

ILLINOIS HEALTH FACILITIES PLANNING BOARD
APPLICATION FOR EXEMPTION FOR THE
CHANGE OF OWNERSHIP FOR AN EXISTING HEALTH CARE FACILITY

RECEIVED

JUL 25 2016

1. INFORMATION FOR EXISTING FACILITY

HEALTH FACILITIES & SERVICES REVIEW BOARD

Current Facility Name Castle Surgicenter, LLC
Address 2111 Ogden Avenue
City Aurora Zip Code 60504 County Kane
Name of current licensed entity for the facility Castle Surgicenter, LLC
Does the current licensee: own this facility OR lease this facility X (if leased, check if sublease)
Type of ownership of the current licensed entity (check one of the following:) Sole Proprietorship
Not-for-Profit Corporation For Profit Corporation Partnership Governmental
X Limited Liability Company Other, specify
Illinois State Senator for the district where the facility is located: Sen. Linda Holmes
State Senate District Number 42 Mailing address of the State Senator 76 S. LaSalle Street, Suite 202, Aurora, IL 60505
Illinois State Representative for the district where the facility is located: Rep. Stephanie A. Kifowit
State Representative District Number 84 Mailing address of the State Representative 1677 Montgomery Rd., Ste. 116, Aurora, IL 60504

2. OUTSTANDING PERMITS. Does the facility have any projects for which the State Board issued a permit that will not be completed (refer to 1130.140 "Completion or Project Completion" for a definition of project completion) by the time of the proposed ownership change? Yes No X. If yes, refer to Section 1130.520(f), and indicate the projects by Project #

3. FACILITY'S OTHER CATEGORIES OF SERVICE AS DEFINED IN 77 IAC 1100 (Complete "APPENDIX A" attached to this application)

4. NAME OF APPLICANT (complete this information for each co-applicant and insert after this page).

Exact Legal Name of Applicant Rush-Copley Surgicenter, LLC
Address 2000 Ogden Avenue
City, State & Zip Code Aurora, IL 60504
Type of ownership of the proposed licensed entity (check one of the following:) Sole Proprietorship
Not-for-Profit Corporation For Profit Corporation Partnership Governmental
X Limited Liability Company Other, specify

5. NAME OF LEGAL ENTITY THAT WILL BE THE LICENSEE/OPERATING ENTITY OF THE FACILITY NAMED IN THE APPLICATION AS A RESULT OF THIS TRANSACTION.

Exact Legal Name of Entity to be Licensed Rush-Copley Surgicenter, LLC
Address 2111 Ogden Avenue
City, State & Zip Code Aurora, IL 60504
Type of ownership of the proposed licensed entity (check one of the following:) Sole Proprietorship
Not-for-Profit Corporation For Profit Corporation Partnership Governmental
X Limited Liability Company Other, specify

6. BUILDING/SITE OWNERSHIP. NAME OF LEGAL ENTITY THAT WILL OWN THE "BRICKS AND MORTAR" (BUILDING) OF THE FACILITY NAMED IN THIS APPLICATION IF DIFFERENT FROM THE OPERATING/LICENSED ENTITY

Exact Legal Name of Entity That Will Own the Site TPSS, LLC
Address 2111 Ogden Avenue
City, State & Zip Code Aurora, IL 60504
Type of ownership of the current licensed entity (check one of the following:) Sole Proprietorship
Not-for-Profit Corporation For Profit Corporation Partnership Governmental
X Limited Liability Company Other, specify

4. **NAME OF CO-APPLICANT** (complete this information for each co-applicant and insert after this page).

Exact Legal Name of Applicant Copley Memorial Hospital, Inc.

Address 2000 Ogden Avenue

City, State & Zip Code Aurora, IL 60504

Type of ownership of the co-applicant (check one of the following:) Sole Proprietorship
 Not-for-Profit Corporation For Profit Corporation Partnership Governmental
 Limited Liability Company Other, specify _____

4. **NAME OF CO-APPLICANT** (complete this information for each co-applicant and insert after this page).

Exact Legal Name of Applicant Rush-Copley Medical Center, Inc.

Address 2000 Ogden Avenue

City, State & Zip Code Aurora, IL 60504

Type of ownership of the co-applicant (check one of the following:) Sole Proprietorship
 Not-for-Profit Corporation For Profit Corporation Partnership Governmental
 Limited Liability Company Other, specify _____

7. **TRANSACTION TYPE. CHECK THE FOLLOWING THAT APPLY TO THE TRANSACTION:**
- Purchase resulting in the issuance of a license to an entity different from current licensee;
 - Lease resulting in the issuance of a license to an entity different from current licensee;
 - Stock transfer resulting in the issuance of a license to a different entity from current licensee;
 - Stock transfer resulting in no change from current licensee;
 - Assignment or transfer of assets resulting in the issuance of a license to an entity different from the current licensee;
 - Assignment or transfer of assets not resulting in the issuance of a license to an entity different from the current licensee;
 - Change in membership or sponsorship of a not-for-profit corporation that is the licensed entity;
 - Change of 50% or more of the voting members of a not-for-profit corporation's board of directors that controls a health care facility's operations, license, certification or physical plant and assets;
 - Change in the sponsorship or control of the person who is licensed, certified or owns the physical plant and assets of a governmental health care facility;
 - Sale or transfer of the physical plant and related assets of a health care facility not resulting in a change of current licensee;
 - Any other transaction that results in a person obtaining control of a health care facility's operation or physical plant and assets, and explain in "Attachment 3 Narrative Description"
8. **APPLICATION FEE.** Submit the application fee in the form of a check or money order for \$2,500 payable to the Illinois Department of Public Health and append as **ATTACHMENT #1.**
9. **FUNDING.** Indicate the type and source of funds which will be used to acquire the facility (e.g., mortgage through Health Facilities Authority; cash gift from parent company, etc.) and append as **ATTACHMENT #2.**
10. **ANTICIPATED ACQUISITION PRICE:** \$ 13,620,000
11. **FAIR MARKET VALUE OF THE FACILITY:** \$ 14,303,190
(to determine fair market value, refer to 77 IAC 1130.140)
12. **DATE OF PROPOSED TRANSACTION:** October 1, 2016
13. **NARRATIVE DESCRIPTION.** Provide a narrative description explaining the transaction, and append it to the application as **ATTACHMENT #3.**
14. **BACKGROUND OF APPLICANT** (co-applicants must also provide this information). Corporations and Limited Liability Companies must provide a current Certificate of Good Standing from the Illinois Secretary of State. Limited Liability Companies and Partnerships must provide the name and address of each partner/ member and specify the percentage of ownership of each. Append this information to the application as **ATTACHMENT #4.**
15. **TRANSACTION DOCUMENTS.** Provide a copy of the complete transaction document(s) including schedules and exhibits which detail the terms and conditions of the proposed transaction (purchase, lease, stock transfer, etc). Applicants should note that the document(s) submitted should reflect the applicant's (and co-applicant's, if applicable) involvement in the transaction. The document must be signed by both parties and contain language stating that the transaction is contingent upon approval of the Illinois Health Facilities Planning Board. Append this document(s) to the application as **ATTACHMENT #5.**
17. **FINANCIAL STATEMENTS.** (Co-applicants must also provide this information) Provide a copy of the applicants latest audited financial statements, and append it to this application as **ATTACHMENT #6.** If the applicant is a newly formed entity and financial statements are not available, **please** indicate by checking YES , and indicate the date the entity was formed NO LONGER APPLICABLE
18. **PRIMARY CONTACT PERSON.** Individual representing the applicant to whom all correspondence and inquiries pertaining to this application are to be directed. (Note: other persons representing the applicant not named below will need written authorization from the applicant stating that such persons are also authorized to represent the applicant in relationship to this application).

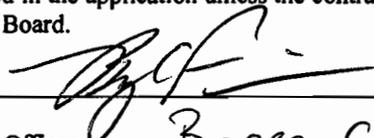
Name: Ms. Gail Bumgarner, Senior Vice President Strategy, Rush-Copley Medical Center
Address: 2000 Ogden Avenue
City, State & Zip Code: Aurora, IL 60504
Telephone (630) Ext. 978-4972

19. **ADDITIONAL CONTACT PERSON.** Consultant, attorney, other individual who is also authorized to discuss this application and act on behalf of the applicant.

Name: Andrea R. Rozran, Principal, Diversified Health Resources, Inc.
Address: 65 E. Scott Street, Suite 9A
City, State & Zip Code: Chicago, Illinois 60610-5274
Telephone (312) Ext. 266-0466

20. **CERTIFICATION**

I certify that the above information and all attached information are true and correct to the best of my knowledge and belief. I certify that the number of beds within the facility will not change as part of this transaction. I certify that no adverse action has been taken against the applicant(s) by the federal government, licensing or certifying bodies, or any other agency of the State of Illinois. I certify that I am fully aware that a change in ownership will void any permits for projects that have not been completed unless such projects will be completed or altered pursuant to the requirements in 77 IAC 1130.520(f) prior to the effective date of the proposed ownership change. I also certify that the applicant has not already acquired the facility named in this application or entered into an agreement to acquire the facility named in the application unless the contract contains a clause that the transaction is contingent upon approval by the State Board.

Signature of Authorized Officer 

Typed or Printed Name of Authorized Officer Brian C. Finn

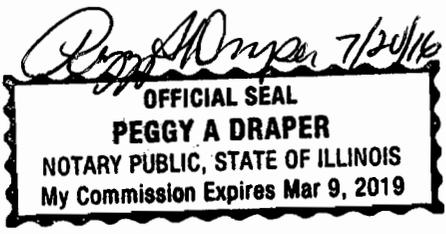
Title of Authorized Officer: President + CEO

Address: Rush-Copley Surgicenter, LLC, 2000 Ogden Avenue,

City, State & Zip Code: Aurora, IL 60504

Telephone (630) 978-4976 Date: 7/20/16

NOTE: complete a separate signature page for each co-applicant and insert following this page.

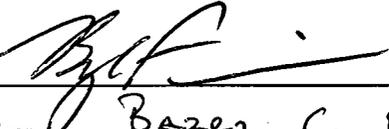


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Signature of Authorized Officer 

Typed or Printed Name of Authorized Officer Bazer C. Finn

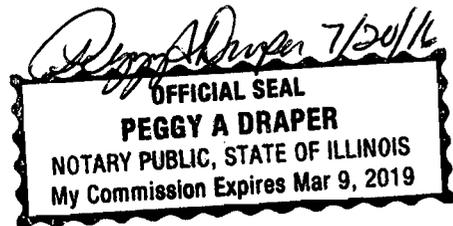
Title of Authorized Officer: President + CEO

Address: Copley Memorial Hospital, Inc., 2000 Ogden Avenue.

City, State & Zip Code: Aurora, IL 60504

Telephone (630) 978-4976 Date: 7/20/16

NOTE: complete a separate signature page for each co-applicant and insert following this page.



19. **ADDITIONAL CONTACT PERSON.** Consultant, attorney, other individual who is also authorized to discuss this application and act on behalf of the applicant.

Name: Andrea R. Rozran, Principal, Diversified Health Resources, Inc.
Address: 65 E. Scott Street, Suite 9A
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Signature of Authorized Officer 

Typed or Printed Name of Authorized Officer Barry C. Finn

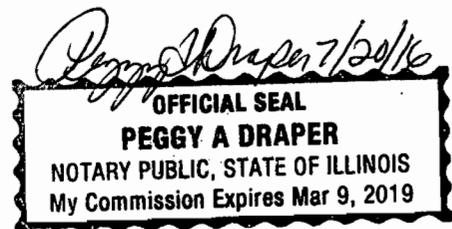
Title of Authorized Officer: President + CEO

Address: Rush-Copley Medical Center, Inc, 2000 Ogden Avenue,

City, State & Zip Code: Aurora, IL 60504

Telephone (630) 978-4976 Date: 7/20/16

NOTE: complete a separate signature page for each co-applicant and insert following this page.



**Appendix A
Surgical Services at Castle Surgicenter**

Castle Surgicenter, LLC, provides the following ASTC services for Non-Hospital Based Ambulatory Surgical Treatment Centers (ASTCs), as defined in 77 Ill. Adm. Code 1110.APPENDIX A, ASTC Services.

Orthopedic Surgery
Pain Management
Podiatric Surgery

The sources for identification of these services are the following:

- Castle Surgicenter's Ambulatory Surgical Treatment Center Profile – 2014, reported by the Illinois Department of Public Health, Health Systems Development, based on Castle Surgicenter's Ambulatory Surgical Treatment Center Questionnaire for 2014;
- Castle Surgicenter's Ambulatory Surgical Treatment Center Questionnaire for 2015, submitted to the Illinois Department of Public Health, Health Systems Development.

The current Ambulatory Surgery Treatment Center license for Castle Surgicenter, LLC, is found on the next page of this Appendix.



**Illinois Department of
PUBLIC HEALTH**

HF109469

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.

Nirav D. Shah, M.D.,J.D.
Director

Issued under the authority of
the Illinois Department of
Public Health

EXPIRATION DATE	CATEGORY	I.D NUMBER
12/9/2016		7002611
Ambulatory Surgery Treatment Center		
Effective: 12/10/2015		

Castle Surgicenter, LLC
2111 Ogden Avenue
Aurora, IL 60504

The face of this license has a colored background. Printed by Authority of the State of Illinois • P.O. #4012320 10M 3/12

ATTACHMENT 1

**Attachment 1
Application Fee**

A check for the application fee of \$2,500.00 payable to the Illinois Department of Public Health is attached to this page.

ATTACHMENT 2

ATTACHMENT 2

**Attachment 2
Funding**

This transaction will be funded with cash.

Copley Memorial Hospital, which is the sole member of Rush-Copley Surgicenter, LLC, will provide the cash to fund this acquisition.

The following pages of this Attachment include copies of the balance sheets from the 2015 audited financial statements of Copley Memorial Hospital its parent, Rush-Copley Medical Center, which document that Copley Memorial Hospital has sufficient cash to fund this acquisition.

Rush-Copley Medical Center, Inc. and Subsidiaries

Consolidated Financial Statements as of and for the
Years Ended June 30, 2015 and 2014, and
Independent Auditors' Report

RUSH-COPLEY MEDICAL CENTER, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS AS OF JUNE 30, 2015 AND 2014 (Dollars in thousands)

	2015	2014		2015	2014
ASSETS			LIABILITIES AND NET ASSETS		
CURRENT ASSETS:			CURRENT LIABILITIES:		
Cash and cash equivalents	\$ 19,930	\$ 23,536	Accounts payable	\$ 12,929	\$ 18,650
Accounts receivable for patient services—net of allowance for doubtful accounts of \$13,055 and \$10,396 in 2015 and 2014, respectively	50,261	45,069	Accrued expenses	27,027	23,721
Other current assets	14,341	14,089	Accrued liabilities under retained risk insurance programs	5,895	7,526
Total current assets	<u>84,532</u>	<u>82,694</u>	Estimated third-party settlements payable	45,247	39,630
			Current portion of long-term debt	1,062	1,064
ASSETS WHOSE USE IS LIMITED—Investments:			Total current liabilities	<u>92,160</u>	<u>90,591</u>
Limited as to use for donor purposes	4,712	4,868	LONG-TERM LIABILITIES:		
Held by trustee under bond indenture	-	9,073	Accrued liabilities under retained risk insurance programs	27,114	38,720
Endowment	7,709	6,849	Long-term debt—less current portion	109,984	95,283
Other restricted investments	14,145	13,940	Deferred financing obligation	-	6,553
Total assets whose use is limited	<u>26,566</u>	<u>34,730</u>	Deferred gain on sale—POB I	8,845	10,346
INVESTMENTS	<u>238,058</u>	<u>219,723</u>	Fair value of swaps	8,417	7,312
PROPERTY AND EQUIPMENT—Net of accumulated depreciation of \$227,215 and \$215,335 as of June 30, 2015 and 2014, respectively	<u>171,112</u>	<u>168,654</u>	Other long-term liabilities	6,169	5,155
OTHER ASSETS	17,121	26,116	Total long-term liabilities	<u>160,529</u>	<u>163,369</u>
Total	<u>\$537,389</u>	<u>\$531,917</u>	Total liabilities	<u>252,689</u>	<u>253,960</u>
			NET ASSETS:		
			Unrestricted	272,161	266,026
			Temporarily restricted	4,830	5,178
			Permanently restricted	7,709	6,753
			Total net assets	<u>284,700</u>	<u>277,957</u>
			TOTAL	<u>\$537,389</u>	<u>\$531,917</u>

See notes to consolidated financial statements.

RUSH-COPELEY MEDICAL CENTER, INC. AND SUBSIDIARIES
CONSOLIDATING BALANCE SHEET
AS OF JUNE 30, 2015
(Dollars in thousands)

	CMH	RCMC	FOUNDATION	RCMO	VENTURES	Eliminations	Consolidated		CMH	RCMC	FOUNDATION	RCMO	VENTURES	Eliminations	Consolidated
ASSETS															
CURRENT ASSETS:															
Cash and cash equivalents	\$ 18,208	\$ 20	\$ 528	\$ 2,157	\$ 1,019	\$ -	\$ 19,832		\$ 12,370	\$ -	\$ -	\$ 269	\$ 269	\$ -	\$ 12,029
Accounts receivable for patient services, net of allowances for doubtful accounts of \$15,935, \$18,465 and \$13,773, respectively	44,134	-	-	6,128	-	-	50,262		9,537	9,865	788	34,028	29,451	(83,740)	(1)
Other current assets	14,152	79,073	225	4,202	428	(83,741)	14,339		23,749	-	109	2,256	914	-	27,029
Total current assets	74,494	79,093	751	12,487	1,447	(83,741)	84,531		46,247	-	-	-	657	-	46,247
									205						1,052
									97,003	9,865	677	38,574	31,481	(83,740)	92,188
ASSETS WHOSE USE IS LIMITED—Investments:															
Linked to be used for donor purposes	4,830	-	4,770	-	-	(4,830)	4,770		27,114	-	-	-	-	-	27,114
Held by trustee under bond indenture	-	-	-	-	-	-	-		105,184	-	-	-	4,821	-	109,995
Endowment	3,553	-	7,709	-	-	-	7,709		8,845	-	-	-	-	-	8,845
Other restricted investment	6,363	-	10,584	-	-	-	14,137		6,417	-	-	-	-	-	6,417
Total investments	248,058	-	23,013	-	-	(4,830)	246,241		6,052	-	-	-	105	-	6,157
UNRESTRICTED LONG TERM INVESTMENTS									155,652				4,627		160,279
									253,005	9,865	677	38,574	36,418	(83,740)	253,088
PROPERTY AND EQUIPMENT—At cost:															
Land and buildings	210,514	-	-	5,173	36,317	-	251,804								
Equipment	127,131	-	-	11,027	2,862	-	141,140								
Construction in progress	8,299	-	-	-	15	-	8,294								
	345,944	-	-	16,200	39,214	-	398,328		217,203	69,138	10,295	(14,195)	(10,389)	6	272,140
Less accumulated depreciation and amortization	(138,670)	-	-	(8,339)	(13,632)	-	(160,641)		4,630	-	7,705	-	-	(4,630)	4,630
Net property and equipment	15,033	-	56	7,861	24,582	-	43,522		4,630	-	7,705	-	-	(4,630)	7,705
OTHER ASSETS—Net									222,033	69,138	22,943	(14,195)	(10,389)	(4,631)	294,089
TOTAL	\$ 474,638	\$ 79,093	\$ 23,620	\$ 22,379	\$ 28,029	\$ (86,571)	\$ 537,368		\$ 474,638	\$ 79,093	\$ 23,620	\$ 22,379	\$ 28,029	\$ (86,571)	\$ 537,368

ATTACHMENT 3

**Attachment 3
Narrative Description**

This application is for a Certificate of Exemption for a Change of Ownership of an Ambulatory Surgical Treatment Center (ASTC), Castle Surgicenter, LLC, in Aurora.

Rush-Copley Surgicenter, LLC, proposes to purchase the assets of Castle Surgicenter, LLC, as a result of which a new ASTC license will be issued to a different entity than the current licensee. The new licensee will be Rush-Copley Surgicenter, LLC, d/b/a Rush-Copley Surgicenter.

Rush-Copley Surgicenter, LLC, is a newly created limited liability corporation (LLC), that is a subsidiary of Copley Memorial Hospital, Inc. Copley Memorial Hospital is the sole member of Rush-Copley Surgicenter, LLC.

Copley Memorial Hospital currently owns and operates two licensed healthcare facilities, Copley Memorial Hospital in Aurora and Copley Memorial Hospital Freestanding Emergency Center in Yorkville.

Rush-Copley Medical Center, Inc., is the parent of Copley Memorial Hospital.

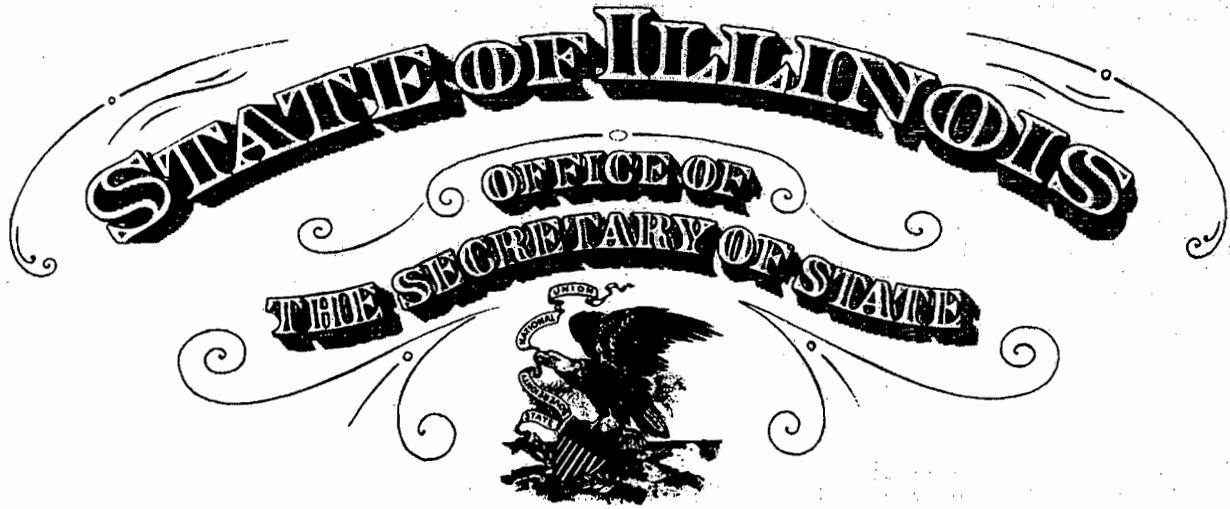
After this transaction is completed, Rush-Copley Surgicenter will continue to operate as a multi-specialty ASTC in leased space in its current location. Rush-Copley Surgicenter will continue to lease the site and building from TPSS, LLC, the current owner of the site and building in which the ASTC is located.

ATTACHMENT 4

ATTACHMENT 4

File Number

0571359-5



To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that I am the keeper of the records of the Department of Business Services. I certify that

RUSH-COPLEY SURGICENTER, LLC, HAVING ORGANIZED IN THE STATE OF ILLINOIS ON JUNE 28, 2016, 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.

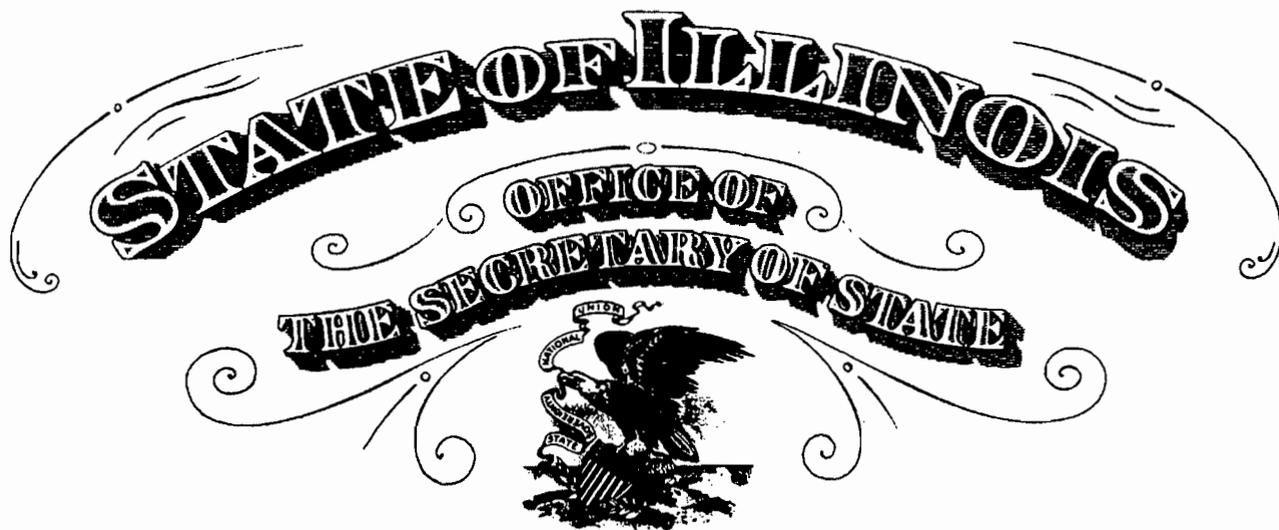


Authentication #: 1619701276 verifiable until 07/15/2017
Authenticate at: <http://www.cyberdriveillinois.com>

**In Testimony Whereof, I hereto set
my hand and cause to be affixed the Great Seal of
the State of Illinois, this 15TH
day of JULY A.D. 2016 .**

Jesse White

SECRETARY OF STATE



To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that I am the keeper of the records of the Department of Business Services. I certify that

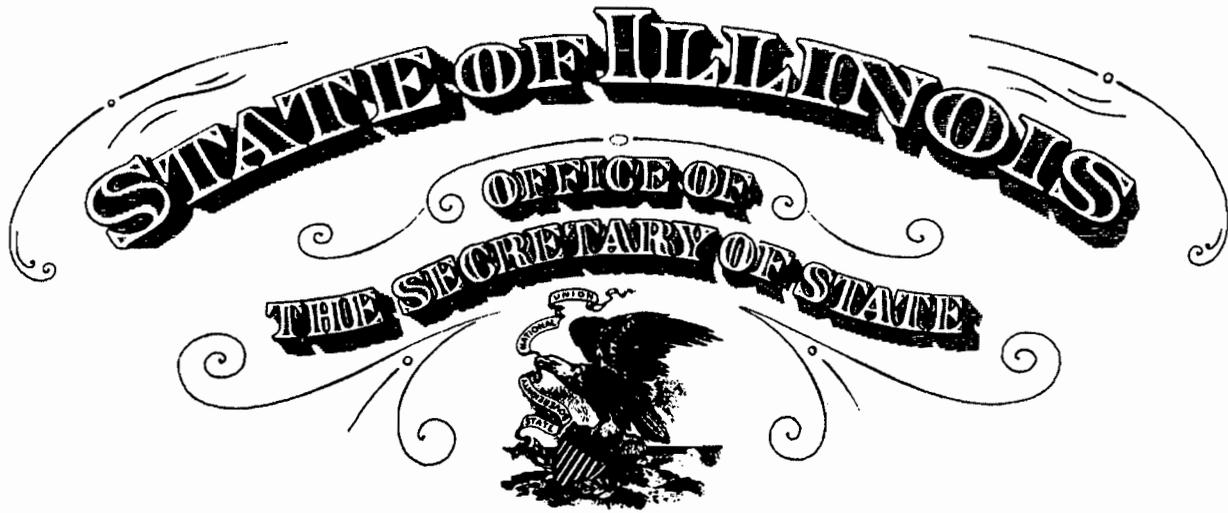
COPLEY MEMORIAL HOSPITAL, INC., A DOMESTIC CORPORATION, INCORPORATED UNDER THE LAWS OF THIS STATE ON APRIL 03, 1886, APPEARS TO HAVE COMPLIED WITH ALL THE PROVISIONS OF THE GENERAL NOT FOR PROFIT CORPORATION ACT OF THIS STATE, AND AS OF THIS DATE, IS IN GOOD STANDING AS A DOMESTIC CORPORATION IN THE STATE OF ILLINOIS.



In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this 15TH day of JULY A.D. 2016 .

Jesse White

SECRETARY OF STATE



To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that I am the keeper of the records of the Department of Business Services. I certify that

RUSH-COPLEY MEDICAL CENTER, INC., A DOMESTIC CORPORATION, INCORPORATED UNDER THE LAWS OF THIS STATE ON APRIL 21, 1982, APPEARS TO HAVE COMPLIED WITH ALL THE PROVISIONS OF THE GENERAL NOT FOR PROFIT CORPORATION ACT OF THIS STATE, AND AS OF THIS DATE, IS IN GOOD STANDING AS A DOMESTIC CORPORATION IN THE STATE OF ILLINOIS.



In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this 15TH day of JULY A.D. 2016 .

Jesse White

SECRETARY OF STATE

Authentication #: 1619701506 verifiable until 07/15/2017
Authenticate at: <http://www.cyberdriveillinois.com>

ATTACHMENT 5

ATTACHMENT 5

**Attachment 5
Transaction Documents**

The transaction documents for this acquisition are found on the following pages of this Attachment.

ASSET PURCHASE AGREEMENT

among

RUSH-COPLEY SURGICENTER, LLC,

CASTLE SURGICENTER, LLC,

STEVEN MARCINIAK, M.D.,

THOMAS MCGIVNEY, M.D.,

SCOTT O'CONNOR, M.D.,

JOHN PINNELLO, M.D.,

ARIF SALEEM, M.D.

and

MARK SCHINSKY, M.D.

DATED JULY 22, 2016

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (“**Agreement**”) is made and entered into as of July 22, 2016 (the “**Signing Date**”), by and among **RUSH-COPLEY SURGICENTER, LLC**, an Illinois limited liability company (“**Buyer**”), and **CASTLE SURGICENTER, LLC**, an Illinois limited liability company (“**Seller**”), and **STEVEN MARCINIAK, M.D., THOMAS MCGIVNEY, M.D., SCOTT O’CONNOR, M.D., JOHN PINNELLO, M.D., ARIF SALEEM, M.D.** and **MARK SCHINSKY, M.D.** (each a “**Member**” and collectively, the “**Members**”).

