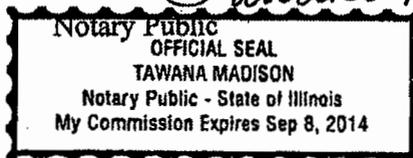
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Sincerely,


Nikhil N. Verma, MD

Subscribed and sworn to me
this 19th day of March, 2013



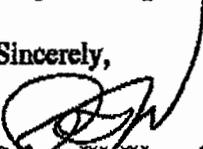
March 17, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Dear Ms. Avery:

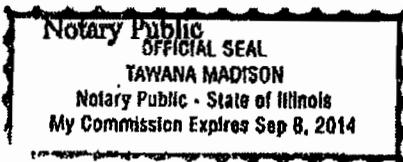
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Sincerely,



Robert W. Wysocki MD, Co-Applicant

Subscribed and sworn to me
this 21st day of March, 2013



Date, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Dear Ms. Avery:

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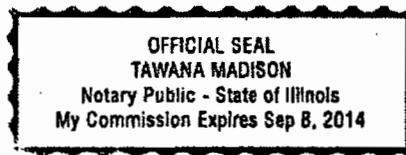
Sincerely,

Shane Nho

Co-Applicant

Subscribed and sworn to me
this 9th day of April, 2013

Tawana Madison
Notary Public





March 19, 2013

Ms. Courtney Avery
 Administrator
 Health Facilities and Services Review Board
 525 West Jefferson Street, 2nd Floor
 Springfield, Illinois 62761

Dear Ms. Avery:

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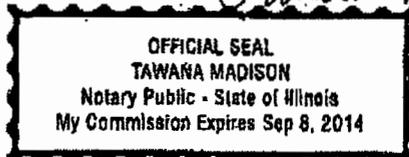
Sincerely,

[Handwritten Signature]
 Co-Applicant

Subscribed and sworn to me
 this 19th day of March 2013

Notary Public

[Handwritten Signature: Tawana Madison]



ATTACHMENT-11C

GOLD COAST SURGICENTER, LLC

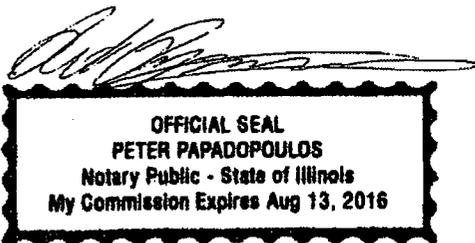
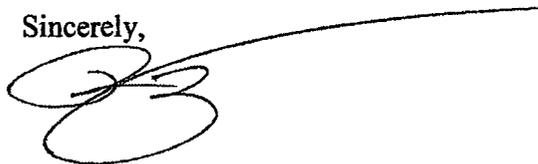
March 27, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Dear Ms. Avery:

I hereby authorize the Health Facilities Planning Board and the Illinois Department of Public Health (IDPH) access to any documents necessary to verify the information submitted, including, but not limited to: official records of IDPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. I further authorize the Illinois Department of Public Health to obtain any additional documentation or information that said agency deems necessary for the review of this Application as it pertains to 1110.230.a).3)C.

Sincerely,



845 NORTH MICHIGAN AVENUE, SUITE 985 WEST, CHICAGO ILLINOIS 60611
TEL: 312-521-5500 FAX: 312-202-0492 & 312-202-0908

ATTACHMENT - 11D

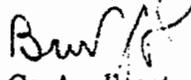
Date, 2013

Ms. Courtney Avery
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Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
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Sincerely,


Co-Applicant

4/6/13

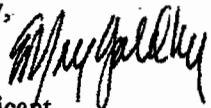
Date, 2013

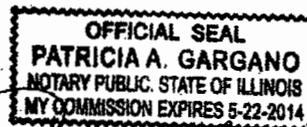
Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

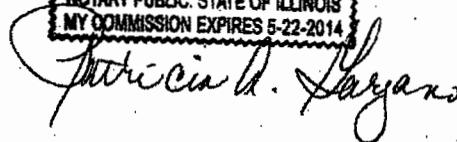
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Sincerely,


Co-Applicant





DM2\4130261.1

3/24/ 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

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Sincerely,



Co-Applicant

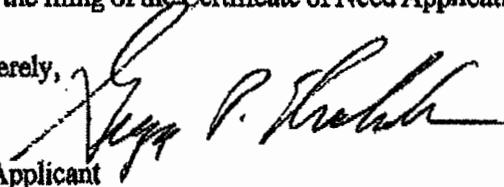
March 18, 2013

Ms. Courtney Avery
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Health Facilities and Services Review Board
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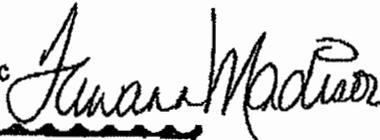
Sincerely,



Co-Applicant
Gregory P. Nicholson

Subscribed and sworn to me
this 20th day of March, 2013

Notary Public



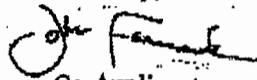
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Sincerely,



Co-Applicant

DM24130261.1

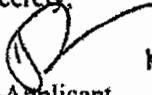
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Date, 2013

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Sincerely,


Co-Applicant

KERN SINGH, MD

Date, 2013

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Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

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Sincerely,

A handwritten signature in black ink, appearing to be the initials 'JC' followed by a horizontal line.

Co-Applicant

March 19, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

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Sincerely,



Nikhil N. Verma, MD

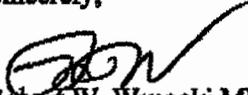
March 17, 2013

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Administrator
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Springfield, Illinois 62761

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Sincerely,


Robert W. Wysocki MD, Co-Applicant

Date, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

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Sincerely,

Shane Nho

Co-Applicant

DM24130261.1



March 19, 2013

Ms. Courtney Avery
Administrator
Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

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Sincerely,

Anthony BONES
Co-Applicant

ATTACHMENT-11D

DM24130261.1

**SECTION III. BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES
– INFORMATION REQUIREMENTS** *Continue III*

PURPOSE OF PROJECT

1. Document that the project will provide health services that improve the health care or well-being of the market area population to be served.

It should be noted that this project is not a complete change of ownership. Roberto Diaz, MD has and will maintain the largest single ownership interest in this facility. Furthermore, the entity in control of the ASTC is not changing as additional members are buying into the facility. Those buying in will be also using the facility, thereby improving access through improving the facility's utilization.

2. Define the planning area or market area, or other, per the applicant's definition.

As currently described, the facility's market area is Health Service Area VI, and Cook County. The market area will not change as a result of this transaction. Appended as **ATTACHMENT-12A**, is the patient origin data for the facility's 606 cases. It should be noted that the majority of patients (64%) were derived from Cook County and 56% from within the 30-minute travel time contour.

3. Identify the existing problems or issues that need to be addressed, as applicable and appropriate for the project. [See 1110.230(b) for examples of documentation.]

The issue presented by this project is how to improve the utilization of the existing health care resource, Gold Coast Surgicenter.

4. Cite the sources of the information provided as documentation.

Please refer to Part 1120 under the financial section of this application for documentation of the cash infusion and the projected change in operations. The facility's historical use rates have been reported in its 2011 and 2012 IDPH Annual Questionnaire form of which the IDPH profile is and the actual questionnaire form are appended as **ATTACHMENT-12B**.

ATTACHMENT-12

SECTION III. BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES
– INFORMATION REQUIREMENTS Continue iv

5. Detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being.

This transaction seeks to allow eleven practicing surgeons to acquire minority interest in the Applicant entity, Gold Coast Surgicenter, LLC. Although many of these 11 already utilize the subject facility by taking on an ownership interest and to qualify for the "Safe Harbors" from the "Anti-Kickback" statute will require referrals of at least one third of their cases. Collectively, these physicians performed approximately 24,000 procedures of surgery in the past 24 months. The minimum percentage on an annualized basis equates to approximately 4,000 procedures of surgery that will greatly improve the utilization of Gold Coast Surgicenter.

6. Provide goals with quantified and measurable objectives, with specific timeframes that relate to achieving the stated goals as appropriate.

The best indicator of meeting the proposed goal is the improved utilization of the Subject facility.

For projects involving modernization, describe the conditions being upgraded if any. For facility projects, include statements of age and condition and regulatory citations if any. For equipment being replaced, include repair and maintenance records.

This item is not applicable as the project does not involve modernization.

Gold Coast SurgiCenter
Admissions By Zip Code

Zip Code	County	Total Admits	Within 30	Within Cook	Zip Code	County	Total Admits	Within 30	Within Cook	Zip Code	County	Total Admits	Within 30	Within Cook
2131	SUFFOLK	1	1	1	6002	LAKE	2	2	2	6020	COOK	1	1	1
8820	MIDDLESEX	1	1	1	6004	COOK	3	3	3	6030	COOK	1	1	1
10005	NEW YORK	1	1	1	6005	COOK	3	3	3	6030	COOK	1	1	1
10013	NEW YORK	1	1	1	6008	COOK	3	3	3	6030	COOK	1	1	1
10017	NEW YORK	1	1	1	6010	LAKE	4	4	4	6040	COOK	3	3	3
11105	NEW YORK	1	1	1	6012	MCHENRY	1	1	1	6040	COOK	3	3	3
11125	NEW YORK	1	1	1	6013	MCHENRY	2	2	2	6040	WILL	2	2	2
11357	NEW YORK	1	1	1	6014	MCHENRY	2	2	2	6040	WILL	2	2	2
11368	NEW YORK	2	2	2	6015	LAKE	1	1	1	6040	COOK	2	2	2
11550	MASSAU	1	1	1	6016	COOK	4	4	4	6041	COOK	2	2	2
11791	NASSAU	1	1	1	6018	COOK	5	5	5	6041	COOK	1	1	1
17110	DAUPHIN	1	1	1	6022	COOK	1	1	1	6042	COOK	1	1	1
26330	HARRISON	1	1	1	6025	COOK	5	5	5	6042	WILL	2	2	2
27101	FORSYTH	1	1	1	6026	COOK	1	1	1	6042	WILL	4	4	4
27616	WAKE	1	1	1	6030	LAKE	1	1	1	6043	COOK	1	1	1
28287	MOORE	1	1	1	6035	LAKE	3	3	3	6043	WILL	1	1	1
34119	COLLIER	1	1	1	6043	COOK	1	1	1	6043	WILL	1	1	1
35613	LIMESTONE	1	1	1	6045	LAKE	4	4	4	6043	WILL	1	1	1
37129	RUTHERFORD	1	1	1	6047	LAKE	6	6	6	6043	WILL	5	5	5
37203	DAVIDSON	1	1	1	6053	COOK	1	1	1	6044	WILL	2	2	2
37303	MCMINN	1	1	1	6056	COOK	2	2	2	6044	WILL	2	2	2
41015	KENTON	1	1	1	6061	LAKE	1	1	1	6045	COOK	1	1	1
43062	DELAWARE	1	1	1	6062	COOK	3	3	3	6046	WILL	3	3	3
45701	ATHENS	1	1	1	6067	COOK	4	4	4	6048	WILL	2	2	2
46032	HAMILTON	1	1	1	6068	COOK	10	10	10	6049	GRUNDY	6	6	6
46143	JOHNSON	1	1	1	6069	LAKE	1	1	1	6049	WILL	2	2	2
46708	MARION	1	1	1	6070	COOK	1	1	1	6052	COOK	3	3	3
46303	LAKE	1	1	1	6073	LAKE	1	1	1	6053	COOK	1	1	1
46304	PORTER	1	1	1	6076	COOK	4	4	4	6053	COOK	7	7	7
46307	LAKE	4	4	4	6077	COOK	8	8	8	6053	COOK	3	3	3
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46321	LAKE	1	1	1	6085	LAKE	1	1	1	6071	COOK	1	1	1
46322	LAKE	3	3	3	6087	LAKE	4	4	4	6073	COOK	1	1	1
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46342	LAKE	1	1	1	6091	COOK	1	1	1	6080	COOK	1	1	1
46356	LAKE	1	1	1	6098	MCHENRY	3	3	3	6081	WILL	2	2	2
46366	STARKE	1	1	1	6099	LAKE	1	1	1	6091	WILL	2	2	2
46368	PORTER	1	1	1	6101	DUPAGE	1	1	1	6092	COOK	2	2	2
46375	LAKE	1	1	1	6103	COOK	2	2	2	6092	DUPAGE	1	1	1
46385	PORTER	1	1	1	6106	DUPAGE	3	3	3	6094	DUPAGE	1	1	1
46394	LAKE	1	1	1	6107	COOK	8	8	8	6095	KANE	1	1	1
46403	LAKE	1	1	1	6110	KANE	1	1	1	6095	KANE	1	1	1
46405	LAKE	1	1	1	6115	DEKALB	2	2	2	6096	DUPAGE	4	4	4
46407	LAKE	1	1	1	6120	KANE	4	4	4	6097	DUPAGE	2	2	2
46409	LAKE	1	1	1	6123	KANE	1	1	1	6097	DUPAGE	2	2	2
46410	LAKE	2	2	2	6126	DUPAGE	1	1	1	6098	DUPAGE	2	2	2
46507	ELKHART	1	1	1	6131	COOK	1	1	1	6098	DUPAGE	5	5	5
46514	ELKHART	1	1	1	6133	COOK	6	6	6	6097	DUPAGE	2	2	2
46545	SAINT JOSEPH	1	1	1	6134	KANE	2	2	2	6098	DUPAGE	2	2	2
46556	ST JOSEPH	1	1	1	6136	KANE	3	3	3	6098	DUPAGE	1	1	1
46614	ST JOSEPH	1	1	1	6137	DUPAGE	2	2	2	6099	DUPAGE	3	3	3
46617	ST JOSEPH	1	1	1	6139	DUBUQUE	2	2	2	6099	DUPAGE	1	1	1
46619	ALLER	1	1	1	6143	DUPAGE	1	1	1	6099	DUPAGE	1	1	1
48102	OAKLAND	3	3	3	6146	DUPAGE	3	3	3	6099	DUPAGE	4	4	4
49002	KALAMAZOO	1	1	1	6153	COOK	2	2	2	6099	DUPAGE	1	1	1
49112	CASS	1	1	1	6154	COOK	1	1	1	6099	DUPAGE	1	1	1
49408	ALLEGAN	1	1	1	6155	COOK	3	3	3	6099	DUPAGE	1	1	1
50265	POLK	1	1	1	6156	MCHENRY	2	2	2	6099	DUPAGE	2	2	2
50955	HAMILTON	1	1	1	6162	COOK	4	4	4	6099	DUPAGE	2	2	2
52002	DUBUQUE	1	1	1	6164	COOK	1	1	1	6099	DUPAGE	2	2	2
53132	MILWAUKEE	1	1	1	6165	COOK	1	1	1	6099	DUPAGE	2	2	2
53143	KENOSHA	1	1	1	6169	COOK	5	5	5	6099	DUPAGE	1	1	1
53167	WALWORTH	2	2	2	6172	DUPAGE	2	2	2	6099	DUPAGE	8	8	8
53204	MILWAUKEE	1	1	1	6173	COOK	2	2	2	6099	DUPAGE	4	4	4
53704	DANE	1	1	1	6175	KANE	2	2	2	6099	DUPAGE	1	1	1
53713	DANE	1	1	1	6181	DUPAGE	3	3	3	6099	DUPAGE	3	3	3
53714	DANE	1	1	1	6188	DUPAGE	1	1	1	6099	DUPAGE	16	16	16
54956	WINNEBAGO	1	1	1	6189	DUPAGE	1	1	1	6099	DUPAGE	3	3	3
55107	RAMSEY	1	1	1	6194	COOK	4	4	4	6099	DUPAGE	15	15	15
55124	DAKOTA	1	1	1	6201	COOK	1	1	1	6099	DUPAGE	24	24	24
55413	HERNESHIP	2	2	2	6201	COOK	1	1	1	6099	DUPAGE	5	5	5

NUMBER OF PATIENTS BY AGE GROUP		NUMBER OF PATIENTS BY PRIMARY PAYMENT SOURCE					
AGE	MALE	FEMALE	TOTAL	PAYMENT SOURCE	MALE	FEMALE	TOTAL
0-14	0	0	0	Medicaid	0	0	0
15-44	167	465	632	Medicare	0	0	0
45-64	80	108	188	Other Public	0	0	0
65-74	2	15	17	Insurance	185	151	336
75+ Year	1	1	2	Private Pay	84	378	462
TOTAL	249	529	778	Charity Care	0	0	0
				TOTAL	240	529	778

NUMBER OF OPERATING ROOMS		NUMBER OF PATIENTS	
Reference Number	Facility Id	Health Service Area	Planning Service Area
006	7003150	006	000
007	7003150	007	000
008	7003150	008	000
009	7003150	009	000
010	7003150	010	000
011	7003150	011	000
012	7003150	012	000
013	7003150	013	000
014	7003150	014	000
015	7003150	015	000
016	7003150	016	000
017	7003150	017	000
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041	7003150	041	000
042	7003150	042	000
043	7003150	043	000
044	7003150	044	000
045	7003150	045	000
046	7003150	046	000
047	7003150	047	000
048	7003150	048	000
049	7003150	049	000
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097	7003150	097	000
098	7003150	098	000
099	7003150	099	000
100	7003150	100	000

NET REVENUE BY PAYOR SOURCE FOR FISCAL YEAR

Medicare	Medicaid	Other Public	Private Insurance	Private Pay	TOTALS	Charity Care	Clarity Care
0.0%	0.0%	0.0%	71.7%	28.3%	100.0%	0	0
0	0	0	1,846,944	727,987	2,574,931	0	0

HOSPITAL TRANSFER RELATIONSHIPS

HOSPITAL NAME	NUMBER OF PATIENTS
NORTHWESTERN MEMORIAL HOSPITAL	0
	0
	0
	0
	0

OPERATING ROOM UTILIZATION FOR THE REPORTING YEAR

SURGERY AREA	TOTAL SURGERIES	SURGERY TIME (HOURS)	PREP and CLEANUP TIME (HOURS)	TOTAL SURGERY TIME (HOURS)	AVERAGE CASE TIME (HOURS)
Cardiovascular	0	0.00	0.00	0.00	0.00
Dermatology	0	0.00	0.00	0.00	0.00
Gastroenterology	0	0.00	0.00	0.00	0.00
General	4	2.00	2.00	4.00	1.00
Laser Eye Surgery	0	0.00	0.00	0.00	0.00
Neurological	18	18.50	8.00	26.50	1.47
OB/Gynecology	13	18.75	6.00	24.75	1.90
Ophthalmology	0	0.00	0.00	0.00	0.00
Orthopedics	0	0.00	0.00	0.00	0.00
Otolaryngology	43	54.50	20.00	74.50	1.73
Pain Management	0	0.00	0.00	0.00	0.00
Plastic Surgery	463	620.50	186.50	807.00	1.74
Podiatry	3	3.00	1.50	4.50	1.50
Thoracic	0	0.00	0.00	0.00	0.00
Urology	0	0.00	0.00	0.00	0.00
TOTAL	542	1,017.26	234.00	1,251.25	2.31

PROCEDURE ROOM UTILIZATION FOR THE REPORTING YEAR

PROCEDURE ROOM	TOTAL SURGERIES	SURGERY TIME (HOURS)	PREP and CLEANUP TIME (HOURS)	TOTAL SURGERY TIME (HOURS)	AVERAGE CASE TIME (HOURS)
Cardiac Catheterization	0	0.00	0.00	0.00	0.00
Gastro-Intestinal	0	0.00	0.00	0.00	0.00
Laser Eye	0	0.00	0.00	0.00	0.00
Pain Management	2	236	59.25	295.25	147.62
TOTALS	2	236	59.25	295.25	147.62

STAFFING PATTERNS

PERSONNEL	FULL-TIME EQUIVALENTS
Administrator	1.00
Physicians	0.00
Nurse Anesthetists	0.00
Dir. of Nurses	1.00
Reg. Nurse	6.00
Certified Aides	0.00
Other Hlth. Prof.	4.00
Other Non-Hlth. Prof.	5.00
TOTAL	18.00

DAYS AND HOURS OF OPERATION

Day	Hours
Monday	11
Tuesday	11
Wednesday	11
Thursday	11
Friday	11
Saturday	10
Sunday	0

Reference Numbers: Health Service Area 006, Planning Service Area 000, GOLD COAST SURGICENTER, LLC, 645 N. MICHIGAN AVE., #995W, CHICAGO, IL 60611-2201

Reference Numbers: Health Service Area 006, Planning Service Area 000, GOLD COAST SURGICENTER, LLC, 645 N. MICHIGAN AVE., #995W, CHICAGO, IL 60611-2201

Administrators: EDWARD ORTIZ, Registered Agent: HAROLD ROSEN, Property Owner: WATER TOWER, LLC, Legal Owner: Limited Liability Company (RA required)

Administrators: EDWARD ORTIZ, Registered Agent: HAROLD ROSEN, Property Owner: WATER TOWER, LLC, Legal Owner: Limited Liability Company (RA required)

**Illinois Health Facilities and Services Review Board
AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012**

This is a formal request by IDPH for full, complete and accurate information as stated herein. This request is made under the authority of the Health Facilities Planning Act [20 ILCS 3960]. Failure to respond may result in sanctions including the following:

"A person subject to this Act who fails to provide information requested by the State Board or State Agency within 30 days of a formal, written request shall be fined an amount not to exceed \$1,000 for each 30-day period, or fraction thereof, that the information is not received by the State Board or State Agency." [20 ILCS 3960/14.1(b)

(6)

This questionnaire is divided into 2 sections:

Part I

Collects information on your facility and facility utilization.
THIS PART MUST BE REPORTED FOR CALENDAR YEAR 2012.

Part II

Collects Financial and Capital Expenditure information for your facility.
THIS PART MUST BE REPORTED FOR THE MOST RECENT FISCAL YEAR AVAILABLE TO YOU.

The Certification Statement on page 15 must be completed before the survey data can be submitted.

This survey must be completed and submitted by February 28, 2013.

Facilities failing to submit this questionnaire within the required time frame will be reported to the Illinois Health Facilities and Services Review Board for the its consideration of the imposition of sanctions mandated by the Act.

If you have problems or questions concerning the survey, please check the [help] links provided. If you still have problems, contact this office via e-mail to DPH.FacilitySurvey@Illinois.gov, or by telephone at 217-782-3518.

Please review the following information on file for your facility and contact this office to report any inaccuracies:

ASTC Name	GOLD COAST SURGICENTER, LLC		
ASTC Address	845 N. MICHIGAN AVE., #985W		
ASTC City	CHICAGO	IL	Zip Code 60611-2201



Illinois Health Facilities and Services Review Board
AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012

Instructions for Completing this Form:

NOTE: Validation rules have been set up for some items; if your responses do not meet the validation rules, or if you have not filled in some required fields, you will not be allowed to proceed to the next page.

Navigating and Saving:

There are 3 buttons at the bottom of each survey page except the last one.

'Next' takes you to the next page of the survey

'Back' returns you to the previous survey page

'Save' saves work in progress if you need to stop before finishing.

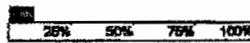
**NOTE: YOU DO NOT NEED TO SAVE AFTER EACH PAGE.
ONLY SAVE IF YOU NEED TO STOP BEFORE COMPLETING THE SURVEY.**

IMPORTANT

When you save your work, the unfinished survey is stored on our server with a new, random address. You will be prompted to set a bookmark or Favorite in your web browser. **YOU MUST DO THIS; YOU CANNOT ACCESS YOUR SAVED FORM WITHOUT IT.** The link provided in your e-mail notice **WILL NOT** access the saved form, only a blank survey. When you are ready to continue, use the bookmark or favorite to open the form. You will be returned to the place where you left off.

Saving the form also allows you to send the link created to another person to enter data, if needed. Since the link is to a file saved on our survey system, all the other person needs is the link to access the saved form.

Please contact this office at 217/782-3516 or by Email to DPH.FacilitySurvey@Illinois.gov with any questions.
Thank you for your cooperation.



**Illinois Health Facilities and Services Review Board
 AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012
 Part I - Facility Data**

1. FACILITY OWNERSHIP INFORMATION

A. Indicate the type of ownership for your ASTC (Choose only one):

FOR PROFIT

NOT FOR PROFIT

- | | |
|--|--|
| <input type="radio"/> Sole Proprietorship | <input type="radio"/> Church Related |
| <input type="radio"/> Corporation (*RA) | <input type="radio"/> State |
| <input type="radio"/> Partnership (registered with county) | <input type="radio"/> County |
| <input type="radio"/> Limited Partnership (*RA) | <input type="radio"/> City |
| <input type="radio"/> Limited Liability Partnership (*RA) | <input type="radio"/> Township |
| <input checked="" type="radio"/> Limited Liability Company (*RA) | <input type="radio"/> Other Not for Profit (Specify below) |
| <input type="radio"/> Other For Profit (specify below) | |

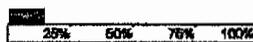
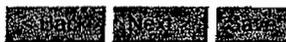
Other Ownership Type *RA - Registered Agent Required

B. If your facility ownership requires a Registered Agent with the Illinois Secretary of State (marked *RA above), indicate the name, address and telephone number of this person or company (must be an Illinois resident or company).

Name of Registered Agent:	HAROLD ROSEN
Address:	55 WEST MONROE SUITE 3600
City, State and Zip Code (plus Four):	CHICAGO, ILLINOIS 60603-5026
Telephone Number:	312-458-1300

C. Provide the name and relational interest of all organizations or entities that are legally, financially or otherwise related to the licensee (e.g., parent, subsidiary, affiliate, management agreement, etc.)

	Name	Relationship	Type of Interest
1			
2			
3			
4			
5			



Illinois Health Facilities and Services Review Board
AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012
Part I - Facility Data

D. Indicate the name, address and telephone number of the legal owners/operators of the facility. If you have more than 25 owners to report, please enter the information into a spreadsheet using the format below and email to DPH.FacilitySurvey@illinois.gov:

	Owner Name	Address	City, State Zip Code-Plus 4	Telephone Number (xxx/xxx-xxxx.xxxx)
1	ROBERTO DIAZ MD	845 N MICHIGAN AVENUE STE 98	CHICAGO, IL 60611-2213	312-521-5500
2	NEURO ONE, LLC	712 SOUTH MILWAUKEE AVENUE	LIBERTYVILLE IL 60048-3	847-362-1848
3	GREG HORNER MD	3187 EAST RUBY HILL DRIVE	PLEASANTON CA 94588-	925-984-4734
4	SMITHFIELD MEDICAL DE	1504 EUREKA ROAD, STE 230	ROSEVILLE CA 95661-30	9166984700
5				
6				
7		② 60048-3279		
8		③ 4626 Willow Road		
9		Pleasanton CA 94588-		
10		8517		
11		④ 95661-3058		
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				



**Illinois Health Facilities and Services Review Board
AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012
Part I - Facility Data**

2. PROPERTY OWNERSHIP INFORMATION

If the facility property is not owned by the facility legal owner/operator, indicate the name, address (including Zip Code plus Four) and telephone number of the property owner.

Property Owner	Address	City, State Zip Code-plus 4	Telephone (xxx/xxx-xxxx-xxxx)
1 WATER TOWER, LLC	845 N MICHIGAN AVENUE	CHICAGO IL 60611-2211	312-440-3850

3. CONTRACTUAL MANAGEMENT

If management of this facility is performed by independent contractor(s), not by an employee of the facility, list the individual name(s) and address(es) of each independent contractor. If management is NOT done by independent contractor(s), indicate by checking the box provided.

No Contractual Management

	Contractor Name	Full Address
1		
2		
3		
4		
5		

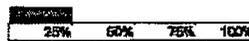
4. FACILITY STAFFING

A. Please indicate the number of hours in a work week for a full-time employee of your facility:

B. Staffing Patterns

Please indicate the number of Full-Time Equivalent employees (FTEs), paid directly by the facility, working at your facility during the first pay period of December, 2012.

