

**HOSPITAL AUTHORITY OF ALBANY-DOUGHERTY COUNTY, GEORGIA**

**MINUTES OF JULY 25, 2012 MEETING**

**(Open Session)**

**Attendees:** Authority Board Members: Ralph Rosenberg; Dr. Chuck Lingle; John Hayes; Lamar Reese; Fred Ghiglieri; Dr. Steven Wolinsky; Dr. John Inman, Jr.; and Rev. Sherman; Legal Counsel: James E. Reynolds, Jr. and E. B. Wilkin, Jr., also present were: Joel Wernick; Kerry Loudermilk; Joe Austin; Tommy Chambless; Tom Sullivan; Dr. Price Corr; Mandie Cheavers; and Records, Annette Allen and Mary Barfield; Guests: Mr. John Culbreath; Mr. Lem Griffin; and Ms. Annabelle Stubbs

**Absent Authority Members:** Rev. H. B. Johnson (Rev. Johnson arrived later)

**Call to Order:**

The meeting was called to order by Chairman Rosenberg at 7:30 A.M. in the Board Room of Phoebe North.

**Open Meeting and Establish a Quorum:**

Mr. Rosenberg welcomed the Authority and established that a quorum was present, with eight Members being in attendance.

**Approval of the Agenda:**

The proposed Agenda was reviewed and a motion was made by Dr. Lingle and seconded by Dr. Wolinsky, to adopt the Agenda as presented. The motion was approved by all Authority Members in attendance.

**Approval of the Minutes:**

The Minutes of the July 18, 2012 meeting having been provided to the Members prior to the meeting, were considered for approval. Fred Ghiglieri made a motion, seconded by Dr. Lingle to approve the Minutes as previously provided (copy attached). The motion passed unanimously.

**Closing of the Meeting:**

A motion was made by Lamar Reese and seconded by John Hayes to close the meeting in order to discuss with legal counsel pending and potential claims and litigation as well as other legally confidential matters.

Mr. Rosenberg polled the individual Authority Members whose votes are shown below:

Ralph Rosenberg	Yes
Dr. Chuck Lingle	Yes
Fred Ghiglieri	Yes
Lamar Reese	Yes
Rev. Sherman	Yes
John Hayes	Yes
Dr. Wolinsky	Yes
Dr. John Inman	Yes

The motion having passed, the meeting was closed. Rev. H. B. Johnson arrived at the beginning of the Closed Session (7:45 A.M.).

**Open Session Reconvened:**

At 9:00 A.M. a motion was made by Dr. Lingle, seconded by Fred Ghiglieri, to return to open session. The Members were polled and the motion passed unanimously.

**Consideration of Amended and Fully Restated Lease with Phoebe Putney Memorial Hospital, Inc.:**

Following discussion by all of the Members present, a motion was made by Dr. Lingle, and seconded by Rev. Johnson to adopt a Resolution, a copy of which is attached, whereby as of August 1, 2012, Phoebe North is integrated with Phoebe Putney Memorial Hospital, Inc. pursuant to a 40 year Lease Agreement between the Hospital Authority of Albany-Dougherty County, Georgia as Lessor and Phoebe Putney Memorial Hospital, Inc. as Lessee. Dr. Wolinsky stated that he abstained from any action with respect to the proposed Resolution due to the fact that he also served on the Board of Phoebe Putney Memorial Hospital, Inc. and the fact that he was employed by an affiliate of Phoebe Putney Memorial Hospital, Inc. There was further review of the Resolution itself, including the findings recited therein and the Resolution (copy attached) was unanimously adopted by all Authority members present excluding Dr. Wolinsky.

### **Consideration of Agreement for Voluntary Payments in Lieu of Taxes:**

Jay Reynolds, counsel to the Authority reviewed for the Authority, the Voluntary Payment in Lieu of Taxes Agreement (the "VPILOT Agreement"), a copy of which is attached, and a copy of which had been provided to the Members well in advance of the meeting.

A motion was made by Dr. Lingle, seconded by Fred Ghiglieri, to approve the VPILOT Agreement, as presented and to authorize the Authority Chairman to execute and deliver the VPILOT Agreement on behalf of the Authority. The motion was approved by all members except Dr. Wolinsky, who again abstained for the reasons previously given. It was noted that pursuant to the Agreement, Phoebe Putney Memorial Hospital, Inc. or Phoebe Putney Health System will this year make a \$378,602.72 payment in lieu of taxes pertaining to the Phoebe North assets.

### **Old Business:**

There was no old business.