RECITALS:

A. Seller owns and operates an ambulatory surgical treatment center (the “**Center**”) at 2111 Ogden Ave., Aurora, Illinois;

B. Buyer is a subsidiary of Copley Memorial Hospital, Inc. (“**CMH**”), an acute care community hospital, which is a subsidiary of Rush-Copley Medical Center, Inc. (“**RCMC**”);

C. Each of CMH and RCMC are entities which provide health care services in their respective service areas, specifically the far western suburbs of Chicago (the “**Community**”);

D. Buyer desires to purchase from Seller the right, title, and interest in certain assets of the Center and employ all non-physician personnel of the Center to support the delivery of health care services to residents of the Community;

E. Seller desires to sell to Buyer the right, title, and interest in certain assets of the Center as set forth herein, but excluding the Excluded Assets (as defined herein); and

F. Buyer and Seller desire to enter into this Agreement to set forth the terms and conditions upon which the desired assets will be sold by Seller to Buyer (“**Transaction**”).

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending these Recitals to be a part of this Agreement and to be legally bound, the parties hereto hereby agree as follows:

ARTICLE I PURCHASE AND SALE OF CERTAIN ASSETS

1.1 Purchase and Sale of Assets of Seller. Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell, assign, transfer, convey, and deliver to Buyer, free and clear of any and all liens, title claims, encumbrances, security interests, and restrictions of any kind or nature other than Assumed Liabilities, and Buyer hereby agrees to purchase from Seller, on the Closing Date, effective as of the Effective

Time, all of Seller's right, title, and interest in the following assets of the Seller (collectively, the "**Purchased Assets**"):

(a) Equipment, Furnishings, and Supplies. The equipment, furnishings and furniture, set forth in Schedule 1.1(a) attached hereto ("**Equipment**"), the usable supplies on hand as of the Effective Time ("**Supplies**") and the usable pharmaceuticals, on hand as of the Effective Time ("**Drugs**"); provided, however, that Buyer shall not be obliged to purchase at Closing, any Equipment that it determines, in its reasonable discretion after inspection and notice pursuant to Section 5.1(b), is not in good repair and operating condition or requires repair other than normal routine maintenance;

(b) Contracts. All rights of Seller under the contracts, licenses, equipment leases, ambulatory surgical treatment center space lease, agreements, and claims identified in Schedule 1.1(b) attached hereto, which shall be assigned to Buyer, subject to Section 1.3(a) ("**Assigned Contracts**"); and subject to applicable third party consent requirements; Seller shall have no liability for the failure of any third party to consent to an assignment or transfer; provided that Buyer may choose not to take assignment or transfer of such contract without such third party consent, in which case Seller shall remain responsible for such contract. Buyer shall be responsible for any early termination penalties for any Assigned Contract that Buyer terminates;

(c) Documents and Records. All of the books and records (other than those required by law to be retained by Seller, which will be made available to Buyer for copying or in electronic form, depending upon the manner such records are maintained by Seller) relating to the Purchased Assets including, but not limited to: the Center's records; patient medical records; policies and procedure manuals; purchase records, manuals, service literature, software, and repair, warranty, and service information related to the Equipment; and documents relating to the ownership, use, possession, maintenance, or repair of any of the Purchased Assets, such as specifications, surveys, technical drawings, maintenance and repair records, but specifically excluding corporate minute books and other such corporate records;

(d) Telephone and Fax Numbers. Seller's rights relating to all telephone and fax numbers used in connection with the Center, including those identified on Schedule 1.1(d) ("**Telephone and Fax Numbers**");

(e) Website. Seller's intellectual property rights relating to all website addresses and/or Internet address reservations used in connection with the Center;

(f) Warranties and Permits. To the extent legally transferable, all claims and rights arising at or after the Effective Time (and benefits arising therefrom) with or against any individual, corporation, limited liability company, partnership, association, joint venture, trust or other entity or organization, including a government or political subdivision or any agency or instrumentality

thereof (“**Persons**”), including, without limitation, all rights against suppliers under warranties covering any of the Equipment and all (i) licenses, permits, registrations, and governmental approvals, agreements and consents applied for, pending by, issued or given to Seller, and every agreement with Governmental Authorities (federal, state, local or foreign) entered into by Seller, which is in effect or has been applied for or is pending, exclusive of Environmental Permits (as herein defined) (“**Permits**”) identified in Schedule 1.1(f); and (ii) Environmental Permits, as defined herein, identified in Schedule 3.10(c); and

(g) Intellectual Property. All trademarks, trade names (including but not limited to the name “Castle Surgicenter, LLC” which Buyer agrees is hereby licensed to Seller to allow Seller to use to institute litigation, if necessary, and to aid Seller in the collection of its accounts receivable), domain names, slogans, logos, service marks, copyrights, patents, pending patent applications, shoprights, know-how, trade secrets, computer programs and computer software and the like (whether registered or unregistered) and other items commonly known as intellectual property and any license to use any of the foregoing, of Seller, as listed in Schedule 1.1(g) (“**Intellectual Property**”).

1.2 Excluded Assets. Notwithstanding anything to the contrary contained in Section 1.1 or elsewhere in this Agreement, all of Seller’s assets other than the Purchased Assets, including but not limited to the following (collectively, the “**Excluded Assets**”) are not part of the sale and purchase contemplated hereunder and shall remain the property of Seller after the Effective Time:

(a) Cash. All cash, certificates of deposit and similar cash equivalents or investment instruments, whether on hand or in banks or other depositories of Seller or the Center;

(b) Accounts Receivable. All accounts receivable, notes receivable, negotiable instruments, chattel paper, payments, and reimbursements of Seller or the Center for services rendered prior to the Effective Time;

(c) Insurance. All rights and interests in and to any insurance policies owned by Seller or by the Center;

(d) Tax Refunds and Installments. All tax installments paid by Seller for or on behalf of the Center and the right to receive any refund of amounts (including interest and penalties, if any) paid by Seller for or on behalf of the Center in respect of taxes arising prior to the Effective Time;

(e) Litigation Claims. All litigation and arbitration claims and counterclaims relating to the Center or to Seller arising prior to the Effective Time or such right to counterclaim against a pending claim as of the Effective Time, excluding any infringement claims relating to the Intellectual Property, which are hereby assigned to Buyer;

(f) Certain Claims. Claims (and benefits to the extent they arise therefrom) that relate to liabilities of Seller other than the Assumed Liabilities;

(g) Personal Items. All owned personal items of Seller or the Members based on a personal items listing as reasonably approved by Buyer;

(h) Minute Books and Tax Records. All records relating to the corporate governance or organization of the Center or of Seller as an entity, including Seller's company charter, minute and ownership record books, and seal, and all records of Seller relating to taxes and tax returns;

(i) Non-Assignable Contracts. All contracts relating to the Center which by their respective terms are not subject to disclosure to third parties or are not assignable;

(j) Letters of Credit. All letters of credit issued to Seller;

(k) Bank Accounts. All bank accounts created and maintained by Seller for or on behalf of the Center;

(l) Contract Rights. All contracts, instruments, and agreements binding on Seller or the Center (and the benefits arising thereunder) not listed on Schedule 1.1(b) attached hereto and any rebates or refunds relating thereto;

(m) Real Estate. All rights and interests in and to real property owned by Seller;

(n) Automobile Leases. All automobile leases;

(o) Prepaid Items. All prepaid rents, prepaid deposits and security deposits related to the Ogden Surgicenter Lease (as defined herein); and

(p) Rights under Agreement. Seller's rights under this Agreement.

1.3 Assumed Liabilities. Buyer shall not be responsible for, and shall not assume or pay for or otherwise perform any debts, obligations or liabilities of the Center or of Seller whether accrued, contingent, known, unknown or otherwise, unless and only to the extent specifically hereinafter set forth ("**Assumed Liabilities**"). The following specific and identified liabilities and obligations of Seller shall constitute Assumed Liabilities:

(a) Contract Liabilities. All obligations and liabilities of Seller under or in respect of the Assigned Contracts, except the obligations and liabilities under or in respect of the Assigned Contracts identified in Schedule 1.1(b), shall be assumed by Buyer, but only to the extent such liabilities relate to performance on or after the Effective Time and subject to the early termination provision set forth in Section 1.1(b); provided, however, that Buyer shall not be obliged to

assume at Closing, any Assigned Contract related to any Equipment that Buyer elects not to purchase or lease pursuant to Section 1.1(a); and

(b) Permits. Liabilities of Seller under any Permits and Environmental Permits which were issued to Seller or the Center in the ordinary course of business prior to the Effective Time and which are assigned or transferred to Buyer pursuant to the provisions hereof, to the extent such liabilities relate to the operation of the Center on or after the Effective Time.

1.4 Excluded Liabilities. It is expressly understood and agreed that the Seller shall remain liable for, and shall promptly pay and discharge when due, all liabilities other than the Assumed Liabilities, including, but not limited to, the following excluded liabilities (the “**Excluded Liabilities**”), which shall not be assumed by Buyer:

(a) Accounts Payable. All trade account payables, accrued and unpaid expenses, and accounts payable incurred by the Center relative to the pre-Effective Time periods;

(b) Indebtedness. Bank indebtedness or indebtedness for borrowed money incurred by the Center and/or Members on behalf of the Center prior to the Effective Time;

(c) Excluded Asset Liabilities. All obligations and liabilities which relate solely to the Excluded Assets and not, in any fashion, to the Assumed Liabilities;

(d) Tax Liabilities. Any federal, state, local and foreign tax liabilities of any and all kinds owed by Seller with respect to the Seller and/or the operation of the Center prior to the Effective Time;

(e) Violations of Law. Any liability with respect to any applicable federal, state or local statute, ordinance, regulation or other regulatory agency or commission rules and regulations with respect to (i) the use and/or ownership of the Center by Seller before the Effective Time or (ii) the conduct of Seller or the Center for the periods prior to the Effective Time including, but not limited to, worker’s compensation, unemployment compensation, intentional torts, employment discrimination, antitrust law or other regulatory violations;

(f) Unassumed Contracts, Leases, Commitments and Agreements. Any liabilities or obligations arising under any contracts, automobile leases, loan agreements or other funded or unfunded bank debt, leases, commitments or other agreements and/or contracts, written or oral, to the extent accrued pre-Effective Time relative to pre-Effective Time periods;

(g) Transactional Costs. Any fees and expenses incurred by Seller and the Members in connection with negotiating, preparing, closing, and carrying out this Agreement and the Transaction contemplated by this Agreement, including

but not limited to the fees, disbursements, and expenses of Seller's attorneys, accountants, consultants and investment bankers; and

(h) Other Liabilities. Any and all other liabilities or obligations of Seller and/or related to the Center up to the Effective Time, other than the specific Assumed Liabilities.

1.5 No Expansion of Third Party Rights. The assumption by Buyer of the Assumed Liabilities shall not expand the rights or remedies of any third party against Buyer as compared to the rights and remedies which such third party would have had against Seller had Buyer not assumed the Assumed Liabilities. Without limiting the generality of the preceding sentence, the assumption by Buyer of the Assumed Liabilities shall not create any third party beneficiary rights.

ARTICLE II CLOSING

2.1 Purchase Price, Consideration and Escrow. Subject to the terms and conditions of this Agreement, as consideration for the covenants and promises of Seller and the Members herein, and as consideration for the conveyance by Seller of the Purchased Assets, at Closing Buyer shall pay to Seller by wire transfer to an account designated in writing by Seller at least three (3) business days prior to the Closing an amount equal to Thirteen Million Six Hundred Twenty Thousand Dollars (\$13,620,000) (the "**Purchase Price**"), less Five Hundred Thousand Dollars (\$500,000) (the "**Escrow Amount**"). The parties acknowledge and agree that the Purchase Price has been determined based on an independent valuation of the Purchased Assets and reflects the fair market value of the Purchased Assets.

(a) As partial security against any claims by Buyer for indemnification pursuant to Section 8.4(b) of this Agreement, at the Closing, Buyer shall deposit the Escrow Amount with Drinker Biddle & Reath LLP (the "**Escrow Agent**"), by wire transfer of immediately available funds, to be held by the Escrow Agent pursuant to an escrow agreement mutually acceptable in form and substance to the parties and the Escrow Agent (the "**Escrow Agreement**"). The term of the Escrow Agreement shall be for a period of three (3) years following the Closing Date (the "**Escrow Period**"). Subject to Sections 2.1(a) and 2.1(b) below, promptly following the expiration of the Escrow Period, Buyer and Seller shall execute a joint instruction to the Escrow Agent directing the Escrow Agent to deliver the Escrow Amount to Seller.

(b) In the event that, prior to the date of the expiration of the Escrow Period, Seller shall be obligated to pay any amounts due to Buyer regarding any claims for Damages (as defined in Section 8.4(a)) made by Buyer pursuant to Section 8.4(b) of this Agreement, then Buyer and Seller shall promptly execute a joint instruction to the Escrow Agent directing the Escrow Agent to deliver such amounts to Buyer and the remaining balance of the Escrow Amount shall be

retained in accordance with the terms of this Section 2.1 and the Escrow Agreement.

(c) In the event that Buyer shall have properly and timely (per Article VIII) made claim(s) for Damages (as defined in Section 8.4(a)) pursuant to Section 8.4(b) of this Agreement and such indemnification claim(s) remain outstanding as of the date of the expiration of the Escrow Period, then the Escrow Amount shall only be delivered to Seller to the extent that the amount of such indemnification claim(s) (the “**Claim Amount**”), is less than the Escrow Amount (as the same may have been adjusted pursuant to Section 2.1(b) above), in which case, (i) promptly following the expiration of the Escrow Period, Buyer and Seller shall execute a joint instruction to the Escrow Agent directing the Escrow Agent to deliver to Seller an amount equal to the Escrow Amount (as the same may have been adjusted pursuant to Section 2.1(b) above) less the Claim Amount, (ii) Buyer and Seller shall execute any required amendments to the Escrow Agreement in order to extend the Escrow Period and (iii) the portion of the Escrow Amount equal to the Claim Amount shall remain held in escrow pending the resolution of such indemnification claim. Upon resolution of such outstanding indemnification claim(s), either by mutual agreement of the parties or pursuant to a judgment or order from a court of competent jurisdiction (which judgment or order is final and either non-appealable or the deadline to make appeal therefrom shall have passed), Buyer and Seller shall promptly execute a joint instruction to the Escrow Agent directing the Escrow Agent to deliver to (A) Buyer any amount which Buyer is entitled to receive as a result of the resolution of such outstanding indemnification claim(s) and (B) Seller any remaining balance of the Escrow Amount.

2.2 Closing. The Closing shall occur at 10:00 a.m. prevailing time, at Rush-Copley Medical Center, 2000 Ogden Avenue, Aurora, Illinois, on September 30, 2016, or on such other date or at such other place as shall be agreed upon by the parties, provided the conditions set forth in Articles VI and VII are satisfied or waived (subject to Section 9.1) (“**Closing Date**”). The Closing shall be deemed to have occurred as of 12:01 a.m., prevailing time, on October 1, 2016 (the “**Effective Time**”).

2.3 Allocation of Purchase Price. The Purchase Price shall be allocated among the Purchased Assets in the manner required by Section 1060 of the Internal Revenue Code of 1986, as amended, and in accordance with Schedule 2.3 hereto, which shall be agreed upon between Buyer and Seller and provided on or before the Closing Date.

2.4 Closing Deliveries.

(a) At the Closing, Seller will deliver or cause to be delivered to Buyer the following, and such other documents as are reasonably required in order to effect the transactions contemplated hereby, all of which shall be in form and substance reasonably satisfactory to Buyer and Buyer’s counsel:

- (i) A copy of Seller's Articles of Organization;
- (ii) An incumbency and specimen signature certificate with respect to the manager of Seller executing any document delivered by Seller hereunder or in connection with the Transaction contemplated hereby, on behalf of Seller;
- (iii) Evidence of authority for Seller to execute this Agreement and all other agreements and documents required to be delivered pursuant to this Agreement and to sell the Purchased Assets;
- (iv) A closing certificate duly executed by Seller and the applicable Member, pursuant to which Seller and each Member represent and warrant to Buyer that (A) the representations and warranties by Seller and each Member are true and correct as of the Effective Time as if then originally made (or, if any such representation or warranty is untrue in any respect, specifying the respect in which the same is untrue), (B) all of the obligations to be performed by Seller and the applicable Member at or before the Closing have been performed, and (C) all documents to be executed and delivered by Seller at the Closing have been executed by a duly authorized manager of Seller;
- (v) A duly executed Escrow Agreement, substantially in the form attached hereto as Exhibit 2.4(a)(v);
- (vi) A duly executed Bill of Sale conveying the Purchased Assets to Buyer;
- (vii) A duly executed Assignment of Telephone and Fax Numbers;
- (viii) A duly executed Assignment and Assumption Agreement relating to the Assigned Contracts;
- (ix) Such other instruments of sale, transfer, conveyance, and assignment as Buyer may reasonably request to evidence and confirm Seller's sale of the Purchased Assets to Buyer;
- (x) UCC termination statements and any other documents required to deliver clear title to the Purchased Assets;
- (xi) Such third-party and governmental consents or certifications required by the terms of this Agreement;
- (xii) A duly executed lease agreement signed by TPSS, L.L.C., as landlord, for the ambulatory surgical treatment center space currently occupied by Seller at 2111 Ogden Ave., Aurora, Illinois (such space, the "Ogden SurgiCenter Premises" and such lease, the "Ogden

SurgiCenter Lease”), substantially in the form attached hereto as Exhibit 2.4(a)(xii);

(xiii) A duly executed agreement between TPSS, L.L.C. and Seller terminating the Lease Agreement dated November 1, 2002 for the Ogden SurgiCenter Premises (the “**Existing Lease**”);

(xiv) A duly executed equipment lease agreement between TPSS, L.L.C., as lessor, and Buyer, as lessee (the “**Equipment Lease**”) substantially in the form attached hereto as Exhibit 2.4(a)(xiv);

(xv) A duly executed agreement between TPSS, L.L.C. and Seller terminating the Equipment Lease Agreement dated November 1, 2002;

(xvi) A copy of the Notice of Sale/Purchase of Business Assets addressed to the State Department of Revenue (Bulk Sales Unit) (“**Department**”) pursuant to Section 902(d) of the State Income Tax Act (35 ILCS 5/902) and Section 5(j) of the Retailers Occupational Tax Act (35 ILCS 120/5j), together with evidence of proper filing of such notice with the Department by Seller, prepared with Buyer’s assistance, together with the Department’s release of Buyer from all transferee liability for all tax and other obligations of Seller under said Acts, or provision reasonably agreed by the parties with respect to such liability, in the event such releases cannot be procured by the Closing Date;

(xvii) A Letter of Clearance from the State Department of Employment Security setting forth any benefit reimbursements, contributions, interest, or penalties owed by Seller (“**Unemployment Insurance Amount**”) or a certificate from the Director of Employment Security stating that the Seller owes no benefit reimbursements, contributions, interest, or penalties;

(xviii) Custody of all the Center’s patient medical charts, books, records, and forms relating to the treatment of patients at the Center;

(xix) During the period between the Signing Date and the Closing Date, Seller shall elect whether to have the accounts receivable related to the services provided by Seller prior to the Effective Time collected by Buyer or by a third party. In the event Seller elects to have Buyer assist with such services, Seller shall deliver a duly executed services agreement (“**Services Agreement**”) between Buyer and Seller pursuant to which Seller may retain the services of Buyer, at fair market value, for the sole purpose of the collection of Seller’s accounts receivable related to the services provided by Seller prior to the Effective Time, substantially in the form attached hereto as Exhibit 2.4(a)(xix);

(xx) A duly executed License Agreement between Buyer and Seller pursuant to which Buyer will permit Seller to use the name "Castle Surgicenter, LLC" for six (6) months following Closing and for the sole purpose of the collection of Seller's accounts receivable related to the services provided by Seller prior to the Effective Time, substantially in the form attached hereto as Exhibit 2.4(a)(xx); and

(xxi) Without limitation by the specific enumeration of the foregoing, all other documents reasonably required from Seller to consummate the Transaction contemplated hereby.

(b) At the Closing, Buyer will deliver or cause to be delivered to Seller the following, and such other documents as are reasonably required in order to effect the transactions contemplated hereby, all of which shall be in form and substance reasonably satisfactory to Seller and Seller's counsel:

(i) The Purchase Price determined pursuant to Section 2.1;

(ii) The Escrow Amount to the Escrow Agent;

(iii) A copy of Buyer's Articles of Organization;

(iv) An incumbency and specimen signature certificate with respect to the officers of Buyer executing this Agreement, and any other document delivered hereunder, on behalf of Buyer;

(v) Evidence of corporate authority for Buyer to execute this Agreement and all other agreements and documents required to be delivered pursuant to this Agreement and to purchase the Purchased Assets;

(vi) A closing certificate executed by an officer of Buyer, pursuant to which Buyer represents and warrants to Seller that (i) Buyer's representations and warranties to Seller are true and correct as of the Effective Time as if then originally made (or, if any such representation or warranty is untrue in any respect, specifying the respect in which the same is untrue), (ii) all of Buyer's obligations to be performed at or before the Closing have been performed (or waived in writing by Seller), and (iii) all documents to be executed and delivered by Buyer at the Closing have been executed by duly authorized officers of Buyer;

(vii) A duly executed Escrow Agreement, substantially in the form attached hereto as Exhibit 2.4(a)(v);

(viii) A duly executed Assignment and Assumption Agreement relating to the Assigned Contracts;

(ix) A duly executed Services Agreement between Buyer and Seller, subject to Section 2.4(a)(xix) above and substantially in the form attached hereto as Exhibit 2.4(a)(xix);

(x) A duly executed License Agreement between Buyer and Seller pursuant to which Buyer will permit Seller to use its name after the Effective Time for the purposes stated therein, substantially in the form attached hereto as Exhibit 2.4(a)(xx);

(xi) A duly executed Ogden SurgiCenter Lease, substantially in the form attached hereto as Exhibit 2.4(a)(xii);

(xii) A duly executed Equipment Lease, substantially in the form attached hereto as Exhibit 2.4(a)(xiv); and

(xiii) Without limitation by the specific enumeration of the foregoing, all other documents reasonably required from Buyer to consummate the Transaction contemplated hereby.

2.5 Post-Closing Reconciliation of Prepaid Expenses and Security Deposits. Within forty-five (45) days of the Closing Date, Buyer and Seller shall work together to reconcile prepaid expenses due Seller and security deposits due Seller set forth in Schedule 2.5 attached hereto. Any prepaid expenses benefitting Buyer shall be paid by Buyer within fifteen (15) days to Seller following Seller's presentation of proof of payment of the prorated items and any security deposits that need to be returned to Seller shall be paid to the Seller within fifteen (15) days after the parties' receipt of notice from the landlord of its unwillingness to return Seller's security deposit to Seller.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLER AND MEMBERS

The representations, warranties, agreements, covenants, and conditions stated in this Agreement shall survive the Closing for the periods of time set forth in ARTICLE VIII. Except as otherwise provided herein, Seller and the Members further agree that the representations and warranties set forth in this Agreement are true as of the Signing Date and as of the Effective Time. Seller and each Member jointly and severally represent and warrant to Buyer as follows, provided that any representation or warranty which applies to a Member shall be made solely by such Member on behalf of himself and no other Member and further provided that Seller makes no representations that pertain solely to the Members and not to the Seller:

3.1 Organization. Seller is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Illinois. Seller is the owner of the Center, and has all requisite power and authority to own or lease and operate its properties and to carry on its business as it is now being conducted.

3.2 Authorization; Enforceability. Seller has full power and authority to enter into this Agreement and to carry out the Transaction contemplated hereby. Seller

has taken (or by Closing will have taken) all action required to be taken by law, the applicable operating documents, or otherwise, to authorize the execution and delivery of this Agreement and the consummation of the Transaction contemplated hereby. This Agreement and, as of the Closing Date, all documents executed or to be executed in connection herewith, shall constitute the legal, valid, and binding obligations of Seller and the Members enforceable in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, and other similar laws affecting creditors' rights generally, and by principles of equity whether considered in a proceeding at law or in equity. As the sole owner of the Center, Seller shall cause the execution of such other documents and undertake such action as may be required to consummate the Transaction.

3.3 No Consents. Except as provided in Schedule 3.3, neither Seller nor any Member is required to submit any notice, report, or other filing with any Governmental Authority in connection with Seller's or any Member's execution, delivery, or performance of this Agreement or any other document executed or to be executed in connection herewith, and such execution, delivery, and performance will not violate any law by which Seller or any Member is bound. No consent, approval or authorization of any Governmental Authority or any other Person is required to be obtained by Seller or any Member in connection with Seller's or any Member's execution, delivery, or performance of this Agreement or any other document executed or to be executed in connection herewith. "**Governmental Authority**" means any court, tribunal, arbitrator, authority, agency, commission, official, or other instrument of any nation or any province, territory, state, county, city or other political subdivision of any nation or any other governmental or quasi-governmental, local, national, or international body thereof.

3.4 Agreement Not in Breach of Other Instruments Affecting Seller; Governmental Approval. Except as disclosed on Schedule 3.4, the execution and delivery of this Agreement, the consummation of the transactions provided for herein, and the fulfillment of the terms hereof: (a) will not result, with or without the giving of notice, the lapse of time, or both, in the imposition of any lien, security interest, or encumbrance on any asset of Seller or in the breach of any of the provisions of, or result in a termination, impairment or modification of, or constitute a default under, or conflict with, or cause or permit any acceleration of any obligation of Seller under, or permit any other party to modify or terminate any agreement, indenture, or other instrument by which Seller is bound, or any judgment, decree, order or award of any court, Governmental Authority or arbitrator, or any applicable law, rule or regulation binding on Seller; (b) do not and will not, with or without the giving of notice, the lapse of time, or both, result in the breach of any of the terms and provisions of, constitute a default under, or conflict with or cause an acceleration of any obligation of Seller under Seller's Articles of Organization or Operating Agreement; (c) do not require the consent or approval of any Governmental Authority or other Person; and (d) will not result in any limitation or restriction of any right of Seller.

3.5 Books and Records. Seller's books, accounts, and records are, and have been maintained in Seller's usual, regular, and ordinary manner, consistently applied, and all transactions to which Seller is or has been a party are properly reflected therein. All

documents or information that Seller has provided or made available to Buyer are true and correct copies of such documents or information as they exist in Seller's books and records.

3.6 Financial Statements. Seller has provided to Buyer a complete and accurate copy of its financial statements relating to the operation of the Center. Each item in such financial statements has been prepared on a cash basis, and such financial statements fairly present in all material respects the results of operations and financial positions of the Center for the periods and as of the dates set forth therein and are consistent with the books and records of Seller. As of the Closing Date, except for changes resulting from transactions disclosed or contemplated hereunder, the balance sheet of Seller does not vary in any material adverse respect from the most recent balance sheet included in the financial statements. Since the date of the last financial statement, there has been no change in any of the accounting policies, practices, or procedures of Seller.

3.7. No Adverse Change. Except as disclosed on Schedule 3.7, Seller:

(a) has not made or suffered any material change in the conduct or nature of any aspect of its business;

(b) has used commercially reasonable efforts to preserve its business organization intact, to keep available the services of its employees, and to preserve its relationships with its patients, suppliers, vendors, and others with whom it deals;

(c) has not lost the services of any employee whose work is material to the operation of the Center and has not sustained a termination or adverse modification of its relationship with any customer, supplier, vendor, or other Person with whom it deals, where such loss of services or relationship modification is reasonably likely to result in a Material Adverse Effect, and no such termination or modification is anticipated;

(d) has not increased the compensation or benefits payable to any employee other than in the ordinary and usual course of business;

(e) without limitation to any of the foregoing provisions of this Section 3.7, has not taken any action, conducted its business, or entered into any transaction outside of the ordinary and usual course of business;

(f) has not had, and, to the Knowledge of Seller and the Members, there is not threatened, any change reasonably likely to result in a Material Adverse Effect in the assets, properties, business, operations, condition (financial or otherwise), or prospects of Seller or any material physical damage or loss to any of Seller's properties or assets or to the premises used or occupied by Seller (whether or not such damage or loss is covered by insurance); and

(g) has not taken any action in furtherance of any of the foregoing.

For purposes hereof “**Material Adverse Effect**” and/or “**material change**” means (a) any event, occurrence, fact, condition, change, or effect that is materially adverse to the operations, results of operations, prospects, condition (financial or otherwise), properties (including tangible properties), assets (including intangible assets), or liabilities of Seller, whether considered individually or collectively, or (b) a material impairment in the ability of Seller to perform any of its obligations under this Agreement or any related agreement or to consummate the Transaction; however, the foregoing shall not be deemed to include any event, change, or effect which arises with respect to (1) conditions of change whereby the effect or change is generally universal upon businesses as a whole or within the medical profession as a whole, or (2) uniformly applied laws that have general applicability to business as a whole or the medical professional as a whole.

3.8 Filing of Tax Returns. Seller has filed on a timely basis all federal, state, local, and foreign tax returns and reports required to be filed by it in accordance with provisions of law pertaining thereto and has paid or made provision for the payment of all taxes and assessments (including, without limitation, income, withholding, excise, unemployment, social security, occupation, transfer, franchise, property, ad valorem, sales and use taxes, import duties or charges, and all penalties and interest in respect thereof) required to have been paid, or has filed timely extensions. There are and will hereafter be no tax deficiencies (including penalties and interest) of any kind assessed against Buyer with respect to taxable periods of Seller ending on or before the Effective Time. The federal and state income tax returns of Seller have been filed through the year ended 2014. Except as disclosed on Schedule 3.8, no waivers or extensions of statutes of limitations relating to filing of tax returns have ever been given to Seller. True, correct and complete copies of all federal and state income tax returns, including all amendments thereto, filed by Seller during the last five (5) years have been delivered or otherwise made available to Buyer.

3.9 Real Estate.

(a) Seller has no interest in any real property except the Ogden SurgiCenter Premises which Seller leases as tenant from TPSS, L.L.C. pursuant to the Existing Lease to be terminated at Closing.

(b) To the Knowledge of Seller and each Member, the Ogden SurgiCenter Premises complies in all respects with all applicable legal requirements. Neither the Seller nor the Members has received written notice from any Governmental Authority of any material violation of any applicable law with respect to the use or condition of any of the Ogden SurgiCenter Premises, including without limitation, applicable building and zoning codes and regulations of any Governmental Authority having jurisdiction.