Personnel	Full-Time Equivalents
Administrators	1
Physicians	0
Nurse Anesthetists	0
Director of Nursing	1
Registered Nurses	5
Certified Aides	0
Other Health Professionals	4
Other Non-Health Professionals	5
TOTAL FACILITY PERSONNEL	16



**Illinois Health Facilities and Services Review Board
 AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012
 Part I - Facility Data**

INFORMATION CONCERNING PATIENTS SERVED - CALENDAR YEAR 2012

5. Patients by Age Groups

Please indicate the number of patients during the calendar year 2012 by age and sex. If the patient was seen more than once, he/she should be counted for each new incident.

	MALE	FEMALE
0-14 Years	0	0
15-44 Years	163	391
45-64 Years	90	130
65-74 Years	4	10
75+ Years	3	0

**TOTAL
 PATIENTS
 SERVED**

TOTALS	260	531	791
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6. Source of Payment

Please indicate the numbers of patients your ASTC saw during calendar year 2012, by sex and PRIMARY PAYOR. The Total Male and Total Female patients reported must be the same as those reported in Question 5.

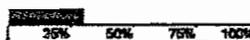
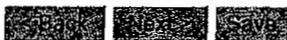
	Male	Female
Medicaid	0	0
Medicare	0	0
Other Public*	0	0
Private Insurance	180	190
Private Payment	80	341
Charity Care*	0	0

[Definitions]

TOTALS	260	531
---------------	-----	-----

*Other Public payment includes individuals whose primary payment source is Veterans Administration, County Boards, Community Aid Agencies, grants, CHAMPUS, CHAMP-VA, and other government-sponsored programs, excluding Medicare and Medicaid.

"Charity care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer. [20 ILCS 3960, Section 3] Charity care does not include bad debt or the unreimbursed cost of Medicare, Medicaid, and other federal, State, or local indigent health care programs, eligibility for which is based on financial need.



**Illinois Health Facilities and Services Review Board
AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012
Part I - Facility Data**

7. Patients by Place of Origin - Calendar Year 2012

Preferred Reporting Method:

For your ease of reporting, we have supplied a Microsoft Excel worksheet for the entry of Patient Origin Data:

- 1. CLICK HERE to ACCESS THE WORKSHEET.**
- 2. Save the worksheet to your computer.**
- 3. Follow the directions on the worksheet to enter your data.**
- 4. Email the completed spreadsheet to DPH.FacilitySurvey@Illinois.gov.**
- 5. Retain a copy of the worksheet in case follow-up is required.**

If you do not wish to use the Patient Origin worksheet, please use the spaces below to report the places of origin of the patients seen at your ASTC during Calendar Year 2012, and the number of patients from each area. 5-digit Zip Code areas are preferred; if Zip Code information is not available, please report counties of origin. If you need more spaces, click 'More Patients' at the bottom of this page, otherwise click 'Finished' to go on to the next question.

	Zip Code Area	County Name	Number of Patients
1			0
2			0
3			0
4			0
5			0
6			0
7			0
8			0
9			0
10			0
11			0
12			0
13			0
14			0
15			0
16			0
17			0
18			0
19			0
20			0
21			0
22			0
23			0
24			0
25			0

	Zip Code Area	County Name	Number of Patients
26			0
27			0
28			0
29			0
30			0
31			0
32			0
33			0
34			0
35			0
36			0
37			0
38			0
39			0
40			0
41			0
42			0
43			0
44			0
45			0
46			0
47			0
48			0
49			0
50			0

More Patients

Finished



**Illinois Health Facilities and Services Review Board
AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012
Part I - Facility Data**

FACILITY OPERATIONS

8. Please indicate the number of hours your ASTC is in operation on each day of the week: (if the ASTC is open from 8am to 6pm, that is 10 hours of operation.) DO NOT REPORT OPENING AND/OR CLOSING TIME.

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	TOTAL HOURS
Hours Open	11	11	11	11	11	10	0	65

9. Treatment Rooms by Type

Please indicate the number of rooms and stations in use at your ASTC for each category listed below:

	Rooms/ Stations
a. Operating Rooms (Class C)*	3
b. Special Procedure (not operating) Rooms (Class B)*	1
c. Examination Rooms	4
d. Stage 1 - Post-Anesthesia Recovery Stations	5
e. Stage 2 - Step-down Ambulatory Recovery Stations	8

10. Hospital Relationships

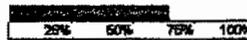
List all hospitals with which your ASTC has a contractual relationship, including transfer agreements.

	Hospital Name and City	Patient Transfers
1	NORTHWESTERN MEMORIAL HOSPITAL	0
2		0
3		0
4		0
5		0

*Operating Room (Class C): Operating Room is defined as a setting designed and equipped for major surgical procedures that require general or regional block anesthesia and support of vital bodily functions.

Surgical Procedure Room (Class B): Surgical Procedure room is defined as a setting designed and equipped for major or minor surgical procedures performed in conjunction with oral, parenteral, or intravenous sedation or under analgesic or dissociative drugs.

(Source: Guidelines for Optimal Ambulatory Surgical Care and Office-based Surgery, third edition, American College of Surgeons)



**Illinois Health Facilities and Services Review Board
AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012
Part I - Facility Data**

SURGICAL UTILIZATION FOR CALENDAR YEAR 2012 - OPERATING ROOMS (Class C)* - Definition

11. For each listed surgical category, indicate the number of surgical cases, the number of hours spent in setting up the surgery rooms for use, the hours of actual surgical time, and the number of hours spent in clean-up after the surgery was completed. Round the time reported to the nearest quarter of an hour. For example, a total of 318 hours and 40 minutes would be rounded to 318.75 hours for reporting purposes.

	Number of Cases	Surgery Room Set-Up Time (in Hours)	Actual Surgery Time (in Hours)	Surgery Room Clean-Up Time (in Hours)
Cardiovascular	0	0	0	0
Dermatology	0	0	0	0
General Surgery	2	0	.75	1
Gastroenterology	0	0	0	0
Neurological	25	0	35	11.75
OB/Gynecology	5	0	4	2.5
Oral/Maxillofacial	0	0	0	0
Ophthalmology	0	0	0	0
Laser Eye Surgery	0	0	0	0
Orthopedic	104	0	120.5	52
Otolaryngology	0	0	0	0
Pain Management	0	0	0	0
Plastic	464	0	904.25	231.75
Podiatry	6	0	3.5	3
Thoracic	0	0	0	0
Urology	0	0	0	0
TOTALS	606	0	1068	302

*Operating Room (Class C): Operating Room is defined as a setting designed and equipped for major surgical procedures that require general or regional block anesthesia and support of vital bodily functions.
(Source: Guidelines for Optimal Ambulatory Surgical Care and Office-based Surgery, third edition, American College of Surgeons)



Illinois Health Facilities and Services Review Board
AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012
Part I - Facility Data

SURGICAL UTILIZATION FOR CALENDAR YEAR 2012 - PROCEDURE (not operating) ROOMS

12. For each listed surgical procedure category, indicate the number of dedicated procedure (non-operating) rooms, the number of surgical cases, the number of hours spent in setting up the procedure rooms for use, the hours of actual surgical time, and the number of hours spent in clean-up after the procedure was completed. Round the time reported to the nearest quarter of an hour. For example, a total of 318 hours and 40 minutes would be rounded to 318.75 hours for reporting purposes.

If your facility performs other, unlisted non-operating room procedures, use lines e. - h. to report these procedures. Indicate the type(s) of procedure(s), the number of surgical cases, the number of hours spent in setting up the procedure rooms for use, the hours of actual surgical time, and the number of hours spent in clean-up after the procedure was completed. Total multi-purpose procedure rooms are to be reported in the line below the table.

NOTE - For reporting purposes, a case is defined as a PATIENT TREATED. If a patient has 3 procedures performed, that is counted as 1 CASE. TOTAL PROCEDURE ROOMS must equal Procedure Rooms reported on line b., Question 9. Total Procedure Room Cases plus Total Operating Room Cases from Question 10 must equal Total Patients Served from Question 5.

Dedicated Procedure Rooms (Class B)*	Rooms	Cases	Procedure Room Set-Up Time	Actual Surgery Time	Procedure Room Clean-Up Time	
a. Dedicated Gastro-Intestinal Procedures	0	0	0	0	0	
b. Dedicated Laser Eye Procedures	0	0	0	0	0	
c. Dedicated Pain Management Procedures	1	185	0	36.25	80	
d. Cardiac Catheterization Procedures	0	0	0	0	0	
Multipurpose Rooms (Specify Procedure)		Cases	Procedure Room Set-Up Time	Actual Surgery Time	Procedure Room Clean-Up Time	
e.		0	0	0	0	
f.		0	0	0	0	
g.		0	0	0	0	
h.		0	0	0	0	
Total Multi-Purpose Procedure Rooms		0				
TOTALS - ALL PROCEDURE ROOMS		1	185	0	36.25	80

*Surgical Procedure Room (Class B): Surgical Procedure room is defined as a setting designed and equipped for major or minor surgical procedures performed in conjunction with oral, parenteral, or intravenous sedation or under analgesic or dissociative drugs. (Source: Guidelines for Optimal Ambulatory Surgical Care and Office-based Surgery, third edition, American College of Surgeons)

Click on 'Next' to continue to Part II - Financial and Capital Expenditures Data



Illinois Health Facilities and Services Review Board
AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012
Part II - Financial and Capital Expenditures Data

Page 11

THE DATA REQUESTED BY THIS QUESTIONNAIRE ARE AUTHORIZED
PURSUANT TO THE ILLINOIS HEALTH FACILITIES PLANNING ACT [20 ILCS 3960/5.3]

THESE DOLLAR AMOUNTS MUST BE TAKEN FROM YOUR MOST RECENT ANNUAL
FINANCIAL STATEMENTS, WHICH INCLUDE YOUR INCOME STATEMENT AND BALANCE
SHEET. FINANCIAL STATEMENTS ARE DEFINED AS AUDITED FINANCIAL STATEMENTS,
REVIEW OR COMPILATION FINANCIAL STATEMENTS, OR TAX RETURN FOR THE MOST
RECENT FISCAL YEAR AVAILABLE TO YOU.

This part of the survey collects Financial and Capital Expenditure information for your facility.
This part MUST BE REPORTED FOR THE MOST RECENT FISCAL YEAR AVAILABLE TO YOU.

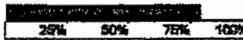
If you have problems providing the information requested, contact this office via e-mail at
DPH.FacilitySurvey@illinois.gov, or by telephone at 217-782-3516.

INDICATE THE STARTING AND ENDING DATES
OF YOUR MOST RECENT FISCAL YEAR (mm/dd/yyyy)

Starting Ending

Source of Financial Data Used

Review or Compilation Financial Statements



**Illinois Health Facilities and Services Review Board
 AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012
 Part II - Financial and Capital Expenditures Data**

A. CAPITAL EXPENDITURES

Provide the following information for all projects/capital expenditures in excess of \$311,335 obligated by or on behalf of the health care facility for your reported Fiscal Year (click the link below the table for definitions of terms):

	Description of Project/ Capital Expenditure	Amount Obligated	Method of Financing	CON Project Number (if reviewed)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Definitions

Report the TOTAL of ALL Capital Expenditures for your reported Fiscal Year:

TOTAL ACTUAL CAPITAL EXPENDITURES FOR YOUR REPORTED FISCAL YEAR (including expenditures below \$311,335)



**Illinois Health Facilities and Services Review Board
 AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012
 Part II - Financial and Capital Expenditures Data**

B. NET REVENUE BY PAYMENT SOURCE - REPORTED FISCAL YEAR

Please Indicate your Net Revenue during your reported Fiscal Year, by payment source.

	Net Revenue (in Dollars)
Medicaid	0
Medicare	0
Other Public*	0
Private Insurance	2543652.94
Private Payment	683711.25
Total Revenues	3227364.19

*Other Public payment includes individuals whose primary payment source is Veterans Administration, County Boards, Community Aid Agencies, grants, CHAMPUS, CHAMP-VA, and other government-sponsored programs, excluding Medicare and Medicaid.

C. TOTAL ACTUAL COST OF SERVICES PROVIDED TO CHARITY CARE* CASES - REPORTED FISCAL YEAR

	Amount (in Dollars)
Total Actual Cost of Services Provided to Charity Care* Cases	0

**Charity care* means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer. [20 ILCS 3960, Section 3] Charity care does not include bad debt or the unreimbursed cost of Medicare, Medicaid, and other federal, State, or local indigent health care programs, eligibility for which is based on financial need.



Illinois Health Facilities and Services Review Board
AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012

Please provide the following information for the individual responsible for the preparation of this questionnaire:

Contact Person Name	Edward Ortiz
Contact Person Job Title	Administrator
Contact Person Telephone	312-521-5500
Contact Person E-Mail Address	eortiz@goldcoastsurgicenter.com

Please provide the following information for the facility Administrator/CEO:

Administrator's Name	Edward Ortiz
Administrator's Title	Administrator
Administrator Telephone	312-521-5500
Administrator E-Mail Address	eortiz@goldcoastsurgicenter.com

If you have any comments on the survey, please enter them in the space below.



Illinois Health Facilities and Services Review Board
AMBULATORY SURGICAL TREATMENT CENTER QUESTIONNAIRE FOR 2012

CERTIFICATION OF SURVEY DATA

Pursuant to the Health Facilities Planning Act (20 ILCS 3960/13), the State Board requires "all health facilities operating in the State to provide such reasonable reports at such times and containing such information as is needed" by the Board to carry out the purposes and provisions of this Act. By completing this section, the named individual is certifying that he/she has read the foregoing document, that he/she is authorized to make this certification on behalf of this facility, and that the information contained in this report is accurate, truthful and complete to the best of his/her knowledge and belief. Please note that the State Board will be relying on the information contained in this document as being truthful and accurate information. Any misrepresentations will be considered material.

I certify that the information in this report is accurate, truthful and complete to the best of my knowledge.

Person Certifying	<input type="text" value="EDWARD ORTIZ"/>		
Job Title	<input type="text" value="ADMINISTRATOR"/>	Certification Date	<input type="text" value="03/01/2013"/>

Thank you for Completing the ASTC Questionnaire

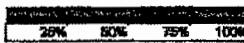
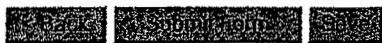
WE STRONGLY RECOMMEND THAT YOU PRINT OUT EACH PAGE OF THIS FORM WITH YOUR ANSWERS FOR FUTURE REFERENCE.

ONCE YOU HAVE SUBMITTED THE FORM, NO FURTHER ACCESS OR CHANGES ARE POSSIBLE.

YOU CANNOT RETRACT OR CHANGE A SUBMITTED FORM, SO BE SURE TO VERIFY YOUR ANSWERS BEFORE CLICKING ON THE 'SUBMIT FORM' BUTTON.

WHEN YOU HAVE REVIEWED AND PRINTED YOUR RESPONSES, CLICK THE 'SUBMIT FORM' BUTTON TO SEND YOUR COMPLETED QUESTIONNAIRE BACK TO OUR OFFICE. YOU WILL BE ROUTED TO A CONFIRMATION PAGE.

IF YOU HAVE ANY PROBLEMS, PLEASE CONTACT THIS OFFICE IMMEDIATELY AT 217-782-3516 OR BY EMAIL AT DPH.FacilitySurvey@illinois.gov



**SECTION III. BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES
– INFORMATION REQUIREMENTS** Continue v

ALTERNATIVES

1. Identify ALL of the alternatives to the proposed project:

Alternative options must include:

- A. Proposing a project of greater or lesser scope and cost;
- B. Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or a portion of the project's intended purposes; developing alternative settings to meet all or a portion of the project's intended purposes;
- C. Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project; and
- D. Provide the reasons why the chosen alternative was selected.

This project is classified as a change of ownership as more than 50 percent of the interest in the company is changing hands. That being said, the largest single interest holder will remain Roberto Diaz, MD. The physicians purchasing interest will each only have their proportionate share of 65 units. Therefore, the alternatives to this project are limited to not selling any equity in the facility, selling all the equity in the facility and the project as proposed which was selected to fulfill the core tenant of the Certificate of Need program which is to better utilize existing health care resources.

2. Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of total costs, patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation. **FOR EVERY ALTERNATIVE IDENTIFIED THE TOTAL PROJECT COST AND THE REASONS WHY THE ALTERNATIVE WAS REJECTED MUST BE PROVIDED.**

Sell No Interest in Gold Coast Surgicenter, LLC.

Total Cost

There is not any capital costs associated with this alternative.

ATTACHMENT-13

SECTION III. BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES – INFORMATION REQUIREMENTS Continue vi

Patient Access

In addition to this alternative having no capital costs, it also does not have the potential for soliciting surgeons to perform additional cases at Gold Coast Surgicenter. Therefore, this alternative does not directly improve patient accessibility.

Quality

For purposes of this project, quality of other providers is not questioned and presumed equal. The issue presented here is the better utilization of the existing health care resource of Gold Coast Surgicenter. Of course, the optimum utilization of a facility can lead to operations are more efficient and in the long run result in a higher quality of care. Therefore, this alternative does not lend itself to improved quality.

Financial Benefits

This alternative does not provide a financial benefit either through a capital infusion or through the substantial increase in utilization. For this and the above reasons, this alternative was not considered viable.

Selling All Equity in Gold Coast Surgicenter, LLC.

Total Cost

Based upon the current interest unit price of \$30,000 per unit, the cost of this alternative would be \$3,000,000.

Patient Access

This alternative does not improve access for the existing patients and clientele who currently utilize the Subject facility. Rather, patient access gets changed and the Applicant relinquishes all control of maintaining accessibility or improving it.

Quality

For purposes of this project, quality of other providers is not questioned and presumed

**SECTION III. BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES
– INFORMATION REQUIREMENTS** *Continue vii*

equal. The issue presented here is the better utilization of the existing health care resource of Gold Coast Surgicenter. Of course, the optimum utilization of a facility can lead to operations that are more efficient and in the long run result in a higher quality of care. This alternative does not guarantee improved utilization. Therefore, this alternative does not lend itself to improved quality.

Financial Benefits

This alternative provides a financial benefit to the Applicant but does nothing for the facility itself. Collectively, accessibility, improved utilization and the more effective use of existing health care resources cannot be realized. For these reasons, this alternative was considered as not viable.

The Project as Being Proposed

Total Cost

The cost of this project is \$1,950,000. All other costs are part of normal operations.

Patient Access

The proposed transaction guarantee's improved utilization, which, translates into improved accessibility. With additional physicians, a greater number of patients can be reached and cared for in the lower cost alternative of an ASTC as compared to the institutional and more costly Hospital environment.

Quality

For purposes of this project, quality of other providers is not questioned and presumed equal. The issue presented here is the better utilization of the existing health care resource of Gold Coast Surgicenter. Of course, the optimum utilization of a facility can lead to operations that are more efficient and in the long run result in a higher quality of care. In addition, the physicians purchasing an interest are world class physicians each of whom bring a notable level of expertise. Therefore, this alternative does appear to be able to lead to improved quality.

**SECTION III. BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES
– INFORMATION REQUIREMENTS** Continue viii

Financial Benefits

For the cost of the project this alternative improves utilization of an existing underutilized health care resource and improves patient access through the addition of eleven physicians. For these reasons, this alternative was sleeved as most viable.

3. The applicant shall provide empirical evidence, including quantified outcome data that verifies improved quality of care, as available.

For purposes of this project, quality of other providers is not questioned and presumed equal. The issue presented here is the better utilization of the existing health care resource of Gold Coast Surgicenter. Therefore, this item does not appear to be germane.

SECTION VI. MERGERS, CONSOLIDATIONS AND ACQUISITIONS/CHANGES OF OWNERSHIP Continue I

NOTE: For all projects involving a change of ownership **THE TRANSACTION DOCUMENT must be submitted with the application for permit. The transaction document must be signed dated and contain the appropriate contingency language.**

The transaction document is appended as ATTACHMENT-3A.

A. Criterion 1110.240(b), Impact Statement

1. Any change in the number of beds or services currently offered.

There will be no change in the number of OR's or specialties offered. The Subject facility currently has four operating rooms with sixteen recovery stations fully equipped to perform Gastroenterology, OB/Gynecology, Orthopedic, Pain Management, Plastic, and Podiatry procedures. Should this project be approved, all operating rooms, recovery stations, and specialties offered will remain the same.

2. Who the operating entity will be.

The proposed operator will remain, Gold Coast Surgicenter, LLC.

3. The reason for the transaction.

The reason for this project is to bring into Gold Coast Surgicenter, LLC (as minor shareholders) additional physicians/surgeons who will also utilize, to a greater extent, the existing health care resource of the ASTC. Control is not changing as the greatest single shareholder will remain Roberto Diaz, MD.

4. Any anticipated additions or reductions in employees now and for the two years following completion of the transaction.

The ongoing facility operation is appropriately staffed for the utilization level being maintained. However, it is the Applicant's intent to improve utilization to the

<u>Gold Coast Surgicenter</u>		
<u>Staffing Pattern</u>	<u>Current</u>	<u>Proposed</u>
Administrator	1	1
DON	1	1
RN's	5	7.1
Other Health Prof.	4	5
<u>Non Health Prof.</u>	<u>5</u>	<u>5</u>
Total	16	19.1

State's optimal level of 80%. It should be noted that upon the approval of this transaction and upon optimal utilization, the Applicant proposes an increase of 3.1 FTE's.

SECTION VI. MERGERS, CONSOLIDATIONS AND ACQUISITIONS/CHANGES OF OWNERSHIP Continue II

5. A cost-benefit analysis for the proposed transaction.

The immediate costs and benefits of this project are: The cost to the project is essentially, the purchase of 65 shares from the 85 shares held by Dr. Diaz to be split between eleven physicians. The benefit is having the additional doctors to directly contribute to the utilization of the existing health care resource. According to the financial projections included herein, a four percent increase in total revenue produces a thirteen percent increase in net income. This is largely due to the economies-of-scale in optimizing the capacity of the existing health care resource. The most important benefit is being able to increase accessibility through by adding eleven additional physicians, all for the purchase of interest into Gold Coast Surgicenter, LLC at a cost of \$1,950,000. However, a distinction can be made between project costs, project benefits and the following life-cycle costs and benefits. Specifically, this project provides an infusion of capital to a existing valuable health care resource in the State's overall health care system.

The health care delivery system in Illinois has a facility hierarchy that starts with hospitals providing the most acute care and physicians' offices and clinics meeting the basic and everyday health care needs of the general population. Complicating this hierarchy of care is the fact that hospitals are a safety net provider that cannot turn away patients for care. As such, as it relates to a hospital's surgery department, outpatient surgical patients are integrated with more acute care and more complex surgical cases. This environment has the potential to expose healthy and less healthy patients which results in increased risk for spreading infections and less consistent use of staff per specialty. Additionally, the U.S. General Accounting

ATTACHMENT-19

SECTION VI. MERGERS, CONSOLIDATIONS AND ACQUISITIONS/CHANGES OF OWNERSHIP Continue III

Office (GAO) has recently concluded that the cost of performing a procedure in an ASTC is lower than the cost of providing the same procedure in a hospital outpatient department and, thus, lower payments are appropriate (GAO report: GAO-07-96. Washington DC: Government Accountability Office). Thus, the life-cycle or ongoing costs and benefits of proceeding with this alternative, i.e., revitalization of an existing ASTC, are the cost savings for patients, third party payers, and ultimately the reduced Government reimbursements with the benefit of not having to spend capital on the development of a new ASTC nor the closure of the existing resource that could result in addition burden on area hospitals. Furthermore, according to MedPAC, ambulatory surgical treatment centers many times offer more convenient locations, shorter waiting times, and easier scheduling for patients than hospitals. Therefore, the benefits of this project far outweigh the cost or relative alternatives to this project.

B. Criterion 1110.240(c), Access

1. The current admission policies for the facilities involved in the proposed transaction.

Appended as **ATTACHMENT-19A**, is the admission (Scope of Care) policy for the existing Gold Coast Surgicenter.

2. The proposed admission policies for the facilities.

Appended as **ATTACHMENT-19A**, is the admission (Scope of Care) policy for the proposed Gold Cost Surgicenter. Please note that the Applicant, Gold Coast Surgicenter, LLC is not changing and that their admission policies and operational procedures will not change.

ATTACHMENT-19

SECTION VI. MERGERS, CONSOLIDATIONS AND ACQUISITIONS/CHANGES OF OWNERSHIP Continue iv

3. A letter from the CEO certifying that the admission policies of the facilities involved will not become more restrictive.

Appended as **ATTACHMENT-19B**, is a letter from the Applicant stating that the admission policies of the Subject facility will not become more restrictive.

C. Criterion 1110.240(d), Health Care System

It should be noted that this project is proposing the Change of Ownership that will result in 50% control changing hands of an ASTC. The ASTC is not part of any Health Care System. Under item 1110.240(c) above, the Applicant has documented that admissions policy and transfer agreements will not become more restrictive. The purpose of this project is to increase the utilization of the ASTC through the affiliation with Dr. Roberto Diaz through Gold Coast Surgicenter, LLC. This facility and its proposed Applicant have no input on the use of other area care providers. Therefore, the items 1-7 of this criterion are not applicable. Item "B" above is not germane as this is an existing ongoing service and, again, the Applicant and the Subject ASTC is not part of a "Care System".

GOLD COAST SURGICAL CENTER SCOPE OF CARE

Patients who are in good health and free of or at least have controlled systemic disease may be scheduled for surgery by one of our credentialed surgeons.

The surgeon or their office must provide a "Surgery Scheduling Request Form" to the scheduling staff. A call to the patient is used to confirm the data from this form including the procedure, date of surgery, and insurance/payment information.

The working day before the surgery (Friday when scheduled on a Monday) the patient is called by the scheduling staff. Confirmation of arrangement for transportation, how significant others will be helping, payment amount and terms, times to arrive and expected time of departure are discussed with the patient or the guardian. This patient information then becomes a part of records that are used to inform our transportation service, create a day of surgery schedule, and a patient chart record. A list of patients with each of their specific pre-op tests is also created to plan efficient movement of each patient through the pre-op process.

Each patient has forms typed, or computer-generated patient labels attached, with their information such as name, surgeon, procedure, date of service, to insure that the Pre-Op Checklist, Intra-Operative Record, Recovery Room Record, Anesthesia record, etc has all the patient's data.

The recovery room / pre-op staff will place a second call to the patient to do the pre-op teaching and instruction if they were unavailable at the time of the first call.

The day of surgery, the patient arrives at the Clinic about two hours before the surgery in order to have enough time to obtain all tests that have been ordered by the surgeon or anesthesiologist. When the medical record chart forms and test are all ready the recovery room / pre-op staff are notified and bring the patient to the pre-op changing area.

When the patient is changed he is moved to the pre-op area chair or to a recovery room cart to await surgery. Anesthesia or an RN will start an IV.

When the operating room, anesthesia and surgeon are ready, the patient walks to or is moved on a cart into the operating room. It is the practice of operating room staff to ask for a "Time Out" so that the patient can identify himself and his surgery to everyone in the room. The Intra-Operative and Anesthesia records are used to document the patient care for this area.

At the completion of the surgery the anesthesia staff and operating staff moves the patient onto a cart and out to the recovery area. The recovery room and pre-op staff record the recovery process and document the discharge notes. An RN may audit the medical record of each patient each day.

The recovery room/pre-op staff will call the patient in the days after his procedure in order to ascertain how well the patient is doing.

TRANSFER AGREEMENT

This Transfer Agreement ("Agreement") is entered into as of February 18, 2010 ("Effective Date") by and between Northwestern Memorial Hospital, an Illinois corporation ("Receiving Hospital") and Gold Coast Surgicenter ("Transferring Facility"). The Receiving Hospital and Transferring Facility may be referred to individually as a "Party" and collectively the "Parties".