### **Adjournment:**

There being no further business, the meeting adjourned at 9:45 A.M.

  
Mary S. Barfield, Recorder

AGENDA

HOSPITAL AUTHORITY OF ALBANY-DOUGHERTY COUNTY, GEORGIA

Meeting of July 25, 2012  
7:30 A.M.  
(Phoebe North Campus)

- |      |   |                                  |
|------|---|----------------------------------|
| I.   | Open meeting and establish quorum   | Ralph Rosenberg                  |
| II.  | Consider Approval of Agenda   | Ralph Rosenberg                  |
| III. | Consideration of Open Session Minutes of July 18, 2012 meeting (Draft previously provided to Members)   | Ralph Rosenberg                  |
| IV.  | Motion and vote to close meeting in order to: discuss pending and potential claims and litigation as well as other legally confidential matters with legal counsel. Consideration of any resulting official action to be taken following the re-opening of the meeting. | Ralph Rosenberg                  |
| V.   | Consideration of Amended and Fully Restated Lease with Phoebe Putney Memorial Hospital, Inc.  | Ralph Rosenberg/<br>Jay Reynolds |
| VI.  | If a Lease is approved, consideration of Agreement for Voluntary Payments in Lieu of Taxes  | Ralph Rosenberg                  |
| VII. | Old Business, if any  | Ralph Rosenberg                  |
| VII. | Adjournment   | Ralph Rosenberg                  |

**RESOLUTION AND FINDINGS OF THE HOSPITAL AUTHORITY OF  
ALBANY-DOUGHERTY COUNTY, GEORGIA**

WHEREAS, on December 15, 2011, the Hospital Authority of Albany-Dougherty County (the "Authority") acquired Palmyra Medical Center hospital facilities and related Dougherty County assets from Hospital Corporation of America and its affiliates and effective as of that date, entered into a contract with Phoebe Putney Memorial Hospital, Inc. ("PPMH") to manage such hospital facilities and assets, all of which hospital facilities and assets are collectively referred to herein as "Phoebe North."

WHEREAS, in acquiring Phoebe North, it was the original plan of the Authority, subject to obtaining acceptable terms in negotiations with PPMH, to ultimately enter into a long-term lease with PPMH pursuant to which the Authority would lease to PPMH all of the Phoebe North hospital facilities and assets. The Authority has contemplated that any such long term lease of Phoebe North would be consolidated and combined with the Authority's current long term lease with PPMH of the assets of the hospital and facilities known as Phoebe Putney Memorial Hospital ("Phoebe Memorial"), and that such combination and consolidation would be effectuated by amending and restating the current Lease of Phoebe Memorial.

WHEREAS, the Authority has heard extensively from the administrative heads of PPMH regarding the various synergies to be achieved by consolidating operations of Phoebe Memorial with Phoebe North, including without limitation, costs savings through structural realignment of operations and purchasing, cost savings and functional improvements resulting from service delivery efficiencies, including those to be achieved through dedicating certain specific operations and services to one or the other physical facilities, streamlining of regulatory compliance issues, and administrative cost savings and service improvements resulting from the consolidation of administration, operations and management for both facilities.

WHEREAS, the Authority, on May 24, 2012, held a public hearing whereby it received input from many citizens of the Albany-Dougherty community and surrounding counties regarding their respective perceptions of the utility and advisability of entering into a long-term lease with PPMH with respect to Phoebe North. The Authority has considered carefully the various comments it received from the public, both pro and con, regarding the proposed lease.

WHEREAS, the Authority has previously instructed its counsel to work with counsel for PPMH in the development of a draft of a proposed long-term lease for the Phoebe North assets and, accordingly for the past several weeks the terms of said proposed lease have been drafted and negotiated through counsel, culminating in the development of a proposed lease document, a draft of which was provided to each Authority Member approximately two

weeks ago, so that questions of the members concerning the Lease could be addressed, at least in part, prior to this meeting. This proposed lease document integrates the leasing of the Phoebe North assets with the leasing of the Phoebe Memorial assets into a new single lease document, known as the Amended and Restated Lease and Transfer Agreement ("Lease Agreement", a copy of which is attached hereto).