(c) Neither Seller nor any Member has received any written notice of any condemnation proceeding or any other proceeding in the nature of eminent domain (a “**Taking**”) in connection with the Ogden SurgiCenter Premises.

(d) All of the buildings and improvements situated on and comprising part of the Ogden SurgiCenter Premises and all heating and air conditioning equipment and all plumbing, electrical, and other mechanical facilities which are part of, or which service, such buildings and improvements are in good operating condition and repair, subject to normal wear and tear, and do not require any repairs other than routine maintenance.

3.10 Environmental Matters. All representations and warranties with respect to environmental matters shall be made to the Knowledge of Seller and each Member, regardless of whether it is specifically stated.

(a) To the Knowledge of Seller and each Member, Seller and its assets, businesses, and the Ogden SurgiCenter Premises, and all activities therein, currently are in material compliance with, and for the past five (5) years have materially complied with, all Environmental Laws (as defined herein).

(b) Neither Seller nor any Member has been notified by any Governmental Authority or other Person of, or has Knowledge of, any material violation by Seller, either existing or future, due to lapse of time or failure to take curative action, of any Environmental Law, or any liability of, or any condition that could give rise to any liability of, Seller under any Environmental Law. No civil, criminal or administrative action, claim (environmental or otherwise), or other proceeding pursuant to any Environmental Law has been filed against Seller, or is anticipated, or, to Seller’s and each Member’s Knowledge, threatened to be asserted.

(c) Schedule 3.10(c) discloses a correct and complete list of all of the Environmental Permits issued to Seller, copies of which have been delivered or otherwise made available to Buyer. The Environmental Permits listed on Schedule 3.10(c) are all Environmental Permits that are necessary to conduct the Center in compliance with Environmental Laws, are in full force and effect, and all fees payable in connection therewith have been paid, and Seller is otherwise not in default under any Environmental Permits. Neither the execution and delivery of this Agreement nor any of the transactions contemplated herein will cause any of the Environmental Permits to be invalidated, violated, or otherwise adversely affected.

(d) Seller has delivered or otherwise made available to Buyer copies of all: (a) applications, reports, or other materials submitted to any Governmental Authority by or on behalf of Seller pursuant to any Environmental Laws and/or relating to any Environmental Claim(s) or Environmental Condition(s) during the past five (5) years; (b) records or manifests required to be maintained by Seller pursuant to Environmental Laws; (c) notices of violations, summonses, orders,

complaints, or other documents received by or on behalf of Seller relating to compliance with or liability under any Environmental Law, Environmental Claim(s), or Environmental Condition(s) affecting or in any way relating to the Ogden SurgiCenter Premises, or any improvements thereon; and (d) records of any environmental analyses of tests pertaining to the Ogden SurgiCenter Premises, or any improvements thereon including, without limitation, any Phase I or Phase II environmental assessment or the results of any other air, water or soil analyses, tank integrity testing, radon testing, vapor testing, or any other testing or investigation of Environmental Condition(s), which are in its possession.

(e) To the Knowledge of Seller and Members, the generation, use, treatment, storage, transportation, or disposal by Seller of any Hazardous Substance was, at all times material to the Transaction, and is currently, in compliance in all material respects with Environmental Laws applicable at the time of such generation, treatment, storage, transportation, or disposal. No legal action under any Environmental Law or other Environmental Claim has been brought, to the Knowledge of Seller and each Member, against Seller or any Leased Property by any governmental body, agency or third party, including, without limitation, any action relating to violations of or liability under any Environmental Laws or the performance of any removal or remedial action pursuant to any Environmental Laws, or as a result of any Contamination that may exist thereon.

(f) Upon prior request and reasonable notice by Buyer, Seller shall permit Buyer to have reasonable access to the Ogden SurgiCenter Premises for purposes of conducting any inspections or environmental assessments reasonably necessary in connection with Buyer's assessment of the Ogden SurgiCenter Premises and the operation of the Center. If the results of such inspections or environmental assessments are not satisfactory to Buyer, Buyer shall have the right, in its sole discretion, but shall not be obligated, to terminate this Agreement without liability to Seller or any Member, subject to Seller's reasonable ability to cure or take necessary steps to begin to cure. Notwithstanding anything contained in this subsection to the contrary, Buyer shall indemnify Seller and hold Seller harmless from and against any and all loss or damage caused as a result of such inspections or assessments. Buyer shall use best efforts not to disrupt patient care in connection with such inspections or assessments.

(g) For the purposes of this Agreement: (i) "**Environmental Claim**" shall mean any and all claims, demands, demands for performance of any action, proceedings, causes of action, suits, orders, notices, obligations, rights of indemnification, contribution or subrogation, debts or liabilities whatsoever, suspected or unsuspected, foreseeable or unforeseeable, contingent or fixed, liquidated or unliquidated, insured or uninsured, which may arise as a result of violation of any Environmental Laws; (ii) "**Environmental Condition**" shall mean the state of the environment, including natural resources (*e.g.*, flora and fauna), soil, surface water, groundwater, any present or potential portable water supply, subsurface strata, or ambient air relating to or arising out of the use,

handling, storage, treatment, recycling, generation, transportation, Release, or threatened Release of Hazardous Substances, including but not limited to, the exposure of Persons to Hazardous Substances at the workplace upon the Ogden SurgiCenter Premises, as well as the exposure of Persons or property to Hazardous Substances emitted from, migrating from, or otherwise emanating from or located upon, the Ogden SurgiCenter Premises; (iii) “**Environmental Laws**” shall mean all applicable federal, state and local statutes, regulations, ordinances, rules, regulations and policies, all court orders and decrees and arbitration awards, and the common law, which pertain to environmental matters or Contamination of any type whatsoever; Environmental Laws shall include, without limitation, those relating to: manufacture, processing, use, distribution, treatment, storage, disposal, generation, or transportation of Hazardous Substances; air, surface or ground water pollution; Contamination; Releases; protection of wildlife, endangered species, wetlands, or natural resources; Containers; environmental health and safety of employees and other persons; and notification requirements relating to the foregoing; (iv) “**Environmental Permits**” shall mean all licenses, permits, registrations, governmental approvals, agreements, and consents which are required under or are issued pursuant to Environmental Laws and are held by and in the name of Seller; (v) “**Hazardous Substances**” shall mean all pollutants, contaminants, Contamination, pesticides, radioactive substances, solid wastes or hazardous or extremely hazardous, special, dangerous or toxic wastes, substances, chemicals or materials within the meaning of any Environmental Law, including without limitation, any (A) “hazardous substance” as defined in CERCLA, and (B) any “hazardous waste” as defined in the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C., § 6902 et seq., and all amendments thereto and reauthorizations thereof; (vi) “**Release**” shall mean any spill, discharge, leak, emission, escape, injection, dumping, or other release of any Hazardous Substances into the environment, whether or not notification or reporting to any governmental agency was or is, required, including without limitation any Release which is subject to CERCLA; (vii) “**Containers**” shall mean above-ground storage tanks in excess of 250 gallons, all under-ground storage tanks and all other related vessels and related equipment and containers; and (viii) “**Contamination**” shall mean the presence of any Environmental Condition that may give rise to any Environmental Claim under any Environmental Law.

3.11 Personal Property. Except as disclosed on Schedule 3.11, Seller has, and at the Closing will convey and assign to Buyer, good, valid, and marketable title to all those Purchased Assets that are tangible goods, free and clear of all liens, mortgages, pledges, security interests, restrictions, prior assignments, licenses to third parties, encumbrances and claims of every kind or character. Seller is the sole and exclusive owner of the Intellectual Property included in the Purchased Assets and identified on Schedule 1.1(g) (other than Intellectual Property for which it holds solely a valid license) and possesses all Intellectual Property rights and licenses required for the conduct of the business. All Intellectual Property owned by Seller or which Seller has a right to use and that is used by Seller in the operation of the Center and not identified in Schedule 1.1(g) is listed on Schedule 3.11. Except as disclosed on Schedule 3.11, no claim has been

asserted against Seller involving any conflict or claim of conflict of its Intellectual Property with the Intellectual Property of others, and to the Knowledge of Seller and the Members there is no basis for any such claim or conflict. Neither Seller nor any Member has any Knowledge that any Person has violated or infringed, or is violating or infringing, Seller's rights relating to Intellectual Property.

3.12 Assets for Operation of the Center. Except for the Excluded Assets, as it relates to the Center, the Purchased Assets comprise all the material assets utilized by Seller for the conduct of the Center immediately prior to the Closing. Except as listed on Schedule 3.12, and for the Excluded Assets, as relates to the Center, the Purchased Assets, taken as a whole, constitute all of the material properties and the material assets used in connection with the Center during the past twelve (12) months (except such assets as disposed of or replaced in the ordinary course of business, employees not hired by the Buyer and the Excluded Assets).

3.13 Insurance. Seller maintains insurance policies bearing the numbers, for the terms, with the companies, in the amounts, having the named insureds, providing the general coverage, and with the premiums disclosed on Schedule 3.13. All of such policies are in full force and effect, Seller is not in default of any material provision thereof and all premiums due (without regard to any grace period) with respect to such policies have been paid. Seller has not been refused any insurance for which it has applied and has not received notice from any issuer of any policy issued to it of the insurer's intention to cancel or refusal to renew any such policy issued by such insurer. True, correct and complete copies of all such policies have been delivered or otherwise made available to Buyer.

3.14 Contracts, Leases, Agreements and Other Commitments.

(a) True, correct and complete copies of all of the Assigned Contracts (including all amendments thereto) have been delivered or otherwise made available to Buyer. No Assigned Contract is: (i) an agreement solely restricting Seller's right to compete with any other Person, Seller's right to purchase, develop, manufacture, sell or distribute any product, or the ability of Seller to employ or hire any Person; (ii) a standalone secrecy or confidentiality agreement entered into outside the ordinary course of business; (iii) a requirements contract; or (iv) a loan or credit agreement, pledge agreement, note, security agreement, mortgage, debenture, indenture, factoring agreement or letter of credit.

(b) All of the Assigned Contracts are in full force and effect and are legal, valid, binding and enforceable against the respective parties thereto in accordance with their respective terms. Except as disclosed on Schedule 3.14(a), to the Knowledge of Seller and each Member, Seller and all other parties to all of the Assigned Contracts have performed all obligations required to be performed to date under the Assigned Contracts and neither Seller nor any such other party is in default or in arrears under the terms thereof, and no condition exists or event has occurred which, with the giving of notice or lapse of time or both, would constitute a default thereunder. The execution and delivery of this Agreement, the

consummation of the transactions provided for herein and the fulfillment of the terms hereof by Seller do not and will not, with or without the giving of notice, the lapse of time, or both, result in the breach of any of the terms and provisions of, or constitute a default under, or conflict with, or cause any acceleration of, any obligation of Buyer under any Assigned Contract, subject to notice and consent to assignment obligations. To the Knowledge of Seller and each Member, none of the terms or provisions of any Assigned Contract materially adversely affects, or with the passage of time may materially adversely affect, the business, prospects, conditions, affairs or operations of Seller or any of its properties or assets. Seller possesses no Knowledge of any intention by any party to terminate or amend any Assigned Contract or, if Seller intends to request a renewal, of any intention to refuse to renew the same upon expiration of its term.

(c) Seller is not a party to, nor bound by, any decree, order or arbitration award (or agreement entered into in any administrative, judicial or arbitration proceeding with any governmental entity) with respect to or affecting Purchased Assets or operation of the Center.

3.15 Labor; Employment Contracts. Except as disclosed on Schedule 3.15:

(a) Seller is not a party to any written or oral employment agreement, consulting agreement, personal service agreement or agreement with any independent contractor, and there are no actual claims filed with any Court or governmental agency or, to the Seller's and each Member's Knowledge, threats of such filings related to or arising out of any such existing or alleged agreements. Seller has performed all obligations, given all notices and obtained all consents necessary under such agreements to consummate this Agreement.

(b) Seller is not a party to any collective bargaining agreement or similar agreement or work rules or practices agreed upon with any labor organization. To Seller's and each Member's Knowledge, Seller is not in violation of any applicable law or regulation relating to the employment of labor, including any provisions thereof relating to wages, hours, collective bargaining, the payment of social security and similar taxes, equal employment opportunity, employment discrimination and employment safety, or that the Seller is liable for any arrears of wages or any taxes or penalties or interest for failure to comply with any of the foregoing. There is no unfair labor practice charge or complaint against Seller pending or, to the Knowledge of Seller and each Member, threatened before the National Labor Relations Board or, to the Knowledge of Seller and each Member, any charges or complaints pending or threatened with any governmental entity that has jurisdiction over unlawful employment practices. To the Knowledge of Seller and each Member, Seller has not been the subject of any efforts by any labor organizing, including strike, work stoppage, "sickout" or picketing by any group of persons (whether or not employees).

3.16 Litigation. Except as disclosed on Schedule 3.16, Seller is not a party to or, to Seller's and the Members' Knowledge, threatened with any suit, action, arbitration,

claim, or administrative or other proceeding, either at law or in equity or, to Seller's and the Members' Knowledge, any governmental investigation, by or before any court, governmental department, commission, board, agency or instrumentality of the foregoing, domestic or foreign; to Seller's and the Members' Knowledge, there is no basis for any such suit, action, arbitration, or administrative or other proceeding against Seller that could, individually or in the aggregate, have a Material Adverse Effect; there is no judgment, decree, award or order outstanding against Seller and Seller is not contemplating the institution by it of any such suit, action, arbitration or administrative or other proceeding.

3.17 Conflicting Interests. Except as disclosed on Schedule 3.17, no manager or employee of Seller and no Member (a) other than less than five percent (5%) of an entity's publicly traded stock, has any pecuniary interest in any supplier or customer of Seller; or (b) is a party to any current written or oral agreement with Seller (apart from such Person's status as an employee or member as such) pursuant to which compensation is provided and/or owed.

3.18 Compliance with Laws.

(a) In General. Except as shown on Schedule 3.18(a), Seller and each Member is in material compliance and has at all times during the past five (5) years materially complied with all applicable laws, federal, state, local or foreign, and all requirements of all Governmental Authorities having jurisdiction over it, the conduct of its business or affairs, the ownership or use of its properties or assets, and all premises or facilities used or occupied by it. Without limiting the foregoing, Seller has obtained and now holds, or another entity has obtained and now holds for the benefit of Seller, all licenses, permits, certificates, orders, authorizations and approvals needed or required for the current conduct of the Center, the use of its properties and assets, and the use or occupation of such premises and facilities. Seller has properly filed all reports and other documents required to be filed with any federal, state, local or foreign Governmental Authority. With respect to the Center, Seller has not received any notice from any Governmental Authority or any insurance or inspection body that any of its properties, assets, facilities or premises owned, occupied or used by it or any of its business procedures or practices fails to comply with any applicable law, including any ordinance, regulation, building or zoning law, or other requirement of any Governmental Authority.

(b) Exclusion or Suspension. Neither the Seller, Members, employees or agents of Seller, nor any Persons or entities who provide professional services under agreements with the Seller, have been excluded or suspended from any federal or state healthcare program under 42 U.S.C. § 1320a-7. Neither Seller nor any Member has any Knowledge of any pending or threatened exclusion or suspension action against any such Persons.

(c) Fraud and Abuse. Seller has not (a) engaged in any activities which are prohibited under the federal Tricare or Medicare and Medicaid statutes,

42 U.S.C. § 1320a-7 or § 1320a-7a, or the regulations promulgated pursuant to such statutes, or under corresponding provisions of any applicable state law or regulation, or (b) knowingly and willfully engaged in any activities which are prohibited under the federal Medicare and Medicaid Anti-Kickback Statute, 42 U.S.C. § 1320a-7b, or the regulations promulgated pursuant to such statute, or under corresponding provisions of any applicable state law or regulation, or (c) engaged in any activities which are prohibited under any state law or regulation corresponding to (a) or (b) above. There have been no civil monetary penalties levied against Seller or any of its managers.

(d) Stark. Seller has not knowingly presented or caused to be presented a claim or bill for Medicare or Medicaid payment for designated health services furnished pursuant to a referral prohibited by 42 U.S.C. § 1395nn(a).

(e) False Claims. Seller has not knowingly presented or caused to be presented a claim or bill for Medicare or Medicaid payment in violation of the False Claims Act, 31 U.S.C. §3729-3733, the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a, the Program Fraud Civil Remedies Act, 31 U.S.C. § 3801-3812, or the common law theories of payment by mistake, unjust enrichment, breach of contract, or fraud.

(f) HIPAA. Neither (i) Seller, nor, (ii) to the Knowledge of Seller and each Member, any Person or entity that provides services under an agreement with Seller with respect to the Center, has failed to materially comply with all applicable provisions of the administrative simplification section of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §§ 1320d-d8) and the regulations contained in 45 C.F.R. Parts 160, 162, and 164, and applicable state privacy laws.

(g) Corporate Integrity Agreements. Seller is not a party to a Corporate Integrity Agreement with the Office of Inspector General of the Department of Health and Human Services, has no reporting obligations pursuant to any settlement agreement entered into with any Governmental Authority, has not been the subject of any government payor program investigation conducted by any Governmental Authority, has not been a defendant in any qui tam or False Claims Act litigation, has not been served with or received any search warrant, subpoena, civil investigation demand, contact letter, or telephone or in-person contact by or from any federal or state enforcement agency (except in connection with medical services provided to third parties who may be defendants or the subject of investigation into conduct unrelated to the operation of the Center), and to the Knowledge of the Members, has not received any complaints (written or communicated during employee interviews or otherwise) from employees, independent contractors, vendors, physicians, or any other Person that would indicate that Seller has violated any legal requirement.

(h) Overpayment. Other than credit balances or other amounts incurred in the ordinary course of business, Seller has no liability for any

overpayments, duplicate payments, refunds, discounts, or adjustments due to Medicare, Medicaid, Blue Cross/Blue Shield, or any other reimbursement program, third party payor, or other Person or entity.

3.19 Brokers and Finder. Neither Seller, nor its managers or employees have employed any broker or finder or incurred any liability for any brokerage fees, commissions or finders' fees in connection with the Transaction contemplated by this Agreement.

3.20 Seller's and Member's Knowledge. When used herein, the phrases "to Seller's Knowledge" and "Known" and similar references to Seller's knowledge shall mean and refer to all matters with respect to which (a) Seller has received a written notice or (b) the actual knowledge of any of the persons set forth on Schedule 3.20. When used herein the phrases "to Member's Knowledge" and "Known" and similar references to Member's knowledge shall mean and refer to all matters with respect to which the Member has actual knowledge.

3.21 Absence of Indemnifiable Claims, etc. To the Knowledge of Seller and each Member, there are no pending or threatened claims by any manager of Seller for indemnification by Seller under applicable law, the Articles of Organization or Operating Agreement of Seller or any insurance policy maintained by Seller. To the Knowledge of Seller and each Member, other than pursuant to applicable law or the Articles of Organization or Operating Agreement of Seller, no manager or employee of Seller has any right to indemnification against Seller.

3.22 Statements and Other Documents Not Misleading. Neither this Agreement, including all Schedules, nor the Closing documents, nor any other financial statement, document or other instrument heretofore or hereafter furnished by Seller or the Members to Buyer in connection with the transactions contemplated hereby contains or will contain any untrue statement of any material fact or omits or will omit to state any material fact necessary to be stated in order to make any statement contained herein and therein not misleading. There is no material fact known to Seller or to any Member which materially adversely affects Seller's business, prospects, financial condition or affairs, or any of its properties or assets which has not been set forth in this Agreement, including the Schedules or any other documents or information furnished to Buyer on or prior to the date of Closing in connection with the transactions contemplated hereby.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER

The representations, warranties, agreements, covenants and conditions stated in this Agreement shall survive the Closing for the periods of time set forth in ARTICLE VIII. Buyer further agrees that the representations and warranties set forth in this Agreement are true as of the Signing Date and as of the Effective Time. Buyer represents and warrants to Seller that:

4.1 Corporate Organization. Buyer is a limited liability company, validly existing and in good standing under the laws of the State of Illinois.

4.2 Authorization; Enforceability. Buyer has full corporate power and authority to enter into this Agreement and to carry out the Transaction contemplated hereby. Buyer has taken (or by Closing will have taken) all action required to be taken by law, the applicable corporate bylaws, or otherwise, to authorize the execution and delivery of this Agreement and the consummation of the Transaction contemplated hereby. This Agreement and, as of the Closing Date, all documents executed or to be executed in connection herewith, shall constitute the legal, valid, and binding obligations of Buyer enforceable in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, and other similar laws affecting creditors' rights generally, and by principles of equity whether considered in a proceeding at law or in equity.

4.3 No Consents. Buyer is not required to submit any notice, report or other filing with any Governmental Authority in connection with Buyer's execution, delivery or performance of this Agreement or any other document executed or to be executed in connection herewith, and such execution, delivery and performance will not violate any law by which Buyer is bound. No consent, approval or authorization of any Governmental Authority or any other Person is required to be obtained by Buyer in connection with Buyer's execution, delivery, or performance of this Agreement or any other document executed or to be executed in connection herewith.

4.4 Agreement Not in Breach of Other Instruments Affecting Buyer; Governmental Approval. Except as disclosed on Schedule 4.4, the execution and delivery of this Agreement, the consummation of the transactions provided for herein, and the fulfillment of the terms hereof: (a) do not and will not, with or without the giving of notice, the lapse of time, or both, result in the breach of any of the terms and provisions of, constitute a default under, or conflict with or cause an acceleration of any obligation of Buyer under Buyer's Articles of Organization or other governing documents; (b) do not require the consent or approval of any Governmental Authority or other Person; and (c) will not result in any limitation or restriction of any right of Buyer.

4.5 Compliance with Laws. Except to the extent the same would not have a Material Adverse Effect on Seller or any Member:

(a) In General. Except as shown on Schedule 4.5(a), Buyer is in material compliance and has at all times during the past five (5) years materially complied with all applicable laws, federal, state, local or foreign, and all requirements of all Governmental Authorities having jurisdiction over it, the conduct of its business or affairs, the ownership or use of its properties or assets, and all premises or facilities used or occupied by it. Without limiting the foregoing, Buyer has obtained and now holds all licenses, permits, certificates, orders, authorizations and approvals needed or required for the current conduct of its business, the use of its properties and assets, and the use or occupation of such premises and facilities. Buyer has properly filed all reports and other documents

required to be filed with any federal, state, local or foreign Governmental Authority. Buyer has not received any notice from any Governmental Authority or any insurance or inspection body that any of its properties, assets, facilities or premises owned, occupied or used by it or any of its business procedures or practices fails to comply with any applicable law, including any ordinance, regulation, building or zoning law, or other requirement of any Governmental Authority.

(b) Exclusion or Suspension. Neither the Buyer, employees or agents of Buyer, nor any Persons or entities who provide professional services under agreements with Buyer, have been excluded or suspended from any federal or state healthcare program under 42 U.S.C. § 1320a-7. Buyer does not have any Knowledge of any pending or threatened exclusion or suspension action against any such Persons.

(c) Fraud and Abuse. Buyer has not (i) engaged in any activities which are prohibited under the federal Tricare or Medicare and Medicaid statutes, 42 U.S.C. § 1320a-7 or § 1320a-7a, or the regulations promulgated pursuant to such statutes, or under corresponding provisions of any applicable state law or regulation, or (ii) knowingly and willfully engaged in any activities which are prohibited under the federal Medicare and Medicaid Anti-Kickback Statute, 42 U.S.C. § 1320a-7b, or the regulations promulgated pursuant to such statute, or under corresponding provisions of any applicable state law or regulation, or (iii) engaged in any activities which are prohibited under any state law or regulation corresponding to (i) or (ii) above. There have been no civil monetary penalties levied against Buyer or any of its managers.

(d) Stark. Buyer has not knowingly presented or caused to be presented a claim or bill for Medicare or Medicaid payment for designated health services furnished pursuant to a referral prohibited by 42 U.S.C. § 1395nn(a).

(e) False Claims. Buyer has not knowingly presented or caused to be presented a claim or bill for Medicare or Medicaid payment in violation of the False Claims Act, 31 U.S.C. § 3729-3733, the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a, the Program Fraud Civil Remedies Act, 31 U.S.C. § 3801-3812, or the common law theories of payment by mistake, unjust enrichment, breach of contract, or fraud.

(f) HIPAA. Neither (i) Buyer, nor, (ii) to the Knowledge of Buyer, any Person or entity that provides services under an agreement with the Buyer, has failed to materially comply with all applicable provisions of the administrative simplification section of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §§ 1320d-d8) and the regulations contained in 45 C.F.R. Parts 160, 162, and 164, and applicable state privacy laws.

(g) Corporate Integrity Agreements. Buyer is not a party to a Corporate Integrity Agreement with the Office of Inspector General of the

Department of Health and Human Services, has no reporting obligations pursuant to any settlement agreement entered into with any Governmental Authority, has not been the subject of any government payor program investigation conducted by any Governmental Authority outside the ordinary course of business in the past three (3) years, has not been a defendant in any qui tam or False Claims Act litigation, has not been served with or received any search warrant, subpoena, civil investigation demand, contact letter, or telephone or in-person contact by or from any federal or state enforcement agency (except in connection with medical services provided to third parties who may be defendants or the subject of investigation into conduct unrelated to the operation of its business), and to the Knowledge of Buyer, has not received any complaints (written or communicated during employee interviews or otherwise) from employees, independent contractors, vendors, physicians, or any other Person that would indicate that the Buyer has violated any legal requirement.

4.6 Litigation. Except as disclosed on Schedule 4.6 and except to the extent the same would not have a Material Adverse Effect on Seller or any Member, Buyer is not a party to or, to Buyer's Knowledge, threatened with any suit, action, arbitration, claim, or administrative or other proceeding, either at law or in equity, or, to Buyer's Knowledge, any governmental investigation, by or before any court, governmental department, commission, board, agency or instrumentality of the foregoing, domestic or foreign; to Buyer's Knowledge, there is no basis for any such suit, action, arbitration, or administrative or other proceeding against Buyer that could, individually or in the aggregate, have a Material Adverse Effect; there is no judgment, decree, award or order outstanding against Buyer and Buyer is not contemplating the institution by it of any such suit, action, arbitration or administrative or other proceeding.

4.7 Solvency. Buyer is solvent and will not be rendered insolvent by any of the transactions contemplated by this Agreement. As used in this Section, "insolvent" means that the sum of the debts and other actual liabilities of Buyer exceeds the present fair market value of Buyer's assets.

4.8 Brokers and Finders. Neither Buyer, nor any of its officers, managers or employees have employed any broker or finder or incurred any liability for any brokerage fees, commissions or finders' fees in connection with the Transaction contemplated by this Agreement.

4.9 No Misrepresentations. No representation or warranty of Buyer contained in this Agreement or in any Schedule attached hereto or in any certificate or other instrument furnished by or on behalf of Buyer pursuant to the terms hereof, contains an intentionally untrue statement of a material fact or intentionally omits to state a material fact necessary to make the statements contained in this Agreement not misleading.

ARTICLE V CONDUCT PRIOR TO CLOSING

5.1 General. Between the date hereof and the Closing Date:

(a) Seller shall give to Buyer's officers, employees, agents, attorneys, consultants, accountants and lenders reasonable access, upon prior request, during normal business hours to all of the properties, books, contracts, documents, records and personnel of Seller relating to the Purchased Assets and shall furnish to Buyer and such persons as Buyer shall designate to Seller such information regarding the Purchased Assets as Buyer or such persons may at any time and from time to time reasonably request. Buyer shall use best efforts not to disrupt patient care in connection with such access.

(b) Without limiting the generality of Section 5.1(a), Seller shall give to Buyer access, upon prior request, during normal business hours to all Equipment, and all such other matters relating to or affecting the Equipment, as Buyer deems necessary and appropriate, for purposes of conducting an independent inspection and investigation of the physical condition of the Equipment to determine whether such items are in good repair and operating condition or require repairs other than normal routine maintenance. Buyer shall use best efforts not to disrupt patient care in connection with such access. In the event that Buyer, in its sole discretion, determines that any Equipment is not in good repair and operating condition or requires repairs other than normal routine maintenance, Buyer shall give to Seller, at least thirty (30) days prior to the Closing Date, written notice of such determination, which notice shall include an itemized list of the Equipment that Buyer finds unsatisfactory and elects not to purchase pursuant to Section 1.1(a).

(c) Seller shall carry on the Center in the usual and ordinary course, consistent with past practices and shall use commercially reasonable efforts to preserve the Center and maintain satisfactory relationships with those Persons having business relationships with it, and shall maintain all of the Purchased Assets in good operating condition and repair, ordinary wear and tear excepted. Seller shall maintain insurance on the Purchased Assets and its businesses in such amounts and against such risks and losses as are currently in effect.

(d) Seller shall promptly notify Buyer of any occurrence or development having a Material Adverse Effect on any of the Purchased Assets or Assumed Liabilities, any material litigation or material governmental complaints, investigations or hearings (or communications indicating that the same may be contemplated), or the material breach by Seller of any of its representations or warranties contained herein.

(e) Without the prior written consent of Buyer, and without limiting the generality of any other provision of this Agreement, Seller shall not:

(i) sell, transfer or otherwise dispose of any of the Purchased Assets, except for sales of Supplies or Drugs in the usual and ordinary course of business;

(ii) enter into any agreement or transaction, or agree to enter into any agreement or transaction, outside the ordinary course of business including, without limitation, any transaction involving a merger, consolidation, material joint venture, material license agreement, partial or complete liquidation or dissolution, reorganization, recapitalization, restructuring or a purchase, sale, lease or other disposition of a material portion of assets or capital stock;

(iii) grant or make any mortgage or pledge or subject itself or any of the Purchased Assets to any lien, charge or encumbrance of any kind, except liens for taxes not currently due; or

(iv) commit to do any of the foregoing.

(f) The parties shall cooperate with one another and use their commercially reasonable efforts to obtain, prior to the Closing Date, the approval by the Illinois Health Facilities and Services Review Board (“IHFSRB”) of a certificate of exemption (“COE”) in connection with the Transaction.

(g) No party to this Agreement shall make any press release or public announcement with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other party (which consent shall not be unreasonably withheld); provided, however, that each party to this Agreement may make any disclosure or announcement which such party, in the opinion of its legal counsel, is obligated to make pursuant to applicable law or regulation of any national securities exchange, in which case, the party desiring to make the disclosure shall consult with the other party hereto prior to making such disclosure or announcement.