RECITALS

WHEREAS, Transferring Facility owns and operates a general acute care hospital;

WHEREAS, Transferring Facility receives, from time to time, patients with general injuries who are in need of treatment that may not be available at Transferring Facility, but are available at Receiving Hospital; and

WHEREAS, the Parties desire to establish a transfer arrangement to promote continuity of care and treatment appropriate to the needs of patients with general injuries.

NOW, THEREFORE, for and in consideration of the terms, conditions, covenants, agreements and obligations contained herein:

SECTION 1 PATIENT TRANSFERS

- 1.1 **Acceptance of Patients.** Upon recommendation of an attending physician, and pursuant to the provisions of this Agreement, Receiving Hospital agrees to accept the transfer of patients with general injuries from Transferring Facility *provided that* customary admission requirements, applicable State and Federal laws and regulations are met, and Receiving Hospital has the capacity and ability to treat the patient, as determined in its sole discretion. A request for a patient transfer shall be made by Transferring Facility as soon as possible once the need for a transfer has been identified. After receiving a transfer request, Receiving Hospital shall exercise its reasonable best efforts to promptly communicate whether it has the capacity to accept the transfer. Receiving Hospital further agrees to exercise its reasonable best efforts to provide for the prompt admission of transferred patients.
- 1.2 **Appropriate Transfer.** It shall be Transferring Facility's responsibility, at no cost to Receiving Facility, to arrange for appropriate and safe transportation and care of the patient during such transport. The Transferring Facility shall assure that the transfer is an "appropriate transfer" as defined in the Emergency Medical Treatment and Active Labor Act ("EMTALA") and related regulations, and is carried out in accordance with any other applicable laws and regulations. The Transferring Facility shall provide all available information regarding the patient when requesting a transfer, and shall comply with

Section 2 below regarding the transmission of the patient's medical record to Receiving Hospital. Direct communication between the patient's attending physician from the Transferring Facility and an attending physician at the Receiving Hospital is required before Receiving Hospital will agree to accept the requested transfer.

- 1.3 **Standard of Performance.** Each Party shall, in performing its obligations under this Agreement, provide patient care services in accordance with the same standards as services provided under similar circumstances to all other patients of such Party, and as may be required by federal and state laws and Medicare/Medicaid certification standards. Each Party shall maintain all legally required certifications and licenses from all applicable governmental and accrediting bodies, and shall maintain full eligibility for participation in Medicare and Medicaid.
- 1.4 **Billing and Collections.** Each Party shall be entitled to bill patients and any third parties responsible for paying a patient's bill, for services rendered to patients by such Party and its employees, agents and representatives, and neither Party will have any liability to the other Party for such charges. Each Party shall be solely responsible for all matters pertaining to its billing and collection of such charges, including all forms, documentation, and insurance verification. The Parties shall reasonably cooperate with each other in the preparation and completion of all forms and documentation necessary for billing.

SECTION 2 MEDICAL RECORDS

Subject to applicable confidentiality requirements, the Parties shall exchange all information which may be necessary or useful in the care and treatment of a transferred patient, or which may be relevant in determining whether such patient can be adequately cared for by the Receiving Hospital. All such information shall be provided by the Transferring Facility in advance, where possible, and in any event, no later than at the time of the transfer. The Transferring Facility shall send a copy of all patient medical records that are available at the time of transfer to the Receiving Hospital, including documentation pertaining to the transfer. Any other patient records shall be sent as soon as practicable after the transfer. Each Party shall and shall cause its employees and agents to protect the confidentiality of all patient health information, and comply with all applicable state and federal laws and regulations protecting the confidentiality of patients' records, including the privacy and security regulations related to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

SECTION 3 TERMS AND TERMINATION

- 3.1 **Term.** This Agreement shall be effective as of the Effective Date and shall remain in effect until terminated as provided herein.
- 3.2 **Termination.** This Agreement may be terminated as follows:

- (a) **Termination by Mutual Consent.** The Parties may terminate this Agreement at any time by mutual written consent, and such termination shall be effective upon the date stated in the consent.
- (b) **Termination without Cause.** Either Party may terminate this Agreement, without cause, upon thirty (30) days prior written notice to the other Party.
- (c) **Termination for Cause.** A party shall have the right to immediately terminate this Agreement for cause upon the happening of any of the following:
 - (i) If such Party determines that the continuation of this Agreement would endanger patient care.
 - (ii) Violation by the other Party of any material provision of this Agreement, which violation continues for a period of fifteen (15) days after receipt of written notice by the other Party specifying the violation and failure by the other Party to cure.
 - (iii) Exclusion of the other Party from participation in the Medicare or Medicaid programs or conviction of the other Party of a felony related to the provision of health care services.
 - (iv) Except with respect to a change from one accrediting organization to another, the other Party's loss or suspension of any certification, license, accreditation (including Health Facilities Accreditation Program ("HIFAP") or Joint Commission on Accreditation of Healthcare Organizations ("Joint Commission") or other applicable accreditation), or other approval necessary to render acute patient care services.

SECTION 4 NON-EXCLUSIVE RELATIONSHIP

This Agreement shall be non-exclusive. Either Party shall be free to enter into similar arrangements at any time with other hospitals, or health care entities on either a limited or general basis while this Agreement is in effect. Neither Party shall use the other Party's name or marks in any promotional or advertising material without first obtaining the written consent of the other Party.

SECTION 5 LICENSURE AND INSURANCE

- 5.1 **Licenses, Permits and Certification.** Each party represents to the Other Party that it and all of its employees, agents and representatives possess and shall maintain all required licenses, permits and certifications enabling such Party to provide the services referenced in this Agreement.

With a copy to:

Northwestern Memorial Hospital
240 E. Ontario Street, Suite 500
Chicago, IL 60611
Attention: Office of General Counsel

To Transferring Facility:

Gold Coast Surgicenter
845 N. Michigan Avenue
Chicago, IL 60611
Attention: Roberto Diaz

or to such other address of which the receiving Party has given notice pursuant to this Section. All notices shall be considered given and received on the date actually received if given by personal delivery, or traceable courier service, or on the date shown as received on a fax confirmation sheet (unless such date is not a business day, in which case the notice shall be deemed given on the next business day) if given by facsimile.

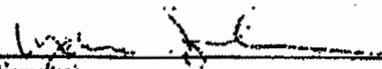
- 7.4 **Assignment.** Neither Party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other, except that either Party may assign all or part of its rights and delegate all or part of its obligations under this Agreement to any entity controlled by or under common control with such Party, or a successor in interest to substantially all of the assets of such Party.
- 7.5 **Entire Agreement; Amendment.** This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof and may not be amended or modified except in a writing signed by both Parties. All continuing covenants, duties, and obligations contained herein shall survive the expiration or termination of this Agreement.
- 7.6 **Governing Law.** This Agreement shall be governed by and construed according to the laws of the State of Illinois without regard to the conflict of laws provisions thereunder.
- 7.7 **Headings.** The headings of sections contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement.
- 7.8 **Non-discrimination.** Neither Party shall discriminate against any individuals on the basis of race, color, sex, age, religion, national origin, or disability while acting pursuant to this Agreement.
- 7.9 **Severability.** If any provision of this Agreement, or the application thereof to any person or circumstance, shall be held to be invalid, illegal or unenforceable in any respect by any court or other entity having the authority to do so, the remainder of this Agreement, or the application of such affected provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall be in no way affected, prejudiced or disturbed, and each provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

- 7.10 **Successors and Assigns.** This Agreement shall be binding upon, and shall inure to the benefit of the Parties hereto, their respective successors and permitted assigns.
- 7.11 **Waiver.** No failure by a Party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, agreement, term or condition. Any Party may waive compliance by the other Party with any of the provisions of this Agreement if done so in writing. No waiver of any provision shall be construed as a waiver of any other provision or any subsequent waiver of the same provision.
- 7.12 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement through their respective authorized officers, effective as of the day and year first written above.

Northwestern Memorial Hospital

Gold Coast Surgicenter



 Signature



 Signature

Director, Case Leadership

 Title

President + CEO

 Title

2/15/10

 Date

2/17/10

 Date

GOLD COAST SURGICENTER, LLC

April 4, 2013

Ms. Courtney Avery
Administrator
Health Facilities & Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield IL 62761

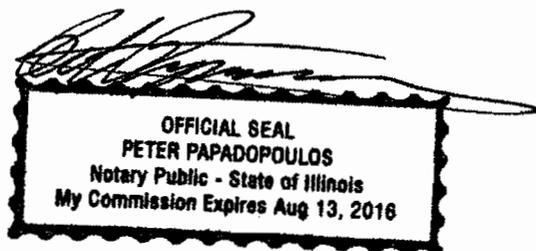
Dear Ms. Avery,

The following information is being provided in regards to the Certificate of Need process for the proposed Change of Ownership Exemption. Please be advised that Gold Coast Surgicenter intends to maintain ownership and control of the facility for a minimum of three years after the CON for Gold Coast Surgicenter is approved. All reports regarding outstanding permits are up to date for the facility. In addition, no new services will be added to our list of approved services. Results will include a more effective patient delivery system combined with better utilization. Please call my office if there are any questions. Thank you.

Sincerely,



Edward Ortiz
Administrator



845 NORTH MICHIGAN AVENUE, SUITE 985 WEST, CHICAGO ILLINOIS 60611
TEL: 312-521-5500 FAX: 312-202-0492 & 312-202-0908

GOLD COAST SURGICENTER, LLC

March 12, 2013

Re: Admissions Policy

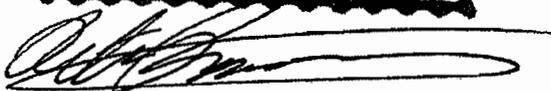
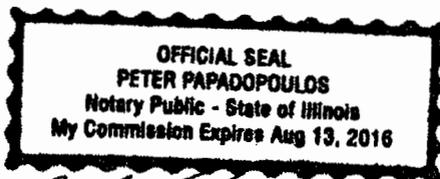
To whom it may concern,

Please note that the Admissions policies of Gold Coast Surgicenter will not become more restrictive in the future. Our Admissions policy will remain the same.

Sincerely,



Roberto Diaz, MD
President/CEO
Gold Coast Surgicenter



845 NORTH MICHIGAN AVENUE, SUITE 985 WEST, CHICAGO ILLINOIS 60611
TEL: 312-521-5500 FAX: 312-202-0492 & 312-202-0908

ATTACHMENT-19B

SECTION VIII. 1120.120 AVAILABILITY OF FUNDS *Continue i*

The following Sections DO NOT need to be addressed by the applicants or co-applicants responsible for funding or guaranteeing the funding of the project if the applicant has a bond rating of A- or better from Fitch's or Standard and Poor's rating agencies, or A3 or better from Moody's (the rating shall be affirmed within the latest 18 month period prior to the submittal of the application):

- **Section 1120.120 Availability of Funds – Review Criteria**
- **Section 1120.130 Financial Viability – Review Criteria**
- **Section 1120.140 Economic Feasibility – Review Criteria, subsection (a)**

Availability of Funds

The applicant shall document that financial resources shall be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources from the following sources, as applicable: Indicate the dollar amount to be provided from the following sources:

- a. Cash and Securities – statements (e.g., audited financial statements, letters from financial institutions, board resolutions) as to:

1. the amount of cash and securities available for the project, including the identification of any security, its value and availability of such funds; and

As of the time this Certificate of Need application was filed, the parties purchasing interest in the Applicant, Gold Coast Surgicenter, LLC placed 52.7% of the funds into escrow, held by their legal counsel McGuireWoods, LP. Appended as **ATTACHMENT-39A** is a copy of a correspondence describing this arrangement and stipulating that 100 percent of the funds will be placed into escrow prior to consideration of this project by the Health Facilities and Services Review Board.

- b. Pledges – for anticipated pledges, a summary of the anticipated pledges showing anticipated receipts and discounted value, estimated time table of gross receipts and related fundraising expenses, and a discussion of past fundraising experience.

Not Applicable as this transaction will be funded with cash.

- c. Gifts and Bequests – verification of the dollar amount, identification of any conditions of use, and the estimated time table of receipts;

Not Applicable as this transaction will be funded with cash.

ATTACHMENT-39

SECTION VIII. 1120.120 AVAILABILITY OF FUNDS Continue II

d. Debt – a statement of the estimated terms and conditions (including the debt time period, variable or permanent interest rates over the debt time period, and the anticipated repayment schedule) for any interim and for the permanent financing proposed to fund the project, including:

1. For general obligation bonds, proof of passage of the required referendum or evidence that the governmental unit has the authority to issue the bonds and evidence of the dollar amount of the issue, including any discounting anticipated;

Not Germane, as there is no debt as part of the purchase for this transaction.

2. For revenue bonds, proof of the feasibility of securing the specified amount and interest rate;

Not Germane, as there is no debt as part of the purchase for this transaction.

3. For mortgages, a letter from the prospective lender attesting to the expectation of making the loan in the amount and time indicated, including the anticipated interest rate and any conditions associated with the mortgage, such as, but not limited to, adjustable interest rates, balloon payments, etc.;

Not Germane, as there is no debt as part of the purchase for this transaction.

4. For any lease, a copy of the lease, including all the terms and conditions, including any purchase options, any capital improvements to the property and provision of capital equipment;

A lease is appended as ATTACHMENT-39B.

5. For any option to lease, a copy of the option, including all terms and conditions.

Not Germane, as lease of space is in-place.

e. Governmental Appropriations – a copy of the appropriation Act or ordinance accompanied by a statement of funding availability from an official of the governmental unit. If funds are to be made available from subsequent fiscal years, a copy of a resolution or other action of the governmental unit attesting to this intent;

Not Applicable as this transaction will be funded with cash.

f. Grants – a letter from the granting agency as to the availability of funds in terms of the amount and time of receipt;

Not Applicable as this transaction will be funded with cash.

ATTACHMENT-39

SECTION VIII. 1120.120 AVAILABILTIY OF FUNDS *Continue lit*

- g. All Other Funds and Sources – verification of the amount and type of any other funds that will be used for the project.

Not Applicable as this transaction will be funded with cash.

John Kniery

From: Suh, Helen H. [HSuh@mcguirewoods.com]
Sent: Wednesday, April 10, 2013 10:02 AM
To: John Kniery
Cc: Szabad, Melissa; 'MJSilberman@duanemorris.com'
Subject: Gold Coast Surgicenter

Mr. Kniery,

Mark Silberman has asked me to send you a note on the status of the funds escrowed in connection with the proposed acquisition of ownership interest in Gold Coast Surgicenter, LLC. McGuireWoods LLP is administering two escrow accounts for the purchasing physicians. The first is fully funded and holds \$150,000. This amount represents the escrow deposit required by the purchase agreement. The second is intended to hold the balance of the purchase price to facilitate the CON review process. As of this morning, six physicians have made their deposits for a total of \$876,923.06. Please let me know if you have any questions. Thank you.

Regards,

Helen Suh
McGuireWoods LLP
77 West Wacker Drive
Suite 4100
Chicago, IL 60601-1818
312.849.8248 (Direct Line)
312.698.4532 (Direct FAX)
hsuh@mcguirewoods.com

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading or forwarding to others.

(8/7/06)

EXHIBIT A**FULL-SERVICE OFFICE LEASE****LANDLORD
COPY****WATER TOWER PLACE**

THIS LEASE is made and entered into as of *August 21, 2006* by and between WATER TOWER LLC, a Delaware limited liability company ("Landlord") by ROUSE PROPERTY MANAGEMENT, INC., Authorized Agent and WATER TOWER CLINIC ASSOCIATES, LTD., an Illinois limited partnership ("Tenant").

In consideration of the rents hereinafter reserved and the agreements hereinafter set forth, Landlord and Tenant mutually agree as follows:

1. SUMMARY OF TERMS.

The following is a summary of the principal terms of the Lease. Any capitalized term set forth below shall, for the purposes of this Lease, have the meaning ascribed to it in this Section 1.

A. Description of Premises

(1) Building: The building known as Water Tower Place located on the east side of North Michigan Avenue between East Pearson Street and East Chestnut Street in the City of Chicago, Illinois.

(2) Office Section: That portion of the Building consisting of the eighth and ninth floors (excluding the cores for hotel and apartment elevators and stairways) designed and intended to be leased as commercial office space. Landlord reserves the right to change the configuration of the Office Section, in which event the definition of Office Section as used in this Lease shall be revised to reflect such change. Any such change in configuration shall become effective on January 1 of the calendar year immediately following the year such change was made.

(3) Premises: Approximately fourteen thousand four hundred eighty (14,480) square feet of Rental Area on the ninth floor of the Building, as shown on Schedule A attached hereto.

B. Rent**(1) Annual Basic Rent:**

<u>Period</u>	<u>PSF Basic Rent</u>	<u>Annual Basic Rent</u>	<u>Monthly Installment</u>
06/01/2006 - 05/31/2007	\$40.00	\$579,200.00	\$48,266.67
06/01/2007 - 05/31/2008	\$40.50	\$586,440.00	\$48,870.00
06/01/2008 - 05/31/2009	\$41.00	\$593,680.00	\$49,473.33
06/01/2009 - 05/31/2010	\$41.50	\$600,920.00	\$50,076.67
06/01/2010 - 05/31/2011	\$42.00	\$608,160.00	\$50,680.00
06/01/2011 - 05/31/2012	\$42.50	\$615,400.00	\$51,283.33
06/01/2012 - 05/31/2013	\$43.00	\$622,640.00	\$51,886.67
06/01/2013 - 05/31/2014	\$43.50	\$629,880.00	\$52,490.00
06/01/2014 - 05/31/2015	\$44.00	\$637,120.00	\$53,093.33
06/01/2015 - 05/31/2021	\$45.75	\$662,460.00	\$55,205.00

(8/7/06)

(2) Advance Rent: Intentionally omitted

(3) Security: Intentionally omitted

C. Adjustments.

(1) Base Operating Costs: The Base Operating Costs for the Premises shall be the Operating Costs attributable to the Office Section for the Operating Year commences January 1, 2006 and ends December 31, 2006, multiplied by Tenant's Fractional Share.

(2) Adjustment Period Consumer Price Index. Intentionally Omitted.

D. Term

(1) Term: Fifteen (15) years, subject to Section 4,

(2) Lease Commencement Date: June 1, 2006, subject to Section 4.

(3) Termination Date: May 31, 2021, subject to Section 4.

E. Notice and Payment

(1) Tenant Notice Address:
To the Premises

with a copy to:
Water Tower Clinic Associates, Ltd.
2928 Oriole Trail
Michigan City, IN 43630

(2) Landlord Notice Address:
Rouse Property Management, Inc.
c/o General Growth Properties, Inc.
10275 Little Patuxent Parkway
Columbia, Maryland 21044

with a copy to:
General Growth Properties, Inc.
110 North Wacker Drive
Chicago, Illinois 60606
Attention: General Counsel

(3) Landlord Payment Address:
Rouse Property Management, Inc.
P.O. Box 62027
Baltimore, Maryland 21264-2027

F. Broker: None

(8/7/06)

2. DEFINITIONS.

For purposes of this Lease, the Schedules attached and made a part hereof and all agreements supplemental to this Lease, the following terms shall have the respective meanings as set forth in the following Section, subsection, paragraph and Schedule references:

	Reference
Additional Rent.....	6.3
Advance Rent	1.B.
Alterations.....	15.1
Annual Basic Rent.....	1.B
Bankruptcy Code	19.1
Base Operating Cost	1.B.(1)
Building.....	1.A
Casualty.....	17.1
Common Area.....	10.1
Default Rate.....	6.5
Excess Taxes.....	7.3
Event of Default.....	20.1
Event of Tenant's Bankruptcy.....	19.1
Fractional Share.....	7.1
Insolvency Laws	19.1
Landlord Notice Address	1.B
Landlord Payment Address.....	1.B
Lease Commencement Date.....	1.D
Mortgage.....	27
Mortgagee.....	27
Office Section.....	1.A.(2)
Operating Costs	7.1
Operating Costs Statement.....	7.2
Operating Year.....	7.1
Premises.....	1.A
Property.....	7.1
Public Areas.....	Schedule C
Rental Area.....	3
Rental Year.....	6.1
Rules and Regulations	9
Tenant Improvements	5.1
Tenant Notice Address.....	1.B
Tenant's Share of Increased Operating Costs.....	7.2
Tenant's Personal Property.....	15.3
Term.....	4.1
Termination Date.....	1.D
Transfer.....	25

3. LEASED PREMISES; MEASUREMENT.

3.1. Leased Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises as shown on the plan attached hereto as Schedule A, together with the right to use, in common with others, the Common Area. The rental area of the Premises ("Rental Area") has been computed by measuring to

(8/7706)

the inside finish of exterior glass panels and includes all areas within such glass panels, excluding public stairs, elevator shafts, flues, stacks, pipe shafts and vertical ducts with their enclosing walls, except for any of the foregoing which exclusively serves Tenant, and shall include the Premises' proportionate share of toilets, corridors, elevator lobbies, air conditioning rooms, fan rooms, janitor closets and electrical and telephone closets within the Office Section. There is excluded from the area demised by this Lease (but no deduction from Rental Area shall be made on account thereof) those portions of the Premises occupied by structural columns and their enclosures, and all utility lines and other installations required to service other occupants of the Building.

3.2. Measurement. Within sixty (60) days following completion of the Tenant Improvements, either Landlord or Tenant shall have the right to remeasure the Premises in accordance with the above formula and if such measurement shall disclose that the Rental Area of the Premises is different from that set forth in Section 1.A. hereof, the Annual Basic Rent and the Tenant's Fractional Share shall be adjusted accordingly. If neither party elects to remeasure the Premises during such sixty (60) day period, then the Rental Area set forth in Section 1.A. shall be conclusively deemed the Rental Area of the Premises.

4. TERM AND COMMENCEMENT OF TERM.

4.1. Term. The term of this Lease (the "Term") shall commence on the Lease Commencement Date.

4.2. Option to Renew. Provided Tenant is in possession of the Premises and is not in default of any term, covenant or condition of this Lease, Tenant shall have the option to renew the Term of this Lease for one (1) additional period of five (5) years ("Renewal Term") to commence immediately upon the expiration of the initial Term.

Said Renewal Term shall be upon the same terms, covenants and conditions as contained in this Lease, except that (i) the Annual Basic Rent during said Renewal Term shall be at the "Prevailing Market Rate", (ii) there shall be no further option to renew except as specifically provided herein, (iii) there shall be no abatement of rent, and (iv) Landlord shall not be obligated to construct, pay for or grant an allowance with respect to tenant improvements unless otherwise specifically provided for in this Lease. "Prevailing Market Rate" shall mean the current market rental rate for the Premises as determined by Landlord but shall not be more than the rate at which Landlord would offer such space or space of approximately the same size and location to a third party. In no event, however, shall the Annual Basic Rent during the Renewal Term be less than the Annual Basic Rent reserved under this Lease for the Rental Year immediately preceding the Renewal Term for which the determination is being made.

In order to exercise the option granted herein, Tenant shall notify Landlord, in writing, later than twelve (12) months prior to the expiration of the initial Term that it is considering exercising its option to renew the Term. On receipt of such notice, Landlord will, in writing, not later than thirty (30) days after receipt of the notice from Tenant, quote to Tenant what the new Annual Basic Rent will be for the ensuing Renewal Term. Tenant shall then notify Landlord, in writing, not later than fifteen (15) days after notice received of such Annual Basic Rent, as to whether or not it will exercise the option herein granted and if no such notice of exercise of the option is received, the option shall be deemed waived. In the event Tenant exercises the option, Landlord and Tenant shall execute a modification to this Lease acknowledging such renewal and setting forth the new Annual Basic Rent.

The option shall be void if, at the time of exercise of such option, Tenant is not in possession of the Premises or if there is an Event of Default under this Lease or if Tenant fails to deliver the requisite notice thereof within the time period specified above. The option granted herein shall not be severed from this Lease, separately sold, assigned or transferred.

4.4 Right to Reduce Size of Premises. Provided Tenant is in possession of the Premises and is not in

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default of any term, covenant or condition of this Lease, Tenant shall have the option to decrease the size of the Premises by an area consisting of 3,500 square feet of Rental Area ("Surrendered Premises") as shown hatched on the Schedule A-1 attached hereto and made a part hereof; provided, however, that Tenant shall not decrease the size of the Premises by more than 2,000 square feet of Rental Area during 2006 and the remaining portion of the Surrendered Premises shall be reduced during 2007. In the event Tenant exercises the option to reduce the size of the Premises, Landlord and Tenant shall execute a modification to the Lease establishing the date(s) on which the size of the Premises are reduced ("Reduction Date") acknowledging such reduction and setting forth the new Annual Basic Rent.

On or prior to the Reduction Date, Tenant shall deliver to Landlord possession of the Surrendered Premises broom clean and in as good condition as when received, normal wear and tear excepted. From and after the Reduction Date, Tenant shall have no further rights or obligations with respect to the Surrendered Premises, except with respect to those matters described in Sections 8.3 and 22 which shall survive as though the Lease had terminated with respect to the Surrendered Premises.

5. CONTINGENCY AND ACCEPTANCE OF PREMISES.

5.1. Contingency. This Lease shall be contingent upon the execution and delivery to Landlord of Lease Termination Agreements by between Landlord and WT Surgicenter LLC and between Landlord and Louis W. Weiss Memorial Hospital for the immediate surrender of certain portions of the Premises. WT Surgicenter LLC and Louis W. Weiss Memorial Hospital shall hereinafter collectively be referred to as the "Existing Tenants".

If Landlord, despite its reasonable, good-faith efforts, is unable to enter into such agreement with Existing Tenants on or before May 31, 2006, the agreement between Landlord and Tenant to lease the Premises shall be null and void without the need for the execution of any other instrument and neither party shall have any claim against the other in connection with this Lease. Landlord's good-faith effort shall not, under any circumstances, require Landlord to institute any legal proceedings against nor make any payments to Existing Tenants or any other third party in order to secure said Lease Termination Agreement.

5.2. Acceptance of Premises. Tenant agrees to accept, the Premises in its "as-is" condition. By commencing construction of the Tenant Improvements (as defined in Section 5.2 below), Tenant shall be deemed to have (a) accepted the Premises in its present condition, (b) acknowledged that the Premises is suitable for Tenant's intended use, and (c) agreed that Landlord shall not be required to make any repairs or improvements to the Premises.

6. RENT.

6.1. Annual Basic Rent. Tenant shall pay to Landlord during each Rental Year of the Term fixed rent equal to the Annual Basic Rent as set forth in subsection 1.B.(1). Annual Basic Rent shall be payable in advance on the first day of each month of the Term in equal monthly installments, without notice, demand, abatement (except as otherwise specifically provided in this Lease), deduction or set-off. If the Term of this Lease shall commence on a day other than the first day of a month, the first payment shall include any prorated Annual Basic Rent for the period from the Lease Commencement Date to the first day of the first full calendar month of the Term.

"Rental Year" shall mean each successive twelve (12) calendar month period occurring during the Term of this Lease, or portion of such a period, with the first Rental Year commencing as of the Lease Commencement Date and ending on the last day of the twelfth full calendar month thereafter and the last Rental Year ending on the Termination Date. For any Rental Year of less or more than twelve full months,

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Annual Basic Rent shall be adjusted accordingly. All Annual Basic Rent and Additional Rent shall be paid to Landlord at the Landlord Payment Address.

6.2. Intentionally Omitted.

6.3. Additional Rent. Tenant shall pay to Landlord as additional rent ("Additional Rent") all other sums of money which shall become due and payable hereunder. Unless a date for payment is otherwise specified herein, all Additional Rent shall be due and payable within thirty (30) days of invoicing by Landlord.