IN CONNECTION WITH its consideration of the resolutions hereinbelow, the Authority has found as follows:


1. That consolidating and integrating the clinical operations of Phoebe Memorial and Phoebe North under the licenses, permits and administrative and day to day management and operational oversight of PPMH will create synergies resulting in cost-savings and future cost containment, plus improvements in the delivery of health care for the citizens of Albany-Dougherty County, and that the future health care needs of the community can be better met by among other things (i) having both hospital campuses, operations, and staff functionally integrated, (ii) by enabling dedicated and focused health care specialties to be divided geographically where prudent, and (iii) by protecting the hospitals and their facilities as community assets to be operated on an on-going non-profit basis for the benefit of our citizens.
2. That leasing Phoebe North to PPMH will promote the public health needs of our community by making additional health care facilities available in the community and by lowering or containing the costs and possible cost increases of health care in the community, and that under the terms of the lease, the Authority has retained oversight and control over Phoebe North so as to ensure that PPMH will not in any event obtain more than a reasonable rate of return in its investment in the project, which reasonable rate of return, if and when realized by PPMH, shall not contravene in anyway O. G. G. A. § 31-7-77 specifying that no authority shall operate or construct any project for profit within the meaning of the Hospital Authorities Law;
3. That the proposed lease contains terms necessary to properly comply with the Georgia Hospital Authorities Law (O.G.C.A. Section 31-7-70 *et seq.*), specifically including (but not limited to) the requirements of O.C.G.A. Sections 31-7-75(7) and 31-7-74.3.
4. That inasmuch as the proposed lease has been structured as a new amended and restated lease with PPMH whereby the Phoebe North assets are combined with the assets of Phoebe Memorial currently leased by the Authority under its

present lease with PPMH, the Authority finds that, as a result of the negotiations of the lease terms in connection with Phoebe North, it has enhanced, clarified and improved its contractual oversight controls with respect to all of the assets to now be leased to PPMH.

5. That concerns over potential pricing leverage with respect to the consolidation of the operation of the hospitals into a lease to a single entity (i) are outweighed by the projected cost savings synergies, better quality healthcare and service delivery efficiencies associated with the proposed consolidations, and (ii) can in all events be monitored, controlled and overseen through the contractual oversight provisions set forth in the Lease Agreement.
6. The Authority has found that it can better carry out its mission and purposes through the Lease Agreement because the resulting consolidation and integration will increase the possibility of providing additional quality outcome collaborative health care, which can be provided at a lower total cost and in a manner preferred by third party payors.

NOW THEREFORE, BE IT RESOLVED that the Board of Directors of the Hospital Authority of Dougherty County, Georgia does hereby approve and adopt the Lease Agreement substantially in the form attached hereto at Exhibit "A" and does hereby approve and direct its Chairman or in his absence, the Vice Chairman, to execute the same on behalf of the Authority, such signature to be attested by the Secretary or in his absence, the Assistant Secretary, and in all events subject to such changes, insertions and omissions as may be approved by the authorized officer and to be effective as of August 1, 2012. The proper officers are also authorized to execute on behalf of the Authority any other ancillary documents reasonably necessary to implement and effectuate the Lease Agreement. The execution of the Lease Agreement shall be conclusive evidence of the approval of any such changes, insertions or omissions with respect to the same.