(h) No party shall intentionally perform any act which, if performed, or omit to perform any act which, if omitted to be performed, would prevent or excuse the performance of this Agreement by any party hereto or which would result in any representation or warranty herein contained of said party being untrue in any material respect as if originally made on and as of the Effective Time.

(i) Subject to the terms and conditions of this Agreement, each of the parties hereto shall obtain consents of all Persons including, without limitation, Governmental Authorities, necessary to the consummation of the transactions contemplated by this Agreement.

5.2 Further Assurances. Each party hereto shall, subject to the fulfillment at or before the Closing Date of each of the conditions of performance set forth in ARTICLE VI and ARTICLE VII or the waiver of such conditions, perform such further acts and execute such documents as may be reasonably required to effect the transactions contemplated hereby, including, without limitation, the conditions to closing set forth in ARTICLE VI and ARTICLE VII hereof, but this provision shall not require that any

additional representations or warranties be made and no party shall be required to incur any material expense or potential exposure to legal liability pursuant to this Subsection.

ARTICLE VI CONDITIONS TO OBLIGATIONS OF SELLER AND MEMBERS

The obligations of Seller and the Members to consummate the Closing are subject to the fulfillment of all of the following conditions on or prior to the Closing Date, upon the non-fulfillment of any of which this Agreement may, at Seller's option, be terminated pursuant to and with the effect set forth in ARTICLE IX, provided that all Members can waive any or all such conditions in writing:

6.1 Representations and Warranties True. The representations and warranties of Buyer contained in this Agreement shall have been true and correct when made and shall be true and correct in all material respects as if originally made on and as of the Effective Time.

6.2 Performance. Buyer shall have performed and complied with all agreements, obligations, covenants, and conditions required by this Agreement to be performed or complied with on or prior to the Closing Date.

6.3 Receipt of Consents. Buyer and Seller shall have received all consents of any third parties set forth on Schedule 1.1(b) required for Buyer and Seller to consummate the Transaction contemplated hereby.

6.4 IHFSRB Approval. Buyer shall have received the approval for the COE by the IHFSRB.

6.5 Licenses and Permits. Buyer shall have all necessary licenses and permits to operate the Center as operated on the Signing Date.

6.6 Exhibits and Schedules. Exhibits and Schedules required under this Agreement shall be complete and otherwise in final form acceptable to the parties and shall be attached to the Agreement at Closing.

6.7 No Governmental Proceeding or Litigation. No suit, action, investigation, inquiry or other proceeding by any governmental body or other Person or legal or administrative proceeding shall have been instituted or threatened which questions the validity or legality of the Transaction contemplated hereby.

6.8 No Injunction. On the Closing Date there shall be no effective injunction, writ, preliminary restraining order or any order of any nature issued by a court of competent jurisdiction directing that the Transaction provided for herein not be consummated as provided or imposing any conditions on the consummation of the Transaction contemplated hereby which Seller deems unacceptable in its sole discretion.

6.9 Closing Deliveries. Buyer shall have made the deliveries contemplated in Section 2.4(b) hereof.

6.10 Board Approval. Buyer's Board of Managers, or a committee thereof with authority to act on behalf of the Board of Managers, shall have duly adopted resolutions authorizing and approving the transactions contemplated hereby.

ARTICLE VII CONDITIONS TO OBLIGATION OF BUYER

The obligation of Buyer to consummate the Closing is subject to the fulfillment of all of the following conditions on or prior to the Closing Date, upon the non-fulfillment of any of which this Agreement may, at Buyer's option, be terminated pursuant to and with the effect set forth in ARTICLE IX, provided that Buyer can waive any or all such conditions in writing:

7.1 Representations and Warranties True. The representations and warranties of Seller and the Members contained in this Agreement shall have been true and correct when made and shall be true and correct in all material respects as if originally made on and as of the Effective Time.

7.2 Performance. Seller and the Members shall have performed and complied with all agreements, obligations, covenants and conditions required by this Agreement to be performed or complied with on or prior to the Closing Date.

7.3 Receipt of Consents. Seller and Buyer shall have received all consents of any third parties set forth on Schedule 1.1(b) required for Seller and Buyer to consummate the Transaction contemplated hereby.

7.4 IHFSRB Approval. Buyer shall have received the approval for the COE by the IHFSRB.

7.5 Licenses and Permits. Buyer shall have all necessary licenses and permits to operate the Center as operated on the Signing Date.

7.6 Exhibits and Schedules. Exhibits and Schedules required under this Agreement shall be complete and otherwise in final form acceptable to the parties and shall be attached to the Agreement at Closing.

7.7 No Government Proceeding or Litigation. No suit, action, investigation, inquiry or other proceeding by any governmental body or other Person or legal or administrative proceeding shall have been instituted or threatened which questions the validity or legality of the Transaction contemplated hereby.

7.8 No Injunction. On the Closing Date there shall be no effective injunction, writ, preliminary restraining order or any order of any nature issued by a court of competent jurisdiction directing that the Transaction provided for herein not be consummated as so provided or imposing any conditions on the consummation of the Transaction contemplated hereby which Buyer deems unacceptable in its sole discretion.

7.9 Results of Due Diligence. All documents disclosed to Buyer during the due diligence process in connection with the Transaction contemplated hereby shall be reasonably satisfactory in form and substance to Buyer and its counsel, and Buyer and its counsel shall have received all such documents as they reasonably may request unless otherwise waived by Buyer.

7.10 No Material Adverse Change. Since July 20, 2016, there shall not have been any material adverse change to the financial condition, properties, results of operations, prospects, assets or business of Seller, taken as a whole, and no material contingent liabilities outside the ordinary course of business.

7.11 Execution of Ogden SurgiCenter Lease. On or prior to the Closing Date, TPSS, L.L.C. and Buyer shall have executed, effective as of the Effective Time, the Ogden SurgiCenter Lease.

7.12 Execution of Equipment Lease. On or prior to the Closing Date, TPSS, L.L.C. and Buyer shall have executed, effective as of the Effective Time, the Equipment Lease.

7.13 Closing Deliveries. Seller and the Members shall have made the deliveries contemplated in Section 2.4(a) hereof.

7.14 Board Approval. Buyer's Board of Managers, or a committee thereof with authority to act on behalf of the Board of Managers, shall have duly adopted resolutions authorizing and approving the transactions contemplated hereby.

ARTICLE VIII SURVIVAL AND INDEMNIFICATION

8.1 Survival of Representations and Warranties. Except as set forth below, all representations and warranties made by Seller and the Members in ARTICLE III hereof or by Buyer in ARTICLE IV hereof or elsewhere pursuant hereto, and any covenant or obligation to be performed by Seller, the Members, or Buyer pursuant to this Agreement or any Exhibit, agreement, instrument, certificate or other document delivered pursuant hereto, shall survive the Effective Time hereunder for a period of twenty-four (24) months, after which all representations, warranties, obligations and covenants herein or in any Exhibit shall expire, terminate and be of no further force and effect; provided, however, that the representations and warranties set forth in Section 3.10 and Section 3.18 shall expire at the end of the applicable statute of limitations period plus thirty (30) days.

8.2 Survival of Obligations Regarding Excluded Liabilities. There shall be no limitation of the survival of the agreements of Seller regarding the Excluded Liabilities set forth in Section 1.4 of this Agreement.

8.3 Survival of Post-Closing Covenants. Unless a specific termination date is indicated in ARTICLE IX of this Agreement, the post-closing covenants set forth in

ARTICLE X shall survive for a period of twenty-four (24) months following the Effective Time.

8.4 Survival After Notice of Claim. If Buyer or Seller provides notice of a claim prior to expiration of the relevant survival period as set forth in this ARTICLE VIII, the relevant survival periods identified in this Article shall not limit the period of time required to obtain resolution of such claim.

(a) Indemnification General. The parties shall indemnify each other for claims for Damages as provided in this ARTICLE VIII (each a “Claim” and collectively, “Claims”). As used in this Agreement, the term “Damages” shall mean all liabilities, demands, claims, actions or causes of action, regulatory, legislative or judicial proceedings or investigations, assessments, levies, losses, fines, penalties, damages, costs and expenses, including, without limitation, reasonable attorneys’, accountants’, investigators’ and experts’ fees and expenses, sustained or incurred in connection with the defense or investigation of any such Claim. In the event a party receives a bill or other demand for payment relating to the other party’s obligation, the receiving party will not pay the bill or demand for payment without first receiving written instruction from the other party to do so. In the absence of such a written instruction, the receiving party shall not pay such bill or discharge such obligation; instead the relevant provisions of this ARTICLE VIII shall apply.

(b) Indemnification by Seller and the Members. Seller and each Member in proportion to his or her ownership interests in Seller as of the Closing Date shall defend, indemnify, save, and keep harmless Buyer and its successors and permitted assigns (collectively the “Buyer Indemnified Parties”) against and from any and all Damages suffered or incurred by any of them resulting from, arising out of or by virtue of:

(i) Representations and Warranties. Any inaccuracy in or breach of any representation and warranty made by Seller or Members in this Agreement or in any Exhibit, agreement, instrument, certificate or other document delivered pursuant hereto;

(ii) Covenants. Any breach by Seller or any Member of, or failure by Seller or any Member to comply with, any of their respective covenants or obligations under this Agreement or in any Exhibit, agreement, instrument, certificate or other document delivered pursuant hereto (including, without limitation, their obligations under this ARTICLE VIII); or

(iii) Excluded Liabilities. The failure to discharge when due any liability or obligation of Seller other than the Assumed Liabilities, or any claim against Buyer with respect to any such liability or obligation or alleged liability or obligation, including, without limitation, any claim made by any Person or representative of such Person permitted under any

rights that survive termination of such Person's membership, ownership, economic, or other interest(s) in Seller.

(c) Indemnification by Buyer. Buyer shall defend, indemnify, save and keep harmless Seller, the Members and their respective successors and permitted assigns (the "**Seller Indemnified Parties**") against and from all Damages sustained or incurred by any of them resulting from or arising out of or by virtue of:

(i) Representations and Warranties. Any inaccuracy in or breach of any representation and warranty made by Buyer in this Agreement or in any Exhibit, agreement, instrument, certificate or other document delivered pursuant hereto;

(ii) Covenants. Any breach by Buyer of, or failure by Buyer to comply with, any of its covenants or obligations under this Agreement or in any Exhibit, agreement, instrument, certificate or other document delivered pursuant hereto (including, without limitation, its obligations under this ARTICLE VIII);

(iii) Assumed Liabilities. Buyer's failure to pay, discharge and perform any of the Assumed Liabilities; or

(iv) Operation of the Center. Any Claims for Damages which are asserted or threatened by a party other than the parties hereto, their successors and permitted assigns, against Seller which arise out of Buyer's operation of the Center after the Effective Time.

(d) Notice of Claim. In the event that any party (the "**Indemnified Party**") shall assert a First Party Claim (as hereinafter defined) or become aware of any Third Party Claim (as hereinafter defined) in respect of which the other party (the "**Indemnifying Party**") has agreed to indemnify the Indemnified Party pursuant to this Agreement, the Indemnified Party shall promptly give notice thereof to the Indemnifying Party. Such notice must be provided within twenty-four (24) months following the Effective Time and shall specify whether the claim arises as a result of a claim asserted by a third person against the Indemnified Party (a "**Third Party Claim**") or whether the claim is asserted by the other party (a "**First Party Claim**"), and shall also specify with reasonable particularity (to the extent that the information is available) the factual basis for the claim; and the amount of the claim, if known. Notwithstanding the provisions of this Section 8.4(d), no time limit for notice shall apply to any claims arising from any inaccuracy in or breach of any representation or warranty made by Seller or the Members in Section 3.10 or Section 3.18.

(e) First Party Claims. With respect to any First Party Claim, following receipt of notice from the Indemnified Party of the claim, the Indemnifying Party shall have sixty (60) days to make such investigation of the

claim as is considered necessary or desirable. For the purpose of such investigation, the Indemnified Party shall make available to the Indemnifying Party the information relied upon by the Indemnified Party to substantiate the claim, together with all such other information as the Indemnifying Party may reasonably request. If both parties agree at or prior to the expiration of such sixty (60) day period (or any mutually agreed upon extension thereof) to the validity and amount of such claim, the Indemnifying Party shall immediately pay to the Indemnified Party the amount of the claim. If the parties disagree as to the validity and amount of such claim, the Indemnified Party may pursue any and all rights or remedies available to said Indemnified Party as provided under this Agreement and/or applicable law.

(f) Third Party Claims. If any lawsuit or enforcement action is filed by a third party (a "Third Party Claim") against any party entitled to the benefit of indemnity under this Agreement, written notice of such Claim will be given to the Indemnifying Party as promptly as practicable (and in any event within fifteen (15) days after the service of the citation or summons). Except as hereinafter provided, the Indemnifying Party shall have the right to engage counsel and to defend a Third Party Claim, provided that the Indemnifying Party shall have furnished notice of its election to defend to the Indemnified Party within fifteen (15) days following delivery of a notice of a Third Party Claim, together with a written acknowledgement that the Indemnifying Party is obligated under the terms of this Agreement to provide indemnity with respect to such Third Party Claim (hereinafter collectively referred to as the "Notice of Acceptance"). The Indemnified Party will reasonably cooperate with counsel selected by the Indemnifying Party. If the Indemnifying Party elects to assume such control, the Indemnified Party shall have the right to participate in, but not control, the negotiation, settlement or defense of such Third Party Claim and to retain counsel to act on its behalf, provided that the fees and disbursements of such counsel shall be paid by the Indemnified Party. If the Indemnifying Party fails to give a Notice of Acceptance within fifteen (15) days after receipt of a Claim Notice respecting a Third Party Claim, then the Indemnified Party may take control of the defense and engage counsel of its choosing to defend the same without prejudice to any of its rights under this Agreement or under applicable law. If the Indemnifying Party, having elected to assume such control, thereafter fails to defend the Third Party Claim within a reasonable time, the Indemnified Party shall be entitled to assume such control. In such event, the Indemnifying Party shall be bound by the results obtained by the Indemnified Party with respect to such Third Party Claim, and all reasonable costs and expenses and liabilities related to such Third Party Claim shall be paid by the Indemnifying Party. The parties agree that the acceptance or denial of the defense of any claim shall not be considered an admission of liability under the underlying claim.

(g) Settlement of Third Party Claims. If the Indemnifying Party fails to assume control of the defense of any Third Party Claim after giving a Notice of Acceptance in accordance with Section 8.4(f), the Indemnified Party shall have the exclusive right to contest, settle or pay the amount claimed, and the

Indemnifying Party shall pay all reasonable costs and expenses related to such Third Party Claim and/or settlement. If the Indemnifying Party assumes the defense of a Third Party Claim hereunder, (i) no compromise or settlement of the claims with respect thereto may be effected by the Indemnifying Party without the Indemnified Party's consent unless (x) there is no finding or admission of any violation of any legal requirement, and (y) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party, and (ii) the Indemnified Party shall have no liability with respect to any compromise or settlement of such claims effected without its consent. Neither party shall enter into any settlement which admits fault by the other party or settle or dispose of a claim of a criminal nature without written permission of the other party.

(h) Cooperation. The Indemnified Party and the Indemnifying Party shall cooperate fully with each other with respect to Third Party Claims and shall keep each other fully advised with respect thereto (including promptly supplying copies of all relevant documentation as it becomes available).

(i) Indemnification Threshold. No Indemnifying Party shall be required to indemnify the Indemnified Party under Section 8.4(b) or Section 8.4(c), unless and until the amount of Damages, for which a right of indemnification is provided, when aggregated with all other of its Damages, for which indemnification is sought by the Indemnified Party against the Indemnifying Party, exceeds One Hundred Thousand Dollars (\$100,000) in the aggregate (the "**Basket Amount**"), at which time rights to indemnification for Damages may be asserted only to the extent of such excess over the Basket Amount, subject to Sections 8.4(j) and 8.4(k).

(j) Manner of Seller Payment. Buyer may set off any amount to which it may be entitled from Seller under this Section 8.4 against any amount otherwise payable by Buyer to Seller, including payments to be made under Section 2.1. The exercise of such set-off right in good faith shall not constitute a breach or event of default under any contract relating to any amount against which the set-off is applied. If Buyer does not exercise this right of set-off, then Buyer shall seek payment of such amount from the funds held pursuant to the Escrow Agreement until such funds are exhausted and then may seek payment directly from the Members.

(k) Insurance Offset. Any recovery by an Indemnified Party from an Indemnifying Party shall be net of any insurance or other proceeds received by the Indemnified Party from insurance coverage or coverages held by the Indemnifying Party in connection with such Damages, but shall not be net of any tax loss or other benefits realized by the Indemnified Party.

(l) Indemnification Cap. Buyer shall not have liability under this ARTICLE VIII to the extent that the aggregate amount of Damages exceeds the Purchase Price. The liability of each Member with respect to any Claim under Section 8.4(b) shall in no event exceed an amount equal to the product of the

applicable Member's percentage of ownership in Seller as of the Closing Date multiplied by the Purchase Price, except for Claims related to fraud or intentional misrepresentation or Claims for breach of Section 3.18.

(m) Each of the parties agrees to take all reasonable steps to mitigate its respective indemnified losses upon the occurrence of any event or condition that would reasonably be expected to result in indemnifiable losses hereunder.

ARTICLE IX TERMINATION

9.1 Methods of Termination. Anything to the contrary herein notwithstanding, this Agreement and the transactions contemplated hereby may be terminated at any time prior to the Closing by prompt notice given in accordance with Section 11.16:

- (a) By mutual written consent of Buyer and Seller; or
- (b) By Buyer on the Closing Date, if any of the conditions to Buyer's obligations provided for in ARTICLE VII of this Agreement have not been met by Seller or waived in writing by Buyer prior to such date;
- (c) By Seller on the Closing Date, if any of the conditions to Seller's obligations provided for in ARTICLE VI of this Agreement shall not have been met by Buyer or waived in writing by Seller prior to such date; or
- (d) By either Buyer or Seller if the Closing shall not have occurred at or before 11:59 p.m. on December 31, 2016.

9.2 Procedure Upon Termination. In the event of termination by Buyer or by Seller, or both, pursuant to Section 9.1 hereof, written notice thereof shall forthwith be given to the other party and the Transaction contemplated by this Agreement shall be terminated, without further action by Buyer or Seller except as hereinafter provided in this Section. If the Transaction contemplated by this Agreement is terminated as provided herein, each party will redeliver all documents, work papers and other material of any other party relating to the Transaction contemplated hereby, whether so obtained before or after the execution hereof, to the party.

9.3 Remedies. In the event of a breach of this Agreement prior to Closing, the non-breaching party shall not be limited to the remedy of termination of this Agreement, but shall be entitled to pursue all available legal and equitable rights and remedies, and shall be entitled to recover all of its reasonable costs and expenses incurred in pursuing them.

ARTICLE X POST-CLOSING COVENANTS

10.1 Certain Assignments. Notwithstanding anything to the contrary in this Agreement, this Agreement shall not constitute an agreement to assign or transfer any Permit or Environmental Permit, instrument, contract, lease, permit or other agreement or arrangement, or any claim, right or benefit arising thereunder or resulting therefrom, if an assignment or transfer or an attempt to make such an assignment or transfer without the consent of a third party would constitute a breach or violation thereof or affect adversely the rights of Buyer or Seller, and any transfer or assignment of any interest under any such instrument, contract, lease, permit or other agreement or arrangement that requires the consent of a third party shall be made subject to such consent or approval being obtained. In the event any such consent or approval is not obtained on or prior to the Closing Date, Seller and Buyer shall continue to use all reasonable efforts to obtain such approval or consent after the Closing Date until such time as such consent or approval has been obtained, and Seller shall cooperate with Buyer in any reasonable arrangement to provide that Buyer shall receive the benefits under any such instrument, contract, lease, permit or other agreement or arrangement, including performance by Seller as agent, if economically feasible, provided that Buyer shall undertake to pay or satisfy the corresponding liabilities for the enjoyment of such benefit to the extent Buyer would have been responsible therefor if such consent or approval had been obtained. Nothing in this paragraph shall be deemed a waiver of Buyer's rights to have received at Closing an effective assignment of all of the Purchased Assets, nor shall this paragraph constitute an agreement to exclude any asset or right from the Purchased Assets.

10.2 Inspection of Records. After Closing, Seller shall provide Buyer with the opportunity to inspect Seller's records as shall be reasonably necessary for Buyer to institute or defend litigation arising from or connected to the transactions set forth in this Agreement or to respond to any Governmental Authority with jurisdiction relating to the transactions described herein. Such right of inspection shall be undertaken at all reasonable times during normal business hours upon reasonable advance notice by Buyer and shall extend for such period of time as Seller retains such records. As used in this Section 10.2, the right of inspection shall include the right to make extracts or copies thereof.

10.3 Confidentiality. The parties further agree to keep the terms of this Agreement confidential and not to disclose the terms hereof to any third persons or entity. In addition, Buyer agrees to hold, and to cause its consultants and advisors to hold, in strict confidence all confidential and proprietary information concerning Seller furnished to Buyer in connection with the transactions contemplated by this Agreement, and Seller agrees to hold, and to cause its consultants and advisors to hold, in strict confidence all confidential and proprietary information concerning Buyer furnished to Seller in connection with the transactions contemplated by this Agreement, including information regarding the identity and relationships of employees, physicians and vendors; financial data, including pricing information and information regarding the compensation of employees and independent contractors; regulatory approval, reimbursement, and market expansion strategies; marketing and sales programs and data; and operations and other manuals; provided, however, that (a) nothing herein shall restrict Buyer's use and disclosure of confidential and proprietary information concerning the Center or the Purchased Assets after the Closing Date in the operation of the Center (provided that no

use or disclosure defames Seller); and (b) any party may disclose any such information (i) that is already public knowledge prior to such disclosure or subsequently becomes a part of the public domain through no breach of this Agreement; (ii) that such party had in its possession at the time of disclosure by the other party and that was not acquired directly or indirectly from such other party; (iii) that such party subsequently develops without any use of or reference to the other party's documents or information; or (iv) that such party subsequently acquires by lawful means from a third party without any obligation of confidentiality to that third party. In addition, the parties may disclose any of the foregoing information (including the terms of this Agreement and the other Transaction documents) (w) to the extent that, in the reasonable opinion of the disclosing party's legal counsel, such disclosure is required pursuant to a legal requirement, but in each such case only after the disclosing party has given prior written notice of the disclosure, if permissible, to the non-disclosing parties; (x) if disclosed in connection with any investigation or audit by a Governmental Authority, including the Internal Revenue Service or Centers for Medicare or Medicaid Services, or in connection with the filing of any tax returns; (y) if disclosed in connection with any regulatory filings made by a party in connection with the transactions contemplated by this Agreement, including in connection with the COE; or (z) that is necessary to be disclosed in connection with pursuing any legal action for remedies under, or asserting any defenses under, this Agreement. In all cases described in the preceding sentence, the disclosing party shall disclose information only to the extent reasonably required to fulfill such purpose or legal requirement or, in connection with regulatory filings, reasonably necessary to achieve the desired governmental approval in a timely fashion. If any party bound hereby becomes legally compelled to disclose any confidential information pursuant to a legal requirement, such person shall cooperate with the owner of such information if the owner desires to seek an appropriate remedy to prevent such production.

10.4 Injunctive Relief. The parties specifically recognize that any breach of Section 10.3 will cause irreparable injury to the other party(ies) and that actual damages may be difficult to ascertain, and in any event, may be inadequate. Accordingly (and without limiting the availability of legal or equitable, including injunctive, remedies under any other provisions of this Agreement), each party agrees that in the event of any such breach, the other party(ies) shall be entitled to injunctive relief in addition to such other legal and equitable remedies that may be available.

10.5 Telephone and Fax Numbers. The Telephone and Fax Numbers shall be assigned to Buyer as of the Effective Time, and Seller shall take any and all reasonable actions which Buyer deems appropriate in connection with the Telephone and Fax Numbers. Except through Buyer's personnel under the Services Agreement, Seller shall not use the Telephone and Fax Numbers after the Effective Time.

10.6 Medical Records. Buyer shall retain medical records delivered hereunder in accordance with its record retention policies or as required by law. Such medical records shall be made and available for use by Seller after Closing for billing and collection, defense of lawsuits, responses to inquiries from Governmental Authorities, subject to compliance with applicable laws and regulations.

10.7 Dissolution of Seller. Seller shall cease the operation of the Center as of the Effective Time. Prior to or immediately following the Effective Time, Seller shall amend its Articles of Organization to change its name to a name that is distinguishable from its present name; provided, however, that Seller shall, in accordance with the terms of the License Agreement entered into between Buyer and Seller, be permitted to use its name after the Effective Time for the purpose of submitting invoices to third-party payers for services provided by Seller prior to the Effective Time. As soon as practicable after the Effective Time, Seller shall permanently cease all business activity, except to collect unpaid receivables, and promptly wind up its affairs and thereafter administratively dissolve in the ordinary course of business.

10.8 Further Assurances. Each party will, from time to time after the Closing, upon the reasonable request of another party at the requesting party's expense, execute, acknowledge, and deliver all such further acts, deeds, assignments, transfers, conveyances, and assurances as may be reasonably required to consummate the Transaction contemplated by this Agreement.

10.9 Taxes. Each party shall pay when due any taxes, recording fees, personal property title application fees, patent and trademark assignment and all other taxes and fees related to the transfer of the Purchased Assets as are traditionally and customarily paid by the party for whom the tax is assessed to or is imposed by law upon.

ARTICLE XI MISCELLANEOUS PROVISIONS

11.1 Agreement to Use Reasonable Efforts. The parties agree that upon execution of this Agreement, each party shall proceed in good faith and use commercially reasonable efforts to effectuate the actions contemplated herein toward the completion of the Transaction, in accordance with the provisions hereof.

11.2 Articles, Sections and Headings. The division of this Agreement into Articles, sections, subsections, Exhibits, and Schedules, and the insertion of headings and an index are for convenience of reference only and shall not affect the construction or interpretation of this Agreement; provided, however, the Recitals shall be included in this Agreement as if restated in full. All Exhibits and Schedules attached to this Agreement are hereby incorporated by reference into, and made a part of, this Agreement. Unless otherwise specified herein, any reference herein to an Article, section, subsection, Exhibit, or Schedule refers to the specified Article, section, subsection, of or Exhibit or Schedule to, this Agreement. In this Agreement, the terms "**this Agreement**", "**hereof**", "**herein**", "**hereunder**" and similar expressions refer to this Agreement and not to any particular part, Article, section, subsection, or other provision hereof.

11.3 Schedules. The disclosures in the Schedules, and those in any supplement thereto, shall be deemed to relate only to the representations and warranties in the Section of the Agreement to which they expressly relate and not to any other representation or warranty in this Agreement. In the event of any inconsistency between the statements in the body of this Agreement and those in the Schedules (other than an

exception expressly set forth as such in the Schedules with respect to a specifically identified representation or warranty), the statements in the body of this Agreement will control.

11.4 Gender, etc. Words used in this Agreement, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context indicates is appropriate.

11.5 Number of Days. In computing the number of days for purposes of this Agreement, all days shall be counted, including Saturdays, Sundays and holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or holiday on which governmental offices of the State of Illinois are not open generally for non-emergency business, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or such holiday.

11.6 Statutory References. A reference in this Agreement to a statute or statutory provision shall mean such statute or statutory provision as it has been amended through the date as of which the particular Agreement provision is to take effect, or to any successor statute or statutory provision relating to the same subject as the statutory provision referred to in this Agreement, and to any then applicable rules or regulations promulgated thereunder.

11.7 Consents and Approvals. Except to the extent a contrary intention is expressly set forth herein, whenever a party is to provide its approval of or consent to an action, condition or event, such approval or consent shall be in writing and shall not be unreasonably withheld or delayed.

11.8 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by a party hereto without the prior written consent of the other party, and any such assignment without consent, by operation of law or otherwise, may be disregarded by the other party for purposes of this Agreement, except that Buyer may assign its rights and obligations under this Agreement to an affiliated legal entity upon prior written notice to Seller and provided assignee agrees in writing to be bound by the obligations of Buyer hereunder.

11.9 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions thereof, and each provision is hereby declared to be separate, severable and distinct.

11.10 Amendment and Modification. This Agreement may not be amended or otherwise modified other than by a written agreement signed by all of the parties hereto. Notwithstanding the foregoing, nothing shall preclude any two or more parties from

agreeing in writing to a modification of their rights and duties with respect to each other, but no such agreement shall be binding on parties to this Agreement who have not consented in writing to such modification.

11.11 Waiver. No failure or delay on the part of either party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege. No waiver of any right, remedy, power or privilege with respect to any breach or occurrence shall be construed as a waiver of such right, remedy, power or privilege with respect to any other breach or occurrence, nor shall such waiver be construed as a waiver of any other right, remedy, power or privilege.

11.12 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to conflicts of laws principles.

11.13 Jurisdiction; Service of Process. Any suit, action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement shall be brought against any of the parties only in the Circuit Court of the State of Illinois, County of Kane, and each of the parties consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and irrevocably waives any objection to venue laid therein. Process in any suit, action or proceeding referred to in the preceding sentence may be served on any party anywhere in the world.

11.14 Expenses. Whether or not the Transaction contemplated by this Agreement shall be consummated, Seller and Members agree that all fees and expenses incurred by Seller and Members in connection with this Agreement shall be borne by Seller and Members, and Buyer agrees that all fees and expenses incurred by Buyer in connection with this Agreement shall be borne by Buyer including, without limitation as to Seller, Members, or Buyer, all fees of counsel, investment bankers, actuaries and accountants of such parties; provided, however, that Buyer shall pay the fees of the independent valuation consultant engaged to determine the value of the Purchased Assets pursuant to Section 2.1, and Buyer shall pay for the costs and expenses incurred in connection with obtaining the COE.