6.4. Advance Rent Security. Intentionally omitted

6.5. Late Charge. If Tenant fails to make any payment of Annual Basic Rent, Additional Rent, or other sums required to be paid hereunder on or before the date when payment is due, Tenant shall pay to Landlord, as Additional Rent, a late charge to cover extra administrative costs and loss of use of funds equal to (a) six percent (6%) of the amount due for the first month or portion thereof that such amount is past due plus (b) interest on the amount remaining unpaid thereafter at the rate of twenty-four percent (24%) per annum; provided, however, that should such late charge at any time violate any applicable law, the late charge shall be reduced to the highest rate permitted by law (the foregoing rate being herein referred to as the "Default Rate"). Landlord's acceptance of any rent after it has become due and payable shall not excuse any delays with respect to future rental payments or constitute a waiver of any of Landlord's rights under this Lease.

Notwithstanding the above, the late charge set forth above shall be waived up to three (3) times in any twelve (12) month period, provided that Tenant pays the above described sums within five (5) days after the date due.

7. OPERATING COST ESCALATIONS.

7.1. Definitions. For purposes of this Lease, the following definitions shall apply:

a. "Operating Year" means each respective calendar year or part thereof during the Term of this Lease or any renewal thereof, or at the option of Landlord, any other twelve-month period or part thereof designated by Landlord during the Term of this Lease or any renewal thereof.

b. "Property" means the Building, the land upon which the Building is situated, the Common Area, and such additional facilities in subsequent years as may be determined by Landlord to be reasonably necessary or desirable for the management, maintenance or operation of the Building.

c. "Operating Costs" means all expenses and costs (but not specific costs which are allocated or separately billed to and paid by specific tenants) of every kind and nature which Landlord shall pay or become obligated to pay because of or in connection with owning, operating, managing, painting, repairing, insuring and cleaning the Office Section, including, but not limited to, the following:

(i) cost of all supplies and materials used, and labor charges incurred, in the operation, maintenance, decoration, repairing and cleaning of the Office Section, including janitorial service for all rental area leased to tenants;

(ii) cost of all equipment purchased or rented which is utilized in the performance of Landlord's obligations hereunder, and the cost of maintenance and operation of any such equipment;

(iii) cost of all maintenance and service agreements for the Office Section and the equipment therein, including, without limitation, alarm service, security service, window cleaning, and elevator maintenance;

(8/7/06)

(iv) the Office Section's allocable share (as reasonably determined by Landlord) of those Operating Costs incurred in connection with owning, managing, maintaining and operating the Building and the Property which cannot be attributed to one single portion of the Building, including without limitation; (1) accounting costs, including the cost of audits by certified public accountants; (2) outside legal and engineering fees and expenses incurred in connection with the operation and management of the Property; (3) wages, salaries and related expenses including the costs of all on-site and off-site agents or employees engaged in the operation, maintenance, security and management of the Property; provided, however, the wages, salaries and related expenses of any agents or employees not exclusively engaged in the operation, maintenance, security and management of the Property shall be apportioned as deemed appropriate by Landlord; (4) cost of removal of trash, rubbish, garbage and other refuse from the Property, all charges (except as specifically paid for by individual tenants) for electricity, gas, water, sewerage service, heating, ventilation and air-conditioning and other utilities furnished to the Property (including legal, architectural and engineering fees incurred in connection therewith); and (5) costs and expenses incurred in order to comply with covenants and conditions in liens, encumbrances and other matters of public record affecting the Property;

(v) amortization of capital improvements made to the Office Section, or those portions of the Building which service the Office Section, after the year of substantial completion of the Building, which improvements were undertaken by Landlord with the reasonable expectation that the same would result in more efficient operation of the Office Section or are made by Landlord pursuant to any governmental law, regulation or action not applicable to the Building at commencement of construction thereof; provided that the cost of each such capital improvement, together with any financing charges incurred in connection therewith, shall be amortized over the useful life thereof and only that portion attributable to each Operating Year shall be included herein for such Operating Year;

(vi) a management fee for the operation and management of the Office Section;

(vii) cost of all insurance coverage for the Office Section maintained by Landlord, including but not limited to the costs of premiums for insurance with respect to personal injury, bodily injury, including death, property damage, business interruption, workmen's compensation insurance covering personnel and such other insurance as Landlord shall deem necessary, which insurance Landlord may maintain under policies covering other properties owned by Landlord in which event the premium shall be reasonably allocated; and

(viii) all real estate taxes, assessments (special or otherwise), levies, ad valorem charges, benefit charges, water and sewer rents, rates and charges, privilege permits and any other governmental liens, impositions or charges of a similar or dissimilar nature, and any payments in lieu of such charges, regardless of whether any such items shall be extraordinary or ordinary, general or special, foreseen or unforeseen, levied, assessed, or imposed on or with respect to all or any part of the Property or upon the rent due and payable hereunder by any governmental authority (all of the aforesaid being hereinafter referred to as "Taxes"): provided, however, that if at any time during the Term or any extension thereof the method of taxation prevailing at the commencement of the Term shall be altered or eliminated so as to cause the whole or any part of the above items which would otherwise be included in Taxes to be replaced by a levy, assessment or imposition, which is (A) a tax assessment, levy, imposition or charge based on the rents received from the Property whether or not wholly or partially a capital levy or otherwise, or (B) a tax, assessment, levy, imposition or charge measured by or based in whole or in part upon all or any portion of the Property and imposed on Landlord, or (C) a license fee measured by the rent payable by Tenant to Landlord, or (D) any other tax, levy, imposition, charge or license fee, however described or imposed, then such levy, assessment or imposition shall be included in Taxes; provided, however, in no event shall Tenant be required to pay any inheritance, estate, succession, income, profits or franchise taxes unless they are in lieu of or in substitution for any of the above items which would otherwise be included in Taxes.

(8/7/06)

Any of the foregoing costs which under generally accepted accounting principles would be considered capital expenditures shall be amortized in accordance with generally accepted accounting principles.

Notwithstanding the above, Operating Costs shall not include (a) payments of principal and interest on any mortgages, deeds of trust or other financing instruments relating to the financing of the Property, (b) leasing commissions or brokerage fees, and (c) costs associated with preparing, improving or altering for space for any leasing or releasing of any space within the Office Section.

For any Operating Year during which less than ninety-five percent (95%) of the Rental Area of the Office Section is occupied, the calculation of that portion of Operating Costs which vary with occupancy shall be adjusted to equal the Operating Costs which Landlord projects would have been incurred had the Office Section been ninety-five percent occupied during such Operating Year.

d. "Fractional Share" shall mean a fraction, the numerator of which is the Rental Area of the Premises and the denominator of which is the total Rental Area of Office Section.

Notwithstanding the foregoing, in the event Tenant is responsible for providing heating, ventilation, air conditioning, cleaning or janitorial services to the Premises as provided in Section 11 below, then the cost of cleaning and janitorial services shall be excluded from the amount of any increased Operating Costs as provided in Section 7.2 below.

7.2. Payment of Operating Cost Escalation. For each Operating Year, commencing January 1, 2007, Tenant shall pay to Landlord, in the manner provided herein, Tenant's share of increased Operating Costs which shall be computed by multiplying the Operating Costs for the Operating Year by Tenant's Fractional Share and subtracting the Base Operating Costs from the result obtained ("Tenant's Share of Increased Operating Costs") but in no event less than the Base Operating Costs; provided, however, that for the Operating Years during which the Term begins and ends, Tenant's Share of Increased Operating Costs shall be prorated based upon the actual number of days Tenant occupied, or could have occupied, the Premises during each such Operating Year.

Tenant's Share of Increased Operating Costs shall be paid, in advance, without notice, demand, abatement (except as otherwise specifically provided in this Lease), deduction or set-off, on the first day of each calendar month during the Term, said monthly amounts to be determined on the basis of estimates prepared by Landlord on an annual basis and delivered to Tenant prior to the commencement of each Operating Year. If, however, Landlord fails to furnish any such estimate prior to the commencement of an Operating Year, then (a) until the first day of the month following the month in which such estimate is furnished to Tenant, Tenant shall pay to Landlord on the first day of each month an amount equal to the monthly sum payable by Tenant to Landlord under this subsection 7.2 in respect of the last month of the preceding Operating Year; (b) promptly after such estimate is furnished to Tenant, Landlord shall give notice to Tenant whether the installments of Tenant's Share of Increased Operating Costs paid by Tenant for the current Operating Year have resulted in a deficiency or overpayment compared to payments which would have been paid under such estimate, and Tenant, within ten (10) days after receipt of such estimate, shall pay any deficiency to Landlord and any overpayment shall be credited against future payments required by Tenant under such estimate; and (c) on the first day of the month following the month in which such estimate is furnished to Tenant and monthly thereafter throughout the remainder of the Operating Year, Tenant shall pay to Landlord the monthly payment shown on such estimate. Landlord may at any time or from time to time furnish to Tenant a revised estimate of Tenant's Share of Increased Operating Costs for such Operating Year, and in such case, Tenant's monthly payments shall be adjusted and paid or credited, as the case may be, substantially in the same manner as provided in the preceding sentence.

After the end of each Operating Year, Landlord shall determine actual Operating Costs for such Operating Year and shall provide to Tenant an "Operating Costs Statement" setting forth the actual Tenant's

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Share of Increased Operating Costs for such Operating Year. Within thirty (30) days after delivery of the Operating Costs Statement, Tenant shall pay Landlord any deficiency between the amount shown as Tenant's Share of Increased Operating Costs in the Operating Costs Statement and the total of the estimated payments made by Tenant during the Operating Year. In the event of overpayment, such amount shall be credited against future payments required on account of Tenant's Share of Increased Operating Costs, or if the Term has expired, Landlord shall refund to Tenant the amount of any overpayment.

Each Operating Costs Statement provided by Landlord shall be conclusive and binding upon Tenant unless within thirty (30) days after receipt thereof, Tenant notifies Landlord that it disputes the correctness thereof, specifying those respects in which it claims the Operating Costs Statement to be incorrect. Unless resolved by the parties, such dispute shall be determined by arbitration in accordance with the then prevailing rules of the American Arbitration Association. If the arbitration proceedings result in a determination that the Operating Costs Statement contained an aggregate discrepancy of less than five percent (5%), Tenant shall bear all costs in connection with such arbitration. If the arbitration proceedings result in a determination that the Operating Costs Statement contained an aggregate discrepancy of greater than five percent (5%), Landlord shall bear all costs in connection with such arbitration.

Pending determination of the dispute, Tenant shall pay any amounts due from Tenant in accordance with the Operating Costs Statement, but such payment shall be without prejudice to Tenant's claims. Tenant, for a period of thirty (30) days after delivery of the Operating Costs Statement in each Operating Year and upon at least ten (10) days written notice to Landlord, shall have reasonable access during normal business hours to the books and records of Landlord relating to Operating Costs for the purpose of verifying the Operating Costs Statement, Tenant to bear all costs relating to such inspection. Tenant shall reimburse Landlord for any cost for photocopying that it desires.

7.3. Adjustment In the event the Rental Area of the Office Section is changed, the amount of Operating Costs and Taxes included in the calculation of Base Operating Costs shall be equitably adjusted.

8. USE, CARE AND REPAIR OF PREMISES BY TENANT.

8.1. Permitted Uses. Tenant shall use and occupy the Premises solely for general office purposes associated with the adjoining outpatient surgical facility in accordance with applicable zoning regulations and for no other purpose. Tenant shall not do anything or permit anything to be done to or on the Premises which is contrary to the laws of the United States of America or of the State of Illinois, or which is contrary to the ordinances of the City of Chicago, or bring or keep anything therein which will, in any way, obstruct, injure, annoy or interfere with the rights of Landlord or other tenants, or subject Landlord to any liability for injury to persons or damage to property, or interfere with the good order of the Building, or conflict with the laws, rules or regulations of any Federal, state, city or local authority.

8.2. Care of Premises. Tenant shall, at its sole expense, keep the Premises and the improvements and appurtenances therein in good order and condition consistent with the operation of a first-class office building, and at the expiration of the Term, or at the sooner termination of this Lease as herein provided, deliver up the same broom clean and in as good order and condition as at the beginning of the Term, ordinary wear and tear and damage by fire or other casualty excepted. Tenant, at its sole expense, shall promptly replace damaged or broken doors and glass in and about the interior of the Premises and shall be responsible for the repair and maintenance of all special or custom Tenant Improvements and Alterations, including, without limitation, the repair and replacement of appliances and equipment installed specifically for Tenant such as refrigerators, disposals, computer room air conditioning, sinks and special plumbing, special light fixtures and bulbs for those fixtures, non-standard outlets and plug-in strips, and special cabinetry. Consistent with the provisions of Section 22, Tenant shall pay for all property damage sustained by other tenants or occupants of the Building, due to any waste, misuse or neglect by Tenant of the Premises and any fixtures and appurtenances related thereto or due to any breach of this Lease by Tenant, its employees, agents, representatives or invitees.

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8.3. Hazardous Materials.

- (a) "Hazardous Material(s)" means any substance that, by itself or in combination with other materials, is either (i) potentially injurious to public health, safety, or the environment; or (ii) now or in the future regulated by any federal, state, or local governmental authority as potentially injurious to public health, safety, or the environment.
- (b) With the exception of minor amounts of Hazardous Materials customarily and lawfully used in conjunction with the Permitted Use, Tenant, its employees, contractors, agents, and any party acting on behalf of Tenant, shall not store, use, treat, generate, or dispose of Hazardous Materials at the Property.
- (c) Tenant, its employees, contractors, agents, and any party acting on behalf of Tenant shall comply, and shall keep the Premises in compliance, with all laws and regulations relating to Hazardous Materials ("Environmental Laws"); and in addition Tenant shall:
- (i) Promptly provide Landlord with copies of any document, correspondence, report or communication, written or oral, relating to Hazardous Materials at or affecting the Property (x) to or from any regulatory body, or (y) stating a basis for any potential liability or responsibility of Tenant, Landlord, or the Property; including all such documents, correspondence, reports or communications prepared by or on behalf of Tenant. In addition to the above, at Landlord's request, Tenant shall provide copies of any and all records and communications whatsoever relating to Hazardous Materials at or affecting the Property.
 - (ii) Immediately notify Landlord in the event of a suspected or confirmed release of a Hazardous Material or violation of Environmental Laws at or affecting the Property and caused by or related to the operations of Tenant, its employees, contractors, agents, or any party acting on behalf of Tenant and, at Landlord's sole option, either promptly remediate or correct such release or violation to Landlord's satisfaction or reimburse Landlord's cost of remediation (including reasonable attorneys' and consultants' fees); and compensate Landlord and/or third parties for all resultant damage.
 - (iii) Permit Landlord reasonable access to the Premises for the purpose of conducting an environmental audit or testing, the cost of which shall be borne by Landlord unless the results indicate activity prohibited by Environmental Laws or hereunder.
 - (iv) Upon expiration or other termination of this Lease, remove all Hazardous Materials from the Premises, and at Landlord's option cause to be performed and provided to Landlord an environmental audit of the Premises, using a consultant reasonably acceptable to Landlord, and correct, at its expense, any deficiencies noted by the audit.
- (d) Landlord shall comply with all Environmental Laws regarding its storage, use, treatment, generation, and disposal of Hazardous Materials, and, if required by law, shall promptly remediate any release of Hazardous Materials or correct any violation of Environmental Laws at or affecting the Property and resulting from such storage, use, treatment, generation or release.
- (e) This Section 8.3 shall survive the expiration or other termination of this Lease.

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8.4. Compliance with Laws. Tenant, at its sole cost and expense, shall conform to and comply with and shall cause the Premises to conform to and comply with all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, and ordinances applicable to Tenant or resulting from Tenant's use or occupancy of the Premises or the Property or any part thereof.

9. RULES AND REGULATIONS.

Tenant and its agents and invitees shall abide by and observe the rules and regulations attached hereto as Schedule C for the operation and maintenance of the Office Section or any new rules and regulations which may from time to time be issued by Landlord ("Rules and Regulations"), provided that any new rules or regulations are not inconsistent with the provisions of this Lease. Nothing in this Lease shall be interpreted to impose upon Landlord any duty or obligation to enforce any such rules and regulations against any other tenant in the Office Section, and Landlord shall not be liable to Tenant for any violation of these rules and regulations by any other tenant or its agents or invitees.

10. COMMON AREA.

10.1. Definition of Common Area. As used herein, "Common Area" means those areas and facilities which may be furnished by Landlord on or near the Property, as designated by Landlord from time to time, intended for the general common use and benefit of all tenants of the Office Section and their agents, representatives, licensees, employees and invitees, including, without limitation, any and all stairs, landings, roofs, utility and mechanical rooms and equipment, service closets, corridors, elevators, lobbies, lavatories and other public areas of the Building and all parking areas, access roads, pedestrian walkways, plazas and landscaped areas.

10.2. Use of Common Area. Tenant shall have the non-exclusive right to use the Common Area in common with Landlord, other tenants in the Office Section, and others entitled to the use thereof, subject to such reasonable rules and regulations governing the use of the Common Area as Landlord may from time to time prescribe and subject to such easements therein as Landlord may from time to time grant to others. Tenant shall not obstruct in any way any portion of the Common Area or in any way interfere with the rights of other persons entitled to use the Common Area and shall not, without the prior written consent of Landlord, use the Common Area in any manner, directly or indirectly, for the location or display of any merchandise or property belonging to Tenant or for the location of signs relating to Tenant's operations in the Premises. The Common Area shall at all times be subject to the exclusive control and management of Landlord.

10.3. Alterations to the Common Area. Landlord reserves the right at any time and from time to time (i) to change or alter the location, layout, nature or arrangement of the Common Area or any portion thereof, including but not limited to the arrangement and/or location of entrances, passageways, doors, corridors, stairs, lavatories, elevators, parking areas, and other public areas of the building, and (ii) to construct additional improvements on the Property and make alterations thereof or additions thereto and build additional stories on or in any such buildings or build adjoining same; provided, however, that no such change or alteration shall deprive Tenant of access to the Premises or reduce the Rental Area of the Premises, unless such reduction is required by Federal, State or local laws or regulations, in which event, a reduction in the Premises shall be permitted with a commensurate reduction in rent. Landlord shall have the right to close temporarily all or any portion of the Common Area to such extent as may, in the reasonable opinion of Landlord, be necessary to prevent a dedication thereof to the public, provided that Tenant is not thereby denied access to the Premises, or for repairs, replacements or maintenance to the Common Area, provided such repairs, replacements or maintenance are performed expeditiously and in such a manner as not to deprive Tenant of access to the Premises.

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10.4. Maintenance. Landlord covenants to keep, maintain, manage and operate the Common Area in a manner consistent with the operation of a first class office building and to keep the sidewalks and driveways, if any, constituting a portion of the Common Area clean and reasonably clear of snow and ice. Landlord reserves the right of access to the Common Area through the Premises for the purposes of operation, decoration, cleaning, maintenance, safety, security, alterations and repairs.

11. SERVICES AND UTILITIES.

So long as Tenant is not in an Event of Default under this Lease, Landlord shall provide the following facilities and services to Tenant, the cost of such facilities and services to be included in Landlord's Operating Costs (except as otherwise provided herein):

a. At least one self-operating elevator (if the building contains an elevator) subject to call at all times, including Sundays and holidays.

b. During "normal business hours" as hereinafter defined, central heating and air conditioning during the seasons of the year when these services are normally and usually furnished, and within the temperature ranges and in such amounts normally or usually furnished in comparable office buildings in the immediate vicinity. For the purposes of this paragraph b, the term "normal business hours" shall mean the periods from 8:00 a.m. until 6:00 p.m. on business days and from 8:00 a.m. until 12:00 p.m. on Saturdays. Landlord shall provide the aforesaid services at other times, at Tenant's expense, provided Tenant gives Landlord notice by 1:00 p.m. on weekdays for after-hour service on the next weekday, by 1:00 p.m. the day before a holiday for service on a holiday, and by 1:00 p.m. on Friday for after-hour service on Saturday or service on Sunday. Such after-hour, holiday or special weekend service shall be charged to Tenant at rates to be calculated by Landlord based on Landlord's costs, which rates shall be given to Tenant on request. Landlord reserves the right to adjust, from time to time, the rate at which such services shall be provided corresponding to adjustments in Landlord's costs. Tenant shall pay for such service, as Additional Rent, promptly upon receipt of an invoice with respect thereto.

c. Reasonable amounts of electric current for lighting and normal and customary items of office equipment (subject to the provisions of Section 12 below).

d. Cleaning in and about the Premises (excepting Saturdays, Sundays and holidays) comparable to standard cleaning service furnished by first-class Chicago buildings for professional or office uses. (No persons shall be employed by Tenant to do cleaning or janitorial work in the Premises and no persons other than Landlord's employees or contractors shall clean the Premises unless Landlord shall give its prior written consent thereto. Any person employed by Tenant with Landlord's consent to do cleaning or janitorial work shall, while in the Building or Premises, be subject to the direction of Landlord's manager (but not as agent or servant of said manager or of Landlord).

e. Intentionally omitted.

f. Rest room facilities and necessary lavatory supplies, including hot and cold running water at the points of supply, as provided for general use of all tenants in the Office Section and routine maintenance, painting, and electric lighting service for all public areas of the Building in such manner as Landlord deems reasonable.

Any failure by Landlord to furnish the foregoing services, resulting from circumstances beyond Landlord's reasonable control or from interruption of such services due to repairs or maintenance, shall not render Landlord liable in any respect for damages to either person or property, nor be construed as an eviction of Tenant, nor cause an abatement of rent hereunder, nor relieve Tenant from any of its obligations hereunder. If any public utility or governmental body shall require Landlord or Tenant to restrict the consumption of any

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utility or reduce any service for the Premises or the Office Section, Landlord and Tenant shall comply with such requirements, whether or not the utilities and services referred to in this Section 11 are thereby reduced or otherwise affected, without any liability on the part of Landlord to Tenant or any other person or any reduction or adjustment in rent payable hereunder. Landlord and its agents shall be permitted reasonable access to the Premises for the purpose of installing and servicing systems within the Premises deemed necessary by Landlord to provide the services and utilities referred to in this Section 11 to Tenant and other tenants in the Office Section.

Landlord reserves the right to charge Tenant the reasonable cost, based on usage, of the removal of all trash and the reasonable cost of water/sewerage or electric service to the extent Tenant's trash disposal, water/sewerage and/or electrical usage exceeds, in Landlord's reasonable opinion, normal usage for an office tenant.

12. ELECTRIC CURRENT.

Landlord shall furnish electrical energy to the Premises (not to exceed 320 hours per month) without charge to Tenant (except in accordance to Section 7 hereof), provided:

- (i) the connected electrical load of all the incidental use equipment does not exceed an average of 1 watt per square foot of the Premises;
- (ii) the electricity so furnished for incidental uses will be at nominal 120 volts, and no electrical circuit for the supply of such incidental uses will have a current capacity exceeding 15 amperes;
- (iii) such incidental electricity will be used only for equipment and accessories normal to professional or office usage; and,
- (iv) such incidental electricity consumption does not exceed five percent (5%) of Tenant's electricity consumption for lighting fixtures.

In the event Tenant's incidental electricity consumption exceeds the above standards, Landlord reserves the right to require Tenant to procure electricity for all such incidental use requirements, at Tenant's expense, by arrangement with Commonwealth Edison Company or other approved local utility without any right of offset or deduction against any sums due under this Lease.

Tenant shall not install or use on the Premises any electrical equipment, appliance or machine which shall require amounts of electrical energy exceeding the above standards, unless the installation and use of such additional electrical equipment, appliance, or machine has been approved by Landlord pursuant to terms and conditions set forth in a separate agreement, which approval may be conditioned upon the payment by Tenant, as Additional Rent, of the cost of the additional electrical energy and modifications to that portion of the Building's electrical system which services the Premises required for the operation of such electrical equipment, appliance, or machine.

13. LOSS, DAMAGE AND INJURY.

To the maximum extent permitted by law, Tenant shall occupy and use the Premises, the Building and the Common Area at Tenant's own risk. Consistent with the provisions of subsection 16.4, Tenant's Personal Property and personal items of those claiming by, through or under Tenant, located in or on the Premises or the Office Section shall be and remain at the sole risk of Tenant or such other person.

No representation, guaranty, assurance, or warranty is made or given by Landlord that the communications or security systems, devices or procedures used, if any, will be effective to prevent injury to

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Tenant or any other person or damage to, or loss (by theft or otherwise) of any of Tenant's Personal Property or of the property of any other person, and Landlord reserves the right to discontinue or modify at any time such communications or security systems, devices, or procedures without liability to Tenant.

14. REPAIRS BY LANDLORD.

Landlord shall keep the Premises and the Building and all machinery, equipment, fixtures and systems of every kind attached to, or used in connection with the operation of, the Office Section, including all electrical, heating, mechanical, sanitary, sprinkler, utility, power, plumbing, cleaning, refrigeration, ventilating, air conditioning and elevator systems and equipment (excluding, however, lines, improvements, systems and machinery for water, gas, steam and electricity owned and maintained by any public utility company or governmental agency or body) in good order and repair consistent with the operation of the Office Section as a first-class office building. Landlord, at its expense (subject to reimbursement by Tenant pursuant to Section 7), shall make all repairs and replacements necessary to comply with its obligations set forth in the immediately preceding sentence, except for (a) repairs required to be made by Tenant pursuant to Section 8 and (b) repairs caused by the willful misconduct of Tenant, its agents, employees, invitees and guests, which repairs shall be made by Landlord at the cost of Tenant, and for which Tenant shall pay promptly, as Additional Rent, upon receipt of an invoice setting forth the cost of such repairs. There shall be no abatement in rents due and payable hereunder and no liability on the part of Landlord by reason of any inconvenience or annoyance arising from Landlord's making repairs, additions or improvements to the Office Section in accordance with its obligations hereunder.

15. ALTERATIONS, TITLE AND PERSONAL PROPERTY.

15.1. Alterations. Tenant shall in no event make or permit to be made any alteration, modification, substitution or other change of any nature to the mechanical, electrical, plumbing, HVAC, and sprinkler systems within or serving the Premises. After completion of Tenant's Improvements within the Premises, Tenant shall not make or permit any other improvements, alterations, fixed decorations, substitutions or modifications, structural or otherwise, to the Premises or the Building ("Alterations") without the prior written approval of Landlord. Landlord's approval shall include the conditions under which acceptable Alterations may be made. Alterations shall include, but not be limited to, the installation or modification of carpeting, walls, partitions, counters, doors, shelves, lighting fixtures, hardware, locks, ceiling, window and wall coverings; but shall not include the initial Tenant's Improvements placed within the Premises pursuant to subsection 5.1. All Alterations shall be based on complete plans and specifications prepared and submitted by Tenant to Landlord for approval, except in the instance of cosmetic changes, such as painting and carpeting, in which case Tenant shall provide Landlord with samples showing colors, styles, etc. All Alterations shall be made by Landlord at Tenant's sole cost, payable by Tenant, as Additional Rent, within thirty (30) days after receipt of an invoice for same from Landlord, which cost shall include Landlord's standard construction management fee.

Tenant shall be responsible for the cost of any additional improvements within the Premises or the Common Area required by The Americans with Disabilities Act of 1990 as a result of Tenant's Alterations.

If Tenant makes any Alterations without the prior consent of Landlord, then, in addition to Landlord's other remedies, Landlord may correct or remove such Alterations and Tenant shall pay the cost thereof, as Additional Rent, on demand.

15.2. Title. The Tenant Improvements, all Alterations and all equipment, machinery, furniture, furnishings, and other property or improvements installed or located in the Premises by or on behalf of Landlord or Tenant, other than Tenant's Personal Property, (a) shall immediately become the property of Landlord and (b) shall remain upon and be surrendered to Landlord with the Premises as a part thereof at the end of the Term. Notwithstanding the foregoing, Landlord may, upon notice to Tenant at the time Alterations are made, elect that any Alterations be removed at the end of the Term, and thereupon, Landlord shall at

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Tenant's sole expense, cause such Alterations to be removed and restore the Premises to its condition prior to the making of such Alterations, reasonable wear and tear excepted. Tenant shall promptly reimburse Landlord, as Additional Rent, for the cost of such work, which reimbursement obligation shall survive termination of the Lease.