  
RALPH S. ROSENBERG, Chairman

  
~~RE: EUGENE C. CHERMAN~~ ASSISTANT  
JOHN S. INMAN, JR., Secretary

**EXHIBIT "A"**

**2011 Taxes on Acquired  
Tangible Properties of the Authority and PPHS  
in Dougherty County, Georgia**

<b>Tract</b>	<b>Owner</b>	<b>Parcel</b>	<b>2011 FMV</b>	<b>2011 Tax Amount</b>
1	HCA Realty, Inc.	0000N/00016/001	\$763,000.00	\$11,978.79
2	Hospital Corporation of America	000LL/00009/01D	\$29,000.00	\$455.29
3	Hospital Corporation of America	000LL/00009/01E	\$198,400.00	\$3,114.81
4	Palmyra Park Hospital	000LL/00009/001	\$20,210,400.00	\$317,295.19
5	Albany Urology Clinic	000LL/00009/025	\$1,036,100.00	\$16,266.36
5	Albany Urology Clinic (rear)	000LL/00009/026	\$54,300.00	\$852.50
6-A2	Palmyra Park Hospital Corp.	000LL/00009/4A2	\$121,440.00	\$1,908.55
6-B	Palmyra Park Hospital Corp.	000LL/00009/04B	\$406,900.00	\$6,388.17
6-C	Palmyra Park Hospital Corp.	000LL/00009/04C	\$204,800.00	\$3,215.28
6-D	Chappel A. Collins, Jr.	000LL/00009/04D	\$196,040.00	\$3,077.74
6-E	Palmyra Park Hospital Corp.	000LL/00009/04E	\$190,300.00	\$2,987.83
7	Palmyra Park Hospital, Inc.	000LL/00009/07B	\$388,500.00	\$6,099.29
8	Palmyra Park Hospital, Inc.	000LL/00009/007	\$550,900.00	\$8,648.91
9	Palmyra Park Hospital Corp.	000LL/00009/07C	\$74,100.00	\$1,163.34
10 #1	Palmyra Park Hospital Corp.	000LL/00009/8A1	\$128,100.00	\$2,011.12
10 #2	Hospital Corporation of America	000LL/00009/8A2	\$179,100.00	\$2,811.80
10 #3	HCA Realty, Inc.	000LL/00009/8A3	\$125,330.00	\$1,967.62
10 #4	Hospital Corporation of America	000LL/00009/8A4	\$148,240.00	\$2,327.30
10 #6	Palmyra Park Hospital, Inc.	000LL/00009/8A6	\$158,690.00	\$2,491.36
10 #7	Hospital Corporation of America	000LL/00009/8A7	\$170,800.00	\$2,681.49
11	Palmyra Park Hospital Corp.	000LL/00009/008	\$22,600.00	\$354.81
12	HCA Health Services of GA	000LL/00009/005	\$57,900.00	\$909.02
13	Palmyra Park Hospital Corp.	000LL/00009/006	\$54,600.00	\$857.19
14	Palmyra Park Hospital, Inc.	000LL/00009/009	\$44,100.00	\$692.35
15	HCA Realty, Inc.	0000O/00039/002	\$34,600.00	\$543.20
16	HCA Realty, Inc.	0000O/00039/003	\$48,100.00	\$755.15
17	HCA Realty, Inc.	0000O/00039/004	\$33,800.00	\$530.65
18	HCA Realty, Inc.	0000O/00039/005	\$34,900.00	\$547.91
19	Max Kuo (acquired 12/28/11)	000LL/00009/4A1	\$100,000.00	\$1,990.71
<b>TOTAL</b>			<b>\$25,765,040.00</b>	<b>\$404,921.53</b>

**PROPERTY NOT ACQUIRED BY AUTHORITY OR BY PPHS:**  
Kanan MOB bldg only (part of Tract 4, Parcel 000LL/00009/001)

2011 FMV  
\$1,676,400.00

The Kanan MOB (bldg. only) fair market value was \$1,676,400. Its "assessed value" (the 'tax value') is 40% of the 100% value, i.e., 40% times \$1,676,400, equaling \$670,560. The 2011 millage rate was \$39.249/\$1,000 of tax value.

The applicable tax calculation is:

\$670.56 x \$39.249 = \$26,318.81, i.e., the amount of the 2011 taxes applicable to the Kanan MOB (bldg. only)

**Thus:**

**\$404,921.53 2011 total taxes paid**

**-\$26,318.81 (Kanan MOB Bldg only)**

**\$378,602.72 2011 taxes on Acquired Tangible Properties of the  
Authority and PPHS in Dougherty Co, GA**



PHR&D  
DRAFT  
7/11/12

AMENDED AND RESTATED  
LEASE AND TRANSFER AGREEMENT

BETWEEN

HOSPITAL AUTHORITY OF ALBANY-  
DOUGHERTY COUNTY, GEORGIA

AND

PHOEBE PUTNEY MEMORIAL HOSPITAL, INC.

DATED AS OF AUGUST 1, 2012

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EXHIBITS A-H

PHR&D  
DRAFT  
7/11/12

AMENDED AND RESTATED  
LEASE AND TRANSFER AGREEMENT

THIS AMENDED AND RESTATED LEASE AND TRANSFER AGREEMENT (this "Agreement"), amending and restating the original Lease and Transfer Agreement as to Phoebe Putney Memorial Hospital entered into as of December 11, 1990, and thereafter amended, is made effective as of the 1<sup>st</sup> day of August, 2012, between the HOSPITAL AUTHORITY OF ALBANY-DOUGHERTY COUNTY, GEORGIA, a public body corporate and politic and an instrumentality of the State of Georgia (herein called "Transferor"), and PHOEBE PUTNEY MEMORIAL HOSPITAL, INC., a nonprofit corporation organized, existing and in good standing under the laws of the State of Georgia (herein called "Transferee").