11.15 Survival of Agreements; Representations. All warranties, representations, agreements and covenants made by a party herein shall survive the Closing under this Agreement pursuant to ARTICLE VIII (and any other applicable Articles including, but not limited to, ARTICLE XII solely to the extent an alternate survival period is expressly stated therein) shall continue in full force and effect; and shall provide a basis for the remedies provided for herein or otherwise available to the non-breaching party, provided that any longer stated period does not extend or amend the limitations on indemnity set forth in ARTICLE VIII. No representation or warranty contained herein shall be deemed to have been waived, affected or impaired by any investigation made by or knowledge of any party to this Agreement. Each agreement, representation and warranty contained herein is independent of all other agreements,

representations and warranties contained herein (whether or not covering an identical or a related subject matter) and must be independently and separately complied with and satisfied. Exceptions or qualifications to any other agreement, representation or warranty contained herein shall not be construed as exceptions or qualifications to any agreement, other warranty or representation.

11.16 Notices. All notices, requests, demands, consents, and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand, by confirmed facsimile transmission, by nationally recognized overnight delivery service, or when deposited in the U.S. mail, certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

- (a) If to Seller, to: Castle Surgicenter, LLC
2111 Ogden Avenue
Aurora, Illinois 60504
Attn: President
- With a copy to: McGuireWoods LLP
77 West Wacker Drive, Suite 4100
Chicago, Illinois 60601
Attn: Amber Walsh
- (b) If to Buyer, to: Rush-Copley Surgicenter, LLC
c/o Copley Memorial Hospital, Inc.
2000 Ogden Avenue
Aurora, Illinois 60504
Attn: _____
- With a copy to: Rush-Copley Medical Center
2000 Ogden Avenue
Aurora, Illinois 60504
Attn: General Counsel

Any party may alter the address to which communications or copies are to be sent by giving notice of such change of address to the other parties in accordance with the provisions of this Section.

11.17 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. If executed in multiple counterparts, this Agreement shall become binding when two or more counterparts hereto, individually or taken together, bear the signatures of all of the parties reflected hereon as the signatories.

11.18 Entire Agreement. This Agreement, including the Exhibits hereto, the Schedules and the other documents and certificates delivered pursuant to the terms

hereof, set forth the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein, and supersede all prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, manager, employee or representative of any party hereto including, without limitation, the Letter of Intent. In entering into this Agreement, no party is relying on any representation, warranty, inducement or other statement made by or on behalf of any other party except as contained herein. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

11.19 No Third Party Beneficiaries. The terms and provisions of this Agreement are intended solely for the benefit of each party hereto, and their respective successors and permitted assigns. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any Person or corporation other than the parties hereto, and their successors or assigns, any rights or remedies under or by reason of this Agreement.

[Signature page follows.]

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

BUYER:

RUSH-COPLEY SURGICENTER, LLC

By: 
Its: President + CEO

SELLER:

CASTLE SURGICENTER, LLC

By: _____
Its: _____

MEMBER:

SCOTT O'CONNOR, M.D.

THOMAS MCGIVNEY, M.D.

STEVEN MARCINIAK, M.D.

ARIF SALEEM, M.D.

JOHN PINNELLO, M.D.

MARK SCHINSKY, M.D.

[Signature Page to the Asset Purchase Agreement]

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

BUYER:

RUSH-COPLEY SURGICENTER, LLC

By: _____
Its: _____

SELLER:

CASTLE SURGICENTER, LLC

By: *Notolo*
Its: *president*

MEMBER:

SCOTT O'CONNOR, M.D.

[Signature]

THOMAS MCGIVNEY, M.D.

[Signature]

STEVEN MARCINIAK, M.D.

[Signature]

ARIF SALEEM, M.D.

[Signature]

JOHN PINNELLO, M.D.

[Signature]

MARK SCHINSKY, M.D.

[Signature Page to the Asset Purchase Agreement]

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

BUYER:

RUSH-COPLEY SURGICENTER, LLC

By: _____

Its: _____

SELLER:

CASTLE SURGICENTER, LLC

By: _____

Its: _____

MEMBER:

SCOTT O'CONNOR, M.D.

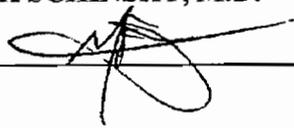
THOMAS MCGIVNEY, M.D.

STEVEN MARCINIAK, M.D.

ARIF SALEEM, M.D.

JOHN PINNELLO, M.D.

MARK SCHINSKY, M.D.

_____ 

[Signature Page to the Asset Purchase Agreement]

EXHIBIT 2.4(A)(V)

Form of Escrow Agreement

ESCROW AGREEMENT

This ESCROW AGREEMENT (this "Agreement"), dated as of September 30, 2016, is made by and among **Rush-Copley Surgicenter, LLC**, an Illinois limited liability company ("Buyer"), **Castle SurgiCenter, LLC**, an Illinois limited liability company ("Seller"), and **Drinker Biddle & Reath, LLP**, a limited liability partnership ("Escrow Agent"), as escrow agent. Buyer and the Seller are sometimes referred to herein collectively as the "Interested Parties." Capitalized terms used herein without definition have the meanings ascribed to such terms in the Purchase Agreement (defined herein).

RECITALS

WHEREAS, Buyer and the Seller have entered into an Asset Purchase Agreement, dated as of July 1, 2016 (the "Purchase Agreement"), pursuant to which a portion of the Purchase Price shall be withheld and is being placed in escrow as a source of payment and security for Seller's fulfillment of the terms and conditions under Section 2.1 and Section 8.4 of the Purchase Agreement;

WHEREAS, Seller and Buyer have agreed to a Purchase Price of Thirteen Million Six Hundred Twenty Thousand Dollars (\$13,620,000.00) for the purchase of the Assets;

WHEREAS, Seller and Buyer have agreed that Buyer shall deposit the sum of Five Hundred Thousand Dollars (\$500,000.00) to serve as an escrow deposit (the "Escrow Deposit") for the purchase of the Assets under the Purchase Agreement; and

WHEREAS, the Interested Parties wish to engage Escrow Agent to act, and Escrow Agent is willing to act, as escrow agent hereunder.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. Establishment of Escrow Account.

(a) The Interested Parties hereby appoint Escrow Agent to serve as Escrow Agent hereunder, and Escrow Agent hereby agrees to serve as Escrow Agent hereunder.

(b) On or before the Closing Date, Buyer shall deliver the Escrow Deposit to Escrow Agent. Escrow Agent shall hold the Escrow Deposit in an escrow account, referred to herein as, the "Escrow Account," in accordance with the terms and conditions of the Purchase Agreement and this Agreement.

(c) The parties agree that pending the Closing of the purchase of the Assets in accordance with the terms of the Purchase Agreement or the termination thereof in accordance with its terms or the terms of this Agreement, the Escrow Deposit shall be placed in a nonbearing interest trust account at Escrow Agent.

(d) Unless and except to the extent otherwise expressly set forth herein, all deposits and payments hereunder, or pursuant to the terms hereof, shall be in U.S. dollars.

(e) Each party shall be responsible for its own costs and expenses with respect to matters involving this Agreement, except as otherwise provided herein.

2. **Disbursement of Escrow Deposit.** Escrow Agent shall disburse the Escrow Deposit from the Escrow Account as follows (however, in no event shall Escrow Agent be required to disburse any portion of the Escrow Deposit until the funds representing same have cleared):

(a) The Escrow Deposit or any part thereof shall be released from escrow and delivered to an Interested Party upon the delivery by the Interested Parties of joint written instructions to the Escrow Agent regarding the amount to be disbursed to an Interested Party, in furtherance of the Purchase Agreement.

(b) If for any reason the Purchase Agreement fails to close on the Closing Date, or the Purchase Agreement is terminated or deemed terminated in accordance with the terms of the Purchase Agreement or any other Transaction document, the Escrow Agent shall promptly disburse the Escrow Deposit to Buyer.

(c) The parties agree that up to Fifty Thousand Dollars (\$50,000.00) of the Escrow Deposit may be used to satisfy Buyer's payment of applicable deductibles related to any Damages covered by Buyer's directors and officers liability insurance or employment practices liability insurance.

(d) Upon the expiration of the Escrow Period, the Escrow Deposit less any Claim Amount paid out during the Escrow Period shall be released to the Sellers within five (5) business days unless the Interested Parties have delivered joint written instructions to the Escrow Agent stating otherwise.

3. **Rights and Responsibilities of Escrow Agent.**

(a) Each Interested Party acknowledges and agrees that Escrow Agent (i) shall not be responsible for any of the agreements referred to or described herein (including, without limitation, the Purchase Agreement), or for determining or compelling compliance therewith, and shall not otherwise be bound thereby, (ii) shall be obligated only for the performance of such duties as are expressly and specifically set forth in this Agreement on its part to be performed, each of which is ministerial (and shall not be construed to be fiduciary) in nature, and no implied duties or obligations of any kind shall be read into this Agreement against or on the part of Escrow Agent, (iii) shall not be obligated to take any legal or other action hereunder which might in its judgment involve or cause it to incur any expense or liability unless it shall have been furnished with acceptable indemnification, (iv) may rely on and shall be protected in acting or refraining from acting upon any written notice, instruction (including, without limitation, wire transfer instructions, whether incorporated herein or provided in a separate written instruction), instrument, statement, certificate, request or other document furnished to it hereunder and reasonably believed by it to be genuine and to have been signed or presented by the proper

person, and shall have no responsibility or duty to make inquiry as to or to determine the genuineness, accuracy or validity thereof (or any signature appearing thereon), or of the authority of the person signing or presenting the same, and (v) may consult counsel satisfactory to it, including in-house counsel, and the opinion or advice of such counsel in any instance shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith reliance upon the opinion or advice of such counsel.

(b) Escrow Agent shall not be liable to anyone for any action taken or omitted to be taken by it hereunder, unless such act or omission is a result of the willful misconduct or gross negligence of the Escrow Agent. In no event shall Escrow Agent be liable for indirect, punitive, special or consequential damage or loss (including, without limitation, lost profits) whatsoever, even if Escrow Agent has been informed of the likelihood of such loss or damage and regardless of the form of action, other than any such damages resulting from Escrow Agent's gross negligence, bad faith or willful misconduct.

(c) In the event the Escrow Agent is joined as a party to a lawsuit by virtue of the fact that it is holding the Escrow Deposit, Escrow Agent shall at its option, either tender the Escrow Deposit to the registry of the court or disburse same in accordance with the court's ultimate disposition of the cause and Escrow Agent shall be entitled to its reasonable attorney's fees and court costs.

(d) The Escrow Agent shall have the right to serve as attorney for Buyer in connection with any matter arising out of the Purchase Agreement or this Agreement, including, but not limited to, any dispute concerning the disposition of the Escrow Deposit.

(e) Notwithstanding any provision in this Agreement to the contrary, in no instance shall Escrow Agent be required or obligated to distribute any Escrow Deposit (or take other action that may be called for hereunder to be taken by Escrow Agent) sooner than two (2) business days after (i) it has received the applicable documents required under this Agreement in good form, or (ii) passage of the applicable time period (or both, as applicable under the terms of this Agreement), as the case may be.

(f) The Escrow Agent may resign at any time upon the giving of thirty (30) days written notice to Seller and Buyer. Thereupon, the Escrow Deposit may be transferred from the Escrow Agent to the successor Escrow Agent, providing the successor Escrow Agent shall be qualified to serve as such. If a successor Escrow Agent is not appointed by Seller and Buyer within thirty (30) days after notice of resignation, the Escrow Agent may petition any court of competent jurisdiction to name a successor Escrow Agent; and the Escrow Agent herein shall be fully relieved of all liability under this Agreement to any and all parties, upon the transfer of and due accounting for the Escrow Deposit to the successor Escrow Agent either designated by the Interested Parties or appointed by the court.

4. Indemnification of Escrow Agent.

The Interested Parties, jointly and severally agree to indemnify Escrow Agent and hold it harmless from and against any loss, liability, damage, cost and expense of any nature incurred by Escrow Agent arising out of or in connection with this Agreement or with the administration of

its duties hereunder, including, without limitation, reasonable attorney's fees and other costs and expenses of defending or preparing to defend against any claim of liability, unless and except to the extent such loss, liability, damage, cost or expense shall have resulted from Escrow Agent's gross negligence, bad faith or willful misconduct.

5. Tax Matters.

Each Interested Party shall (i) assume any and all obligations imposed on such Interested Party now or hereafter by any applicable tax law with respect to any payment or distribution of the Escrow Deposit or performance of other activities under this Agreement, and (ii) jointly and severally indemnify and hold Escrow Agent harmless from any liability or obligation on account of taxes, assessments, additions for late payment, interest, penalties, expenses and other governmental charges that may be assessed or asserted against Escrow Agent in connection with, on account of or relating to the Escrow Deposit, the management established hereby, any payment or distribution from the Escrow Account pursuant to the terms hereof or other activities performed under the terms of this Agreement, including costs and expenses (including reasonable legal fees and expenses), interest and penalties, unless and except to the extent such liability or obligation shall have resulted from Escrow Agent's gross negligence, bad faith or willful misconduct. The foregoing indemnification and agreement to hold harmless, in Section 4 and this Section 5(b), shall survive the termination of this Agreement.

6. Termination of Agreement. This Agreement shall terminate upon the final disposition of the Escrow Deposit in accordance with this Agreement.

7. Notices; Wiring Instructions.

(a) Any notice permitted or required hereunder shall be in writing, and shall be sent (i) by personal delivery or overnight delivery by a nationally-recognized courier or delivery service, or (ii) by registered or certified U.S. mail, postage prepaid, or (iii) by confirmed facsimile transmission, in each case to the applicable party at its respective address set forth below (or to such other address as any such party may hereafter designate by written notice to the other parties in accordance with this Section 7(a)).

If to Seller, to: Castle SurgiCenter, LLC
2111 Ogden Avenue
Aurora, Illinois 60504
Attn: President

With a copy to: McGuireWoods LLP
77 West Wacker Drive, Suite 4100
Chicago, Illinois 60601
Attn: Amber Walsh

If to Buyer, to: Rush-Copley Surgicenter, LLC
2000 Ogden Avenue
Aurora, Illinois 60504

Attn: CEO

With a copy to: Rush-Copley Medical Center
2000 Ogden Avenue
Aurora, Illinois 60504
Attn: General Counsel

If to Escrow Agent: Drinker Biddle & Reath LLP
191 N. Wacker Drive, Suite 3700
Chicago, IL 60606
Attention: Douglas B. Swill, Esq.
Telephone: (312) 569-1270
Facsimile: (312) 569-3270
e-mail: Douglas.Swill@dbr.com

(b) Any funds to be paid to or by Escrow Agent hereunder shall be sent by wire transfer pursuant to the applicable instructions set forth on Schedule 1 attached hereto (or by such method of payment and pursuant to such instruction as may have been given in advance and in writing to or by Escrow Agent, as the case may be, in accordance with Section 7).

8. Miscellaneous.

(a) This Agreement represents the entire agreement between parties with respect to the subject matter hereof and shall be binding upon the respective parties hereto and their heirs, executors, successors and permitted assigns. In the event of a conflict between the terms of the Purchase Agreement and the provisions hereof, the provisions hereof shall control in respect of Escrow Agent's rights and obligations. This Agreement may not be transferred or assigned by the Interested Parties except as and to the extent assignment of the Purchase Agreement is permitted thereunder.

(b) This Agreement may not be altered or modified without the express written consent of the parties hereto. No course of conduct shall constitute a waiver of any of the terms and conditions of this Agreement, unless such waiver is specified in writing, and then only to the extent so specified. A waiver of any of the terms and conditions of this Agreement on one occasion shall not constitute a waiver of the other terms of this Agreement, or of such terms and conditions on any other occasion.

(c) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois without reference to any conflict of laws provisions.

(d) Each of Escrow Agent and the Interested Parties hereby irrevocably and unconditionally submits to the exclusive jurisdiction of the federal and state courts located in Illinois, for any actions, suits or proceedings arising out of or relating to this Agreement and the transactions contemplated hereby (and each of the parties hereto agrees not to commence any action, suit or proceeding relating thereto except in such courts), and further agrees that service of any process, summons, notice or document by U.S. registered mail to its address set forth above shall be effective service of process of any action, suit or proceeding brought against such

party in any such court. EACH OF ESCROW AGENT AND THE INTERESTED PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY OBJECTION TO THE LAYING OF VENUE OF ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY IN SUCH COURTS AS AFORESAID AND HEREBY FURTHER IRREVOCABLY AND UNCONDITIONALLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION, SUIT OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. EACH OF THE PARTIES HERETO WAIVES ANY RIGHTS IT MAY HAVE TO A JURY TRIAL.

(e) Escrow Agent shall not be responsible for delays or failures in performance resulting from acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations to the extent retroactively applied, fire, communication line failures, computer viruses, power failures, earthquakes or other disasters, or other acts beyond its reasonable control.

(f) This Agreement and all documents relating hereto, including, without limitation, (i) consents, waivers and modifications which may hereafter be executed, and (ii) certificates and other information previously or hereafter furnished, may be reproduced by any photographic, photostatic, microfilm, optical disk, micro-card, miniature photographic or other similar process. The parties agree that any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding, whether or not the original is in existence and whether or not such reproduction was made by a party in the regular course of business, and that any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence.

(g) This Agreement may be executed in several counterparts, each of which shall be deemed to be one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile transmission shall 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 shall be deemed to be their original signatures for all purposes.

(h) No provision of this Agreement is intended to confer upon any person other than the parties hereto any rights or remedies hereunder, and no third parties shall have any right to make a claim against the Escrow Account or the Escrow Deposit.

(i) If any provision of this Agreement shall be held to be indefinite, invalid or otherwise unenforceable, the entire Agreement shall not fail on account thereof, and the remainder of this Agreement shall continue in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be duly executed and delivered in its name and on its behalf as of the date first written above.

BUYER:

RUSH-COPLEY SURGICENTER, LLC

By: _____
Name: _____
Title: _____

SELLER:

CASTLE SURGICENTER, LLC

By: _____
Name: _____
Title: _____

ESCROW AGENT:

DRINKER BIDDLE & REATH, LLP

By: _____
Douglas B. Swill, Esq.
Partner

Schedule 1

Wire Instructions

If to Buyer:

Bank:
ABA #:
Acct. #:
Ref:

If to the Seller:

Bank:
ABA #:
Acct. #:
OBI:
Ref:
Attn:

If to Escrow Agent:

Bank:
ABA #:
Acct. #:
OBI:
Ref:
Attn:

EXHIBIT 2.4(A)(XII)

Form of Ogden SurgiCenter Lease

MEDICAL OFFICE AND SURGERY CENTER LEASE AGREEMENT

THIS MEDICAL OFFICE AND SURGERY CENTER LEASE AGREEMENT (this “Lease”) is made as of _____, 2016 (the “Effective Date”) by and between TPSS, L.L.C., a Illinois limited liability company (“Landlord”), and Copley Memorial Hospital, Inc., an Illinois not-for-profit corporation (“Tenant”).

WITNESSETH:

1. PREMISES.

(a) Landlord, for and in consideration of the covenants and agreements hereinafter set forth and the Rent (defined herein), does hereby lease to Tenant the real property depicted on Exhibit A attached hereto (the “Premises”) consisting of the building located at 2111 Ogden Ave., Aurora, Illinois (the “Building”) and all exterior areas of the Building, including parking, driveways and landscaped areas.

(b) The Building contains approximately twenty-five thousand (25,000) rentable square feet of space and the Premises contains the entire rentable square feet in the Building. **[Square footage to be verified prior to Effective Date.]**

2. TERM.

This Lease has a term of ten (10) years (the “Term”) commencing on the Effective Date (hereinafter referred to as the “Commencement Date”), and ending on _____, 2026 (the “Expiration Date”), unless extended or sooner terminated in accordance herewith, but subject to adjustment as provided in this Section 2. The Term shall include any Renewal Term that is effectively exercised by Tenant under Section 30. “Lease Year” as used herein shall mean each period of twelve (12) consecutive months within the Term. The first Lease Year shall commence on the Commencement Date. If the Commencement Date is the first day of a calendar month, the first Lease Year shall end on the day immediately preceding the day which is the first anniversary of the Commencement Date. If the Commencement Date is not the first day of a calendar month, the first Lease Year shall end on the last day of the month in which the first anniversary of the Commencement Date occurs. The second Lease Year shall commence on the day immediately following the last day of the first Lease Year and each subsequent Lease Year shall commence on the anniversary of the first day of the second Lease Year.

3. RENT.

(a) Base Rent. Commencing on the Commencement Date, Tenant shall pay Landlord as “Base Rent” for the Premises an annual amount equal to \$29.00 per rentable square foot in the Premises, which shall be divided into twelve (12) equal monthly installments to be paid on the first day of the month commencing on the Commencement Date and on the first day of every month thereafter during the first (1st) Lease Year and increased for each subsequent Lease Year in accordance with Section 3(b) below. Each monthly installment of Base Rent is due and

payable in advance on the first day of each and every month during the Term to Landlord at the address set forth herein or at such other place as Landlord may hereafter designate in writing. Rent checks are to be made payable to Landlord, or such other person, firm or corporation as Landlord may designate in writing. At Landlord's option, Tenant shall make its Rent Payments by ACH wire transfer.

(b) Annual Base Rent Adjustments. Beginning on the first day of the second (2nd) Lease Year and continuing on the first (1st) day of each subsequent Lease Year during the Term, the amount of Base Rent shall be increased by two percent (2%). Notwithstanding the foregoing, Base Rent for the first Lease Year within any Renewal Term shall be determined as provided in Section 30(b), and thereafter the Base Rent for all subsequent Lease Years within such Renewal Term shall be increased in the manner provided under this Section 3(b). A schedule of Base Rent for the initial Term of this Lease is set forth in Exhibit B attached hereto.

(c) Operating Expenses. Tenant agrees to pay, as Additional Rent, the Operating Expenses of the Building. The term "**Operating Expenses**" is defined as meaning any and all expenses incurred by Landlord in connection with the management, servicing, operation, maintenance and repair of the Building but excluding the following elements of cost: (i) Real Estate Taxes (defined herein) payable under Section 3(d) below; (ii) costs or other services or work performed for the singular benefit of another tenant or occupant; (iii) legal, space planning, construction, and other expenses incurred in procuring tenants for the Building or renewing or amending leases with existing tenants or occupants of the Building; (iv) any expense for which Landlord is entitled to receive reimbursement from insurance, condemnation awards, other tenants or any other source; (v) principal payments or any interest expense on any loans secured by mortgages placed on the Building and underlying land; (vi) costs incurred in connection with the sale, financing, refinancing, mortgaging, or other change of ownership of the Building; (vii) rental under any ground lease or leases; (viii) penalties or fines incurred by Landlord due to Landlord's violation of federal, state or local law or regulation, and any interest or penalties due for late payment by Landlord of any of any utility or other common expenses; (ix) costs of repair of any latent defects in the Building or to correct defects in the construction of the Building or necessitated by Landlord's negligence or willful misconduct or due to violations by Landlord of any of the terms and conditions of any leases for the Building; (x) fees paid to affiliates of Landlord for goods or services to the extent such fees exceed what would be paid to nonaffiliated parties for such goods or services in an arm's length transaction; (xi) fees for management of the Building in excess of market rates for building management; (xii) costs to test, remove, encapsulate or otherwise investigate or dispose of any hazardous or toxic material from the Building or the underlying land; (xiii) leasing and brokerage expenses and commissions and other costs or concessions related to leasing space in the Building; (xiv) Landlord's general overhead and administrative costs and expenses not directly related to the operation or management of the Building; and (xv) costs incurred by Landlord in performing its obligations under Section 14(a) with respect to the roof, foundation, perimeter walls and load-bearing columns, and other structural elements of the Building, or portions thereof. Any costs incurred by Landlord in performing its obligations under Section 14(a) with respect and to the exterior paved areas of the Premises, or portions thereof, or the boiler and any air-conditioning units serving the Building shall be amortized over the anticipated useful life of the item being replaced

determined in accordance with generally accepted accounting principles and the monthly installments of such amortized amount payable during the Term shall be included in Operating Expenses.

(d) Real Estate Taxes. Tenant agrees to pay, as further Additional Rent, Real Estate Taxes for the Premises during the Term of this Lease, such payment to be made directly to the taxing authority prior to the date such payment is due, provided that Landlord has timely delivered to Tenant any bill or statement for such Real Estate Taxes. The term “**Real Estate Taxes**” is defined as meaning real estate taxes, assessments (whether they be general or special), sewer rents, rates and charges, transit taxes, taxes based upon the receipt of rent, and any other federal, state or local governmental charge, general, special, ordinary or extraordinary (but not including income or franchise taxes, capital stock, inheritance, estate, gift, or any other taxes imposed upon or measured by the Landlord’s income or profits, unless the same shall be imposed in lieu of real estate taxes or other ad valorem taxes), which may now or hereafter be levied, assessed or imposed against the Building or the land on which the Building is located.

(e) Exemption from Real Estate Taxes. Notwithstanding anything to the contrary contained herein, Tenant may apply for a property tax exemption for the Premises.

(f) Payment of Additional Rent. Landlord shall endeavor to deliver to Tenant not later than ninety (90) days after the end of each calendar year a statement reflecting Landlord’s good faith estimate of Operating Expenses for the coming calendar year. Tenant shall pay to Landlord, as Additional Rent, an amount equal to such estimated Operating Expenses, which shall be due and payable monthly in advance in twelve (12) equal installments starting on the first day of the applicable calendar year as and when Base Rent is due and payable. If such statement is submitted after the start of the calendar year for which the Additional Rent is payable, then Tenant shall continue to pay the Additional Rent calculated for the preceding calendar year until Landlord submits such statement, at which time Tenant shall pay in a lump sum any difference between what it has actually paid and what it would have paid through the date the next monthly installment of Base Rent within thirty (30) days if submitted within ninety (90) days of the start of the calendar year or, Tenant may, at its option, pay such increase in equal monthly amounts over the remainder of the current calendar year as and when Base Rent is due and payable in the event that Landlord’s statement is delivered more than ninety (90) days after the end of such calendar year. Then, starting with the date the next monthly installment of Base Rent is due and payable, Tenant shall pay the Additional Rent calculated by Landlord under this Section 3(e) monthly in advance in equal installments over the remainder of the current calendar year as and when Base Rent is due and payable.

(g) Landlord’s Annual Reconciliation. Landlord shall endeavor to conduct an annual reconciliation of its estimate of Operating Expenses for the preceding year within one hundred twenty (120) days after the end of each calendar year during the Term. If any annual reconciliation determines that estimated Operating Expenses paid during the preceding calendar year is in excess of, or less than, the actual Operating Expenses for such calendar year, Landlord and Tenant agree to make the appropriate adjustment following the submission of Landlord’s statement by having Tenant pay any Operating Expenses due within thirty (30) days after submission of Landlord’s statement or by Tenant deducting its excess payment from the

installment of Rent for the next month (or, if Tenant is owed a refund after the Term expires, then Landlord shall pay such refund to Tenant within thirty (30) days).

(h) Payment of Rent. All Rent, whether Base Rent or Additional Rent, is due and payable in full without demand, deduction or set-off, except as provided in this Lease, and Tenant's obligation to pay the same shall survive the expiration or other termination of this Lease. Rent, both Base Rent and Additional Rent, shall be equitably pro rated for any partial Lease Year or calendar year (as applicable), as the case may be, during the Term.

(i) Late Charge. If Rent, whether Base Rent or Additional Rent, due hereunder is not paid by the fifth (5th) day after it is due more than once in any consecutive twelve (12) month period, then Tenant shall pay upon demand, as Additional Rent, a late charge equal to five percent (5%) of the amount required to be paid.

(j) Interest on Late Payments. Each and every installment of Fixed Rent which shall not be paid when due, and each and every payment of other charges hereunder which shall not be paid within five (5) days from its due date, shall bear interest at the lesser of (i) a per annum rate that is equivalent to the sum of the Prime Rate as published by the Wall Street Journal on the date such payment is due plus two percent (2%), or (ii) the maximum interest rate permitted by applicable Law, from the date when the same is payable under the terms of this Lease until the same shall be paid (the "**Default Rate**").

(k) Audit Right. Tenant shall have the right to inspect Landlord's books and records concerning Landlord's calculations of Operating Expenses. Tenant agrees that any information obtained during an inspection by Tenant of Landlord's books and records shall be kept in confidence by Tenant and its agents and employees and shall not be disclosed to any other parties, except to Tenant's attorneys, accountants and other consultants. Any parties retained by Tenant to inspect Landlord's books and records shall not be compensated on a contingency fee basis. Landlord shall reimburse or credit Tenant in the same manner as overpayments of Operating Expenses as provided in Section 3(g) all payments made by Tenant in respect to Operating Expenses that are shown by such inspection to have been overpaid by Tenant. Similarly, Tenant shall pay Landlord as provided in Section 3(g) all payments made by Tenant in respect to Operating Expenses that are shown by such inspection to have been underpaid by Tenant. In addition, if Landlord and Tenant determine that Operating Expenses for the year in question were, in the aggregate, less than stated by more than five percent (5%), Landlord, within thirty (30) days after its receipt of paid invoices therefor from Tenant, shall reimburse Tenant for the reasonable amounts paid by Tenant to third parties in connection with such review by Tenant; provided, however, such reimbursements shall not exceed Five Thousand Dollars (\$5,000.00). Tenant shall not have the right to conduct any such inspection more frequently than once annually and shall have the right to conduct any such inspection only for the most recent calendar year.

4. UTILITIES.

Tenant shall directly contract with the utility companies for electrical, natural gas, water and sewer service, and telephone and telecommunications services to the Premises. Any

interruption of such services shall not render Landlord liable in any respect for damages to either person or property, nor be construed as an eviction of Tenant, nor work an abatement of Rent, nor relieve Tenant from Tenant's obligations hereunder. Notwithstanding the foregoing, if Landlord negligently or intentionally causes the interruption of such utilities which in turn causes Tenant to suspend operations at the Premises or a portion thereof for a period of more than two (2) consecutive business days, Rent shall abate with respect to that portion of the Premises until such utilities are restored.

5. USE OF PREMISES.

Tenant shall use and occupy the Premises for the operation of an ambulatory surgery center, for medical offices for the provision of health care services, and for uses reasonably related thereto.