15.3. Tenant's Personal Property. "Tenant's Personal Property" means all equipment, machinery, furniture, furnishings and/or other property now or hereafter installed or placed in or on the Premises by and at the sole expense of Tenant with respect to which Tenant has not been granted any credit or allowance by Landlord and which (a) is not used, or was not procured for use, in connection with the operation, maintenance or protection of the Premises or the Office Section; (b) is removable without damage to the Premises or the Office Section; and (c) is not a replacement of any property of Landlord, whether such replacement is made at Tenant's expense or otherwise. Notwithstanding any other provision of this Lease, Tenant's Personal Property shall not include any Alterations or any improvements or other property installed or placed in or on the Premises as part of Tenant's Improvements, whether or not installed at Tenant's expense. Tenant shall promptly pay all personal property taxes on Tenant's Personal Property, as applicable. Provided that Tenant is not then in default of any of its obligations under this Lease, Tenant may remove all Tenant's Personal Property from the Premises at the termination of this Lease. Any property belonging to Tenant or any other person which is left in the Premises after the date the Lease is terminated for any reason shall be deemed to have been abandoned. In such event, Landlord shall have the right to declare itself the owner of such property and to dispose of it in whatever manner Landlord considers appropriate without waiving its right to claim from Tenant all expenses and damages caused by Tenant's failure to remove such property, and Tenant shall not have any right to compensation or claim against Landlord as a result.

16. INSURANCE.

16.1. Tenant's Insurance. Tenant, at its expense, shall obtain and maintain in effect as long as this Lease remains in effect and during such other time as Tenant occupies the Premises or any part thereof insurance policies in accordance with the following provisions.

A. Coverage.

(i) commercial general liability insurance policy, including insurance against assumed or contractual liability under this Lease, with respect to the Property, to afford protection with limits, per occurrence, of not less than Two Million Dollars (\$2,000,000), combined single limit, with respect to personal injury, bodily injury, including death, and property damage and Four Million Dollars (\$4,000,000) aggregate (occurrence form), such insurance to provide for no deductible;

(ii) all-risk property insurance policy, including theft, written at replacement cost value and with replacement cost endorsement, covering all of Tenant's Personal Property in the Premises, and covering loss of income resulting from casualty, such insurance to provide for no deductible greater than Five Thousand Dollars (\$5,000).

(iii) worker's compensation or similar insurance policy offering statutory coverage and containing statutory limits, which policy shall also provide Employer's Liability Coverage of not less than Five Hundred Thousand Dollars (\$500,000) per occurrence.

(iv) Tenant shall require any contractor retained by it to perform work on the Premises to carry and maintain, at no expense to Landlord, during such times as contractor is working in the Premises, a non-deductible (a) commercial general liability insurance policy, including, but not limited to, contractor's liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement and contractor's protective liability coverage, to afford protection with limits per person and for each occurrence, of not less than Two Million Dollars (\$2,000,000), combined single limit, and with respect to

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personal injury and death and property damage, Four Million Dollars (\$4,000,000) aggregate (occurrence form) and Two Million Dollars (\$2,000,000) aggregate completed operations; (b) automobile liability insurance in the amount of One Million Dollars (\$1,000,000), combined single limit for bodily injury and property damage; (c) worker's compensation insurance or similar insurance in form and amounts as required by law; and (d) any other insurance reasonably required of Tenant by Landlord or any Mortgagee.

(v) Notwithstanding anything set forth above in this subsection 16.1 to the contrary, all dollar limits specified herein shall be increased from time to time as reasonably necessary to effect economically equivalent insurance coverage, or coverage deemed adequate in light of then existing circumstances.

B. Policies

Such policies shall be maintained with companies licensed to do business in the State where the Premises are located and in form reasonably acceptable to Landlord and will be written as primary policy coverage and not contributing with, or in excess of, any coverage which Landlord shall carry. Such policies shall be provided on an occurrence form basis unless otherwise approved by Landlord and shall include Landlord and its managing agent as additional insured as to coverage under paragraphs 16.1.A.(i) and 16.1.A.(iv). Such policies shall also contain a waiver of subrogation provision and a provision stating that such policy or policies shall not be canceled, non-renewed, reduced in coverage or materially altered except after thirty (30) day's written notice, said notice to be given in the manner required by this Lease to Landlord. All such policies of insurance shall be effective as of the date Tenant occupies the Premises and shall be maintained in force at all times during the Term of this Lease and all other times during which Tenant shall occupy the Premises. Tenant shall deposit the policy or policies of such required insurance or certificates thereof with Landlord prior to the Lease Commencement Date.

16.2. Tenant's Failure to Insure. If Tenant shall fail to obtain insurance as required under this Section 16, Landlord may, but shall not be obligated to, obtain such insurance, and in such event, Tenant shall pay, as Additional Rent, the premium for such insurance upon demand by Landlord.

16.3. Compliance with Policies. Tenant shall not do or allow to be done, or keep, or allow to be kept, anything in, upon or about the Premises which will contravene Landlord's policies insuring against loss or damage by fire, other casualty, or any other cause, including without limitation, public liability, or which will prevent Landlord from procuring such policies in companies acceptable to Landlord. If any act or failure to act by Tenant in and about the Building and the Premises shall cause the rates with respect to Landlord's insurance policies to be increased beyond those rates that would normally be applicable for such limits of coverage, Tenant shall pay, as Additional Rent, the amount of any such increases upon demand by Landlord.

16.4. Waiver of Right of Recovery. Except as provided in Section 8.3, neither party, including Landlord's managing agent, shall be liable to the other party, including Landlord's managing agent, or to any insurance company (by way of subrogation or otherwise) insuring the other party, for any loss or damage to any building, structure or other tangible property, or loss of income resulting therefrom, or losses under worker's compensation laws and benefits even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees. The provisions of this Section 16.4 shall not limit the indemnification for liability to third parties pursuant to Section 22.

16.5. Landlord's Insurance. Landlord shall carry commercial general liability insurance with regard to the Property and all-risk property insurance on the Property, including Tenant Improvements and Alterations but excluding Tenant's Personal Property.

Landlord shall not be obligated to repair any damage to Tenant's Personal Property or replace the same.

17. DAMAGE AND DESTRUCTION.

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17.1. Landlord's Obligation to Repair and Reconstruct. If, as the result of fire, the elements, accident or other casualty (any of such causes being referred to herein as a "Casualty"), the Premises shall be rendered wholly or partially untenable (damaged to such an extent as to preclude Tenant's use of the Premises for the purposes originally intended), then, subject to the provisions of subsection 17.2, Landlord shall cause such damage to be repaired, including Tenant Improvements and Alterations, and the Annual Basic Rent and Additional Rent (but not any Additional Rent due Landlord either by reason of Tenant's failure to perform any of its obligations hereunder or by reason of Landlord's having provided Tenant with additional services hereunder) shall be abated proportionately as to the portion of the Premises rendered untenable during the period of such untenability. All such repairs shall be made at the expense of Landlord, subject to the availability of insurance proceeds and Tenant's responsibilities set forth herein. Landlord shall not be liable for interruption to Tenant's business or for damage to or replacement or repair of Tenant's Personal Property, all of which replacement or repair shall be undertaken and completed by Tenant, at Tenant's expense.

If the Premises shall be damaged by Casualty, but the Premises shall not be thereby rendered wholly or partially untenable, Landlord shall promptly cause such damage to be repaired and there shall be no abatement of rent reserved hereunder.

17.2. Termination of Lease. (A) If the Premises are (1) rendered wholly untenable, or (2) damaged as a result of any cause which is not covered by Landlord's insurance, or (B) if the Office Section is damaged to the extent of fifty percent (50%) or more of the gross leasable area thereof, or (C) if, for reasons beyond Landlord's control or by virtue of the terms of any financing of the Office Section, sufficient insurance proceeds are not available for the reconstruction or restoration of the Office Section or Premises, then, in any of such events, Landlord may elect to terminate this Lease by giving to Tenant notice of such election within ninety (90) days after the occurrence of such event, or after the insufficiency of such proceeds becomes known to Landlord, whichever is applicable. If such notice is given, the rights and obligations of the parties shall cease as of the date set forth in such notice, and the Annual Basic Rent and Additional Rent (but not any Additional Rent due Landlord either by reason of Tenant's failure to perform any of its obligations hereunder or by reason of Landlord's having provided Tenant with additional services hereunder) shall be adjusted as of the date set forth in such notice, or, if the Premises were rendered untenable, as of the date of the Casualty.

Within ninety (90) days following a Casualty, Landlord shall notify Tenant in writing of the date on which Landlord, in its best professional judgment, estimates restoration will be substantially completed. If restoration is expected one hundred eighty (180) days from the date of Landlord's notice, then Tenant shall have the right to terminate this Lease on written notice to Landlord within fifteen (15) days after receipt of Landlord's notice.

17.3. Demolition of the Building. If the Office Section, or those portions of the Building which service the Office Section, shall be so substantially damaged that it is reasonably necessary, in Landlord's judgment, to demolish the Office Section for the purpose of reconstruction, Landlord may demolish the same, in which event the Annual Basic Rent and Additional Rent (but not any Additional Rent due Landlord either by reason of Tenant's failure to perform any of its obligations hereunder or by reason of Landlord's having provided Tenant with additional services hereunder) shall be abated to the same extent as if the Premises were rendered wholly untenable by a Casualty.

17.4. Insurance Proceeds. If the Lease is not terminated pursuant to subsection 17.2, Landlord shall, subject to the terms of any Mortgage, disburse and apply any insurance proceeds received by Landlord to the restoration and rebuilding of the Office Section in accordance with subsection 17.1 hereof. All insurance proceeds payable with respect to the Premises and the Building shall belong to and shall be payable to Landlord. Notwithstanding anything to the contrary, Tenant shall be entitled to receive all proceeds payable with respect to Tenant's Personal Property.

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18. CONDEMNATION.

18.1. Termination. If either the entire Premises or the Office Section shall be acquired or condemned by any governmental authority under its power of eminent domain for any public or quasi-public use or purpose, this Lease shall terminate as of the date of vesting or acquisition of title in the condemning authority and the rents hereunder shall be abated on that date. If less than the whole but more than fifty percent (50%) of the Rental Area of the Premises or more than fifty percent (50%) of the total area of the Office Section (even if the Premises are unaffected) or such portion of the Common Area as shall render the Premises or the Office Section untenantable should be so acquired or condemned, Landlord and Tenant shall each have the option to terminate this Lease by notice given to the other within ninety (90) days of such taking. In the event that such a notice of termination is given, this Lease shall terminate as of the date of vesting or acquisition of title in the condemning authority and the Annual Basic Rent and Additional Rent (but not any Additional Rent due Landlord either by reason of Tenant's failure to perform any of its obligations hereunder, or by reason of Landlord's having provided Tenant with additional services hereunder) shall be adjusted as of such date.

If (a) neither Landlord nor Tenant shall exercise their respective options to terminate this Lease, as hereinabove set forth, or (b) some lesser portion of the Premises or the Office Section or Common Area, which does not give rise to a right to terminate pursuant to this subsection 18.1, is taken by the condemning authority, this Lease shall continue in force and effect, but from and after the date of the vesting of title in the condemning authority, the Annual Basic Rent payable hereunder during the unexpired portion of the Term shall be reduced in proportion to the reduction in the total Rental Area of the Premises, and any Additional Rent (but not any Additional Rent due Landlord either by reason of Tenant's failure to perform any of its obligations hereunder, or by reason of Landlord's having provided Tenant with additional services hereunder) payable pursuant to the terms hereof shall be adjusted to reflect the diminution of the Premises and/or the Office Section, as the case may be.

18.2. Rights to Award. Tenant shall have no claim against Landlord arising out of the taking or condemnation, or arising out of the cancellation of this Lease as a result of any such taking or condemnation, or for any portion of the amount that may be awarded as damages as a result of any taking or condemnation, or for the value of any unexpired portion of the Term, or for any property lost through condemnation, and Tenant hereby assigns to Landlord all its right, title and interest in and to any such award with regard to the Premises; provided, however, that, in the event of a total taking, Tenant may assert any claim it may have against the condemning authority for compensation for Tenant's Personal Property lost thereby, loss of income, and for any relocation expenses compensable by statute and receive such awards therefor as may be allowed in the condemnation proceedings provided that such awards shall be made in addition to, and stated separately from, the award made for the Office Section, the underlying land and the Premises. Landlord shall have no obligation to contest any taking or condemnation.

19. BANKRUPTCY.

19.1. Event of Bankruptcy. For purposes of this Lease, each of the following shall be deemed an "Event of Tenant's Bankruptcy":

- (a) if Tenant becomes insolvent, as defined in the Bankruptcy Code, or under the Insolvency Laws;
- (b) the commencement of any action or proceeding for the dissolution or liquidation of Tenant or for the appointment of a receiver or trustee of the property of Tenant, whether instituted by or against Tenant, if not bonded or discharged within thirty (30) days of the date of the commencement of such proceeding or action;
- (c) if Tenant files a voluntary petition under the Bankruptcy Code or Insolvency Laws;

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- (d) if there is filed an involuntary petition against Tenant as the subject debtor under the Bankruptcy Code or Insolvency laws, which is not dismissed within sixty (60) days of filing, or results in issuance of an order for relief against the debtor; and
- (e) if Tenant makes or consents to an assignment of its assets, in whole or in part, for the benefit of creditors, or to a common law composition of creditors.

As used herein, (i) "Bankruptcy Code" means title 11, of the United States Code, 11 U.S.C. Section 101 et. seq. as amended or any successor statute and (ii) Insolvency Laws means the insolvency laws of any state or territory of the United States.

19.2. Assumption by Trustee. If Tenant becomes the subject debtor in a case pending under the Bankruptcy Code, Landlord's right to terminate this Lease under Section 20 hereof shall be subject to the applicable rights (if any) of the Trustee in Bankruptcy to assume or assign this Lease as then provided for in the Bankruptcy Code. However, the Trustee in Bankruptcy must give to Landlord and Landlord must receive proper written notice of the Trustee's assumption or rejection of this Lease, within sixty (60) days (or such other applicable period as is provided for in the Bankruptcy Code) after the date of the Trustee's appointment. The failure of the Trustee to give notice of the assumption within the period shall conclusively and irrevocably constitute the Trustee's rejection of this Lease and waiver of any rights of the Trustee to assume or assign this Lease. The Trustee shall not have the right to assume or assign this Lease unless the Trustee (i) promptly and fully cures all defaults under this Lease, (ii) promptly and fully compensates Landlord for all monetary damages incurred as a result of such default, and (iii) provides to Landlord adequate assurance of future performance. In the event Tenant is unable to: (i) cure its defaults, (ii) reimburse Landlord for its monetary damages, or (iii) pay the Rent due under this Lease on time, then Tenant hereby agrees in advance that it has not met its burden to provide adequate assurance of future performance, and this Lease may be terminated by Landlord in accordance with Section 20.

19.3. Tenant's Guarantor's Bankruptcy. Notwithstanding any of the other provisions of this Lease, in the event Tenant's obligations under this Lease are guaranteed by a guarantor, and said guarantor shall voluntarily or involuntarily come under the jurisdiction of the Bankruptcy Code, and thereafter said guarantor or its trustee in bankruptcy, under the authority of and pursuant to applicable provisions thereof, shall determine to assign the guarantee obligations of said guarantor hereunder, Tenant and its said guarantor agree that (a) said guarantor or its trustee will provide Landlord sufficient information enabling it to independently determine whether Landlord will incur actual and substantial detriment by reason of such assignment, and (b) "adequate assurance of future performance" in regard to such guarantee obligations of said guarantor, as that term is generally defined under the Bankruptcy Code, will be provided to Landlord by said guarantor or its trustee and its assignee as a condition of said assignment.

20. DEFAULT PROVISIONS AND REMEDIES

20.1. Events of Default. Each of the following shall be deemed an Event of Default by Tenant under this Lease:

- a. failure of Tenant to pay Annual Basic Rent, Additional Rent, or any other sum required to be paid under the terms of this Lease, including late charges, within ten (10) days after notice from Landlord of non-payment hereunder.
- b. failure by Tenant to perform or observe any other term, covenant, agreement or condition of this Lease, on the part of Tenant to be performed (other than those obligations of Tenant set forth in subsection 16.2 for which Tenant shall be entitled to receive no prior notice, and other than the conditions set forth in paragraphs 20.1.a, c, d, e, f and g, which shall be governed solely by the provisions set forth herein), within ten (10) days after notice thereof from the Landlord, unless such performance shall reasonably require a

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longer period, in which case Tenant shall not be deemed in default if Tenant commences the required performance promptly and thereafter pursues and completes such action diligently and expeditiously and in any event within not more than thirty (30) days;

c. the filing of a tax or mechanic's lien suit or claim against any property of Tenant which is not bonded or discharged and/or dismissed within thirty (30) days of the date such lien is filed;

d. abandonment of the Premises by Tenant;

e. an Event of Tenant's Bankruptcy or the rejection of this Lease in a Bankruptcy or similar proceeding by Tenant or by operation of law;

f. the sale of Tenant's interest in the Premises under attachment, execution or similar legal process

g. the failure of Tenant to vacate the Premises upon the expiration of the Term, or the earlier termination thereof pursuant to the other provisions hereof.

Notwithstanding the foregoing, Tenant shall be excused for the period of any delay in the performance of any of its obligations when the delay is due to acts of God, labor disputes, civil unrest, war, adverse weather condition, fire or other casualty, inability to obtain any material, services, or financing unless otherwise provided for in this Lease.

20.2. Remedies. Upon the occurrence of an Event of Default, Landlord, without notice to Tenant in any instance (except where expressly provided for below or by applicable law) may do any one or more of the following:

- (a) Sell at public or private sale all or any part of the goods, chattels, fixtures and other Tenant's Personal Property which are or may be put into the Premises during the Term, whether exempt or not from sale under execution or attachment (it being agreed that said property shall at all times be bound within a lien in favor of Landlord and shall be chargeable for all Rent and for the fulfillment of the other covenants and agreements herein contained) and apply the proceeds of such sale, first, to the payment of all costs and expenses of conducting the sale or caring for or storing said property (including all attorneys' fees), second, toward the payment of any indebtedness, including (without limitation) indebtedness for Annual Basic Rent, which may be or may become due from Tenant to Landlord, and third, to pay Tenant, on demand in writing, any surplus remaining after all indebtedness of Tenant to Landlord has been fully paid;
- (b) perform, on behalf and at the expense of Tenant, any obligation of Tenant under this Lease which Tenant has failed to perform and of which Landlord shall have given Tenant notice, the cost of which performance by Landlord, together with interest thereon at the Default Rate from the date of such expenditure, shall be payable by Tenant to Landlord, as Additional Rent, upon demand. Notwithstanding the provisions of this clause (b) and regardless of whether an Event of Default shall have occurred, Landlord may exercise the remedy described in clause (b) without any notice to Tenant if Landlord, in its good faith judgment, believes it would be materially injured by failure to take rapid action or if the unperformed obligation of Tenant constitutes an emergency;
- (c) elect to terminate this Lease and the tenancy created hereby by giving notice of such election to Tenant, and reenter the Premises, by summary proceedings or otherwise, and remove Tenant and all other persons and property from the Premises, and store such property in a

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public warehouse or elsewhere at the cost of and for the account of Tenant without resort to legal process and without Landlord being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby;

- (d) declare any option which Tenant may have to renew the Term or expand the Premises to be null and void and of no further force and effect; or
- (e) exercise any other legal or equitable right or remedy which it may have.

Any costs and expenses incurred by Landlord (including, without limitation, reasonable attorneys' fees) in enforcing any of its rights or remedies under this Lease shall be paid to Landlord by Tenant, as Additional Rent, upon demand.

20.3. Damages. If this Lease is terminated by Landlord pursuant to subsection 20.2.(e), Tenant nevertheless shall remain liable for (a) any Annual Basic Rent, Additional Rent, and damages which may be due or sustained prior to such termination, and (b) all reasonable costs, fees and expenses including, but not limited to, attorneys' fees, costs and expenses incurred by Landlord in pursuit of its remedies hereunder or in renting the Premises to others from time to time. In addition, Landlord may recover from Tenant additional damages to compensate Landlord for loss of rent resulting from termination of the Lease, which, at the election of Landlord, shall be either:

- (i) An amount equal to the rent which, but for termination of this Lease, would have become due during the remainder of the Term, less the amount of rent, if any, which Landlord shall receive during such period from others to whom the Premises may be rented (other than any Additional Rent received by Landlord as a result of any failure of such other person to perform any of its obligations to Landlord), in which case such damages shall be computed and payable in monthly installments, in advance, on the first day of each calendar month following termination of the Lease and continuing until the date on which the Term would have expired but for such termination; any suit or action brought to collect any such damages for any month shall not in any manner prejudice the right of Landlord to collect any damages for any subsequent month by a similar proceeding; or
- (ii) an amount equal to the present worth (as of the date of such termination) of rent which, but for termination of this Lease, would have become due during the remainder of the Term, in which case such damages shall be payable to Landlord in one lump sum on demand and shall bear interest at the Default Rate until paid. For purposes of this clause (ii), "present worth" shall be computed by discounting such amount to present worth at a discount rate equal to one percentage point above the discount rate then in effect at the Federal Reserve Bank nearest to the location of the Property.

Damages shall be due and payable immediately upon demand by Landlord following any termination of this Lease pursuant to subsection 20.2.

If this Lease is terminated pursuant to subsection 20.2., Landlord may re-lease the Premises or any part thereof, alone or together with other premises, for such term(s) (which may be greater or less than the period which otherwise would have constituted the balance of the Term) and on such terms and conditions (which may include concessions or free rent and alterations of the Premises) as Landlord, in its sole discretion, may determine. The failure or refusal of Landlord to re-lease the Premises or any part or parts thereof shall not release or affect Tenant's liability for damages.

Notwithstanding the above, in the event of the termination of this Lease by reason of Tenant's bankruptcy or insolvency, Landlord shall have the right to prove and/or obtain as damages an amount equal to

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the greater of the maximum allowed under the Lease or any statute or rule of law in effect at the time. The failure or refusal of Landlord to relet the Premises or any part or parts thereof shall not release or affect Tenant's liability for damages under such circumstances.

Notwithstanding anything to the contrary in this Section 20.3, Landlord shall use reasonable efforts to re-lease the Premises, provided that Landlord shall not be required to (i) use methods or procedures other than its usual methods and procedures for finding tenants for comparable space in the Building; (ii) lease the Premises in preference to any other space in the Building available for lease, regardless of when such other space became available for lease; (iii) lease the Premises at rents lower than the rate at which Landlord would otherwise offer such space to a third party; (iv) to make improvements to the Premises at Landlord's expense; and (v) lease the Premises for any purpose or use other than that specifically permitted by this Lease. Landlord shall not be liable to Tenant for Landlord's failure to re-lease the Premises despite the exercise of reasonable efforts pursuant to this paragraph, and no such re-leasing shall relieve Tenant of its obligations under the terms of this Lease, including, without limitation, the payment of rent as set forth herein.

20.4. No Waiver. No act or omission by Landlord shall be deemed to be an acceptance of a surrender of the Premises or a termination of Tenant's liabilities hereunder, unless Landlord shall execute a written release of Tenant. Tenant's liability hereunder shall not be terminated by the execution by Landlord of any new lease for all or any portion of the Premises or the acceptance of rent from any assignee or subtenant.

20.5. Remedies Not Exclusive. All rights and remedies of Landlord set forth in this Lease shall be cumulative, and none shall exclude any other right or remedy, now or hereafter allowed by or available under any statute, ordinance, rule of court, or the common law, either at law or in equity, or both. For the purposes of any suit brought or based hereon, this Lease shall be construed to be a divisible contract, to the end that successive actions may be maintained on this Lease as successive periodic sums shall mature hereunder. The failure of Landlord to insist, in any one or more instances, upon a strict performance of any of the covenants, terms and conditions of this Lease or to exercise any right or option herein contained shall not be construed as a waiver or a relinquishment for the future, of such covenant, term, condition, right or option, but the same shall continue and remain in full force and effect unless the contrary is expressed by Landlord in writing. The receipt by Landlord of rents hereunder, with knowledge of the breach of any covenant hereof or the receipt by Landlord of less than the full rent due hereunder, shall not be deemed a waiver of such breach or of Landlord's right to receive the full rents hereunder, and no waiver by Landlord of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Landlord.

20.6. Persistent Failure to Pay Rent. In addition to any other remedies available to Landlord pursuant to this Lease or by law, Landlord may, at any time throughout the Term of this Lease, terminate this Lease upon Tenant's default on three (3) separate occasions during any twelve (12) month period under subsection 20.1.a, regardless of whether or not such prior defaults have been cured. Termination, pursuant to this subsection 20.6, shall be effective upon Landlord's delivery to Tenant of a notice of termination.

21. LANDLORD'S LIEN

21.1. Tenant hereby grants to Landlord a lien and security interest on all property of Tenant now or hereafter placed in or upon the Premises, and such property shall be and remain subject to such lien and security interest of Landlord for payment of all Rent and other sums agreed to be paid by Tenant herein. It is provided, however, the Landlord shall not have a lien which would be superior to a lien from a lending institution, supplier or leasing company, if such lending institution, supplier or leasing company has a security interest in the equipment, furniture or other tangible personal property and which security interest has its origin in a transaction whereby Tenant originally acquired such equipment, furniture or other tangible personal property.

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21.2. The provisions of this paragraph relating to such lien and security interest shall constitute a security agreement under and subject to the Uniform Commercial Code of the state where the Premises are located so that Landlord shall have and may enforce a security interest on all property of Tenant now or hereafter placed in or on the Premises, in addition to and cumulative of the Landlord's liens and rights provided by law or by the other terms and provisions of this Lease.

22. INDEMNITY.

To the maximum extent permitted by law, Tenant shall indemnify, hold harmless and (at Landlord's option) defend Landlord, its agents, servants and employees from and against all claims, actions, losses, costs and expenses (including attorneys' and other professional fees), judgments, settlement payments, and, whether or not reduced to final judgment, all liabilities, damages, or fines paid, incurred or suffered by any third parties to the extent arising directly or indirectly from (a) any default by Tenant under the terms of this Lease, (b) the use or occupancy of the Property by Tenant or any person claiming through or under Tenant, and/or (c) any acts or omissions of Tenant or any contractor, agent, employee, invitee or licensee of Tenant in or about the Property. The foregoing indemnity is in addition to, and not in substitution for, any indemnity given by Tenant to Landlord under subsection 8.3.

To the maximum extent permitted by law, Landlord shall indemnify, hold harmless and defend Tenant, its agents, servants and employees from and against all claims, actions, losses, costs and expenses (including attorneys' and other professional fees), judgments, settlement payments, and, whether or not reduced to final judgment, all liabilities, damages, or fines paid, incurred or suffered by any third party, including Landlord's employees, to the extent arising directly or indirectly from (a) any default by Landlord under the terms of this Lease, (b) the use or occupancy of the Common Area by Landlord or its contractors, agents, or employees, and/or (c) any acts or omissions of Landlord or any contractor, agent, or employee of Landlord in or about the Common Area.

23. LIMITATION ON LANDLORD LIABILITY.

The term "Landlord" as used in this Lease shall mean only the owner or the Mortgagee or its trustees, as the case may be, then in possession of the Property so that in the event of any transfer by Landlord of its interest in the Property, the Landlord in possession immediately prior to such transfer shall be, and hereby is, entirely released and discharged from all covenants, obligations and liabilities of Landlord under this Lease accruing after such transfer, provided that the Landlord in possession after such transfer shall assume, in writing, all continuing obligations under this Lease of the Landlord in possession immediately prior to such transfer. In consideration of the benefits accruing hereunder, Tenant, for itself, its successors and assigns, covenants and agrees that, in the event of any actual or alleged failure, breach or default hereunder by the Landlord, and notwithstanding anything to the contrary contained elsewhere in this Lease, the remedies of Tenant under this Lease shall be solely and exclusively limited to Landlord's interest in the Property.