N O W, W I T N E S S E T H:

WHEREAS, Transferor and Transferee originally entered into a Lease and Transfer Agreement on December 11, 1990 (the "1990 Lease"), with respect to the lease and transfer of Phoebe Putney Memorial Hospital (the "Hospital");

WHEREAS, Transferor and Transferee thereafter entered into two amendments to the 1990 Lease, dated March 14, 2002 and May 14, 2009 (the "Previous Amendments");

WHEREAS, Transferor acquired the assets and operations of the hospital formerly known as Palmyra Medical Center and related facilities effective as of December 15, 2011, which assets have been managed on behalf of Transferor by Transferee (pursuant to the terms of a Management Services Agreement dated December 15, 2011, between Transferor and Transferee, which Management Agreement is to be terminated as of the effective date hereof, except as may be necessary for transition purposes or except as any part thereof may expressly survive), and which are currently operated by Transferor under the name Phoebe North ("Phoebe North");

WHEREAS, Transferor has found and determined that a lease of Phoebe North to Transferee so that it becomes an integrated part of Transferee's healthcare system and operations will well serve the public health needs of the community by making available additional quality healthcare facilities and services on a basis which can be overseen by Transferor and will limit or contain future increases in the cost of healthcare in Dougherty County while promoting efficiencies and protecting the Hospital and its facilities as a community asset operated on a nonprofit basis for the benefit of our citizens;

WHEREAS, Transferor and Transferee desire to enter into this Agreement in order to: (i) restate the terms of the 1990 Lease; (ii) incorporate the terms of the Previous Amendments and to further amend the lease; (iii) include the lease and transfer of all the assets and operations] of Phoebe North except as herein specifically excluded as part of this Agreement to be operated by Transferee as part of the Hospital; and (iv) extend the term of the lease from the effective date of

this Amended and Restated Lease and Transfer Agreement for a period of forty (40) years from said date;

NOW, THEREFORE, for and in consideration of the parties' respective promises, covenants, and agreements contained herein, including but not limited to all such agreements pertaining to the provision of quality healthcare to the citizens of Dougherty County at reasonable cost, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, Transferor and Transferee do hereby agree as follows:

Background and Recitals  
From the 1990 Lease as Previously Amended

Transferor owns and operates Phoebe Putney Memorial Hospital (the "Hospital"), a 450-bed multi-specialty, general medical and surgical hospital located in Albany, Dougherty County, Georgia. In recognition of the rapidly changing health care environment in which it operates, the Transferor retained a consulting firm in 1987 to prepare a management audit of Hospital operations and to make recommendations regarding how best to improve Hospital operations. The management audit report dated August, 1987, identified, among other things, corporate restructuring through a lease of the Hospital to a new nonprofit corporation exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, and the creation of a parent holding company structure, as high priorities for consideration by the Transferor. Although the Transferor did not pursue restructuring in 1987, the subject continued to be discussed and gained increasing importance due to recent developments and opportunities affecting the ability of the Hospital to remain competitive and to enhance its position as the principal regional provider of specialty health care services in Southwest Georgia.

The plan of restructuring adopted by the Transferor provides the Hospital with a new, flexible structure which will remove various restrictions and limitations imposed upon the Transferor and will allow the Hospital to respond to existing competitive threats and to seize available opportunities both within and outside Dougherty County. The immediacy of both the competitive threats and the available opportunities within and outside Dougherty County compelled the Transferor to adopt a plan of restructuring to be implemented in a multi-phased approach, beginning with leasing of the Hospital by the Transferor to a single nonprofit corporation (the Transferee), with a subsequent adoption of a parent holding company structure to provide additional long-term flexibility for further ventures and activities of the Hospital. The Transferor's adoption of such a plan of restructuring has resulted in the preparation of this definitive agreement to implement such plan.

The restructuring plan adopted by the Transferor is authorized under Georgia law. Georgia's Hospital Authorities Law (O.C.G.A. §§ 31-7-70 et seq.), as confirmed by the Georgia Supreme Court's decision in Richmond County Hospital Authority v. Richmond County, 255 Ga. 183, 336 S.E.2d 562 (1985), authorizes a corporate restructuring of a hospital authority through a lease and transfer of hospital assets to a new 501(c)(3), nonprofit corporation, and also authorizes the establishment of a parent holding company structure. In addition, at least eleven other

Georgia hospitals owned by hospital authorities have restructured during the past seven years in a manner similar to the plan adopted by the Transferor.