6. SUBLETTING AND ASSIGNMENT.

(a) Consent Required. Tenant shall not, without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, (a) assign, convey, or mortgage this Lease, or any interest hereunder; (b) allow any transfer thereof or any lien upon Tenant's interest by operation of law; (c) sublet the Premises or any part thereof; or (d) permit the use or occupancy of the Premises or any part thereof by anyone other than Tenant. It shall be deemed reasonable for Landlord to withhold its consent to any of the foregoing if: (i) the transferee intends to use the Premises, or any portion thereof, for purposes which are not permitted under this Lease; (ii) the transferee is a governmental entity (or any agency or instrumentality thereof); (iii) in the case of an assignment of this Lease, or a sublease of all or substantially all of the Premises, the proposed transferee is not financially able to perform the obligations to be assumed by such transferee in connection with the proposed assignment or sublease, as reasonably determined by Landlord; (iv) the transfer involves a partial or collateral assignment, or a mortgage, pledge, hypothecation, or other encumbrance or lien on this Lease, or a transfer by operation of Law; (v) the proposed assignment or sublease would cause Landlord or the Premises to be in violation of any Laws; or (vi) Tenant has committed and failed to cure a default under this Lease.

(b) Permitted Transfers. Notwithstanding anything in this Section 6 to the contrary, Tenant may, without the prior consent of Landlord, assign this Lease in whole or in part or sublet all or any portion of the Premises to any Permitted Transferee (as hereinafter defined) of Tenant, provided that (1) Tenant continues to be fully liable hereunder, (2) Tenant is not then in default under this Lease beyond the expiration of any notice or cure period hereunder at the time of giving notice thereof or on the effective date of such sublease or assignment, (3) Tenant delivers to Landlord copies of such assignment or sublease and information establishing that the proposed assignee or sublessee is (and qualifies as) a Permitted Transferee, and (4) Tenant notifies Landlord in writing thereof not less than ten (10) business days in advance of the effective date of the proposed assignment or sublease (except that if such assignment or sublease is to a publicly-traded company and such company has directed that such assignment or subletting remain confidential, such notice shall be given on, or within ten (10) days following, the effective date of such assignment or subletting) and otherwise complies with the terms and

provisions hereof (each, a “**Permitted Transfer**”). For purposes of the foregoing, “**Permitted Transferee**” shall mean: (i) any subsidiary, parent, or affiliated company of Tenant including Rush-Copley Orthopedics, LLC and Rush-Copley Surgicenter, LLC; (ii) any entity which directly or indirectly controls, is controlled by, or is under common control with Tenant; or (iii) any entity which acquires or succeeds to all or substantially all of the assets or business of Tenant at the Leased Premises (including, specifically and without limitation, all rights and obligations of Tenant under this Lease); provided, (A) such Permitted Transferee shall have and maintain a net worth and financial condition greater than or equal to the net worth and financial condition of Tenant as of the Effective Date of this Lease, (B) in the case of an assignment, such entity assumes the obligations of Tenant hereunder by written assignment in form and substance reasonably acceptable to Landlord, and (C) in the case of a sublease, such entity agrees to subordinate such sublease, and otherwise observe and be bound by the terms and provisions of this Lease, by written agreement in form and substance reasonably acceptable to Landlord. The term “control” (including the terms “controlling”, “controlled by”, and “under common control with”) shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise.

(c) Tenant to Remain Liable. Notwithstanding anything to the contrary contained herein, neither Landlord’s consent to an assignment nor a Permitted Transfer shall release Tenant from its obligations hereunder. Neither Landlord’s consent to an assignment or a sublease nor any Permitted Transfer shall eliminate the need for Tenant to obtain Landlord’s consent to any subsequent assignment or sublease that is not a Permitted Transfer.

(d) Reimbursement. Tenant shall reimburse Landlord for all fees and expenses incurred by Landlord in connection with any attempt to assign this Lease or sublease of the Premises or any portion thereof.

7. INSURANCE.

(a) Tenant’s Insurance. Throughout the Lease Term, Tenant shall maintain, with respect to the Premises, at its sole expense, the following types and amounts of insurance:

(i) Commercial general liability insurance, including products and completed operation liability, covering Landlord and Tenant against bodily injury liability, property damage liability and personal and advertising injury, including without limitation any liability arising out of the ownership, maintenance, repair, condition or operation of the Premises or adjoining ways, streets, parking lots or sidewalks. Such insurance policy or policies shall be in amounts of not less than \$2,000,000 per occurrence for bodily injury and property damage, and \$5,000,000 general aggregate per location, or such higher limits as Landlord may reasonably require from time to time, and shall be of form and substance satisfactory to Landlord. Such limits of insurance can be acquired through commercial general liability and umbrella liability policies. In addition, for so long as Tenant is an entity owned or controlled by Rush-Copley Medical Center, Inc. such coverage may be maintained through self-insurance by Rush-Copley Medical Center, Inc.

(ii) Workers' compensation and Employers Liability insurance with statutorily mandated limits covering all persons employed by Tenant on the Premises.

(iii) "All risk" property insurance covering all of Tenant's trade fixtures, equipment, furnishings and other personal property in the Premises, and all decorations and improvements thereto installed by Tenant.

(iv) Business interruption insurance including rental value insurance payable to Landlord at the Premises for a period of not less than twelve (12) months.

(v) Automobile liability insurance, including owned, non-owned and hired car liability insurance for combined limits of liability of \$5,000,000 per occurrence. The limits of liability can be provided in a combination of an automobile liability policy and an umbrella liability policy.

(vi) Such additional and/or other insurance and in such amounts as at the time is customarily carried by prudent owners or tenants with respect to improvements and personal property similar in character, location and use and occupancy to each Property.

(b) Landlord's Insurance. Landlord shall maintain in full force and effect throughout the Term, at its own cost and expense, the following insurance coverage:

(i) Fire and extended coverage insurance, providing protection against any risk included within the classification of "All Risk," including windstorm, sprinkler leakage, flood and earthquake insurance on the Building in an amount equal to the one hundred percent (100%) of the full replacement cost of the Building. So long as Tenant's use is consistent with the provisions set forth in Section 5, Landlord covenants to Tenant that the Tenant's use of the Building will not be prohibited or limited by any of the Landlord's insurance policies. Upon Tenant's written request, the Landlord shall, from time to time, advise Tenant as to the type of property insurance, the replacement cost, and the premium for such insurance within thirty (30) days after receipt of Tenant's request.

(ii) Commercial general liability insurance with respect to the Common Areas of the Building in an amount at least equal to that required to be carried by Tenant pursuant to clause (a)(i) above.

(c) Insurance Provisions. All insurance policies shall (i) be primary and provide that any "other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by Landlord and the insurance policy shall not be brought into contribution with insurance maintained by Landlord; (ii) contain deductibles not to exceed \$25,000; provided, however, that so long as Tenant is an entity owned or controlled by Rush-Copley Medical Center, Inc., deductibles may exceed \$25,000 but shall not exceed \$100,000; (iii) contain a standard non-contributory mortgagee clause or endorsement in favor of any lender designated by Landlord; (iv) provide that the policy of insurance shall not be terminated, cancelled or amended without at least thirty (30) days' prior written notice to Landlord and to any lender covered by any standard mortgagee clause or endorsement; (v) be in amounts sufficient at all times to satisfy

any coinsurance requirements thereof; (vi) except for workers' compensation insurance referred to in Section 7(a)(ii) above, name Landlord and any Landlord Affiliate or lender requested by Landlord, as an "additional insured" with respect to liability insurance, and as an or "additional insured" with respect to real property and rental value insurance, as appropriate and as their interests may appear; (vii) be evidenced by delivery to Landlord and any lender designated by Landlord of an Acord Form 28 for property, business interruption and boiler & machinery coverage (or any other form reasonably requested by Landlord) and an Acord Form 25 for commercial general liability, workers' compensation and umbrella coverage (or any other form requested by Landlord); provided that in the event that either such form is no longer available, such evidence of insurance shall be in a form reasonably satisfactory to Landlord and any lender designated by Landlord; and (ix) be issued by insurance companies licensed to do business in the state where the Premises are located and which are rated no less than A-VII by Best's Insurance Guide or are otherwise approved by Landlord.

(d) Additional Obligations. It is expressly understood and agreed that (i) if any insurance required hereunder, or any part thereof, shall expire, be withdrawn, become void by breach of any condition thereof by Tenant, or become void or in jeopardy by reason of the failure or impairment of the capital of any insurer, Tenant shall immediately obtain new or additional insurance reasonably satisfactory to Landlord and any lender designated by Landlord; (ii) the minimum limits of insurance coverage set forth in this Section 7 shall not limit the liability of Tenant for its acts or omissions as provided in this Lease; (iii) Tenant shall procure policies for all insurance for periods of not less than one year and shall provide to Landlord and any servicer or lender of Landlord certificates of insurance or, upon Landlord's request, duplicate originals of insurance policies evidencing that insurance satisfying the requirements of this Lease is in effect at all times; (iv) Tenant shall pay as they become due all premiums for the insurance required by this Section 7; (v) in the event that Tenant fails to comply with any of the requirements set forth in this Section 7, within ten (10) days of the giving of written notice by Landlord to Tenant, (A) Landlord shall be entitled to procure such insurance; and (B) any sums expended by Landlord in procuring such insurance shall be Additional Rental and shall be repaid by Tenant, together with interest thereon at the Default Rate, from the time of payment by Landlord until fully paid by Tenant immediately upon written demand therefor by Landlord; and (vi) Tenant shall maintain all insurance policies required in this Section 7 not to be cancelled, invalidated or suspended on account of the conduct of Tenant, its officers, directors, managers, members, employees or agents, or anyone acting for Tenant or any subtenant or other occupant of the Premises, and shall comply with all policy conditions and warranties at all times to avoid a forfeiture of all or a part of any insurance payment.

(e) Blanket Policies. Notwithstanding anything to the contrary in this Section 7, any insurance which Tenant is required to obtain pursuant to this Section 7 may be carried under a "blanket" policy or policies covering other properties or liabilities of Tenant provided that such "blanket" policy or policies otherwise comply with the provisions of this Section 7.

(f) Subrogation and Waiver of Claims. Landlord and Tenant intend by this Section 7 that their respective property loss risks shall be borne by responsible insurance carriers to the extent above provided, and Landlord and Tenant hereby agree to look solely to, and seek recovery only from, their respective insurance carriers in the event of a property loss to the

extent that such coverage is agreed to be provided hereunder. The parties each hereby waive all rights and claims against each other for such losses, and waive all rights of subrogation of their respective insurers. The parties agree that their respective insurance policies are now, or shall be, endorsed such that said waiver of subrogation shall not affect the right of the insured to recover thereunder, so long as no material additional premium is charged therefor.

8. ALTERATIONS; PROTECTION AGAINST LIENS.

(a) Tenant will not make any alterations, additions or improvements (each an "**Alteration**") to the Premises without first obtaining Landlord's written consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Tenant shall have the right without Landlord's consent to make non-structural Alterations to the Premises the cost of which do not exceed Fifty Thousand Dollars (\$50,000.00) on an individual basis or in the aggregate in any twelve (12) month period. Tenant shall be required to remove any Alterations in the Premises at the expiration or earlier termination of this Lease unless, upon the request of Tenant, Landlord states in writing that such removal shall not be required at the expiration or earlier termination of the Lease. If Tenant fails to obtain Landlord's written consent to any Alterations prior to making such Alterations when required under this Agreement, Tenant shall, at Landlord's option, remove such Alterations at the sole cost and expense of Tenant. In the event Landlord consents to the making of any Alteration by Tenant, the same shall be made by Tenant at Tenant's sole cost and expense, and any contractor or person selected by Tenant to perform such work shall subject to the approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant shall notify Landlord at least fifteen (15) business days prior to the commencement of any construction on the Premises. Upon completion of such work, Tenant shall deliver to Landlord a sworn statement from its general contractor and final and complete waivers of lien for labor, services and materials from all contractors, subcontractors, sub-subcontractors and material suppliers, and Tenant hereby agrees to hold Landlord, its agents and employees harmless from all costs, damages, liens and expenses related thereto. Nothing herein shall create a duty or obligation of Landlord, its agents or employees to Tenant to supervise such work or to determine whether such work or Tenant's drawings and specifications are in compliance with applicable codes, regulations and requirements. All Alterations shall be constructed in a good and workmanlike manner, using first class quality and new materials, and shall comply with all applicable ordinances, statutes, requirements, orders and regulations of any governmental or quasi-governmental body with jurisdiction over such work. Tenant shall pay any increase in Real Estate Taxes attributable to any such alterations, additions, or improvements within the Premises for so long, during the term of this Lease.

(b) Tenant agrees to pay promptly for any work done or material furnished by or on behalf of Tenant in or about the Premises and will not permit or suffer any lien to attach to the Premises or the Building and shall promptly (but in no event later than ten (10) business days after Tenant receives notice of such lien) cause any such lien or any claim therefor to be released; provided, however, that in the event Tenant contests any such claim, Tenant agrees to deliver to Landlord a title indemnity, bond or other security arrangement protecting Landlord and its mortgage lender against such lien, in form and substance reasonably acceptable to Landlord.

9. ACCESS.

Tenant agrees that it will allow Landlord, its agents or employees or any mortgagee, to enter the Premises during normal business hours (or at any other time in case of an emergency) and upon reasonable prior notice to examine, inspect, or to protect the same or prevent damage or injury to the same, or to make such alterations and repairs to the Premises or the Building; to exhibit the same to prospective tenants during the last twelve (12) months of the Term or to exhibit the same to prospective and actual mortgagees, purchasers and brokers at any time during the Term. Landlord agrees to exercise its rights under this Section 9 in a manner that complies with Section 32(c) and agrees to use commercially reasonable efforts to minimize interference with Tenant's operations within the Premises.

10. COMPLIANCE WITH LAWS; NUISANCE.

Tenant will not use or permit the Premises or any part thereof to be used for any disorderly, unlawful or extra-hazardous purpose nor for any other purpose than hereinbefore specified and will not manufacture any commodity therein. Neither Landlord nor Tenant will violate any statutes, laws, ordinances, codes, or rules and regulations applicable to the Premises and/or the Building (collectively, "**Laws**"). Landlord represents and warrants to Tenant that, as of the Commencement Date, the Premises, the Building, and the parking areas are in compliance with all Laws in all material respects, including, without limitation, applicable zoning laws and building codes. Landlord further represents that it has received no notices or communications from any public authority having jurisdiction alleging violation of any Laws relating to the Premises or the Building or improvements thereon. Without limiting the generality of the foregoing, Landlord represents that the use of the Premises and the Building and improvements thereon for purposes of operation of a medical office and related business office use is permitted by and will not violate applicable Laws, including without limitation zoning laws, and does not constitute a "non-conforming use" thereunder.

11. RULES AND REGULATIONS.

Tenant covenants that such reasonable rules and regulations as Landlord may make from time to time and which in Landlord's judgment are necessary for the general well-being, safety, care and cleanliness of the Premises and the Building shall be faithfully kept, observed and performed by Tenant, unless waived in writing by Landlord. Landlord agrees that any such rules and regulations shall be enforced uniformly and in a manner that does not discriminate against Tenant. In the event of any conflict between any such rules and regulations and the terms and conditions of this Lease, the terms and conditions of this Lease shall be controlling.

12. DAMAGE.

All injury to the Premises or the Building caused by moving the property of Tenant into or out of the Building and all breakage done by Tenant, or the agents, servants, employees and visitors of Tenant, shall be repaired by Tenant at the expense of Tenant. In the event that Tenant fails to do so within thirty (30) days following Landlord's written request, then Landlord shall have the right to make such necessary repairs, and any reasonable charge or cost so incurred by

Landlord shall be paid by Tenant as Additional Rent. The timing requirements of Tenant's obligation to repair any damage caused to the Premises, whether by Tenant or otherwise, shall be shortened as reasonably necessary in the event of an emergency. All injury to the Premises or the Building caused by Landlord, or the agents, servants, employees and contractors of Landlord, shall be repaired by Landlord at the expense of Landlord.

13. INDEMNIFICATION.

(a) Excluding claims that are waived under Section 7(f), Tenant shall indemnify and hold Landlord harmless from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature arising or resulting from (i) Tenant's breach of this Lease, (ii) Tenant's use and occupancy of the Premises, (iii) claims made by any of Tenant's employees, agents, contractors, licensees, subtenants or invitees, or (iv) any negligent act or omission or willful misconduct of Tenant or its employees, agents, contractors, licensees, subtenants or invitees, except to the extent that any such claim, loss, damage or injury under the foregoing clauses (i) through (iv) is attributable to the negligence or willful misconduct of Landlord, its employees, agents or contractors.

(b) Excluding claims that are waived under Section 7(f), Landlord shall indemnify and hold Tenant harmless from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature arising or resulting from (i) Landlord's breach of this Lease or (ii) any negligent act or omission or willful misconduct of Landlord or its employees, agents or contractors, except to the extent that any such claim, loss, damage or injury is attributable to the negligence or willful misconduct of Tenant or its employees, agents, contractors, licensees, subtenants or invitees.

14. REPAIRS AND MAINTENANCE.

(a) Landlord shall perform all replacements, or substantial repairs in the nature of a replacement, of (i) the roof, foundation, perimeter walls and load-bearing columns, and other structural elements of the Building, or portions thereof, (ii) the exterior paved areas of the Premises, or portion thereof, and (iii) the boiler and any air-conditioning units serving the Building.

(b) Except for such items that are the responsibility of Landlord under Section 14(a), Tenant agrees that it will keep the Premises and the fixtures located therein in good repair and working order and condition will be responsible for the maintenance and repair of the Building, the Building systems and the exterior areas of the Premises and will, at the expiration or other termination of the Term, surrender and deliver up the Premises in substantially the same condition in which received on the Commencement Date, ordinary wear and tear and damage by fire or other casualty excepted. Tenant agrees to provide janitorial, cleaning, and trash and medical waste removal within the Premises in a manner consistent with operation of a professional medical office center and in compliance with applicable Laws.

(c) Landlord hereby represents that as of the Commencement Date the Building and all other improvements situated on and comprising the Premises and all heating and air conditioning equipment and all plumbing, electrical, and other mechanical facilities which are part of, or which service, the Building are in good operating condition and repair, subject to normal wear and tear, and do not require any repairs other than routine maintenance.

15. HAZARDOUS MATERIALS AND INFECTIOUS WASTE.

(a) Landlord represents and warrants to Tenant that to the best of Landlord's knowledge neither the Building nor the Premises is in violation of any applicable federal, state or local environmental law as of the date of this Lease. Tenant shall not transport, use, store, maintain, generate, manufacture, handle, dispose, release, discharge, spill, or leak any hazardous material, or permit any other occupants of the Premises to engage in such activities on or about the Premises except in compliance with applicable Laws. However, the foregoing provisions shall not prohibit the transportation to and from, and use, storage, maintenance, and handling within, the Premises of substances customarily and lawfully used in the business which Tenant is permitted to conduct in the Premises under this Lease, provided: (i) such substances shall be properly labeled, contained, used, and stored only in quantities reasonably necessary for such permitted use of the Premises and the ordinary course of Tenant's business therein, strictly in accordance with applicable Laws, and the manufacturers' instructions therefor, and as Landlord shall reasonably require, (ii) such substances shall not be disposed of, released, discharged, or permitted to spill or leak in or about the Premises (and under no circumstances shall any hazardous material be disposed of within the drains or plumbing facilities in or serving the Premises or in any other public or private drain or sewer, regardless of quantity or concentration), (iii) if any applicable Law or any trash removal contractor requires that any such substances be disposed of separately from ordinary trash, Tenant shall make arrangements, at Tenant's expense, for such disposal in approved containers directly with a qualified and licensed disposal company at a lawful disposal site, and (iv) any remaining such substances shall be completely, properly, and lawfully removed from the Premises upon expiration or earlier termination of this Lease.

(b) Tenant agrees, at its sole cost and expense, to comply with all federal, state and local laws in connection with the disposal of Infectious Waste, if any by Tenant. Infectious Waste shall be segregated into plastic bags, which are impervious to moisture and have strength sufficient to preclude ripping, tearing or bursting under normal conditions of usage and of handling. Each exterior bag shall be red in color. Sharps (needles, syringes and scalpels) shall be contained in disposable, rigid, puncture proof containers, which are taped closed or tightly lidded to preclude loss of contents and clearly labeled "SHARPS". As used herein, the term "Infectious Waste" shall include: (i) wastes deemed infectious by the generator; (ii) cultures and stocks of infectious agents, including specimen cultures, wastes from the production of biological and discarded live vaccines; (iii) laboratory wastes; (iv) pathological wastes; (v) animal carcasses; (vi) human and animal blood specimens or products (vii) patient wastes such as bandages and disposable gowns; (viii) sharp wastes; (ix) and any material generated by research facilities pertaining to the production or testing of biological agents.

(c) Notwithstanding anything to the contrary contained in this Lease, Tenant shall have no liability for release, discharge, spill, or leak of any hazardous material at or upon the Premises that occurred prior to the Commencement Date or the violation of any federal, state or local environmental law with respect to the Premises occurring prior to the Commencement Date or that arises or results from conditions in existence or activities that occurred prior to the Commencement Date.

16. DEFAULTS AND REMEDIES.

(a) If Tenant shall default in the payment of Rent herein reserved when due; or if Tenant shall be in default in performing any of the terms or provisions of this Lease other than the provisions requiring the payment of Rent, and fails to cure such any monetary default within five (5) days of the date such payment is due or fails to cure any non-monetary default within thirty (30) days after written notice of such default is given to Tenant by Landlord (provided, however, if such non-monetary default is of such a nature that it cannot through the exercise of diligent and reasonable efforts be cured within thirty (30) days, then Tenant shall not be in default in such instance if Tenant commences to cure within such 30-day period and thereafter diligently and continually pursues the cure of such non-monetary default to completion as soon as possible, using commercially reasonable efforts, and in all events within a commercially reasonable time after such initial notice, subject only to force majeure); or if Tenant is adjudicated a bankrupt; or if a permanent receiver is appointed for Tenant's property and such receiver is not removed within sixty (60) days after appointment thereof; or if, whether voluntarily or involuntarily, Tenant takes advantage of any debtor relief proceedings under any present or future Laws, whereby the Rent, or any part thereof, is, or is proposed to be, reduced or payment thereof deferred, or if Tenant seeks to transfer all or substantially all of its assets pursuant to a UCC sale or similar method; or if Tenant's effects should be levied upon or attached and such levy or attachment is not satisfied or dissolved within ninety (90) days after such levy or attachment; then, and in any of such events, Landlord, at its option, may exercise any or all of the remedies set forth in Section 16(c) below.

(b) Upon the occurrence of any default set forth in Section 16(a) above which is not cured by Tenant within the applicable cure period provided therein, if any, Landlord may exercise any or all of the following remedies (and Landlord shall use commercially reasonable efforts to mitigate its damages hereunder as required by applicable Law):

(i) terminate this Lease by giving Tenant written notice of termination, in which event this Lease shall terminate on the date specified in such notice and all rights of Tenant under this Lease shall expire and terminate as of such date, Tenant shall remain liable for all obligations under this Lease up to the date of such termination and Tenant shall surrender the Premises to Landlord on the date specified in such notice; and if Tenant fails to so surrender, Landlord shall have the right, without further notice, to enter upon and take possession of the Premises and to expel and remove Tenant and its effects without being liable for prosecution or any claim of damages therefor;

(ii) terminate this Lease as provided in the immediately preceding Section 16(c)(i) and recover from Tenant all damages Landlord may incur by reason of Tenant's

default, including, without limitation, (i) the then present value (discounted at a rate equal to the then applicable prime rate as published by The Wall Street Journal) of (A) the total Fixed Rent which would have been payable hereunder by Tenant for the period beginning with the day following the date of such termination and ending with the Termination Date of the Term as originally scheduled hereunder, minus (B) the aggregate reasonable rental value of the Premises for the same period (as determined by an independent MAI real estate appraiser selected by Landlord, at Tenant's expense, who is licensed in the state where the Premises is located, who has at least ten (10) years' experience immediately prior to the date in question in evaluating commercial or medical office space, taking into account all relevant factors including, without limitation, the length of the remaining Term, the then current market conditions in the general area, the likelihood of reletting for a period equal to the remainder of the Term, net effective rates then being obtained by landlords for similar type space in comparable buildings, vacancy levels in the general area, current levels of new construction in the general area, and how that would affect vacancy and rental rates during the period equal to the remainder of the Term and inflation), plus (ii) the costs of recovering the Premises, and all other expenses incurred by Landlord due to Tenant's default, including, without limitation, reasonable attorneys' fees, plus (iii) the unpaid Rent earned as of the date of termination, plus interest, all of which sum shall be immediately due and payable by Tenant to Landlord;

(iii) without terminating this Lease, and without notice to Tenant, Landlord may in its own name, but as agent for Tenant, and in accordance with applicable Law, enter into and take possession of the Premises and re-let the Premises, or any portion thereof, as agent of Tenant, upon any terms and conditions as Landlord may deem necessary or desirable (Landlord shall have no obligation to attempt to re-let the Premises, or any part thereof, except to the extent required by applicable Law). Upon any such re-letting, all rentals received by Landlord from such re-letting shall be applied first to the costs incurred by Landlord in accomplishing any such re-letting (including, without limitation, leasing and brokerage commissions, repair and remodeling costs, and reasonable attorneys' fees), and thereafter shall be applied to the Rent owed by Tenant to Landlord during the remainder of the Term of this Lease, and Tenant shall pay any deficiency between the remaining Rent due hereunder and the amount received by such re-letting as and when due hereunder;

(iv) allow the Premises to remain unoccupied (so long as Landlord uses commercially reasonable efforts to mitigate its damages hereunder as required by applicable Law) and collect Rent from Tenant as it becomes due; or

(v) pursue such other remedies as are available at Law or in equity.

(c) In the event of a Landlord default hereunder, Tenant shall notify Landlord in writing of any alleged breach of Landlord's obligations under this Lease and shall take no action with respect to such breach as long as Landlord promptly commences to cure such breach within thirty (30) days (or as soon as reasonably practicable in the event of an emergency) following Landlord's receipt of Tenant's written notice thereof and thereafter diligently proceeds to complete the cure of said breach within a reasonable time period, subject in all cases to force

majeure and delays attributable to the acts or omissions of Tenant or any of the Tenant affiliates or employees. In the event that Landlord fails to cure such breach as provided under this Section, Tenant shall have the right (but not the obligation) to perform such obligation and Tenant shall be permitted to offset and deduct from the Rent any reasonable charge or cost incurred by Tenant in connection therewith; provided, however, that prior to exercising such right with respect to a replacement or substantial repair that is the obligation of Landlord to perform under Section 14(a), Tenant shall obtain and deliver to Landlord a written opinion of a third-party contractor that such replacement or substantial repair is warranted.

17. CASUALTY.

In the event of damage or destruction of the Premises by fire or any other casualty, Landlord shall deliver to Tenant within sixty (60) days after the date of casualty a written estimate of the time period required for restoration. This Lease may be terminated by either party upon written notice to the other party if it is estimated that it will take more than two hundred ten (210) days to repair and restore the Premises to the same condition existing immediately prior to the date of the casualty. If this Lease is not so terminated, and Landlord's lender makes the insurance proceeds available, Landlord shall, at its sole cost and expense, promptly restore and repair the Building and the Premises to the same condition they were in before such fire or other casualty; provided, however, that Tenant shall have the right to terminate this Lease upon thirty (30) days prior notice if Landlord fails to complete such restoration within the two hundred ten (210) day period. Unless terminated as aforesaid and Landlord receives the Rent pursuant to the rental insurance obtained by Tenant, this Lease shall continue in full force and effect, but if the condition is such as to make the entire Premises untenable, then Rent shall abate as of the date of the occurrence until the Premises have been restored by Landlord as set forth above. Any unpaid or prepaid Rent for the month in which said condition occurs shall be prorated. If the Premises are partially damaged or destroyed, then during the period that Tenant is deprived of the use of the damaged portion of the Premises, Tenant shall be required to pay Rent covering only that part of the Premises that it is able to occupy, based on that portion of the total Rent which the amount of square foot area remaining that can be occupied bears to the total square foot area of all the Premises.

18. CONDEMNATION.

(a) If the Premises or any part thereof shall be substantially taken or condemned for public or quasi-public use or purpose by any competent authority, or conveyed in lieu of being taken or condemned, the Term shall terminate from the date of such governmental taking or condemnation, or conveyance in lieu thereof, and Tenant shall have no claim against Landlord for the value of any unexpired Term. Nothing in this Section 18(a) shall limit or affect Tenant's right to seek any separate award from the condemning authority as long as Tenant does not thereby reduce, delay or in any other way affect Landlord's claim or award.

(b) If so much of the Premises or any part thereof as to unreasonably interfere with Tenant's use of the Premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, Tenant shall have the right to terminate this Lease, or to continue in possession of the remainder of the Premises, and Tenant shall notify Landlord in writing

within thirty (30) days after such partial taking of Tenant's election. In the event Tenant elects to remain in possession, Landlord shall at its sole cost and expense promptly restore the Premises to a condition comparable to its condition at the time of such condemnation less the portion lost in the taking, excepting any improvement previously installed or performed by Tenant, and this Lease shall continue in full force and effect, and the Base Rent shall be reduced in proportion to the gross floor area of the Premises so taken.

19. BROKERS.

Each of Landlord and Tenant represents and warrants to the other that neither it nor its agents have dealt with any broker in connection with this Lease. Each of Landlord and Tenant shall indemnify, defend, protect and hold the other party harmless from and against any and all Losses which the indemnified party may incur by reason of any claim of or liability to any broker, finder or like agent arising out of any dealings claimed to have occurred between the indemnifying party and the claimant in connection with this Lease, or the above representation being false.

20. SUCCESSORS.

It is agreed that all rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to their respective heirs, executors, administrators, successors and permitted assigns.

21. NOTICES.

All notices required or desired to be given hereunder by either party to the other shall be given by hand, by overnight courier or by certified or registered mail. Notices shall be effective upon receipt (refusal to accept delivery or the inability to make delivery due to an incorrect or outdated address being provided by the intended recipient shall constitute receipt). Notices to the respective parties shall be addressed as follows:

If to Landlord: TPSS, L.L.C.
2111 Ogden Avenue
Aurora, Illinois 60504
Attn: President

With a copy to: McGuireWoods, LLP
77 W. Wacker, Suite 4100
Chicago, Illinois 60601
Attn: Amber McGraw-Walsh, Esq.

If to Tenant: At the Premises.