24. LANDLORD OBLIGATIONS.

Landlord agrees to perform all of its obligations under this Lease in a first class manner consistent with the standards applicable to similar buildings in the vicinity of the Office Section. Landlord shall be excused for the period of any delay in the performance of any of its obligations when the delay is due to any cause or causes beyond Landlord's control which include, without limitation, acts of God, all labor disputes, governmental regulations or controls, civil unrest, war, adverse weather condition, fire or other casualty, inability to obtain any material, services, or financing unless otherwise provided for in this Lease. Except where specifically set forth in this Lease, there shall be no abatement, set-off or deduction of Annual Basic Rent or Additional Rent due under this Lease.

25. ASSIGNMENT AND SUBLETTING.

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25.1. Prohibited Without Landlord's Consent. Tenant agrees for itself and its permitted successors and assigns in interest hereunder that it will not (a) assign or otherwise transfer, mortgage or otherwise encumber this Lease or any of its rights hereunder; (b) sublet the Premises or any part thereof or permit the occupancy or use of the Premises or any part thereof by any person other than Tenant; and/or (c) permit the assignment or other transfer of this Lease or any of Tenant's rights hereunder by operation of law (each of the events referred to in the foregoing clauses (a), (b) and (c) being hereinafter referred to as a "Transfer"), without the prior written consent of Landlord in each instance first obtained, which consent may be given or withheld in Landlord's sole and absolute subjective discretion, and any consent given shall not constitute a consent to any subsequent Transfer. Any attempted Transfer without Landlord's consent shall be null and void and shall not confer any rights upon any purported transferee, assignee, mortgagee, sublessee, or occupant. No Transfer, regardless of whether Landlord's consent has been granted or withheld, shall be deemed to release Tenant from any of its obligations hereunder or to alter, impair or release the obligations of any person guaranteeing the obligations of Tenant hereunder. Tenant hereby indemnifies Landlord against liability resulting from any claim made against Landlord by any assignee or subtenant or by any broker claiming a commission in connection with the proposed Transfer. In the event Landlord shall consent to a Transfer of this Lease, any option which Tenant may have to renew the Term shall be null and void.

Notwithstanding the foregoing, Landlord shall not unreasonably withhold its consent to any subletting of a portion of the Premises for any use permitted by the provisions of this Lease provided that (a) the Premises continue to be Tenant's primary place of business, (b) Landlord elects not to recapture the sublet portion as provided below, and (c) Tenant complies with the provisions of this Section requiring the submission of the proposed sublease and financial information as to any proposed subtenant. Landlord shall have the right to recapture from this Lease any portion of the Premises which Tenant proposes to sublet by notifying Tenant in writing of its election within thirty (30) days following submission to Landlord of the proposed sublease and financial information required by this Section 25. If Landlord elects to recapture, Landlord and Tenant shall execute an amendment to this Lease effecting a reduction in the Rental Area of the Premises and a corresponding reduction of the Annual Basic Rent and other charges computed on the Rental Area of the Premises. Thereafter, Tenant shall have no rights whatsoever to the area of the Premises recaptured by Landlord and Landlord shall be entitled to relet such area free from any claim by Tenant.

25.2. Stock Transfer.

If Tenant or Guarantor is a privately-held corporation or a partnership, then any event which results in a change in control of Tenant or Guarantor, or any change in the ownership or structure of Tenant or Guarantor which results in a change in management of Tenant or Guarantor, shall be deemed a prohibited Transfer under this Section 25.

Notwithstanding the foregoing, Landlord shall not unreasonably withhold its consent to a transfer or change of ownership of the voting corporate stock of Tenant which results in a change in control of Tenant, provided that (a) the net assets of the Tenant are not substantially decreased by the change in the corporate stock ownership; (b) Tenant, on demand from Landlord, properly documents any changes in the net assets of Tenant caused by the change in control of Tenant, so that Landlord can make an accurate judgment as to (a) hereof; and (c) Tenant, after the change in control, continues to use the Premises for uses permitted under this Lease and operates its business in a manner which is consistent with the standards of operation for this Building. The foregoing does not constitute a waiver of the right of Landlord to consent to any subletting or any assignment.

25.3. Rents from Transfer.

In the event Landlord shall consent to a Transfer of this Lease and the amount of the rents (or other compensation) to be paid to Tenant by any such transferee is greater than the rents required to be paid by

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Tenant to Landlord pursuant to this Lease or a premium is to be paid to Tenant for an assignment of this Lease, Tenant shall pay to Landlord any such excess or any such premium, as the case may be, upon receipt thereof by Tenant from such transferees.

25.4. Procedure for Obtaining Landlord's Consent.

A. In the event that, at any time or from time to time prior to or during the Term, Tenant desires to Transfer this Lease in whole or in part, whether by operation of law or otherwise, Tenant shall submit to Landlord for its consideration (a) in writing, the name and address of the proposed subtenant or assignee, a reasonably detailed statement of the proposed subtenant's or assignee's business and reasonably detailed financial references and information concerning the financial condition of the proposed subtenant or assignee, (b) a disclosure of the rents to be paid by any subtenant in excess of the rents reserved hereunder or the premium to be paid for the assignment, and (c) if a subletting, a description of the area of the Premises to be sublet. Tenant agrees to pay Landlord, as Additional Rent, all costs incurred by Landlord in connection with any actual or proposed Transfer, including, without limitation, the costs of making investigations as to the acceptability of a proposed subtenant or assignee and legal costs incurred in connection with any requested consent.

B. Landlord's consent to an assignment of this Lease shall be effective upon the execution by Tenant, the assignee, and Landlord of an assignment document prepared by Landlord in which the assignee shall agree to assume, observe, perform, and be bound by, all of Tenant's obligations under this Lease and Tenant shall agree to remain primarily liable for such obligations.

Any consent by Landlord to a subletting of all or a portion of the Premises shall be deemed to have been given only upon the delivery by Landlord to Tenant of a consent document prepared and executed by Landlord expressly consenting to such subletting.

25.5. Additional Provisions Respecting Transfers.

Without limiting Landlord's right to withhold its consent to any Transfer by Tenant, and regardless of whether Landlord shall have consented to any such Transfer, neither Tenant nor any other person having an interest in the possession, use or occupancy of the Premises or any part thereof shall enter into any lease, sublease, license, concession, assignment or other Transfer or agreement for possession, use or occupancy of all or any portion of the Premises which provides for rental or other payment for such use, occupancy or utilization based, in whole or in part, on the net income or profits derived by any person or entity from the space so leased, used or occupied, and any such purported lease, sublease, license, concession, assignment or other Transfer or agreement shall be absolutely void and ineffective as a conveyance of any right or interest in the possession, use or occupancy of all or any part of the Premises. There shall be no deduction from the rental payable under any sublease or other Transfer nor from the amount thereof passed on to any person or entity, for any expenses or costs related in any way to the subleasing or Transfer of such space.

If Tenant shall make or suffer any such Transfer without first obtaining any consent of Landlord required by subsection 25.1, any and all amounts received as a result of such Transfer shall be the property of Landlord to the extent the same (determined on a square foot basis) is greater than the Annual Basic Rental (on a square foot basis) payable under this Lease, it being the parties' intent that any profit resulting from such Transfer shall belong to Landlord, but the same shall not be deemed to be a consent by Landlord to any such Transfer or a waiver of any right or remedy of Landlord hereunder.

26. HOLDING OVER.

Tenant agrees to vacate the Premises at the end of the Term, or earlier termination thereof, and Landlord shall be entitled to the benefit of all summary proceedings to recover possession of the Premises at

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the end of the Term. If Tenant remains in possession of the Premises after the expiration of the Term, such action shall not renew this Lease by operation of law and nothing herein shall be deemed as a consent by Landlord to Tenant's remaining in the Premises. If Tenant fails to vacate the Premises as required, Landlord may consider Tenant as either (a) a "Tenant-at-Will" (i.e. month-to-month tenant) liable for the payment of rent at the then market rate as determined by Landlord or (b) as a "Tenant-Holding Over" liable for an amount equal to the actual damages incurred by Landlord as a result of Tenant's holding over, including, without limitation, all incidental, prospective and consequential damages and attorney's fees, but in no event shall such amount be less than an amount equal to one hundred and fifty percent (150%) of the Annual Basic Rent applicable as of the Termination Date, and Additional Rent, reserved hereunder applicable to the period of the holdover. In either event, all other covenants of this Lease shall remain in full force and effect.

27. SUBORDINATION AND ATTORNMENT.

This Lease is subject and subordinate to the liens of all mortgages, deeds of trust and other security instruments now or hereafter placed upon the Building or the Property or any portion thereof and all ground and other underlying leases from which Landlord's interest is derived (said mortgages, deeds of trust, other security instruments, and ground leases being hereinafter referred to as "Mortgages" and the mortgagees, beneficiaries, secured parties, and ground lessors thereunder from time to time being hereinafter called "Mortgagees"), and to any and all renewals, extensions, modifications, or refinancings thereof, without any further act of the Tenant. If requested by Landlord, however, Tenant shall promptly execute any certificate or other document confirming such subordination. Tenant agrees that, if any proceedings are brought for the foreclosure of any of the Mortgages, Tenant, if requested to do so by the purchaser at the foreclosure sale, shall attorn to the purchaser, recognize the purchaser as the landlord under this Lease, and make all payments required hereunder to such new landlord without any deduction or set-off of any kind whatsoever. Tenant waives the provisions of any law or regulation, now or hereafter in effect, which may give, or purport to give, Tenant any right to terminate this Lease or to alter the obligations of Tenant hereunder in the event that any such foreclosure or termination or other proceeding is prosecuted or completed.

Notwithstanding anything contained herein to the contrary, any Mortgagee may at any time subordinate the lien of its Mortgages to the operation and effect of this Lease without obtaining the Tenant's consent thereto, by giving the Tenant written notice thereof, in which event this Lease shall be deemed to be senior to such Mortgages without regard to the respective dates of execution and/or recordation of such Mortgages and this Lease and thereafter such Mortgagee shall have the same rights as to this Lease as it would have had were this Lease executed and delivered before the execution of such Mortgages.

If, in connection with obtaining financing for the Office Section, a Mortgagee shall request reasonable modifications in this Lease as a condition to such financing, Tenant will not unreasonably withhold, delay or defer its consent thereto, provided that such modifications do not materially adversely increase the obligations of Tenant hereunder, or materially adversely affect the leasehold interest hereby created or Tenant's use and enjoyment of the Premises, or increase the amount of Annual Basic Rent and Additional Rent payable hereunder.

28. ESTOPPEL CERTIFICATES.

Tenant shall, without charge, at any time and from time-to-time, within fifteen (15) days after receipt of request therefor by Landlord, execute, acknowledge and deliver to Landlord a written estoppel certificate, in such form as may be determined by Landlord, certifying to Landlord, Landlord's Mortgagee, any purchaser of Landlord's interest in the Building, or any other person designated by Landlord, as of the date of such estoppel certificate, the following, without limitation: (a) whether Tenant is in possession of the Premises; (b) whether this Lease is in full force and effect; (c) whether there have been any amendments to this Lease, and if so, specifying such amendments; (d) whether there are then existing any set-offs or defenses against the enforcement of any rights hereunder, and if so, specifying such matters in detail; (e) the dates, if any, to which

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any rent or other charges have been paid in advance and the amount of any Security Deposit held by Landlord; (f) that Tenant has no knowledge of any then existing defaults of Landlord under this Lease, or if there are such defaults, specifying them in detail; (g) that Tenant has no knowledge of any event having occurred that authorizes the termination of this Lease by Tenant, or if such event has occurred, specifying it in detail; and (h) the address to which notices to Tenant under this Lease should be sent. Any such certificate may be relied upon by the person or entity to whom it is directed or by any other person or entity who could reasonably be expected to rely on it in the normal course of business. The failure of Tenant to execute, acknowledge and deliver such a certificate in accordance with this Section 28 within fifteen (15) days after a request therefor by Landlord shall constitute an acknowledgment by Tenant, which may be relied on by any person who would be entitled to rely upon any such certificate, that such certificate as submitted by Landlord to Tenant is true and correct.

29. PEACEFUL AND QUIET POSSESSION.

Tenant, if and so long as it pays all rents due hereunder and performs and observes the other terms and covenants to be performed and kept by it as provided in this Lease, shall have the peaceable and quiet possession of the Premises during the Term free of any claims of Landlord or anyone lawfully claiming by, through or under Landlord, subject, however, to the terms of this Lease and to matters of public record existing as of the date of this Lease.

30. LANDLORD'S ACCESS TO PREMISES.

Landlord and its agents may at any reasonable time and without incurring any liability to Tenant, other than liability arising under Section 22, enter the Premises to inspect them or to make alterations or repairs or for any purpose which Landlord considers necessary for the repair, operation, or maintenance of the Office Section; provided, however, that in the case of an emergency, Landlord may enter the Premises at any time. Tenant shall allow the Premises to be exhibited by Landlord (a) at any time to any representative of a lender or to any prospective purchaser of the Building or Landlord's interest therein or (b) within twelve (12) months of the end of the Term to any persons who may be interested in leasing the Premises.

Notwithstanding the foregoing, Landlord shall use reasonable efforts to telephone Tenant twenty-four (24) hours prior to any inspection except in cases of emergencies. Emergencies for the purpose of this Section shall be deemed to mean anyone or anything in the Premises, Building and/or Common Area requiring immediate response. In any event, Tenant agrees to cooperate when access to the Premises is requested by Landlord.

31. INTENTIONALLY OMITTED.

32. BROKERS' COMMISSIONS, ETC.

Landlord and Tenant acknowledge, represent and warrant each to the other that, except as listed in Section 1.F., no broker or real estate agent brought about or was involved in the making of this Lease and that no brokerage fee or commission is due to any other party as a result of the execution of this Lease. Each of the parties hereto agrees to indemnify and hold harmless the other against any claim by any broker, agent or finder based upon the execution of this Lease and predicated upon a breach of the above representation and warranty.

33. RECORDATION.

Neither Landlord nor Tenant shall record this Lease, any amendment to this Lease or any other memorandum of this Lease without the prior written consent of the other party, which consent may be withheld in the sole discretion of either party and, in the event such consent is given, the party requesting such consent and recording shall pay all transfer taxes, recording fees and other charges in connection with such recording.

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Notwithstanding the above, Tenant covenants that if at any time any mortgagee or ground lessor relating to the financing of the Property shall require the recordation of this Lease, or if the recordation of this Lease shall be required by any valid governmental order, or if any governmental authority having jurisdiction in the matter shall assess and be entitled to collect transfer taxes, documentary stamp taxes, or both, on this Lease, Tenant, upon the request of Landlord, shall execute such instruments, including a Memorandum of this Lease, as may be necessary to record this Lease, and shall pay all recording fees, transfer taxes and documentary stamp taxes, payable on, or in connection with, this Lease or such recordation, provided, however, if Landlord's Mortgagee requires such recordation, Landlord shall pay all such recording fees, transfer taxes and documentary stamp taxes.

34. MISCELLANEOUS.

34.1. Severability. If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

34.2. Applicable Law. This Lease shall be given effect and construed by application of the laws of the state where the Property is located, and any action or proceeding arising hereunder shall be brought in the courts of the State where the Premises are located.

34.3. Authority. If Tenant is a corporation or partnership, the person executing this Lease on behalf of Tenant represents and warrants that Tenant is duly organized and validly existing; that this Lease has been authorized by all necessary parties, is validly executed by an authorized officer or agent of Tenant and is binding upon and enforceable against Tenant in accordance with its terms.

The undersigned agent of Landlord represents and warrants that it is authorized and empowered to enter into this Lease Agreement on behalf of the Landlord.

34.4. No Discrimination. It is Landlord's policy to comply with all applicable state and federal laws prohibiting discrimination in employment based on race, age, color, sex, national origin, disability, religion, or other protected classification. It is further intended that the Building shall be operated so that all prospective tenants thereof, and all customers, employees, licensees and invitees of all tenants shall have equal opportunity to obtain all the goods, services, accommodations, advantages, facilities and privileges of the Building without discrimination because of race, age, color, sex, national origin, disability, or religion. To that end, Tenant shall not discriminate in the conduct and operation of its business in the Premises against any person or group of persons because of the race, age, color, sex, religion, national origin or other protected classification of such person or group of persons.

34.5. Integration of Agreements. This writing is intended by the parties as a final expression of their agreement and is a complete and exclusive statement of its terms, and all negotiations, considerations and representations between the parties hereto are incorporated herein. No course of prior dealings between the parties or their agents shall be relevant or admissible to supplement, explain, or vary any of the terms of this Lease. Acceptance of, or acquiescence to, a course of performance rendered under this Lease or any prior agreement between the parties or their agents shall not be relevant or admissible to determine the meaning of any of the terms or covenants of this Lease. Other than as specifically set forth in this Lease, no representations, understandings or agreements have been made or relied upon in the making of this Lease. This Lease can only be modified by a writing signed by each of the parties hereto.

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34.6. Third Party Beneficiary. Except as expressly provided elsewhere in this Lease, nothing contained in this Lease shall be construed so as to confer upon any other party the rights of a third party beneficiary.

34.7. Captions; Gender. The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof. As used in this Lease and where the context so requires, the singular shall be deemed to include the plural and the masculine shall be deemed to include the feminine and neuter, and vice versa.

34.8. Successors and Assigns. Subject to the express provisions of this Lease to the contrary (e.g., Section 25), the terms, provisions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns.

34.9. Waiver of Jury Trial. Landlord and Tenant hereby expressly waive trial by jury in any action or proceeding or counterclaim brought by either party hereto against the other party on any and every matter, directly or indirectly arising out of or with respect to this Lease, including, without limitation, the relationship of Landlord and Tenant, the use and occupancy by Tenant of the Premises, any statutory remedy and/or claim of injury or damage regarding this Lease.

34.10. Joint and Several Liability. In the event that two (2) or more persons (i.e., natural persons, corporations, partnerships, associations and other legal entities) shall sign this Lease as Tenant, the liability of each such party to pay all rents due hereunder and perform all the other covenants of this Lease shall be joint and several. In the event Tenant is a general partnership or a limited partnership with two or more general partners, the liability of each partner, or general partner, under this Lease shall be joint and several.

34.11. Notices. All notices, demands and requests required under this Lease shall be in writing. All such notices, demands and requests shall be deemed to have been properly given if sent by United States certified mail, return receipt requested, postage prepaid, or hand delivered, or overnight delivery, addressed to Landlord or Tenant, at the Landlord Notice Address and Tenant Notice Address, respectively. Either party may designate a change of address by written notice to the other party, in the manner set forth above. Notice, demand and requests which shall be served by certified mail in the manner aforesaid, shall be deemed to have been given three (3) days after mailing. Notices sent by overnight delivery shall be deemed to have been given the day after sending. Without intending to limit the generality of the foregoing requirement that all notices, demands and requests be in writing, there are certain provisions in this Lease where, for emphasis alone, such requirement is reiterated.

34.12. Effective Date of this Lease. Unless otherwise expressly provided, all terms, conditions and covenants by Tenant contained in this Lease shall be effective as of the date first above written.

34.13. Mechanics' Liens. In the event that any mechanics' or materialmen's lien, suit or claim shall at any time be filed against the Premises purporting to be for work, labor, services or materials performed or furnished to Tenant or anyone holding the Premises through or under Tenant, Tenant shall cause the same to be dismissed and/or discharged of record or bonded within thirty (30) days after the filing thereof. If Tenant shall fail to cause such lien to be discharged and/or dismissed or bonded within thirty (30) days after the filing thereof, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same by paying the amount claimed to be due; and the amount so paid by Landlord, and all costs and expenses, including reasonable attorneys' fees incurred by Landlord in procuring the discharge of such lien, shall be due and payable by Tenant to Landlord, as Additional Rent, on the first day of the next succeeding month. Notice is hereby given that Landlord shall not be liable for any labor or materials furnished to Tenant upon credit and that no mechanics', materialmen's or other liens for any such labor or materials shall

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attach to or affect the estate or interest of Landlord in and to the land and improvements of which the Premises are a part.

34.14. Waiver of Right of Redemption. Tenant hereby expressly waives (to the extent legally permissible) for itself and all persons claiming by, through or under it, any right of redemption or right to restore the operation of this Lease under any present or future law in the event Tenant is dispossessed for any proper cause, or in the event Landlord shall obtain possession of the Premises pursuant to the terms of this Lease. Tenant understands that the Premises are leased exclusively for business, commercial and mercantile purposes and therefore shall not be redeemable under any provision of law.

34.15. Mortgagee's Performance. If requested by any Mortgagee, Tenant shall give such Mortgagee written notice of any default by Landlord under this Lease and a reasonable opportunity to cure such default. Tenant shall accept performance of any of Landlord's obligations hereunder by any ground lessor or mortgagee relating to the financing of the Property.

34.16. Mortgagee's Liability. No mortgagee or ground lessor relating to the financing of the Property, not in possession of the Premises or the Building, shall have any liability whatsoever hereunder.

34.17. Schedules. Each writing or plat referred to herein as being attached hereto as a schedule or exhibit is hereby made a part hereof, with the same full force and effect as if such writing or plat were set forth in the body of this Lease.

34.18. Time of Essence. Time shall be of the essence of this Lease with respect to the performance by Tenant of its obligations hereunder.

34.19. Amendment. This Lease may be amended by and only by an instrument executed and delivered by each party hereto. No amendments of this Lease entered into by Landlord and Tenant, as aforesaid, shall impair or otherwise affect the obligations of any guarantor of Tenant's obligations hereunder, all of which obligations shall remain in full force and effect and pertain equally to any such amendments, with the same full force and effect as if the substance of such amendments was set forth in the body of this Lease.

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

~~ATTEST:~~

~~Assistant Secretary~~

ATTEST:

James A. Koch
Secretary of Corporation

LANDLORD:
WATER TOWER LLC

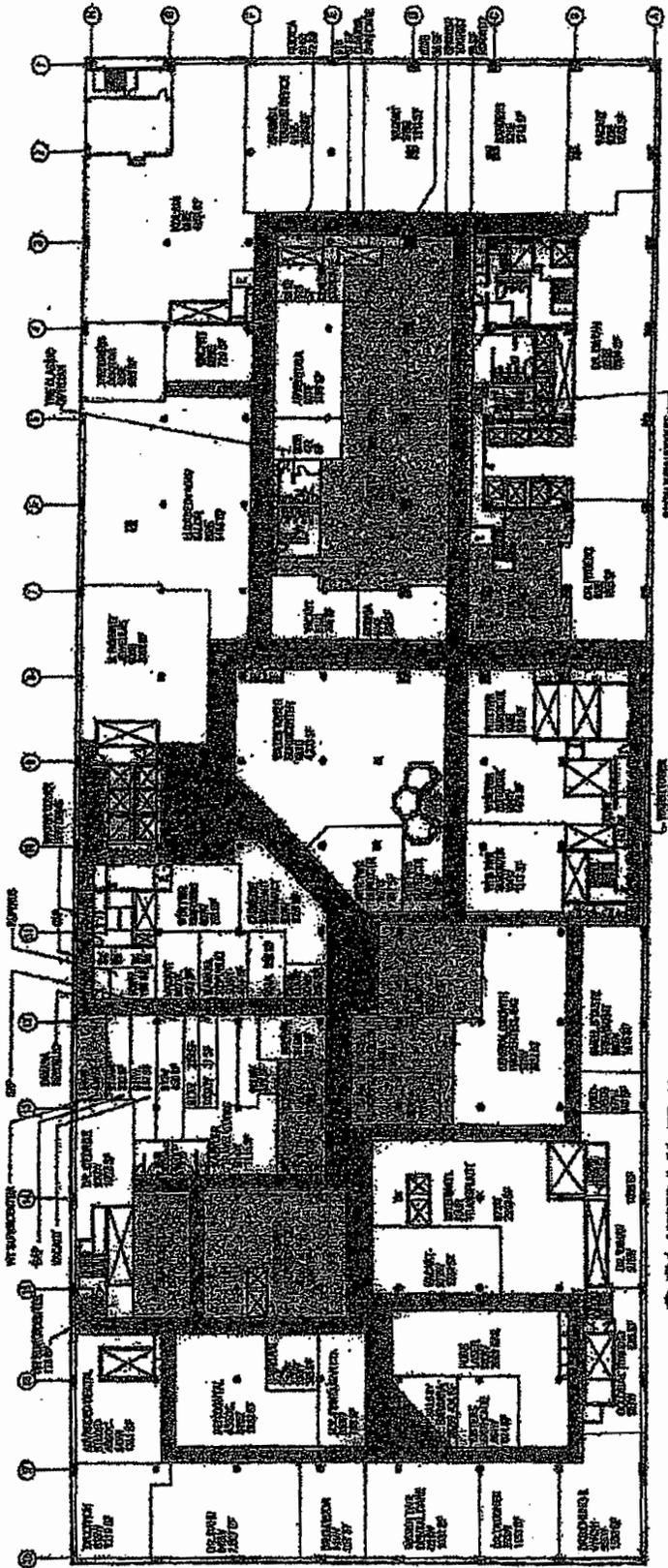
By: ROUSE PROPERTY MANAGEMENT,
INC., Its Authorized Agent

By: [Signature]

TENANT:
WATER TOWER CLINIC ASSOCIATES,
LTD.

By: [Signature]
President





SCHEDULE A
WATER TOWER CLINIC ASSOCIATES, LTD.
NINTH FLOOR PLAN

WATER TOWER PLACE
 GENERAL GROWTH PROPERTIES, INC.
 345 N. MICHIGAN AVENUE CHICAGO, ILLINOIS

5/20/2010 JMS

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SCHEDULE CRULES AND REGULATIONS

1. Tenant shall not obstruct the Common Area, and the sidewalks, driveways, and other public portions of the Property (herein "Public Areas") and such Public Areas shall not be used for any purpose other than ingress and egress to and from its Premises. Fire exits and stairways are for emergency use only, and they shall not be used for any other purpose.

2. No awnings or other projections shall be attached to the outside walls of the Building. No curtains, blinds, shades or screens shall be attached to, hung in, or used in connection with any window or door of the Premises.

3. Except as otherwise provided in the Lease, no sign, insignia, advertisement, lettering, notice or other object shall be exhibited, inscribed, painted or affixed by Tenant on any part of the exterior or interior of the Premises or the Building.

4. No bicycles, vehicles, animals (except seeing eye dogs), fish or birds of any kind shall be brought into or kept in or about the Premises.

5. Nothing shall be done which would impair or interfere with any of the HVAC, plumbing, electrical, structural components of the Building. No flammable, combustible or explosive fluid, chemical or substance may be kept on the Premises.

6. No additional locks or bolts of any kind shall be placed upon any of the doors or windows by Tenant, nor shall any changes be made in locks or the mechanism thereof. Tenant shall, upon the termination of the Lease, turn over to Landlord all keys to stores, offices and restrooms. In the event of the loss of any keys furnished by Landlord, Tenant shall pay to Landlord the cost of replacement locks and Tenant hereby agrees to pay said cost to Landlord, as Additional Rent, promptly upon demand.

7. No delivery or moving of any safes, freight, furniture, packages, boxes, crates or any other such object shall take place between 8:30 a.m. and 5:30 p.m., Monday through Friday.

No hand trucks shall be used for such moving activities except for those equipped with rubber tires and side guards.

8. Tenant shall not use or occupy its Premises, or permit any portion thereof to be used or occupied for any use which constitutes a nuisance, or is hazardous, or, in Landlord's opinion, likely to injure the reputation of a first-class building.

9. Tenant shall turn off all lights, copying machines and other electrical equipment when the Premises are vacant. All entrance doors in Tenant's Premises shall be kept locked when not in use. Entrance doors shall not be left open at any time.

10. If Tenant shall request Landlord to perform any work on the Premises or Property, Tenant shall make such request at the management office for the Building. Tenant shall not request employees of Landlord to perform any work or do anything outside of their regular duties, unless under special instructions from Landlord.