With a copy to: Rush-Copley Medical Center
2000 Ogden Avenue
Aurora, Illinois 60504
Attn: CEO

And with a copy to: Rush-Copley Medical Center
2000 Ogden Avenue
Aurora, Illinois 60504
Attn: General Counsel

Either party may, by like written notice, designate a new address or addressee to which notices shall be directed. A copy of any notice given to Landlord shall also be given to any mortgagee or ground lessor of whose existence Landlord or such mortgagee or ground lessor has given Tenant notice. Notices may be given by authorized agents or attorneys on behalf of a party.

22. ESTOPPEL CERTIFICATES.

Within ten (10) days after request therefor by either party, the other party shall execute and deliver an estoppel certificate certifying the text of this Lease and any amendments thereto; whether this Lease is in full force and effect and, if not, the reason therefor; whether any default or any situation which could be a default after the giving of notice or the expiration of any cure period (or both) exists under this Lease on the part of Landlord or Tenant and, if so, specifying the default or potential default; the Commencement Date and the expiration date of the Term; the date Rent commenced to accrue and the date to which Rent has been paid; and any other information typically requested by potential purchasers and/or lenders requesting estoppel certificates.

23. SUBORDINATION, ATTORNMENT AND LENDER PROTECTION.

This Lease is subject and subordinate to all mortgages or deeds of trust now or hereafter placed upon the Building or the Premises, and all other encumbrances and matters of public record applicable to the Building or the Premises. Whether before or after any foreclosure proceedings are initiated or completed by any lender or a deed in lieu is granted (or any ground lease is terminated), Tenant agrees upon written request of any such lender or any purchaser at such sale, to attorn and pay Rent to such party, and recognize such party as Landlord (provided such lender or purchaser shall agree not to disturb Tenant's occupancy so long as Tenant does not Default hereunder, on a form customarily used by, or otherwise reasonably acceptable to, such party). Any lender may elect to make this Lease prior to the lien of its mortgage by written notice to Tenant, and if the lender of any prior mortgage shall require, this Lease shall be prior to any subordinate mortgage; such elections shall be effective upon written notice to Tenant, or shall be effective as of such earlier or later date set forth in such notice. Except as expressly provided to the contrary herein, the provisions of this Section 23 shall be self-operative; however Tenant shall execute and deliver, within ten (10) days after requested, such documentation as Landlord or any lender may request from time to time, whether prior to or after a foreclosure

proceeding is initiated or completed, a deed in lieu is delivered, or a ground lease is terminated, in order to further confirm or effectuate the matters set forth in this Section 23 in recordable form.

24. SURRENDER.

At the expiration or termination of this Lease, or termination of Tenant's right of possession, Tenant shall remove Tenant's trade fixtures, furniture, equipment and other personal property and, to the extent required hereunder, any Alterations from the Premises, and quit and surrender the Premises to Landlord, broom clean, and in substantially the same condition as when Tenant received possession on the Commencement Date, ordinary wear and tear and damage by fire or other casualty excepted. If Tenant fails to remove any of Tenant's property or, to the extent required hereunder, Alterations, or to restore the Premises to the required condition, upon expiration or termination of this Lease or termination of Tenant's right to possession, Landlord, at Tenant's sole cost and expense, shall be entitled (but not obligated) to remove and store Tenant's property and/or perform such restoration of the Premises. Tenant shall pay Landlord, upon demand, the expenses and storage charges incurred.

25. HOLDING OVER.

If Tenant shall continue to remain in the Premises after the termination or expiration of the Term of this Lease, then and in that event Tenant shall become a tenant on a month-to-month basis subject to all of the other terms and conditions of this Lease, except that Base Rent payable for each month shall equal one hundred fifty percent (150%) of the monthly Base Rent payable for the last month before the expiration or termination of the Term plus any actual damages incurred by Landlord in connection with any such holdover. In no event shall any holdover of this Lease be deemed a renewal of this Lease on a year-to-year basis.

26. COMPLETE AGREEMENT, NO ORAL MODIFICATIONS; SUBMISSION OF LEASE.

This Lease represents the complete and integrated agreement of the parties with respect to the Premises and the Building and, except as set forth herein, there are no other agreements, covenants, representations or warranties (express or implied) between the parties with regard to the subject matter contained herein. Nothing in this Lease shall be deemed or construed to create a partnership or joint venture or to create any relationship other than landlord and tenant. This Lease may not be amended except by a written document signed by the party to be bound thereby. The submission of this Lease for examination does not constitute an offer to lease, or a reservation of or option for the Premises, and this Lease shall become effective only upon execution and delivery thereof by each of Landlord and Tenant.

27. GOVERNING LAW; RULES OF INTERPRETATION; ATTORNEYS' FEES.

This Lease shall be governed by the laws of the State of Illinois without regard to conflicts of laws. Without limiting a party's right to bring any action in any other jurisdiction or forum, each party submits itself to the jurisdiction of the federal and local courts sitting in the

State of Illinois and to venue therein. It is the intent of the parties that this Lease be enforceable to the fullest extent permitted by law. If any provision of this Lease is capable of two or more interpretations or can be reformed so as to comply with applicable law while giving effect to the intent of such provision, then such provision shall be interpreted in the way most likely to be in compliance with applicable law. In the event either party resorts to judicial proceedings to enforce any right within this Lease, the party ultimately prevailing in such proceedings shall be entitled to recover from the defaulting party the costs of such proceedings, including reasonable attorneys' fees, to the extent permissible under applicable law.

28. FORCE MAJEURE.

In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease ("**Force Majeure**"), then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Notwithstanding the foregoing, the provisions of this Section 28 shall not operate to excuse Tenant from prompt payment of Rent, or any other payments required by the terms of this Lease.

29. QUIET ENJOYMENT; TIME OF ESSENCE.

Upon payment by Tenant of the Rent herein provided, and upon the observance of all covenants, terms and conditions of this Lease on Tenant's part to be observed and performed, Tenant shall peaceably and quietly enjoy, hold and occupy the Premises during the Term of this Lease. Time is of the essence of this Lease, and every term, condition, covenant and provision hereof.

30. OPTION TO RENEW.

(a) Provided that both at the time Tenant gives Landlord written notice of its intention to exercise its rights under this Section 30, as hereinafter provided, and at the time the initial Term expires, that there is no outstanding Event of Default by Tenant, then Tenant shall have the right to renew this Lease for one (1) additional period of five (5) years (the "**Renewal Term**") upon all of the terms and conditions contained herein. Base Rent to be paid during the Renewal Term shall be determined as provided under Section 30(b) below. Tenant shall exercise said option by giving Landlord written notice at least two hundred seventy (270) days prior to the expiration of the Term. If such notice to extend shall not be so given by Tenant, this Lease shall thereupon cease and terminate at the expiration of the initial Term. If Tenant shall exercise said option as aforesaid, the respective rights, duties, and obligations of Landlord and Tenant during the Renewal Term shall be governed by the terms and conditions of the Lease.

(b) Landlord shall have thirty (30) days from receipt of Tenant's renewal notice to respond to Tenant's Base Rent proposal, if any, contained in Tenant's renewal notice. If Landlord and Tenant fail to agree upon the terms of the Base Rent for the Renewal Term within

such thirty (30) day time frame, the fair market rental value (the “FMRV”) appraisal process as described below shall be used to determine the FMRV. The Base Rent for the first Lease Year within the Renewal Term shall be 100% of the annual FMRV of the Premises as determined by two (2) appraisers selected as follows: not later than ten (10) business days following the expiration of said 30-day period, Landlord and Tenant shall each select and identify to the other party in writing an appraiser or broker that is a member of a recognized professional organization for appraisers or brokers (as applicable) and has at least five (5) years’ experience in appraising commercial office buildings or brokering leases for commercial office buildings (as applicable) (each, an “Appraiser”). If either party fails to appoint an Appraiser within such timeframe, the Appraiser appointed by such other party shall make the FMRV determination. Within thirty (30) days following his selection, each Appraiser shall submit a written report to each party stating such Appraiser’s determination of the FRMV based on comparable leases to tenants of space comparable in size, quality and financial strength in comparable buildings in the greater Aurora area, and taking into consideration rental inducements then given to new tenants in such comparable buildings. If the higher of the two (2) appraisals is less than or equal to one hundred ten percent (110%) of the lower, the FMRV for the Renewal Term shall be the average of the rental rates determined by the Appraisers. If the higher of the two (2) appraisals is greater than one hundred ten percent (110%) of the lower, then the Appraisers shall mutually select a third Appraiser and the third Appraiser shall prepare his own written report stating his determination of the FRMV within thirty (30) days following his appointment. The third Appraiser shall then select one of the first two Appraiser’s values and such selected value shall be the rental rate for the Renewal Term. Landlord shall pay the cost of the appraisal by the Appraiser selected by Landlord. Tenant shall pay the cost of the appraisal by the Appraiser selected by Tenant. Landlord and Tenant shall equally bear the cost of the appraisal prepared by the third Appraiser. Base Rent for the remaining Lease Years in the Renewal Term shall increase as provided in Section 3(b).

31. RESTRICTION ON TRANSFER.

During the Term of this Lease Landlord shall not sell, convey or transfer all or any portion of its right, title and interest in and to the Building to any hospital or health care system (other than Tenant) or to any entity controlling, controlled by or under common control with any such hospital or health care system. Landlord acknowledges and agrees that the foregoing restriction is important to Tenant and constitutes part of the bargained-for consideration for Tenant’s entering into this Lease. With the exception of the foregoing Landlord may sell, convey or transfer all or any portion of the Premises without limitation.

32. REGULATORY COMPLIANCE.

(a) Referral Source. Landlord and Tenant hereby acknowledge and agree that it is not a purpose of this Lease or any of the transactions contemplated herein to exert influence in any manner over the reason or judgment of any party with respect to the referral of patients or business of any nature whatsoever. It is the intent of the parties hereto that any referrals that may be made directly or indirectly by Landlord to Tenant’s business, shall be based solely upon the medical judgment and discretion of a patient’s physician while acting in the best interests of the patient. Landlord and Tenant hereby agree that the Rent and any increases in the Rent reflect fair

market value and do not take into account the volume or value of referrals or business that may otherwise be generated between the parties for which payment may be made in whole or in part under Medicare, Medicaid or other Federal health care programs.

(b) Termination Due to Legislative or Administrative Changes. In the event that there shall be a change in applicable health care law or the interpretation thereof, including, without limitation, Medicare or Medicaid, statutes, regulations, or general instructions, (or the application thereof), the adoption of new legislation or regulations applicable to this Lease, or the initiation of an enforcement action with respect to any applicable health care law, any of which adversely affects the continuing legality of this Lease in the reasonable opinion of either Landlord's healthcare counsel or Tenant's healthcare counsel, which opinion shall be in writing and the basis thereof shared with the other party, then either party may, by notice, propose an amendment to conform this Lease to applicable laws. The parties shall negotiate any such amendment in good faith. If notice of such proposed change is given and the parties hereto are unable to agree within ninety (90) days upon an amendment, then either party may terminate this Lease by ten (10) days' advance written notice to the other party, unless a sooner termination is required under applicable law or circumstances. In the event the Premises are sold to a party that is not a referral source as mutually determined by Landlord's healthcare counsel and Tenant's healthcare counsel, each acting reasonably and in good faith, this Section 32(b) shall be of no further force and effect.

(c) Privacy and Security Laws. Tenant is subject to the provisions of the Health Insurance Portability and Accountability Act of 1996 and the implementing regulations at 45 CFR Parts 160 and 164, as amended by the Health Information Technology for Economic and Clinical Health Act, and applicable state patient privacy and security laws (collectively, "**Privacy and Security Laws**") and in order for Tenant to comply with Privacy and Security Laws, Tenant must restrict access to the portions of the Premises where patient medical records are kept or stored. Landlord hereby agrees that, notwithstanding the rights granted to Landlord pursuant to this Lease, except when accompanied by an authorized representative of Tenant or in the event of emergency, neither Landlord nor its employees, agents, representatives or contractors shall be permitted to enter those areas of the Premises designated by Tenant as locations where patient medical records are kept and/or stored or where such entry is prohibited by Privacy and Security Laws. Landlord further agrees to comply with the provisions of Privacy and Security Laws in connection with Landlord's entry into the Premises. Tenant shall make an authorized representative reasonably available to accompany Landlord as needed.

33. FINANCIAL STATEMENTS.

Within fifteen (15) days of request by Landlord, Tenant shall deliver to Landlord complete financial statements of Tenant, including a balance sheet and statement of cash flows and all other related schedules for the fiscal period then ended income statements for the business at the Premises and such other related financial information reasonably requested by Landlord; provided, however, that (i) Landlord shall have no right to make such request more than one (1) time in any calendar year, and (ii) notwithstanding the foregoing, Tenant shall have no obligation to deliver financial statements under this Section 33 if Tenant is an entity owned or controlled by Rush-Copley Medical Center, Inc. Financial statements delivered by Tenant

pursuant to this Section 33 shall be certified to be accurate and complete by an officer or director of Tenant.

[Signature page follows]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease under seal as of the day and year first above written.

LANDLORD:

TPSS, L.L.C

By: _____

Name: _____

Title: _____

TENANT:

COPLEY MEMORIAL HOSPITAL, INC., an
Illinois not for profit corporation

By: _____

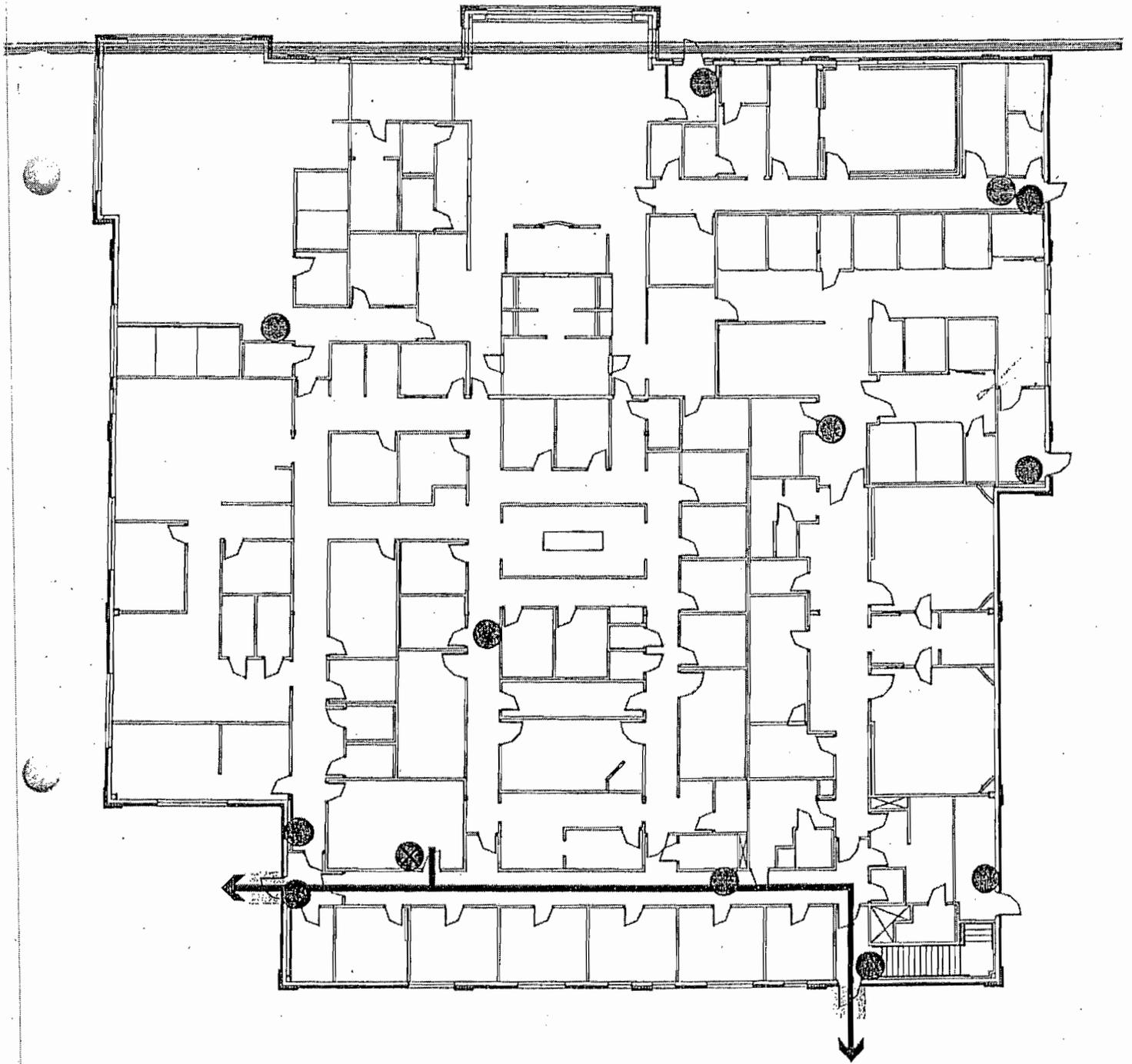
Name: _____

Title: _____

EXHIBIT A

DEPICTION OF THE PREMISES

[See attached]



**Castle Orthopedics & Sports Medicine
Emergency Evacuation Plan**

- ⊗ You are here
- Alarm Pull Station
- Fire Extinguisher
- Exit
- ➔ Evacuation route

EXHIBIT B

BASE RENT SCHEDULE

[Rent calculations shall be recalculated when square footage has been verified.]

<u>Period</u>	<u>Rent Per Square Foot</u>	<u>Annual Base Rent</u>	<u>Monthly Installments of Base Rent</u>
_____, 2016 – _____, 2017	\$29.00	\$725,000	\$60,416.67
_____, 2017 – _____, 2018	\$29.58	\$739,500	\$61,625
_____, 2018 – _____, 2019	\$30.17	\$754,250	\$62,854.17
_____, 2019 – _____, 2020	\$30.77	\$769,250	\$64,104.17
_____, 2020 – _____, 2021	\$31.39	\$784,750	\$65,395.83
_____, 2021 – _____, 2022	\$32.02	\$800,500	\$66,708.33
_____, 2022 – _____, 2023	\$32.66	\$816,500	\$68,041.67
_____, 2023 – _____, 2024	\$33.31	\$832,750	\$69,395.83
_____, 2024 – _____, 2025	\$33.98	\$849,500	\$70,791.67
_____, 2025 – _____, 2026	\$34.66	\$866,500	\$72,208.33

EXHIBIT 2.4(A)(XIV)

Equipment Lease

EQUIPMENT LEASE AGREEMENT

THIS EQUIPMENT LEASE AGREEMENT (“**Agreement**”) is made and entered into as of October 1, 2016 (the “**Effective Date**”), by and between TPSS, L.L.C., an Illinois limited liability company (“**Lessor**”) and RUSH-COPLEY SURGICENTER, LLC, an Illinois limited liability company (“**Lessee**”).

WITNESSETH

WHEREAS, Lessor owns the equipment set forth on Schedule A attached hereto (collectively, the “**Equipment**”); and

WHEREAS, Lessee desires to lease the Equipment from Lessor and Lessor agrees to lease the Equipment to Lessee on the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the foregoing recitals which are incorporated herein as if fully set forth below, and for and in consideration of the mutual promises, covenants, and other forms of consideration stated herein, the adequacy and receipt of which are hereby acknowledged, the parties hereto agree as follows:

1. LEASE AND LEASE TERM

1.1. Lease of Equipment. Lessor shall make available to Lessee, and hereby grants to Lessee, exclusive use of the Equipment at the location(s) set forth in Schedule A attached hereto (the “**Premises**”).

1.2. Term of Agreement; Termination. The term of lease under this Agreement, for each unit of Equipment, shall commence on the Effective Date and shall remain in full force and effect for the period specified in Schedule A attached hereto (“**Lease Term**”). Either party may terminate this Agreement as provided for in Schedule A. The termination rights set forth in the Schedules may be applied to one or more units of Equipment without terminating this Agreement in its entirety, provided, however, this Agreement will terminate when all Lease Terms have been terminated.

1.3. Rent. Lessee shall pay to Lessor rent for the Equipment at the address set forth in Section 3.2 of this Agreement in the amount set forth on Schedule A. Each rental payment shall be paid on or before the tenth (10th) day of each month during the term of this Agreement.

1.4. Delivery and Acceptance. Lessee shall inspect the Equipment within thirty (30) days of the Effective Date. Lessee shall immediately notify Lessor of any discrepancies between the Equipment and the description of the Equipment on the Schedules. Lessee shall notify Lessor within thirty (30) days of the Effective Date of any such discrepancy, providing written notice specifying such discrepancy or objection to the Equipment.

1.5. Warranties. Lessor represents and warrants that during the term of this Agreement, Lessor has good, valid and marketable title to the Equipment and title to the Equipment shall remain with Lessor. Lessor agrees, so long as no event of default has occurred

and is continuing hereunder, that Lessee shall have the right, at its option, to obtain the benefit of and enforce in Lessee's own name and at Lessee's sole expense, any supplier's or manufacturer's warranty or agreement with respect to the Equipment to the extent such warranty or agreement is assignable, and Lessor shall execute and deliver such instruments as may be reasonably necessary to enable Lessee to obtain such benefits. To the extent such third party warranties and agreements are not assignable, Lessor will use reasonable efforts and incur reasonable expenses to enforce such against a third party on Lessee's behalf.

1.6. Statement of Fair Market Value. The parties hereto believe the rental provided for in this Agreement represents the fair market value for the lease of the Equipment. No rentals in this Agreement take into account the volume or value of any referrals. It is the intention of the parties for the provisions of this Agreement to meet the equipment rental safe harbor to the federal anti-kickback statute (42 C.F.R. § 1001.952 (c)), the rental of equipment exception to the Stark II prohibition of physician referrals (42 C.F.R. § 411.357(b), 42 U.S.C. § 1395nn(e)(1)(B)), and the fair market value compensation exception to the Stark II statute (42 C.F.R. § 411.357(l)).

2. EQUIPMENT

2.1. Use of Equipment. Lessee agrees that the Equipment will be used solely in the conduct of Lessee's business. Nothing herein shall be construed as conveying to Lessee any right, title or interest in or to the Equipment, except for the express leasehold interest granted to Lessee during the term of this Agreement. Lessee shall be and remain solely responsible for all medical services provided using the Equipment during the Lease Term.

2.2. Repair of Equipment. During the Lease Term, Lessee, at its sole expense, shall keep the Equipment in good working condition, repair and maintenance and shall furnish all labor, parts, mechanisms and devices required therefor. To the extent any third party maintenance agreement related to the Equipment exists, Lessee shall reimburse Lessor for one hundred percent (100%) of the costs and expenses under such agreement on a monthly basis. The Equipment shall at all times be operated in a careful and proper manner in compliance with all applicable laws, ordinances, rules and regulations and all conditions and requirements of the policy or policies of insurance required to be carried by each party under the terms of this Agreement and all manufacturer's instructions and warranty requirements.

2.3. Alterations of Equipment. Without the prior written consent of Lessor, Lessee shall not make any alterations, additions or improvements to the Equipment. All additions and improvements of whatsoever kind or nature made to the Equipment that are not readily removable shall be deemed accessions thereto, shall belong to and immediately become the property of Lessor and shall be surrendered to Lessor with the Equipment upon the expiration or earlier termination of this Agreement.

2.4. Casualty Occurrence. During the Lease Term, Lessee hereby assumes and shall bear the entire risk of loss of, theft of, damage to, or destruction of the Equipment from any cause whatsoever ("Casualty Occurrence"). In the event of a Casualty Occurrence to the Equipment during the Lease Term, Lessee shall provide Lessor with prompt notice thereof and thereafter shall place the Equipment in good repair, condition and working order; provided, however, that if the Equipment is mutually determined by the parties to be lost, stolen, or

destroyed or damaged beyond repair, Lessee shall, at Lessor's option, (a) replace the Equipment with like equipment in good repair, condition and working order and transfer clear title to such replacement equipment to Lessor or (b) pay the amount mutually determined by the parties to be the replacement cost of the Equipment, which amount shall be paid to Lessor no later than the due date of the next following installment of rent due pursuant to Section 1.3 of this Agreement.

2.5. Insurance. Lessee, at its cost, shall procure and continuously maintain (a) all risk insurance against loss of or damage to the Equipment for not less than the full replacement value thereof and (b) general public liability and property damage insurance against loss or arising out of the use of the Equipment, including without limitation bodily injury, death or damage to property of others, in an amount mutually agreed upon by the parties. Lessee shall provide Lessor with a certificate evidencing such insurance. Lessee shall promptly notify any appropriate insurer and Lessor of each and every occurrence that may become the basis of a claim or cause of action against the insured's interest and provide Lessor with all data pertinent to such occurrence.

2.6. Liens and Taxes. Lessee shall pay all taxes levied, assessed, or imposed with respect to the Equipment during the Lease Term under the authority of any federal, state, or local taxing jurisdiction, including but not limited to, use taxes, fees, charges, or assessments, of whatsoever kind, whether based on rent, or levied, assessed or imposed in connection with the purchase, leasing or use of the Equipment.

3. GENERAL PROVISIONS

3.1. Effect of Termination. At the expiration or earlier termination of this Agreement, Lessee shall (a) surrender the Equipment to Lessor in the same repair, condition and working order as at the commencement of the term hereof with respect thereto, reasonable wear and tear resulting from the ordinary use thereof excepted and (b) pay to Lessor all amounts due and owing for the Equipment through the termination date (provided that Lessee shall not owe or be required to pay any penalty or other amount in excess of the sum of: (i) its pro rata share of rent for the Equipment as of the termination date and (ii) the amount, if any, owed pursuant to Section 2.4 of this Agreement). Lessor shall, at its sole expense, retrieve equipment from Lessee within five (5) days of the termination or expiration of the Lease Term.

3.2. Notices. All notices shall be in writing and personally delivered or sent by certified or registered mail addressed to Lessor or Lessee at the address shown below. Either party may change its address by specifying the change in a written notice to the other party.

If to Lessor: TPSS, L.L.C.
2111 Ogden Avenue
Aurora, Illinois 60504
Attn: President

With a copy to: McGuire Woods LLP
77 W. Wacker Drive
Suite 4100
Chicago, IL 60601

Attn: Amber Walsh

If to Lessee: Rush-Copley Surgicenter, LLC
2111 Ogden Avenue
Aurora, Illinois 60504
Attn: CEO

With a copy to: Rush-Copley Medical Center
2000 Ogden Avenue
Aurora, Illinois 60504
Attn: General Counsel

3.3. Assignment. Neither party shall sublease, assign, transfer, pledge or hypothecate this Agreement, the Equipment or any interest in this Agreement and/or in the Equipment to any third party without the prior written consent of the other party, except that Lessee may assign this Agreement to any of its affiliates.

3.4. Non-Waiver. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach hereof.

3.5. Entire Agreement. This instrument constitutes the entire agreement between Lessor and Lessee and shall not be amended, altered or changed except by a written agreement signed by the parties hereto.

3.6. Headings and Exhibits. All headings used in this Agreement are inserted herein for the convenience of reference only and shall not be considered in the construction of any provision hereof. All exhibits, schedules or other documents that are attached and referred to in the text of this Agreement shall be considered as part of this Agreement as if fully set out herein.

3.7. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

3.8. Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

3.9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, except to the extent that any Illinois conflict of law provision should make the laws of any other state apply.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

LESSOR:

TPSS, L.L.C.

By: _____
Its: _____

LESSEE:

RUSH-COPLEY SURGICENTER, LLC

By: _____
Its: _____

SCHEDULE A

1. Equipment; Premises. The equipment described in the table below is equipment used in the operation of the practice of an ambulatory surgery center at 2111 Ogden Avenue, Aurora, IL, 60504.
2. Term. The Lease Term for the Equipment shall commence on the Effective Date and continue in effect for an initial term of five (5) years, unless earlier terminated pursuant to the provisions hereof.
3. Termination Without Cause. The Lease Term may be terminated as follows:
 - a. For Equipment listed in Category 1 below, the Lease Term may be terminated on the date set forth next to such Equipment in the chart below.
 - b. For Equipment listed in Category 2 below, the Lease Term may be terminated on the date set forth next to such Equipment in the chart below.
 - c. For Equipment listed in Category 3 below, the Lease Term may be terminated on the date set forth next to such Equipment in the chart below.
4. Termination for Cause. Any Lease Term may be terminated for cause upon the occurrence of any of the following events or conditions: (a) either party's breach of any representation or warranty made by it hereunder or in connection herewith that remains uncured for fifteen (15) days following the receipt of notice from the non-breaching party; (b) any affirmative act of insolvency by either party, or the filing by either party of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors; and (c) the filing of any involuntary petition under any bankruptcy statute against either party that is not dismissed within sixty (60) days thereafter, or the appointment of any receiver or trustee to take possession of the properties of the party, unless such petition or appointment is set aside within sixty (60) days from the date of said filing or appointment.
5. Rent Amounts. Lessee shall pay Lessor the rent amounts set forth below for the Equipment on a monthly basis pursuant to Section 1.3.

Category	First Option to Terminate	Amount	Description
1	9/30/2017	\$757.53	Stryker Battery & Chorded Power; Arthrex Knee Holder; Arc Bow Frame, 2 Datascope Patient Monitors and Passport XG Monitor with Stand
1	9/30/2017	\$23.19	Release of Smith & Nephew Equipment
1	9/30/2017	\$213.98	1/3rd of Ultrasound
1	9/30/2017	\$136.02	Med Fusion Pump and Ice Dispenser
CATEGORY 1 TOTAL		\$1,130.72	
2	9/30/2018	\$18.07	Printer
2	9/30/2018	\$557.61	2nd Release of Original Equipment & Furnishings
2	9/30/2018	\$178.90	Software Upgrade for C-Arm
2	9/30/2018	\$58.46	C-Arm Upgrade
CATEGORY 2 TOTAL		\$813.04	
3	9/30/2019	\$30.94	Patient Monitor
3	9/30/2019	\$43.91	2nd Released Various Equipment
3	9/30/2019	\$131.27	Second Release Microscope & Instruments
3	9/30/2019	\$417	RSA Machine
CATEGORY 3 TOTAL		\$623.12	

\$2,566.88 total monthly rent effective 10/1/2016

EXHIBIT 2.4(A)(XIX)

Form of Services Agreement

BILLING SERVICES AGREEMENT

THIS BILLING SERVICES AGREEMENT (the "Agreement") is made as of October 1, 2016, by and between, Rush-Copley Surgicenter, LLC ("Billing Agent"), an Illinois limited liability company, and Castle SurgiCenter, LLC ("Provider"), an Illinois limited liability company, (collectively, the "Parties").