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11. Canvassing, soliciting and peddling in the Building are prohibited and Tenant shall cooperate to prevent the same.

12. Tenant shall not cause or permit any odors of cooking or other processes, or any unusual or objectionable odors, to emanate from its Premises which would annoy other tenants or create a public or private nuisance. No cooking shall be done in Tenant's Premises, except for a household microwave oven or as is expressly permitted in the Lease.

13. No contract of any kind involving the care and maintenance of the Premises shall be entered into by Tenant without the prior written consent of Landlord. Further, no vending machine of any kind shall be installed in the Building or on or about the Property without the prior written consent of Landlord.

Landlord shall not be responsible to Tenant for any loss of property from its Premises however occurring, or for any damage done to the effects of Tenant by Landlord's janitors or any of its employees, or by any other person or any other cause.

14. All electrical work must be in accordance with code and is subject to Landlord's review and approval.

15. Landlord hereby reserves to itself any and all rights not granted to Tenant hereunder, including, but not limited to, the following rights which are reserved to Landlord for its purposes in operating the Building:

(a) the exclusive right to use of the name of the Building for all purposes, except that Tenant may use the name as its business address and for no other purpose;

(b) the right to change the name or address of the Building, without incurring any liability to Tenant for so doing;

(c) the right to install and maintain a sign or signs on the exterior of the Building;

(d) the exclusive right to use the roof of the Building;

(e) the right to limit the space on the directory of the Building to be allotted to Tenant; and

(f) the right to grant anyone the right to conduct any particular business or undertaking in the Building.

16. Tenant and its employees shall park their cars only in those portions of the parking area designated by Landlord.

17. Tenant shall not permit undue accumulations of garbage, trash, rubbish or any other refuse, and will keep such refuse in proper containers in the interior of the Tenant's Premises or other places designated by the Landlord.

18. Tenant shall not conduct or permit any bankruptcy sales, unless directed by order of a court of competent jurisdiction, or any fictitious fire or going out of business sale.

19. Landlord shall have the right to close and securely lock the Building during generally accepted holidays and during such other times as Landlord may, in its sole discretion, deem advisable for the security of the Building and its tenants. Landlord shall give Tenant twenty-four (24) hours notice before so closing and securely locking the Building except in an emergency.

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20. Landlord reserves the right to rescind, alter, waive or add any rule or regulation at any time prescribed for the Building when Landlord deems it necessary or desirable for the reputation, safety, character, security, care, appearance or interests of the Building, the preservation of good order therein, the operation or maintenance of the Building or the equipment thereof, or the comfort of tenants or others in the Building. No rescission, alteration, waiver or addition of any rule or regulation with respect to one tenant shall operate as a rescission, alteration or waiver in respect of any other tenant.

ASSIGNMENT AND CONSENT TO ASSIGNMENT OF LEASE AND GUARANTY

THIS ASSIGNMENT AND CONSENT TO ASSIGNMENT OF LEASE (the "Agreement") is made and dated this 12th day of August, 2010, by and among WATER TOWER LLC, a Delaware limited liability company ("Landlord"), WATER TOWER CLINIC ASSOCIATES, LTD., an Illinois limited partnership ("Assignor"), and GOLD COAST SURGICENTER, LLC., an Illinois limited liability company ("Assignee").

In consideration of the mutual covenants herein contained, each act to be performed hereunder, the sum of \$10.00 paid by each party to the other, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree that as of July 1, 2010 (the "Effective Date"):

1. Assignor hereby assigns, transfers and conveys to Assignee all of its right, title and interest, as Tenant, in, to and under a certain lease dated August 21, 2006, (which with all amendments is the "Lease"), executed between Landlord and Tenant for Premises containing approximately 11,480 square feet of Rental Area, Suite 930E, in the building known as Water Tower Place located 845 N. Michigan Avenue, Chicago, IL, in the City of Chicago, Illinois;
2. Assignee hereby accepts the Premises in "as is" condition and agrees to assume all of the obligations, responsibilities and liabilities of Assignor under the Lease, and agrees to perform under the Lease according to its terms, covenants, and conditions;
3. If the Annual Basic Rent and additional rental (as defined in the Lease) or other payment to be paid to Assignor for this Assignment exceeds the rental and additional rental Assignor is required to pay Landlord under the Lease, then Assignor shall pay to Landlord the entire amount of the excess, without prior demand, which shall be deemed additional rental. Assignee shall deliver to Landlord a copy of the transfer document(s) within thirty (30) days after the full execution of this Agreement, specifying: (a) the date of the transfer document's execution and delivery, and (b) a computation in reasonable detail showing the amounts, if any, paid and payable by Assignee to Assignor for the transfer pursuant to this Agreement. Assignor is not released from liability or relieved of its obligations under the Lease in any manner;
4. Landlord consents to the assignment provided that its consent shall not constitute a waiver of its right to consent to another assignment of the Lease, and provided that Assignor is not released from liability or relieved of its obligations under the Lease. Assignee shall, upon execution of this Agreement, deposit with Landlord a irrevocable letter of credit for WT Surgicenter LLC Leases dated July 31, 2006 and October 11, 2007 and the Water Tower Clinic Associates, LTD lease dated August 21, 2006 (collectively the "Letter Of Credit") which Letter Of Credit shall: (a) be in an amount of \$125,000.00; (b) name the Landlord as its beneficiary; and (c) be drawn on a FDIC insured financial institution satisfactory to the Landlord (d) and provide that Landlord may draw on the Letter Of Credit for any event of default under the WT Surgicenter LLC Leases dated July 31, 2006 and October 11, 2007 and/or the Water Tower Clinic Associates, LTD lease dated August 21, 2006. Tenant agrees that it shall from

time to time, as necessary, whether as a result of a draw on the Letter Of Credit by Landlord pursuant to the terms hereof or as a result of the expiration of the Letter of Credit then in effect, renew or replace the original and any subsequent Letter Of Credit so that a Letter Of Credit, in the amount required hereunder, is in effect until the date which is at least thirty (30) days after the latest Termination Date of the Leases. If the Tenant fails to furnish such renewal or replacement at least thirty (30) days prior to the stated expiration date of the Letter Of Credit then held by Landlord, Landlord may draw upon such Letter Of Credit and hold the proceeds thereof (and such proceeds need not be segregated) as a Security Deposit. Any renewals or replacement of the original or any subsequent Letter Of Credit shall meet the requirements of the original Letter Of Credit as set forth herein, except that such, replacement or renewal shall be issued by an FDIC insured financial institution satisfactory to the Landlord at the time of the issuance thereof. The Letter of Credit shall assure Assignee's performance of all terms, provisions and conditions of this Lease, the lease dated October 11, 2007 for suite number 973E and the lease dated July 31, 2006 for suite number 948E.

5. Upon full execution of this Agreement and Landlord's consent hereto, Assignor's notice address, Assignee's billing address, Landlord's notice address and Landlord's billing address shall be as set forth as follows:

Addresses for Sending Notices:

(a) Assignor's Notice Address:

WATER TOWER CLINIC ASSOCIATES, LTD., an Illinois limited partnership
Dr. Robert Diaz
530 N. Paulina Ave
Chicago, IL. 60622

(b) Assignee's Billing Address:

GOLD COAST SURGICENTER, LLC., an Illinois limited liability company
Dr. Robert Diaz
530 N. Paulina Ave
Chicago, IL. 60622

(c) Landlord Notice Address:

General Growth Management, Inc.
c/o General Growth Properties, Inc.
10275 Little Patuxent Parkway
Columbia, Maryland 21044

with a copy to:

General Growth Properties, Inc.

110 North Wacker Drive
Chicago, Illinois 60606
Attention: General Counsel

Landlord Payment Address:
Landlord Payment Address:
Water Tower, LLC
22032 Network Place
Chicago, IL 60643-1220

6. Assignor and/or Assignee shall pay Landlord simultaneously with the execution of this Agreement the sum of \$0.00 as the assignment fee set forth in the Lease.

7. Assignor, as Tenant under the lease, hereby certifies as of the date hereof the following:

(a) To the best of Assignor's knowledge, as of the date hereof, there exist no charges, liens, claims or offsets or basis therefore against Landlord pursuant to the Lease, and all of the terms, conditions and provisions of the Lease on the part of Landlord have been duly performed.

(b) There is no outstanding default by Landlord for which Assignor has given Landlord a notice of default, and to the best of Assignor's knowledge, there exist no charges, liens, claims or offsets or basis therefore against Landlord under the Lease at this time.

8. Assignor and Assignee understand and agree that Landlord's consent to the assignment contemplated under this Agreement is expressly contingent upon Assignor and Assignee each hereby releasing and forever discharging Landlord and its respective subsidiaries, parents and successor corporations, affiliated companies, assigns, future acquiring or acquired entities, and each of their officers, directors, shareholders, employees and agents, from any and all claims, obligations, demands, penalties, fines, causes of action, suits, proceedings, agreements, contracts, judgments, costs, expenses, damages, losses, and liabilities of whatever nature, known or unknown, whether or not well founded in fact, in law, in equity or otherwise which relate to any aspect of the Lease, or Assignor's operation of the location at the Premises that accrued and/or occurred prior to the Effective Date.

9. This Agreement shall be binding upon and shall inure to the benefit of the respective parties, their successors and assigns; and

10. The Lease is not otherwise modified and remains ratified and confirmed.

SIGNATURES ON THE FOLLOWING PAGES

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

WITNESSES:

Kendra Heiser
Print Name

Kendra Heiser
Signature

MARY KEARNS
Print Name

Mary Kearns
Signature

LANDLORD:

WATER TOWER LLC, a Delaware limited liability company

By: Water Tower Joint Venture, its sole member

By: Urban Shopping Centers, LP, its managing partner

By: Head Acquisition, LP, its general partner

By: Rouse-Urban, LLC, a general partner

By: [Signature]
Authorized Officer

WITNESSES:

[Signature]
Signature

William J. Kearns
Print Name

[Signature]
Signature

Peter Papadopoulos
Print Name

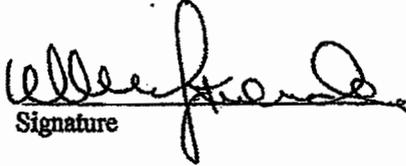
ASSIGNOR:

WATER TOWER CLINIC ASSOCIATES, LTD., an Illinois limited partnership

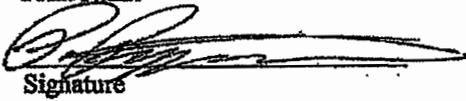
By: [Signature]

SOLE GENERAL PARTNER

WITNESSES:


Signature

WILLIAM J. KLADA
Print Name


Signature

Peter Papadopoulos
Print Name

ASSIGNEE:

GOLD COAST SURGICENTER, LLC., an Illinois
limited liability company

By: 
COLE MADSEN

the covenants, terms, and conditions of the Lease, as existing, extended, renewed or modified and of any such amendment thereof.

3. Performance Guaranty. In the event that the Tenant fails to perform, satisfy or observe the terms and conditions of the Lease, Rules and Regulations, and related Lease obligations required to be performed, satisfied or observed by the Tenant, including those under the Note, the Guarantor will promptly and fully perform, satisfy and observe the obligation or obligations in the place of the Tenant. The Guarantor shall pay, reimburse and indemnify the Landlord for any and all damages, costs, expenses, including attorney's fees, losses and other liabilities arising or resulting from the failure of the Tenant to perform, satisfy or observe any of the terms and conditions of the Lease, Rules and Regulations and related obligations, including those under the Note.

4. Waiver of Notices. Without notice to or further assent from the Guarantor, the Landlord may waive or modify any of the terms or conditions of the Lease, any Rules and Regulations or related Tenant obligations; or compromise, settle or extend the time of payment of any amount due from the Tenant or the time or performance of any obligation of the Tenant. These actions may be taken by the Landlord without discharging or otherwise affecting the obligations of the Guarantor.

5. Lease Security. This Guaranty shall remain in full force and effect, and the Guarantor shall remain fully responsible, without regard to any security deposit or other collateral for the performance of the terms and conditions of the Lease, or the receipt, disposition, application, or release of any security deposit or other collateral, now or hereafter held by or for the Landlord.

6. Guarantor's Obligations. The liability of the Guarantor is direct, immediate, absolute, continuing, unconditional. The Landlord shall not be required to pursue any remedies it may have against the Tenant or against any security deposit or other collateral as a condition to enforcement of this Guaranty. Nor shall the Guarantor be discharged or released by reason of the discharge or release of the Tenant for any reason, including a discharge in Bankruptcy, receivership or other proceedings, a disaffirmation or rejection of the Lease by a trustee, custodian, or other representative in Bankruptcy, a stay or other enforcement restriction, or any other reduction, modification, impairment or limitations of the liability of the Tenant or any remedy of the Landlord. The Guarantor assumes all responsibility for being and keeping himself informed of Tenant's financial condition and assets, and of all other circumstances bearing the risk of non-performance by Tenant under the Lease. The Guarantor agrees that Landlord shall have no duty to advise the Guarantor of information known to it regarding such circumstances or risks.

7. Subordination of Subrogation Rights. The Guarantor subordinates any and all claims which the Guarantor has or may have against the Tenant by reason of subrogation for payments or performances under this Guaranty or claims for any other reason or cause. The Guarantor agrees not to assert any claim which it has or may have against the Tenant, including claims by reason of subordination under this Guaranty, until such time as the payment and other obligations of the Tenant to the Landlord are fully satisfied and discharged.

8. Joint and Several Liability. In the event that two (2) or more persons (i.e., natural persons, corporations, partnerships, associations, and other legal entities) shall sign this Guaranty as Guarantor, the liability of each such party to pay all rents due hereunder and perform all the other covenants of this Guaranty shall be joint and several. In the event Guarantor is a general partnership or a limited partnership with two or more general partners, the liability of each partner, or general partner, under this Guaranty shall be joint and several.

SECTION IX. PART 1120.130 FINANCIAL VIABILITY

Continue i

Financial Viability

All the applicants and co-applicants shall be identified, specifying their roles in the project funding or guaranteeing the funding (sole responsibility or shared) and percentage of participation in that funding.

Financial Viability Waiver

The applicant is not required to submit financial viability ratios if:

- 1. All of the projects capital expenditures are completely funded through internal sources.**
- 2. The applicant's current debt financing or projected debt financing is insured or anticipated to be insured by MBIA (Municipal Bond Insurance Association Inc.) or equivalent.**
- 3. The applicant provides a third party surety bond or performance bond letter of credit from an A rated guarantor.**

See Section 1120.130 Financial Waiver for information to be provided.

Appended as ATTACHMENT-40A is a correspondence from McGuireWoods, LP stating that funds are currently being held in escrow for this project and that ALL funds will be deposited in the account prior to this project being considered by the Health Facilities and Services Review Board. Therefore, compliance to the Financial Viability Waiver has been documented as all of the project's capital expenditures are completely funded through internal sources, namely cash.

ATTACHMENT-40

John Kniery

From: Suh, Helen H. [HSuh@mcguirewoods.com]
Sent: Wednesday, April 10, 2013 10:02 AM
To: John Kniery
Cc: Szabad, Melissa; 'MJSilberman@duanemorris.com'
Subject: Gold Coast Surgicenter

Mr. Kniery,

Mark Silberman has asked me to send you a note on the status of the funds escrowed in connection with the proposed acquisition of ownership interest in Gold Coast Surgicenter, LLC. McGuireWoods LLP is administering two escrow accounts for the purchasing physicians. The first is fully funded and holds \$150,000. This amount represents the escrow deposit required by the purchase agreement. The second is intended to hold the balance of the purchase price to facilitate the CON review process. As of this morning, six physicians have made their deposits for a total of \$876,923.06. Please let me know if you have any questions. Thank you.

Regards,

Helen Suh
McGuireWoods LLP
77 West Wacker Drive
Suite 4100
Chicago, IL 60601-1818
312.849.8248 (Direct Line)
312.698.4532 (Direct FAX)
hsuh@mcguirewoods.com

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading or forwarding to others.

SECTION IX. PART 1120.130 FINANCIAL VIABILITY

Continue ii

1. The applicant or co-applicant that is responsible for funding or guaranteeing funding of the project shall provide viability ratios for the latest three years for which audited financial statements are available and for the first full fiscal year at target utilization, but no more than two years following project completion. When the applicant's facility does not have facility specific financial statements and the facility is a member of a health care system that has combined or consolidated financial statements, the system's viability ratios shall be provided. If the health care system includes one or more hospitals, the system's viability ratios shall be evaluated for conformance with the applicable hospital standards.

The last three years of financial statements and the projected proforma statements are appended as ATTACHMENT-41A. Please note that compliance with this item is not germane as this project meets the conditions of the financial feasibility waiver.

Provide the methodology and worksheets utilized in determining the ratios detailing the calculation and applicable line item amounts from the financial statements. Complete a separate table for each co-applicant and provide worksheets for each.

Please note that compliance with this item is not germane as this project meets the conditions of the financial feasibility waiver.

**GOLD COAST
SURGICENTER, LLC**

**FINANCIAL STATEMENTS
DECEMBER 31, 2011**

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INDEPENDENT ACCOUNTANTS' COMPILATION REPORT

To the Members
Gold Coast Surgicenter, LLC
Chicago, Illinois

We have compiled the accompanying balance sheets of Gold Coast Surgicenter, LLC as of December 31, 2011 and 2010, and the related statements of loss and members' equity (deficit) for the years then ended. We have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or provide any assurance about whether the financial statements are in accordance with accounting principles generally accepted in the United States of America.

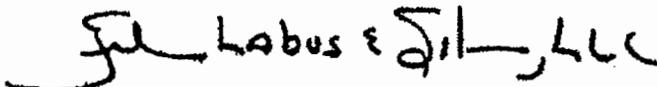
Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the financial statements.

Our responsibility is to conduct the compilations in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The objective of a compilation is to assist management in presenting financial information in the form of financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements.

The supplementary information contained on pages 4 and 5 is presented for purposes of additional analysis and is not a required part of the basic financial statements. The supplementary information has been compiled from information that is the representation of management. We have not audited or reviewed the supplementary information and, accordingly, do not express an opinion or provide any assurance on such supplementary information.

Management has elected to omit the statement of cash flows and substantially all of the disclosures required by accounting principles generally accepted in the United States of America. If the omitted statement of cash flows and disclosures were included in the financial statements, they might influence the user's conclusions about the Company's financial position, results of operations, and cash flows. Accordingly, the financial statements are not designed for those who are not informed about such matters.

The entity is considered a partnership for income tax purposes pursuant to the provisions of the Internal Revenue Code. Under those provisions, a Partnership will not pay federal income taxes on its taxable income. Instead, the members are liable for federal income taxes on their respective share of the Partnership's taxable income. The Partnership is subject to state income taxes.



October 19, 2012

GOLD COAST SURGICENTER, LLC

BALANCE SHEETS

ASSETS	December 31,	
	2011	2010
CURRENT ASSETS		
Cash	\$ 47,244	\$ 81,977
Accounts receivable, less contract allowance of \$6,969,332 and \$2,702,290 in 2011 and 2010, respectively	1,794,998	1,214,934
Purchased receivables	34,360	179,701
Other receivables	11,800	-
Inventory	67,477	-
Due from related parties	42,908	8,550
Prepaid expenses and other	90,130	126,893
Total current assets	<u>2,088,917</u>	<u>1,612,055</u>
PROPERTY AND EQUIPMENT		
Cost	360,712	260,822
Accumulated depreciation	77,486	26,240
Total property and equipment	<u>283,226</u>	<u>234,582</u>
OTHER ASSETS		
Certificate of need	3,350,000	150,000
Goodwill	235,693	235,693
Security deposit	125,000	62,500
Total other assets	<u>3,710,693</u>	<u>448,193</u>
TOTAL ASSETS	<u>\$ 6,082,836</u>	<u>\$ 2,294,830</u>
LIABILITIES AND MEMBERS' EQUITY (DEFICIT)		
CURRENT LIABILITIES		
Accounts payable	\$ 452,700	\$ 170,225
Accrued payroll and related expenses	41,821	43,506
Notes payable	1,127,337	1,528,697
Accrued management fees	158,000	-
Due to members	507,588	675,593
Due to related parties	148,891	26,382
Current portion of long-term debt	9,670	3,101
Current portion of capital lease obligations	8,316	7,266
Prepaid lease income	1,000	-
Total current liabilities	<u>2,455,323</u>	<u>2,454,770</u>
LONG-TERM LIABILITIES		
Long-term debt, net of current portion	11,289	25,668
Capital lease obligations, net of current portion	14,106	29,688
Security deposits	3,850	2,300
Total long-term liabilities	<u>29,245</u>	<u>57,656</u>
TOTAL LIABILITIES	<u>2,484,568</u>	<u>2,512,426</u>
MEMBERS' EQUITY (DEFICIT)	<u>3,598,268</u>	<u>(217,596)</u>
TOTAL LIABILITIES AND MEMBER'S EQUITY (DEFICIT)	<u>\$ 6,082,836</u>	<u>\$ 2,294,830</u>

(See Accountants' Compilation Report)

GOLD COAST SURGICENTER, LLC

STATEMENTS OF LOSS AND MEMBERS' EQUITY (DEFICIT)

<u>LOSS</u>	For the Years	
	Ended December 31,	
	<u>2011</u>	<u>2010</u>
REVENUE		
Patient service revenue	\$ 7,485,597	\$ 5,525,392
Less contractual allowances	<u>4,212,472</u>	<u>2,702,290</u>
TOTAL REVENUE	<u>3,273,125</u>	<u>2,823,102</u>
OPERATING EXPENSES		
Facility expenses	1,090,101	1,118,289
Patient care expenses	994,006	935,659
Transportation expenses	<u>62,732</u>	<u>83,762</u>
Total operating expenses	<u>2,146,839</u>	<u>2,137,710</u>
GROSS PROFIT	<u>1,126,286</u>	<u>685,392</u>
GENERAL AND ADMINISTRATIVE	<u>1,297,770</u>	<u>960,096</u>
LOSS FROM OPERATIONS	<u>(171,484)</u>	<u>(274,704)</u>
OTHER INCOME (EXPENSE)		
Sublease income	112,580	52,714
Gain on sale of property and equipment	-	12,421
Interest expense	(264,996)	(9,027)
Organizational costs	<u>(481,588)</u>	<u>-</u>
Total other income (expense)	<u>(634,004)</u>	<u>56,108</u>
NET LOSS	<u>\$ (805,488)</u>	<u>\$ (218,596)</u>
<u>MEMBERS' EQUITY (DEFICIT)</u>		
BALANCE, BEGINNING OF YEAR	\$ (217,596)	\$ -
CONTRIBUTIONS	4,621,352	1,000
NET LOSS	<u>(805,488)</u>	<u>(218,596)</u>
BALANCE, END OF YEAR	<u>\$ 3,598,268</u>	<u>\$ (217,596)</u>

(See Accountants' Compilation Report)

SUPPLEMENTARY INFORMATION

GOLD COAST SURGICENTER, LLC

SCHEDULES OF OPERATING EXPENSES

	For the Years Ended December 31,	
	2011	2010
OPERATING EXPENSES		
Facility expenses		
Rent	\$ 1,004,597	\$ 1,022,726
Repairs and maintenance	56,951	72,383
Depreciation	8,712	6,556
Utilities	19,841	16,624
Total facility expenses	<u>1,090,101</u>	<u>1,118,289</u>
Patient care expenses		
Wages	437,008	426,643
Payroll taxes	37,316	38,851
Fringe benefits	20,000	11,414
Depreciation	6,275	315
Laboratory services	6,465	-
License fees	1,140	20,601
Medical equipment rental	126,572	79,997
Medical contract labor	6,470	23,431
Medical supplies	287,303	276,626
Medical transcript service	8,468	7,516
Parking	56,989	50,265
Total patient care expenses	<u>994,006</u>	<u>935,659</u>
Transportation expenses		
Wages	36,261	44,574
Payroll taxes	2,830	4,752
Fringe benefits	1,661	1,193
Depreciation	3,240	2,006
Insurance	3,714	5,102
Outside services	744	4,448
Repairs and maintenance	2,023	3,213
Tolls and fuel	12,259	18,474
Total transportation expenses	<u>62,732</u>	<u>83,762</u>
Total operating expenses	<u>\$ 2,146,839</u>	<u>\$ 2,137,710</u>

(See Accountants' Compilation Report)

GOLD COAST SURGICENTER, LLC

SCHEDULES OF GENERAL AND ADMINISTRATIVE EXPENSES

	For the Years	
	Ended December 31,	
	2011	2010
GENERAL AND ADMINISTRATIVE EXPENSES		
Salaries and wages	\$ 353,245	\$ 371,571
Payroll taxes	30,955	34,608
Fringe benefits	16,168	9,941
Bank charges and fees	25,660	21,275
Collection service fees	174,613	192,358
Computer supplies and expense	18,411	6,138
Depreciation expense	33,019	17,363
Dues and subscriptions	3,231	3,898
Equipment rental	6,297	6,905
Insurance	139,979	91,868
Legal settlements	9,161	-
Licenses and taxes	1,561	-
Management fees	158,000	-
Marketing expense	6,458	15,490
Moving expense	-	2,363
Office supplies and expense	26,404	21,118
Parking expense	11,699	6,212
Professional fees	230,551	128,827
Telephone and communications	25,570	27,005
Travel and entertainment	26,788	3,156
Total general and administrative expenses	<u>\$ 1,297,770</u>	<u>\$ 960,096</u>

(See Accountants' Compilation Report)

**GOLD COAST
SURGICENTER, LLC**

**FINANCIAL STATEMENTS
DECEMBER 31, 2010**

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Gilson Labus & Silverman, LLC

Certified Public Accountants

229 W. Jackson Blvd.
Suite 750
Chicago, IL 60606-6908
(312) 386-8600
FAX (312) 386-1600

INDEPENDENT ACCOUNTANTS' COMPILATION REPORT

To the Member
Gold Coast Surgicenter, LLC

We have compiled the accompanying Balance Sheet of Gold Coast Surgicenter, LLC as of December 31, 2010 and related Statement of Loss and Member's Equity for the year then ended and the accompanying Supplementary Information, which is presented only for supplementary analysis purposes. We have not audited or reviewed the accompanying financial statements and supplementary schedules and, accordingly, do not express an opinion or provide any assurance about whether the financial statements and supplementary schedules are in accordance with accounting principles generally accepted in the United States of America.

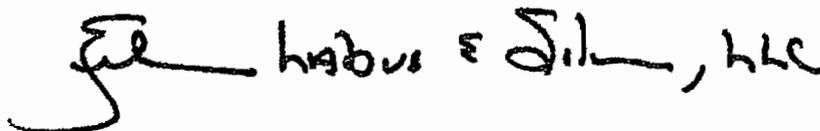
Management is responsible for the preparation and fair presentation of the financial statements and supplementary schedules in accordance with accounting principles generally accepted in the United States of America and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the financial statements and supplementary schedules.

Our responsibility is to conduct the compilation in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The objective of a compilation is to assist management in presenting financial information in the form of financial statements and supplementary schedules without undertaking to obtain or provide any assurance there are no material modifications that should be made to the financial statements and supplementary schedules. During our compilation, we did become aware of a departure from accounting principles generally accepted in the United State of America that is described in the following paragraph.

A statement of cash flows for the year ended December 31, 2010, has not been presented. Accounting principles generally accepted in the United States of America require that such a statement be presented when financial statements purport to present financial position and results of operations.

Management has elected to omit substantially all of the disclosures required by accounting principles generally accepted in the United State of America. If the omitted disclosures were included in the financial statements and supplementary schedules, they might influence the user's conclusion about the company's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

The accompanying financial statements do not include a provision or liability for federal income taxes because the member is taxed individually on Company earnings.

 Gilson Labus & Silverman, LLC

May 3, 2011

ATTACHMENT - 4 1 A

GOLD COAST SURGICENTER, LLC

BALANCE SHEET

DECEMBER 31, 2010

ASSETS

CURRENT ASSETS

Cash and cash equivalents	\$ 81,977
Accounts receivable, less contract allowance of \$2,702,290	1,214,934
Purchased receivables, net	179,701
Prepaid insurance, expenses and other receivables	135,443
Total current assets	1,612,055

PROPERTY AND EQUIPMENT

Cost	260,822
Accumulated depreciation	26,240
Total property and equipment	234,582

OTHER ASSETS

Certificate of Need	150,000
Goodwill	235,693
Security deposits	60,200
Total other assets	445,893

TOTAL ASSETS	\$ 2,292,530
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LIABILITIES AND MEMBER'S DEFICIT

CURRENT LIABILITIES

Accounts payable	\$ 263,921
Accrued payroll and related expenses	43,506
Note payable-Colonial Pacific	1,360,000
Note payable-Salerno & Associates	75,000
Current portion of long-term debt	10,367
Total current liabilities	1,752,794

LONG-TERM LIABILITIES

Notes payable-equipment	55,357
Due to affiliates	18,077
Due to member	675,593
Due to others	8,305
Total long-term liabilities	757,332

Total liabilities	2,510,126
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MEMBER'S DEFICIT	(217,596)
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TOTAL LIABILITIES AND MEMBER'S DEFICIT	\$ 2,292,530
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(See Accountants' Compilation Report)

GOLD COAST SURGICENTER, LLC

STATEMENTS OF LOSS AND MEMBER'S DEFICIT

FOR THE YEAR ENDED DECEMBER 31, 2010

LOSS

REVENUE	
Patient service revenue	\$ 5,525,392
Less contractual allowances	<u>2,702,290</u>
TOTAL REVENUE	<u>2,823,102</u>
OPERATING EXPENSES	
Facility expenses	1,118,289
Patient care expenses	935,659
Transportation expenses	83,762
Total operating expenses	<u>2,137,710</u>
GROSS PROFIT	<u>685,392</u>
GENERAL AND ADMINISTRATIVE	<u>960,096</u>
NET LOSS FROM OPERATIONS	<u>(274,704)</u>
OTHER INCOME (EXPENSE)	
Sub-lease income	52,714
Gain on the sale of assets	12,421
Interest, net	(9,027)
Total other income (expense)	<u>56,108</u>
NET LOSS	<u>\$ (218,596)</u>

MEMBER'S DEFICIT

CONTRIBUTIONS	\$ 1,000
NET LOSS	<u>(218,596)</u>
BALANCE, END OF YEAR	<u>\$ (217,596)</u>

(See Accountants' Compilation Report)

SUPPLEMENTARY INFORMATION

GOLD COAST SURGICENTER, LLC

SCHEDULE OF OPERATING EXPENSES

FOR THE YEAR ENDED DECEMBER 31, 2010

OPERATING EXPENSES

Facility expenses	
Rent	\$ 1,022,726
Depreciation expense	6,556
Repairs and maintenance	72,383
Utilities	16,624
Total facility expenses	<u>1,118,289</u>
Patient care expenses	
Operating wages	426,643
Payroll taxes	38,851
Fringe benefits	11,414
Depreciation expense	315
License fees	20,601
Medical equipment rental	79,997
Medical contract labor	23,431
Medical supplies and expenses	276,626
Medical transcript service	7,516
Parking expense	50,265
Total patient care expenses	<u>935,659</u>
Transportation expenses	
Wages	44,574
Payroll taxes	4,752
Fringe benefits	1,193
Depreciation expense	2,006
Insurance	5,102
Outside services	4,448
Repairs and maintenance expenses	3,213
Tolls and fuel expenses	18,474
Total transportation expenses	<u>83,762</u>
Total operating expenses	<u>\$ 2,137,710</u>

(See Accountants' Compilation Report)

GOLD COAST SURGICENTER, LLC

SCHEDULE OF GENERAL AND ADMINISTRATIVE EXPENSES

FOR THE YEAR ENDED DECEMBER 31, 2010

GENERAL AND ADMINISTRATIVE EXPENSES

Salaries and wages:	
Administrative salaries	\$ 336,356
Billing wages	35,215
Payroll taxes	34,608
Fringe benefits	9,941
Bank charges and fees	21,275
Collection service fees	192,358
Computer supplies and expenses	6,138
Depreciation expense	17,363
Dues and subscriptions	3,898
Equipment rental	6,905
Insurance	91,868
Marketing expenses	15,490
Moving expenses	2,363
Office supplies and expenses	21,118
Parking expenses	6,212
Professional fees	128,827
Telephone and communications	27,005
Travel and entertainment	3,156
	<hr/>
Total general and administrative expenses	\$ 960,096

(See Accountants' Compilation Report)

Gold Coast Surgicenter, LLC
 Projected Steady State Income Statement
 12 Months Ending June 30 of Year

Gold Coast Surgicenter Center, LLC
Business Planning Model

	Year 1 Total	Year 2 Total	Year 3 Total
REVENUE			
Revenue - Net	8,217,595	8,380,435	8,520,987
Patient Refunds	-	-	-
Uncollectible Accounts	-	-	-
Total Revenue	8,217,595	8,380,435	8,520,987
EXPENSES			
Salaries & Wages			
Administrative	110,000	110,000	110,000
Management	286,016	286,016	286,016
Clerical (Front Desk)	21,828	22,080	22,302
Nurses	557,131	563,058	569,242
Medical Technicians	83,154	84,038	84,962
Sterile Processing Technicians	65,484	66,180	66,907
Other	25,000	25,000	25,000
Temporary Help	-	-	-
	1,148,612	1,156,353	1,164,429
Employee Benefits			
Payroll Taxes (FICA/Medicare/UI/SDI)	91,889	92,508	93,154
Workers' Comp Insurance	16,540	16,951	16,768
Health Insurance	114,731	114,731	114,731
Dental Insurance	-	-	-
Vision Insurance	-	-	-
Disability Insurance	-	-	-
Life Insurance	-	-	-
401K Contribution	-	-	-
Profit Sharing Contribution	-	-	-
Employee Training/ Continuing Education	6,000	6,000	6,000
Other Employee Benefits	-	66	66
	229,160	229,957	230,719
Total Employment	1,377,772	1,386,309	1,395,149
Medical Supplies and Services			
Implants, Grafts, Tissue	1,861,041	1,901,052	1,921,934
Disposables	162,160	163,875	166,675
Medical Gas	21,520	21,850	22,090
Drugs	97,296	98,325	99,406
Medical Supplies	103,776	104,880	106,032
Laundry	54,000	54,000	54,000
Medical Waste	19,200	19,200	19,200
Medical Equipment Rental	72,000	72,000	72,000
Medical Equipment Service	36,000	36,000	36,000
Medical Services	3,000	3,000	3,000
	2,450,077	2,474,182	2,499,338

Gold Coast Surgicenter, LLC
 Projected Steady State Income Statement
 12 Months Ending June 30 of Year

Gold Coast Surgicenter Center, LLC
Business Planning Model

	Year 1 Total	Year 2 Total	Total
Operating Expenses			
Office Supplies	32,400	32,400	32,400
Postage & Delivery	12,000	12,000	12,000
Telephone and Internet	6,000	6,000	6,000
Computer Hardware/Software/Supplies under \$1000	1,200	1,200	1,200
Software Maintenance Contracts	32,892	32,892	32,892
Office Equipment Rental	1,800	1,800	1,800
Office Equipment Service	1,200	1,200	1,200
Printing and Copy Expense	1,200	1,200	1,200
Dues & Subscriptions	1,500	1,500	1,500
Credit Card Merchant Fees	12,328	12,571	12,781
Operating Expense Other	1,080	1,080	1,080
	103,598	103,843	104,053
Outside Services			
Medical Billing	213,657	217,891	221,548
Transcription Services	10,810	10,925	11,045
Computer Services	7,200	7,200	7,200
Payroll Processing Fees	7,200	7,200	7,200
Management Services	328,704	335,217	340,839
Outside Services - Other	-	-	-
	567,571	578,434	587,830
Facilities			
Rent	1,106,712	1,106,712	1,106,712
Rent Equalization	-	-	-
CAM	60,000	60,000	60,000
Utilities	42,000	42,000	42,000
Security	3,900	3,900	3,900
Janitorial Service	18,000	18,000	18,000
Trash	11,400	11,400	11,400
Pest Control	972	972	972
Repairs & Maintenance - Facility	11,000	12,000	12,000
Property Taxes	10,200	10,200	10,200
Property Insurance	3,440	3,440	3,440
Other Occupancy Expense	-	-	-
	1,287,624	1,268,624	1,268,624
Travel & Entertainment			
Staff Meals 100%	4,800	4,800	4,800
Airfare	6,000	6,000	6,000
Hotel	6,000	6,000	6,000
Patient Transport	12,000	12,000	12,000
Parking	75,870	76,475	77,315
Gasoline	-	-	-
Mileage	-	-	-
Entertainment	1,800	1,800	1,800
	106,270	107,075	107,915

Gold Coast Surgicenter, LLC
 Projected Steady State Income Statement
 12 Months Ending June 30 of Year

Gold Coast Surgicenter Center, LLC
Business Planning Model

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
	Total	Total	Total
Administrative Expense			
Executive Stipends	48,000	48,000	48,000
Audit/ Accounting/ Tax Prep Services	24,000	24,000	24,000
Legal Services	6,000	6,000	6,000
Professional & Consulting Services	-	-	-
Recruiting Expense	6,000	6,000	6,000
Advertising & Promotion	3,600	3,600	3,600
Gifts	1,200	1,200	1,200
Licenses & Permits	12,000	12,000	12,000
Personal Property Tax	-	-	-
Franchise Tax/ LLC Fee	-	-	-
DE Tax	-	-	-
Professional & General Liability Insurance	18,000	18,000	18,000
Business Owners	-	-	-
D&O	3,720	3,720	3,720
Malpractice	66,000	66,000	66,000
Other Administrative Expense	-	-	-
	<u>188,520</u>	<u>188,520</u>	<u>188,520</u>
TOTAL OPERATING EXPENSES	6,061,433	6,106,987	6,161,427
EBITDA	2,156,162	2,273,448	2,369,660
Other Income & Expense			
Interest Income	-	-	-
Interest Expense	-	-	-
Illinois Business Tax	21,744	27,338	21,226
Bank Service Charges	600	600	600
Gain/Loss on Sale of Assets	-	-	-
Other Income & Expense	-	-	-
	<u>22,344</u>	<u>27,938</u>	<u>21,826</u>
Depreciation & Amortization			
Depreciation	267,204	267,204	267,204
Amortization	234,000	234,000	234,000
	<u>501,204</u>	<u>501,204</u>	<u>501,204</u>
NET INCOME	<u>1,632,614</u>	<u>1,744,306</u>	<u>1,846,531</u>

Gold Coast Surgicenter, LLC
 Projected Balance Sheet
 June 30 of Year

	Year 2		
	Month 12	Month 12	Month 12
ASSETS			
Current Assets			
Checking/Savings	\$ 201,440	\$ 346,495	\$ 353,776
Total Checking/Savings	201,440	346,495	353,776
Accounts Receivable	1,394,467	1,417,893	1,441,318
Total Accounts Receivable	1,394,467	1,417,893	1,441,318
Other Current Assets			
Prepaid Expenses	135,000	135,000	135,000
Inventory	100,000	100,000	100,000
Total Other Current Assets	235,000	235,000	235,000
Total Current Assets	1,830,907	1,899,388	2,030,094
Fixed Assets			
Equipment - Medical			
Accumulated Depreciation	(260,004)	(520,008)	(780,012)
Equipment - Medical	1,575,000	1,575,000	2,176,000
Total Equipment - Medical	1,314,996	1,354,992	1,394,988
Furniture & Equipment - Office			
Accumulated Depreciation	(7,200)	(14,400)	(21,600)
Furniture & Equipment - Office	35,000	35,000	35,000
Total Equipment - Office	27,800	20,600	13,400
Leasehold Improvements			
Accumulated Depreciation	-	-	-
Building and Improvements	-	-	-
Total Leasehold Improvements	-	-	-
Organization Costs			
Accumulated Amortization	(48,000)	(96,000)	(144,000)
Organization Costs	240,000	240,000	240,000
Total Organization Costs	192,000	144,000	96,000
Total Fixed Assets	1,534,796	1,519,592	1,504,388
Other Assets			
Accumulated Amortization	(188,000)	(372,000)	(558,000)
Certificate Of Need	150,000	150,000	150,000
Goodwill	1,844,800	1,844,800	1,844,800
Security Deposits	60,200	60,200	60,200
Rounding	-	-	-
Total Other Assets	1,669,000	1,683,000	1,497,000
TOTAL ASSETS	\$ 5,234,703	\$ 5,201,980	\$ 5,031,482

Gold Coast Surgicenter, LLC
 Projected Balance Sheet
 June 30 of Year

	Year 2		
	Month 12	Month 12	Month 12
LIABILITIES & EQUITY			
Liabilities			
Current Liabilities			
Accounts Payable/Accrued Expenses	\$ 302,085	\$ 305,051	\$ 308,018
Other Current Liabilities			
Payroll Liabilities	50,000	50,000	50,000
Line of Credit	-	-	-
Total Other Current Liabilities	<u>50,000</u>	<u>50,000</u>	<u>50,000</u>
Total Current Liabilities	<u>352,085</u>	<u>355,051</u>	<u>358,018</u>
Long Term Liabilities			
Equipment Loan	880,004	860,008	440,012
Total Long Term Liabilities	<u>880,004</u>	<u>860,008</u>	<u>440,012</u>
Total Liabilities	<u>1,232,089</u>	<u>1,015,059</u>	<u>798,030</u>
Equity			
Capital Stock	2,850,000	2,850,000	2,850,000
Retained Earnings	1,129,347	1,316,124	1,372,198
Shareholder Distributions	(120,000)	(130,000)	(150,000)
Net Income	142,267	150,797	161,256
Total Equity	<u>4,002,614</u>	<u>4,186,922</u>	<u>4,233,452</u>
TOTAL LIABILITIES & EQUITY	<u>\$ 5,234,703</u>	<u>\$ 5,201,980</u>	<u>\$ 5,031,482</u>

Gold Coast Surgcenter, LLC
Projected Statements of Cash Flows

	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 8	Month 9	Month 10	Month 11	Month 12
CASH FLOWS FROM OPERATING ACTIVITIES:													
Net Income	\$ 134,085	\$ 136,801	\$ 149,548	\$ 128,788	\$ 154,968	\$ 149,494	\$ 149,428	\$ 194,868	\$ 143,961	\$ 149,829	\$ 149,775	\$ 134,775	\$ 143,287
Adjustments to reconcile net income to net cash provided by operating activities:													
Depreciation and Amortization	41,767	41,767	41,767	41,767	41,767	41,767	41,767	41,767	41,767	41,767	41,767	41,767	41,767
Change in Assets and Liabilities:													
Decrease (Increase) in accounts receivable	(538,528)	(108,258)	(132,082)	(81,264)	(224,848)	(82,804)	(68,723)	(42,027)	(97,422)	(68,723)	90,774	90,774	(80,774)
Decrease (Increase) in other current assets	284,103	(1,874)	11,888	(11,986)	6,565	5,392	-	(5,392)	3,351	-	-	(5,392)	5,392
Increase (Decrease) in payroll liabilities	10,000	-	-	-	-	-	-	-	-	-	-	-	-
Net cash provided by operating activities	(66,672)	59,256	82,239	125,285	(41,254)	97,808	115,467	129,218	93,088	113,979	201,925	201,925	159,651
CASH FLOWS FROM INVESTING ACTIVITIES:													
Payments for purchase of property, plant and equipment	-	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)
Payments for purchase of intangible assets	-	-	-	-	-	-	-	-	-	-	-	-	-
Payments for the purchase of other assets	-	-	-	-	-	-	-	-	-	-	-	-	-
Net cash used for investing activities	-	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)
CASH FLOWS FROM FINANCING ACTIVITIES:													
Proceeds from borrowings	-	-	-	-	-	-	-	-	-	-	-	-	-
Repayment of debt	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)
Common Stock Purchase	-	-	-	-	-	-	-	-	-	-	-	-	-
Distributions paid	-	-	-	-	-	-	-	-	(120,000)	(120,000)	(120,000)	(120,000)	(120,000)
Net Cash provided by (Used in) Financing activities	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)
Net Increase (Decrease) in cash	(88,005)	15,963	18,906	81,963	(84,597)	54,475	71,134	85,865	(70,294)	(47,960)	38,892	38,892	(5,682)
Cash at beginning of Month	125,000	99,995	55,957	71,864	156,815	72,228	135,704	199,838	284,724	214,489	156,529	156,529	205,122
Cash at end of Month	\$ 99,995	\$ 55,957	\$ 74,864	\$ 156,815	\$ 72,229	\$ 126,704	\$ 199,838	\$ 284,724	\$ 214,489	\$ 168,529	\$ 205,122	\$ 205,122	\$ 201,440

CASH FLOWS FROM OPERATING ACTIVITIES:
Net Income
Adjustments to reconcile net income to net cash provided by operating activities:
Depreciation and Amortization
Change in Assets and Liabilities:
Decrease (Increase) in accounts receivable
Decrease (Increase) in other current assets
Increase (Decrease) in accounts payable
Increase (Decrease) in payroll liabilities

Net cash provided by operating activities
CASH FLOWS FROM INVESTING ACTIVITIES:
Payments for purchase of property, plant and equipment
Payments for purchase of intangible assets
Payments for the purchase of other assets

Net cash used for investing activities
CASH FLOWS FROM FINANCING ACTIVITIES:
Proceeds from borrowings
Repayment of debt
Common Stock Purchase
Distributions paid

Net Cash provided by (Used in) Financing activities
Net Increase (Decrease) in cash
Cash at beginning of Month
Cash at end of Month

Gold Coast Suppliment, LLC
Projected Statement of Cash Flows

	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12
CASH FLOWS FROM OPERATING ACTIVITIES:												
Net income	\$ 142,628	\$ 134,341	\$ 151,087	\$ 134,276	\$ 151,022	\$ 150,890	\$ 130,858	\$ 142,409	\$ 130,853	\$ 150,861	\$ 134,050	\$ 150,797
Adjustments to reconcile net income to net cash provided by operating activities:												
Depreciation and Amortization	41,787	41,787	41,787	41,787	41,787	41,787	41,787	41,787	41,787	41,787	41,787	41,787
Change in Assets and Liabilities	7,949	31,324	(84,098)	64,098	(84,098)	-	-	90,774	(80,774)	-	84,098	(84,098)
Decrease (Increase) in accounts receivable												
Decrease (Increase) in other current assets												
Increase (Decrease) in accounts payable	(2,424)	(6,585)	11,956	(11,956)	11,956	-	-	(3,391)	5,951	-	(11,956)	11,956
Increase (Decrease) in payroll liabilities												
Net cash provided by operating activities	189,520	202,867	140,711	228,185	140,647	150,757	152,725	209,535	187,277	192,628	227,980	140,421
CASH FLOWS FROM INVESTING ACTIVITIES:												
Payments for purchase of property, plant and equipment	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)
Payments for the purchase of other assets												
Net cash used for investing activities	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)
CASH FLOWS FROM FINANCING ACTIVITIES:												
Proceeds from borrowings	(18,833)	(18,833)	(18,833)	(18,833)	(18,833)	(18,833)	(18,833)	(18,833)	(18,833)	(18,833)	(18,833)	(18,833)
Repayment of debt												
Common Stock Purchase	(130,000)	(130,000)	(130,000)	(130,000)	(130,000)	(130,000)	(130,000)	(130,000)	(130,000)	(130,000)	(130,000)	(130,000)
Distributions paid	(148,383)	(148,383)	(148,383)	(148,383)	(148,383)	(148,383)	(148,383)	(148,383)	(148,383)	(148,383)	(148,383)	(148,383)
Net cash provided by (Used in) Financing activities	18,967	29,594	(12,672)	54,852	(12,686)	19,424	19,892	34,220	(6,056)	19,295	54,827	(52,912)
Net Increase (Decrease) in cash	201,440	217,428	206,940	214,959	206,191	236,948	233,929	275,921	311,541	305,485	324,780	379,407
Cash at beginning of Month	\$ 217,428	\$ 246,980	\$ 214,359	\$ 269,191	\$ 256,905	\$ 243,929	\$ 275,921	\$ 311,541	\$ 305,485	\$ 324,780	\$ 379,407	\$ 348,495
Cash at end of Month												

Gold Coast Surgicenter, LLC
Projected Statement of Cash Flows

	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12
CASH FLOWS FROM OPERATING ACTIVITIES:												
Net Income	\$ 150,200	\$ 141,912	\$ 159,659	\$ 141,848	\$ 159,394	\$ 159,562	\$ 159,590	\$ 149,975	\$ 161,299	\$ 161,299	\$ 144,478	\$ 164,298
Adjustments to reconcile net income to net cash provided by operating activities:												
Depreciation and Amortization	41,767	41,767	41,767	41,767	41,767	41,767	41,767	41,767	41,767	41,767	41,767	41,767
Change in Assets and Liabilities:												
Decrease (increase) in accounts receivable	7,349	59,374	(64,098)	64,098	(64,098)	-	-	30,774	(30,774)	-	64,098	(64,098)
Decrease (increase) in other current assets	-	-	-	-	-	-	-	-	-	-	-	-
Increase (decrease) in accounts payable	(2,424)	(6,568)	11,856	(11,956)	11,856	-	(5,391)	5,391	-	-	(11,956)	11,956
Increase (decrease) in payroll liabilities	-	-	-	-	-	-	-	-	-	-	-	-
Net cash provided by operating activities	196,892	210,438	149,329	255,737	168,219	200,825	200,297	217,125	277,648	209,023	298,888	150,881
CASH FLOWS FROM INVESTING ACTIVITIES:												
Payments for purchase of property, plant and equipment	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)
Payments for purchase of intangible assets	-	-	-	-	-	-	-	-	-	-	-	-
Payments For the purchase of other assets	-	-	-	-	-	-	-	-	-	-	-	-
Net cash used for investing activities	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)
CASH FLOWS FROM FINANCING ACTIVITIES:												
Proceeds from borrowings	-	-	-	-	-	-	-	-	-	-	-	-
Repayment of debt	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)	(18,393)
Common Stock Purchase	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)
Distributions paid	(189,393)	(189,393)	(189,393)	(189,393)	(189,393)	(189,393)	(189,393)	(189,393)	(189,393)	(189,393)	(189,393)	(189,393)
Net Cash provided by (Used in) Financing activities	3,514	27,106	(48,080)	42,424	(45,114)	6,996	6,996	23,782	(18,690)	9,692	48,035	(42,452)
Net Increase (Decrease) in cash	346,485	367,054	367,159	367,110	367,554	367,420	367,416	367,416	367,416	367,416	367,416	367,416
Cash at beginning of Month	\$ 850,054	\$ 367,159	\$ 524,119	\$ 364,534	\$ 319,420	\$ 326,416	\$ 333,380	\$ 357,171	\$ 341,481	\$ 351,179	\$ 396,228	\$ 359,776
Cash at end of Month												

SECTION X. PART 1120.140 ECONOMIC FEASIBILITY

Continue i

Economic Feasibility

This section is applicable to all projects subject to Part 1120.

A. Reasonableness of Financing Arrangements

The applicant shall document the reasonableness of financing arrangements by submitting a notarized statement signed by an authorized representative that attests to one of the following:

1. That the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation; or

Appended as **ATTACHMENT-42A**, is documentation that the total estimated project costs will be funded in total with cash. **ATTACHMENT-42B** is the documentation that the cash is being held in escrow by McGuireWoods, LP.

2. That the total estimated project costs and related costs will be funded in total or in part by borrowing because:

This item is not applicable as the total estimated project costs will be funded through internal sources, i.e., cash.

B. Conditions of Debt Financing

This criterion is applicable only to projects that involve debt financing. The applicant shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:

This item is not applicable as the total estimated project costs will be funded through internal sources, i.e., cash.

ATTACHMENT-42

SECTION X. PART 1120.140 ECONOMIC FEASIBILITY

Continue ii

D. Projected Operating Costs

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct cost means the fully allocated costs of salaries, benefits and supplies for the service.

Salaries	\$1,156,353	
Supplies	\$2,474,182	
Welfare and Benefits	\$ 229,957	
Total Direct Cost	\$3,860,492	
Year of Target Utilization		2014/2015
Treatments Per Year	2,186	
Resultant Costs Per Treatment		\$1,766.01

E. Total Effect of the Project on Capital Costs

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

Facility Costs	\$1,268,624	
Depreciation	\$ 267,204	
Amortization	\$ 234,000	
Total Annual Capital Costs	\$1,769,828	
Year of Target Utilization		2014/2015
Treatments Per Year	2,186	
Capital Cost Per Treatment		\$809.62

GOLD COAST SURGICENTER, LLC

April 9, 2013

Ms. Courtney Avery, Administrator
Illinois Health Facilities and Services Review Board
525 West Jefferson Street, Second Floor
Springfield, Illinois 62761

Re: Criterion 1120.140.A Reasonableness of Financing Arrangements

Dear Ms. Avery:

Regarding the above referenced criterion, we hereby certify that the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation.

Sincerely,


Roberto Diaz, MD

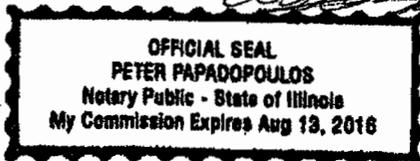
State of Illinois

County of Cook

Sworn to before me this

10th day of April, 2013

Notary Public 



ATTACHMENT-42A

845 NORTH MICHIGAN AVENUE, SUITE 985 WEST, CHICAGO ILLINOIS 60611
TEL: 312-521-5500 FAX: 312-202-0492 & 312-202-0908

John Kniery

From: Suh, Helen H. [HSuh@mcguirewoods.com]
Sent: Wednesday, April 10, 2013 10:02 AM
To: John Kniery
Cc: Szabad, Melissa; 'MJSilberman@duanemorris.com'
Subject: Gold Coast Surgicenter

Mr. Kniery,

Mark Silberman has asked me to send you a note on the status of the funds escrowed in connection with the proposed acquisition of ownership interest in Gold Coast Surgicenter, LLC. McGuireWoods LLP is administering two escrow accounts for the purchasing physicians. The first is fully funded and holds \$150,000. This amount represents the escrow deposit required by the purchase agreement. The second is intended to hold the balance of the purchase price to facilitate the CON review process. As of this morning, six physicians have made their deposits for a total of \$876,923.06. Please let me know if you have any questions. Thank you.

Regards,

Helen Suh
McGuireWoods LLP
77 West Wacker Drive
Suite 4100
Chicago, IL 60601-1818
312.849.8248 (Direct Line)
312.698.4532 (Direct FAX)
hsuh@mcguirewoods.com

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading or forwarding to others.

SECTION XI. SAFETY NET IMPACT

Continue I

SAFETY NET IMPACT STATEMENT that describes all of the following must be submitted for ALL SUBSTANTIVE AND DISCONTINUATION PROJECTS:

1. The project's material impact, if any, on essential safety net services in the community, to the extent that it is feasible for an applicant to have such knowledge.

The project is not a newly developed ASTC, nor are any new services being proposed. The only material change is the more optimal utilization of an existing health care resource. Therefore, the Applicant has no knowledge of any material impact that this project will have on any essential safety net services in the area.

2. The project's impact on the ability of another provider or health care system to cross-subsidize safety net services, if reasonably known to the applicant.

The project is not a newly developed ASTC, nor are any new services being proposed. The only material change is the more optimal utilization of an existing health care resource. Therefore, the Applicant has no knowledge of any material impact that this project will have on any essential safety net services in the area.

3. How the discontinuation of a facility or service might impact the remaining safety net providers in a given community, if reasonably known by the applicant.

This item appears to not be germane as there is not any discontinuation of facility or service.