RECITALS

WHEREAS, Billing Agent employs personnel proficient in billing, collection, and reporting health care claims; and

WHEREAS, Provider is in the business of providing healthcare services; and

WHEREAS, Provider desires to obtain billing, collection, and reporting services from Billing Agent for accounts receivable related to the healthcare services provided by Provider prior to October 1, 2016, and Billing Agent desires to provide such services.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the Parties agree as follows:

I. OBLIGATIONS OF BILLING AGENT

1.1. **Provision of Services.** Billing Agent shall prepare, in the name of and on behalf of Provider, all bills to patients, Medicare, Medicaid, and other third-party payors, and shall transmit such bills appropriately and in a timely manner for the health care services furnished by Provider. Subject to state and federal laws, Billing Agent shall follow, unless otherwise directed, the McGraw Hill billing guidelines and relative value guide as appropriate in performing billing services pursuant to this Agreement. In addition, Billing Agent shall provide the following services:

- (a) **Electronic Filings.** Billing Agent shall file all claims electronically, to the extent possible in Billing Agent's sole discretion.
- (b) **Follow-up on Claims.** Billing Agent shall follow up with payors to ensure such payors compensate Provider in a timely manner.
- (c) **Disputed Claims.** Billing Agent shall resubmit to the appropriate payor disputed or denied claims. It is the responsibility of Provider to obtain and furnish to Billing Agent any additional documentation requested by any third-party payor or determined to be necessary in the professional judgment of Billing Agent.
- (d) **Refunds and Credits.** Billing Agent shall notify Provider of any credit balance in any Provider patient's account, and of any refunds that may be due and

owing to such patient. However, the Parties agree and acknowledge that Billing Agent shall be solely responsible to process and arrange for payment of any refunds due on a patient's account.

(e) **Documentation for Services.** Billing Agent agrees to instruct and advise Provider on documentation necessary to file claims with third-party payors. Billing Agent reserves the right to refuse to bill for services where Provider's documentation is inadequate, in Billing Agent's sole discretion, to satisfy the requirements of the applicable third-party payor. Provider understands that Billing Agent has no responsibility for any potential changes in coverage, reimbursement or documentation rules applicable to any third-party payor or reimbursement program, whether prospectively or retrospectively applied.

(f) **False Documentation.** Billing Agent reserves the right to refuse to bill for any services furnished by Provider if Billing Agent, in its sole and reasonable discretion, has any cause to believe the documentation required for coverage and reimbursement by the third-party payor is inaccurate, misleading or falsified by Provider or if Billing Agent has any cause to believe that double reimbursement is being sought by Provider or by another party for the same services.

(g) **Administration.** Billing Agent shall pursue all administrative steps subsequent to initial billing to obtain payment for services rendered by Provider. Billing Agent shall negotiate and/or appeal any denied or rejected claims, and institute collection and/or legal proceedings, on Provider's behalf, as necessary to recover delinquencies or appeal payment denials. The attorneys' fees and other costs of any such collection and/or legal proceedings shall be the responsibility of Provider; provided that Provider shall have consented, in advance, to any such collection and/or legal proceedings being initiated.

(h) **Personnel.** All services to be provided by Billing Agent hereunder, shall be provided by individuals to whom Provider and Billing Agent have mutually agreed.

II. OBLIGATIONS OF PROVIDER

2.1. **Provider Engagement and Coordination.** Provider shall coordinate, review, and obtain as necessary, all required documentation for third-party claims. This documentation shall be submitted to Billing Agent in an accurate, orderly, and timely fashion. Such documentation includes, but is not limited to, physician orders, utilization information, patient signatures, releases, medical records, facility charts, nursing notes, personal and medical information and insurance information. Further, Provider shall provide to Billing Agent, within ten (10) days of receipt, any explanation of benefits or other documentation provided by payors showing payments, partial payments, deductible and coinsurance information or amounts, and all denied or rejected claims if received in their office instead of Billing Agent's office.

2.2. **Provider Fees.** In order to ensure accuracy of Provider's information for billing, Provider shall notify, in writing, Billing Agent of its fee schedule and of any changes or modifications to Provider physicians' fees charged to patients.

2.3. **Copies of Payor Agreements.** Provider shall provide to Billing Agent a copy of each agreement Provider has entered into with third party payors, including any amendments, attachments, or addenda thereto.

2.4. **Risk of Loss.** Provider shall accept all risk of loss of possible nonpayment or partial payment by third-party payors of services rendered to patients and billed pursuant to this Agreement.

2.5. **Compliance with Laws.** Provider shall comply with all applicable state and federal laws regarding the provision of medical services and billing patients and third party payors for such services.

III. COLLECTION

3.1. **Provider Account.** Provider shall maintain its current account (the "Provider Account"), and shall provide any required information to the Billing Agent related to the Provider's bank (the "Provider Account Bank").

3.2. **Instructions to Payors.** By standing revocable written instructions, Provider shall instruct Payors or their fiscal agents, as appropriate, including Medicare and Medicaid and other governmental programs, to remit payments for services rendered and items furnished by Provider to the Provider Account in the name of Provider.

3.3. **Payment of Monthly Fee.** Provider shall, within five (5) days of receipt of an invoice from Billing Agent setting forth the Monthly Fee due for the prior month, pay such amounts in full to Billing Agent in such manner as reasonably designated by Billing Agent. If the Monthly Fee due hereunder is not paid by the fifth (5th) day after it is due more than once in any consecutive twelve (12) month period, then Provider shall pay upon demand a late charge equal to five percent (5%) of the amount required to be paid. Each and every payment of the Monthly Fee which shall not be paid when due shall bear interest at the lesser of: (i) a per annum rate that is equivalent to the sum of the then applicable prime rate as published by the Wall Street Journal on the date such payment is due plus two percent (2%), or (ii) the maximum interest rate permitted by applicable law, from the date when the same is payable under the terms of this Agreement until the same shall be paid.

3.4. **Payments Made Directly to Provider.** Any payment relating to services or supplies furnished by Provider made by a Payor directly to Provider or its providers instead of to the Provider Account shall be held in trust by Provider or its providers for the benefit of Billing Agent and shall be sent by Provider or its providers to the Provider Account Bank for deposit in the Provider Account within one (1) business day after receipt thereof by Provider.

3.5. **Revocation of Instructions.** In no event shall Provider revoke or modify any standing revocable written instructions given pursuant to Sections 3.2 and 3.3 above without the prior written consent of Billing Agent.

3.6. **Alternative for Collection and Other Matters; Appointment of Billing Agent as Attorney-in-Fact.** Except as prohibited under Medicare, Medicaid and other governmental programs, if Provider has executed a separate written designation, then it hereby appoints Billing Agent to be its true and lawful attorney-in-fact for the following purposes: (i) to bill Payors and patients in Provider's name and on its behalf for all professional services, technical, ancillary and other services, equipment, devices and supplies rendered or provided by either Provider or its providers, whenever or wherever rendered or provided, in the amounts determined by Provider pursuant to billing procedures and policies applicable to the Payor; (ii) to collect accounts receivable resulting from such billings in Provider's name and on its behalf; (iii) to receive payments from patients, hospitals, insurance companies, health care plans and all other non-governmental Payors; (iv) to take possession of such payment intended as payment of any of Provider's providers or of Provider's bill and endorse in the name of Provider any notes, checks, money orders, insurance payments and other instruments received in payment of accounts receivable; (v) to initiate the institution of legal proceedings in the name of Provider to collect any accounts and monies owed by Provider provided that such suits will not be instituted without advance approval of Provider's Board of Managers; (vi) to enforce the rights of Provider as creditor under any contract or in connection with the rendering of any service, and to contest adjustments and denials by governmental agencies (or its intermediaries) as Payors and to appeal or contest any adjustments or denials by any Payor; and (vii) to pay Provider obligations when due, including payment of the Monthly Fee.

IV. COMPENSATION

4.1. **Compensation.** As compensation for the billing, collection, and administrative services provided hereunder, Provider shall pay Billing Agent a monthly fee (the "Monthly Fee") as further described in Exhibit A, incorporated herein by this reference and attached hereto.

V. TERM AND TERMINATION

5.1. **Term.** This Agreement shall be for a term of one (1) year from the date of this Agreement and will be renewed automatically for an additional term of one (1) year, unless written notice to the contrary is given by either Party at least ninety (90) days prior to the Agreement's renewal date.

5.2. **Termination Without Cause.** Either Party may terminate this Agreement at any time on thirty (30) days' notice after the six (6) month anniversary of the date of this Agreement.

5.3. **Termination For Cause.** This Agreement may be terminated immediately upon the occurrence of any of the following:

- (a) the dissolution, bankruptcy or liquidation of either Party;
- (b) either Party's failure or refusal to pay or perform any obligation, agreement, or term of this Agreement, and such failure or refusal shall continue for a period of thirty (30) days after receipt of written notice from the other Party;
- (c) unprofessional, dishonest or fraudulent conduct of either Party; and
- (d) the conviction of either Party of a felony, or the institution of civil, criminal or administrative proceedings that could result in the exclusion of either Party from participation in the Medicare or Medicaid programs;
- (e) Billing Agent's revocation, termination, loss or suspension of any license, accreditation or approval necessary for the operation of its business.

5.4. **Continuing Obligations.** Notwithstanding the termination of this Agreement, the Parties shall be required to carry out any provision that contemplates performance by them subsequent to termination. Termination shall not affect any liability or obligation that shall have accrued prior to such termination, including but not limited to, accrued but unpaid compensation. Following any termination of this Agreement, or notice thereof, the Parties shall fully cooperate with each other in all matters relating to the winding up of their pending work.

VI. MISCELLANEOUS

6.1. **Non-referral of Patients.** Billing Agent is under no obligation to refer patients to Provider and will receive no payment for any patient that Billing Agent may refer to Provider. Provider is under no obligation to refer customers to Billing Agent and will receive no payment for any customer that Provider may refer to Billing Agent. Provider is free to provide services to any patients in the community.

6.2. **No Trading of Business.** Billing Agent agrees that in no event are any of the payments received under this Agreement in return for or in to induce Billing Agent to provide or accept business (other than that covered by this Agreement) for which payment may be made in whole or in part by Medicare/Medicaid on a fee-for-service or cost basis. Billing Agent agrees that, in no event shall it shift Provider patients receiving services pursuant to a payor agreement to another arrangement for which payment may be made in whole or in part by Medicare/Medicaid on a fee-for-service or cost basis, to the extent that such shifting results in increased payments claimed from Medicare/Medicaid. However, nothing in this Section 6.2 prohibits Provider from establishing different rates of payment for different Provider products.

6.3. **Confidentiality.** The Parties shall maintain the confidentiality of patient records and shall prevent the unauthorized disclosure of such records, in accordance with all relevant state and federal laws.

6.4. **Access to Records.** Upon written request, for a period of up to five (5) years, or longer if state or federal law shall so require, following the furnishing of services under this Agreement, either Party shall make available to the Secretary of the Department of Health and Human Services, or, upon request, to the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement, books, documents, and records of either Party that are necessary to certify the nature and extent of the services and costs hereunder.

6.5. **Notices.** All notices and other communication required or permitted to be given hereunder shall be in writing and shall be considered given and delivered when personally delivered to the Party, telefaxed to the Party or delivered by courier or deposited in the United States mail, postage prepaid, return receipt requested, properly addressed to a Party at the address set forth below, or at such other address as such Party shall have specified by notice given in accordance herewith:

If to Billing Agent:

2000 Ogden Avenue
Aurora, IL 60504
Attn: Deputy General Counsel

If to Provider:

2111 Ogden Avenue
Aurora, IL 60504
Attn: President

6.6. **Governing Law.** This Agreement shall be construed, and the rights and liabilities of the Parties hereto determined, in accordance with the laws of the State of Illinois (the "State").

6.7. **Amendments.** This Agreement may be amended only by a writing signed by both Parties setting forth the nature of such amendment.

6.8. **Waiver of Breach.** A Party's failure, at any time or times hereafter, to require performance by the other Party of any provision of this Agreement shall not constitute a waiver or affect or diminish any right of the Party thereafter to demand such performance. Any suspension or waiver of a failure or default under this Agreement shall not suspend, waive or affect any other failure or default under this Agreement, whether the same is prior or subsequent thereto or of the same or a different type. None of the undertakings, agreements, warranties, covenants and representations contained in this Agreement and no failure or default under this Agreement shall be deemed to have been suspended or waived unless such suspension or waiver is by an instrument in writing signed by the suspending or waiving Party and directed to the other Party specifying such suspension or waiver.

6.9. **Severability.** In the event any term or provision of this Agreement is rendered invalid or unenforceable by any valid act of Congress, the State legislature, or by any regulation duly promulgated by officers of the United States or the State acting in accordance with law, or declared null and void by any court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

6.10. **Headings.** The paragraph headings contained in this Agreement are for reference purposes only and should not affect in any way the meaning or interpretation of this Agreement.

6.11. **Independent Contractor.** Nothing in this Agreement shall be construed as creating any relationship between Billing Agent and Provider other than that of independent contractors.

6.12. **Indemnification/Limitation of Liability.**

(a) **Billing Services.** Provider shall indemnify and hold Billing Agent harmless from and against any claims, liability, losses or damages arising or resulting, directly or indirectly, from any inaccurate or false information submitted to Billing Agent by Provider, or any improper or incorrect billing resulting from information submitted to Billing Agent by Provider. Billing Agent shall indemnify and hold Provider harmless from and against any claims or liability (except for the refund of payments received) arising or resulting, directly or indirectly, from any improper or incorrect billing due to Billing Agent's gross negligence or intentional acts or omissions under this Agreement.

(b) **Compliance/Consulting.** Provider agrees to indemnify and hold Billing Agent harmless from and against any claims, liability, losses or damages to which Provider becomes or may become subject arising or resulting, directly or indirectly, from compliance and consulting services provided by Billing Agent hereunder, except for such losses, claims, damages or liabilities resulting from Billing Agent's gross negligence or intentional acts or omissions in performing services hereunder. In the event that Billing Agent is requested, pursuant to subpoena or other legal process, to provide its documents relating to this Agreement in judicial or administrative proceedings to which Billing Agent is not a party, Provider shall reimburse Billing Agent at standard billing rates for its time and expenses, including reasonable attorneys fees, incurred in responding to such requests.

(c) **Limitation of Liability.** Provider agrees that Billing Agent shall only be liable for gross negligence or intentional acts or omissions in the provision of services under this Agreement and shall not be liable for consequential or incidental damages. Provider further agrees that claims, damages, costs, and liability shall be limited in the aggregate to amounts actually paid to Billing Agent hereunder.

6.13. **Entire Agreement.** This Agreement constitutes the complete agreement of the Parties hereto with respect to the subject matter hereof and shall supersede and render null and void all prior and contemporaneous agreements between the Parties hereto regarding the subject matter hereof.

6.14. **No Assignment.** The Parties may not assign their rights or delegate their duties under this Agreement, in whole or in part, directly or indirectly, without the consent of the other Party. Such consent shall not be unreasonably withheld.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first written above.

RUSH-COPLEY SURGICENTER, LLC

By: _____
Name: _____
Its: _____

CASTLE SURGICENTER, LLC

By: _____
Name: _____
Its: _____

EXHIBIT A

Monthly Fee

Provider's Monthly Fee shall be an amount equal to a prorated amount of: (i) one-twelfth (1/12) of the sum of (a) the sum of the salaries of the employee(s) of Billing Agent that provide services to Provide under this Agreement, based on the number of hours per month during which employee(s) of Billing Agent provide services to Provider under this Agreement (the "Employee Salaries") and (b) an amount equal to twenty-six percent (26%) of the sum of the Employee Salaries, plus (ii) Two Hundred Dollars (\$200.00). On a monthly basis, Provider shall submit to Billing Agent a report of the number of hours which individuals performing billing services spent in performing services under this Agreement in order to calculate the Monthly Fee owed. The Monthly Fee shall be payable in the month following the month in which the services were rendered.

Billing Agent shall determine each employee's annual salary based on the current market rates. Billing Agent's Human Resource department will apply the same methodologies used for other Billing Agent staff when reviewing each employee for annual merit and/or market increases. Any such increases will be reasonable and in-line with the increases provided to other Billing Agent staff; except that such increases shall not exceed three percent (3%) in a given twelve (12) month period.

Billing Agent is required to provide notice to Provider immediately upon increasing employee's salaries.

EXHIBIT 2.4(A)(XX)

Form of License Agreement

7/22/16

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the “**Agreement**”) is made and entered into as of October 1, 2016 (the “**Effective Date**”) between Rush-Copley Surgicenter, LLC (“**RCS**”), and Castle SurgiCenter, LLC, “**CSC**”) (RCS and CSC each, a “**Party**” and collectively, the “**Parties**”).

RECITALS

WHEREAS, RCS and CSC (and the Members of CSC) entered into that certain Asset Purchase Agreement, dated July 22, 2016 (“**APA**”), pursuant to which RCS purchased the rights, title and interest in certain assets of the Center;

WHEREAS, under the APA, RCS has purchased and CSC has sold, among other assets, all trademarks, trade names, domain names, slogans, logos, services marks, copyrights, patents, pending patent applications, shoprights, know-how, trade secrets, computer programs and computer software and the like (whether registered or unregistered) and other items commonly known as intellectual property and any license to use any of the foregoing, as detailed on Schedule 1.1(g) to the APA (collectively, the “**Intellectual Property**”); and

WHEREAS, RCS desires to grant CSC a license to use the Intellectual Property following the Closing Date in accordance with the terms hereof.

NOW THEREFORE, in consideration of the mutual promises and obligations in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Grant of License. Subject to the terms of this Agreement, RCS hereby grants CSC a non-exclusive, royalty free license to use the Intellectual Property necessary to collect CSC’s accounts receivable related to the services provided by CSC prior to October 1, 2016.
2. Acknowledgement of Ownership. CSC acknowledges that RCS retains all rights in the Intellectual Property, including the unfettered right to use the Intellectual Property in the conduct of its business and in the provision of services, and, further, retains the unfettered right to license, permit or grant other entities or persons the right to use the Intellectual Property. CSC acknowledges that the license granted to CSC to use the Intellectual Property is derived solely from this Agreement and the APA, and that the use of the Intellectual Property by CSC will not act to create any proprietary rights therein to CSC.
3. Term. This Agreement shall commence upon the Effective Date and shall continue for six (6) months thereafter.
4. Termination.
 - a. Termination by Mutual Agreement. This Agreement may be terminated by the Parties upon their mutual written agreement.

- b. Termination by RCS. This Agreement may be terminated by RCS in the event of any breach of the terms contained herein by CSC in the event the breach is not cured within thirty (30) days from the date RCS provides CSC with notice of the breach.
5. Definitions. All terms used herein and not otherwise defined shall have the meanings ascribed to them in the APA.
6. Indemnification. Each Party shall indemnify, defend and hold harmless the other Party from any and all demands, suits, losses, liability, damages, claims, costs or expenses (including attorneys fees and costs of defense) arising out of acts or omissions of any employee, director, officer, or agent of the indemnifying Party in connection with this Agreement or the breach by the indemnifying Party of any provisions of this Agreement.
7. Severability. If any provision of this Agreement is determined by a court to be invalid or unenforceable, such determination will not affect the validity of the remaining provisions.
8. Waiver. The failure of any Party to enforce the provisions of this Agreement will in no way be construed to be a waiver of such provisions, nor in any way affect the ability of any Party to enforce each and every such provision thereafter.
9. Governing Law. This Agreement and the rights and obligations of RCS and CSC hereunder shall be construed and enforced pursuant to the laws of the State of Illinois.
10. Headings. The paragraph headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.
11. Assignment. CSC shall not assign or transfer any rights under this Agreement. Any attempted assignment in violation of this provision shall be void and have no binding effect.
12. Amendment. This Agreement may be amended or modified only by an instrument in writing signed by both Parties.
13. Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

[Signatures page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

RUSH-COPLEY SURGICENTER, LLC

By: _____
Name: _____
Its: _____

CASTLE SURGICENTER, LLC

By: _____
Name: _____
Its: _____

DISCLOSURE SCHEDULES

to the

ASSET PURCHASE AGREEMENT

by and among

RUSH-COPLEY SURGICENTER, LLC,

and

CASTLE SURGICENTER, LLC

AND

STEVEN MARCINIAK, M.D., THOMAS MCGIVNEY, M.D., SCOTT O'CONNOR, M.D., JOHN PINNELLO, M.D., ARIF SALEEM, M.D. and MARK SCHINSKY, M.D.

Closing Date: _____, 2016

Reference is made to that Asset Purchase Agreement (the "Agreement"), dated July 22, 2016, made and entered into by and among Rush-Copley Surgicenter, LLC ("Buyer"), Castle Surgicenter, LLC ("Seller"), and Steven Marciniak, M.D., Thomas McGivney, M.D., Scott O'Connor, M.D., John Pinnello, M.D., Arif Saleem, M.D., and Mark Schinsky, M.D. (each a "Member" and collectively the "Members"). Capitalized terms used herein and not otherwise defined herein shall have the meanings attributed to them in the Agreement.

List of Schedules

Schedule 1.1(a)	Equipment, Furnishings and Supplies
Schedule 1.1(b)	Contracts
Schedule 1.1(d)	Telephone and Fax Numbers
Schedule 1.1(f)	Permits
Schedule 1.1(g)	Intellectual Property
Schedule 2.3	Allocation of Purchase Price
Schedule 2.5	Prepaid Expenses and Security Deposits
Schedule 3.3	No Consents
Schedule 3.4	Other Instruments or Consents Affecting Seller
Schedule 3.7	No Adverse Change
Schedule 3.8	Filing of Tax Returns
Schedule 3.10(c)	Environmental Permits
Schedule 3.11	Personal Property
Schedule 3.12	Material Asset Exclusions
Schedule 3.13	Insurance Policies
Schedule 3.14(a)	Performance of Assigned Contracts
Schedule 3.15	Labor and Employment Contracts
Schedule 3.16	Litigation
Schedule 3.17	Conflicting Interests
Schedule 3.18(a)	Compliance with Laws
Schedule 3.20	Seller's and Member's Knowledge
Schedule 4.4	Agreement Not in Breach of Other Instruments Affecting Buyer; Governmental Approval
Schedule 4.5(a)	Compliance with Laws – In General
Schedule 4.6	Compliance with Laws - Litigation

Schedule 1.1(a)

Equipment, Furnishings, and Supplies

“Pain Table” purchased 6/26/03 for \$13,045

[SUPPLIES AND DRUGS TO BE PROVIDED AS OF THE EFFECTIVE DATE]

Schedule 1.1(b)
Contracts

1. Transfer Agreement between Seller and Rush-Copley Medical Center dated September 3, 2002.
2. Letter of Agreement for Pharmacy Services between Seller and Rush-Copley Medical Center dated April 7, 2006.
3. Service Agreement between Seller and First Care Health Services, LLC dated November 18, 2002.
4. Service Agreement for Hazardous Drug Disposal Service between Seller and Stericycle dated June 1, 2015.
5. Ancillary Facility Agreement between Seller and HFN, Inc. dated September 15, 2006. Prior written consent of HFN, Inc. required for assignment.
6. MPI Participating Facility Agreement between Seller and Multiplan, Inc. dated May 1, 2015. Prior written consent of Multiplan, Inc. required for assignment.
7. Ancillary Provider Participation Agreement between Seller and UnitedHealthcare Insurance Company, contracting on behalf of itself, UnitedHealthcare of Illinois, Inc. dated June 1, 2015. Prior written consent of United Healthcare Insurance Company required for assignment.
8. Automatic Approval Agreement between Seller, Health Care Service Corporation d/b/a HMO Illinois and Fox Valley Medicine, Ltd. dated November 1, 2008. Prior written consent of Health Care Service Corporation d/b/a HMO Illinois and Fox Valley Medicine, Ltd. required for assignment.
9. Medicare Participating Physician or Supplier Agreement between Seller and Medicare dated February 5, 2003.
10. Placed Capital Agreement between Seller and Smith & Nephew, Inc. dated February 2, 2012. Prior written consent of Smith & Nephew, Inc. required for assignment.
11. Service Agreement between Seller and Chem-Wise Ecological Pest Management, Inc.
12. Contract Service Proposal between Seller and Bio-Medic Incorporated dated October 31, 2015.¹
13. Equipment Loan Terms & Conditions between Seller and ArthroCare Medical Corporation. Prior written consent of ArthroCare Medical Corporation required for assignment.
14. Medical Gas Preventative Maintenance Plan between Seller and BeaconMeadaes Technical Services dated July 19, 2013.
15. 2016-2017 Service Proposal Generac 80kW Generator between Seller and Lionheart Critical Power Specialists dated March 1, 2016.
16. Group Purchasing Participation Agreement between Seller and Amerinet, Inc. dated August 1, 2009.
17. Preventative Medical Service Agreement between Seller and Precision Medical Service Inc. dated May 1, 2014. Agreement has expired but Precision Medical Service Inc. is still providing services without a formal agreement in place.

¹ The Parties acknowledge that this contract erroneously states, "Contract to run from 11/01/16 to 10/31/15."

Schedule 1.1(d)
Telephone and Fax Numbers

1. Telephone: (630) 978-3800, Ext. 163, 164, 165 and 166.
2. Fax: (630) 862-3082.

Schedule 1.1(f)
Warranties and Permits

1. Medicare Participating Physician or Supplier Agreement between Seller and Medicare dated February 5, 2003, Physician or Supplier Identification Code 204147, CCN# 14C0001095.
2. Ambulatory Surgery Treatment Center License, Illinois Department of Public Health, I.D. Number 7002611, expiring December 9, 2016.
3. Certificate of Accreditation, Accreditation Association for Ambulatory Health Care, Inc., Organization Identification Number 23265, expiring April 3, 2019.
4. Clinical Laboratory Improvements Amendment Certificate of Waiver, Centers for Medicare and Medicare Services, CLIA ID Number 14D1004073, expiring September 17, 2016.

Schedule 1.1(g)
Intellectual Property

1. Castle Surgicenter, LLC
2. Castleortho.com

Schedule 2.3
Allocation of Purchase Price

[TO BE PROVIDED AT CLOSING]

Schedule 2.5

Prepaid Expenses and Security Deposits

1. Security deposit for Yorkville Office lease: \$2,000.
2. Insurance related prepaid expenses:
 - a. The Medical Protective Company is paid two months ahead for insurance coverage. \$5,888 was paid on July 5, 2016.
 - b. Erie Insurance Company is paid two months ahead for insurance coverage. \$9,801.25 was paid on June 20, 2016.
 - i. This amount equals the premiums for both Castle entities.

Schedule 3.3
No Consents

1. Illinois Health Facilities and Services Review Board certificate of exemption
2. Illinois Ambulatory Surgery Treatment Center License. Buyer must submit new licensure application to Illinois Department of Public Health as soon as possible following the Closing.

Schedule 3.4

Agreement Not in Breach of Other Instruments Affecting Seller; Governmental Approval

1. Illinois Health Facilities and Services Review Board certificate of exemption

Schedule 3.7
No Adverse Change

None.

Schedule 3.8
Filing of Tax Returns

None.

Schedule 3.10(c)
Environmental Permits

None.

Schedule 3.11
Personal Property

None.

Schedule 3.12
Assets for Operation of the Center

See equipment listed on Master Lease between TPSS, LLC and Rush-Copley Surgicenter, LLC.

Schedule 3.13
Insurance

1. Policy Number Q970743040; 6/23/16 through 6/23/17; Konen Insurance Agency, Inc.; limits and amounts vary by claim type; named insureds: Castle Orthopaedics & Sports Medicine, HWOV, LLC, & TPSS, LLC, Holladay Properties (additional insured); Commercial General Liability-Occurrence; premium: \$13,626.00 for 2016-17 coverage.
2. Policy Number Q970743040; 6/23/16 through 6/23/17; Konen Insurance Agency, Inc.; named insureds: Castle Orthopaedics & Sports Medicine, HWOV, LLC, & TPSS, LLC; Automobile Liability-Hired Autos and Non-Owned Autos; premium: \$13,626.00 for 2016-17 coverage (included in the premium listed in paragraph 1).
3. Policy Number Q302370217; 6/23/16 through 6/23/17; Konen Insurance Agency, Inc.; \$5,000,000 per occurrence/ \$5,000,000 aggregate; named insureds: Castle Orthopaedics & Sports Medicine, HWOV, LLC, & TPSS, LLC; Umbrella Liability-Occurrence; premium: \$2,069.00 for 2016-17 coverage.
4. Policy Number Q907300167; 6/23/16 through 6/23/17; Flagship City Insurance Company, Erie Insurance Company, Konen Insurance Agency, Inc.; \$500,000 per accident named insureds: Castle Orthopaedics & Sports Medicine, HWOV, LLC, & TPSS, LLC; Workers Compensation and Employers' Liability; premium: \$23,915.00 for 2016-17 coverage.
5. Policy Number C46021; 1/1/16 through 1/1/17; The Medical Protective Company, The Horton Group, Inc.; \$1,000,000 per claim/ \$3,000,000 annual aggregate; named insured: Castle Surgicenter, LLC, and Dr. O'Connor (additional named insured); Professional Liability and Cyber-Liability (Cyber-Liability coverage differs); premiums: \$33,120 for 2016 coverage.

Schedule 3.14(a)
Contracts, Leases, Agreements and Other Commitments

None.

Schedule 3.15
Labor; Employment Contracts

None.

Schedule 3.16
Litigation

None.

Schedule 3.17
Conflicting Interests

The Members of Seller are all owners in TPSS, LLC. TPSS, LLC has entered into the following agreements with Seller:

1. Medical Office Lease dated November 1, 2002.
2. Master Equipment Lease Agreement dated November 1, 2002.

Schedule 3.18(a)
Compliance with Laws

None.

Schedule 3.20
Seller's and Member's Knowledge

1. Scott O'Connor, M.D.
2. Thomas McGivney, M.D.
3. Steven Marciniak, M.D.
4. Arif Saleem, M.D.
5. John Pinnello, M.D.
6. Mark Schinsky, M.D.

Schedule 4.4

Agreement Not in Breach of Other Instruments Affecting Buyer; Governmental Approval

1. Illinois Health Facilities and Services Review Board certificate of exemption

Schedule 4.5(a)
Compliance with Laws – In General

None.

Schedule 4.6
Compliance with Laws – Litigation

None.