The restructuring plan adopted by the Transferor also retains such public control of the Hospital as is contemplated by the Hospital Authorities Law to ensure continued fulfillment of the Hospital's public mission of providing quality health care at a reasonable cost to the residents of Dougherty County. A substantial inducement for Transferor's approval of the plan of restructuring, implementation of the restructuring of the Hospital and the execution of this Agreement is the promise of Transferee, on behalf of itself and any future affiliated entities including the contemplated parent corporation, that upon the expiration or earlier termination of this Agreement except as set forth in Section 5.05(b) of this Agreement, all assets of Transferee and its parent affiliate, including the assets of their respective affiliates, shall be distributed to Transferor and become Transferor's property absolutely, and Transferee and its parent affiliate and other affiliates shall thereafter be dissolved.

WHEREAS, Transferor has determined that this Agreement will promote the public health needs of the community, by making additional facilities available in the community and by lowering the cost of health care in the community, and that this Agreement retains sufficient control by the Transferor over the Hospital as is contemplated by the "Act" (as hereinafter defined);

WHEREAS, Transferor believes that continuation of the high quality and level of healthcare services currently rendered at the Hospital can best be accomplished by transferring all of the operations, assets and liabilities of the Hospital to a nonprofit corporation;

WHEREAS, to accomplish this end, Transferor wishes to lease the assets of the Hospital, and to transfer all of the operations and liabilities of the Hospital, to Transferee, and Transferee wishes to assume all of the operations, assets and liabilities of the Hospital, all on the terms and conditions hereinafter set forth.

#### Supplemental Background and Recitals With Respect to Phoebe North

As of December 15, 2011, Transferee has acquired the assets, operations, and liabilities of Phoebe North. Based upon its findings and decisions, effective August 1, 2012, Transferor desires to lease and transfer the assets, operations, and liabilities of Phoebe North, including all Real Property acquired by Transferor in connection with its acquisition of Phoebe North, to Transferee pursuant to the terms of this Agreement, to be combined and operated together with those assets previously leased to Transferee.

WHEREAS, to accomplish the ends set forth above, and except as specifically excluded in this Agreement, Transferor wishes to lease and transfer all the assets of Phoebe North, including all Real Property acquired by Transferor in connection with its acquisition of Phoebe North, and to transfer all of the operations and liabilities of Phoebe North, to Transferee, and Transferee wishes to assume all of the operations, assets and liabilities of Phoebe North, including all Real



Property acquired by Transferor in connection with its acquisition of Phoebe North, all on the terms and conditions hereinafter set forth.

## A R T I C L E   I

### DEFINITIONS

The following words, terms or phrases, when used in this Agreement, shall have the following meanings unless the context indicates a different meaning:

"Act" means the Georgia Hospital Authorities Law (O.C.G.A. §§ 31-7-70 et seq.) as amended.

"Affiliate" means a corporation, limited or general partnership, joint venture, limited liability company, limited liability partnership, limited liability limited partnership, business trust or similar entity organized under the laws of the State of Georgia or any foreign jurisdiction: (a) which controls, or which is controlled, directly or indirectly, by, Transferee, Parent Affiliate (as defined in Section 4.16 hereof), or another Affiliate; or (b) a majority of the members of the Directing Body of which are also members or directors of the Board of Directors of the Transferee and constitute a majority of the members or directors of the Board of Directors of the Transferee. For the purposes of this definition, control means with respect to: (a) a nonprofit corporation not having stock whose board of directors is not self-perpetuating, the power to elect or appoint, directly or indirectly, a majority of the Directing Body of such corporation; (b) a nonprofit corporation not having stock with a self-perpetuating board, that such nonprofit corporation was created through the action of Transferee, Parent Affiliate, or another Affiliate, or through the will or action of the Directing Body of Transferee, Parent Affiliate, or another Affiliate; (c) a corporation having stock, the ownership, directly or indirectly, of more than 50% of the securities (as defined in Section 2(1) of the Securities Act of 1933, as amended) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the directors of such corporation; (d) a general or limited partnership, the ownership of a majority of the general partners' interest in the partnership; (e) any other entity, the power to direct the management of such entity through the ownership of at least a majority of its voting securities or the right to designate or elect at least a majority of the members of its Directing Body, by contract or otherwise. For the purposes of this definition, "Directing Body" means: (a) with respect to a nonprofit corporation not having stock, such corporation's members if the members have complete discretion to elect the corporation's directors, or the corporation's directors if the corporation's members do not have such discretion; (b) with respect to a corporation having stock, such corporation's board of directors and the owners, directly or indirectly, of more than 50% of the securities (as defined in Section 2(1) of the Securities Act of 1933, as amended) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the corporation's directors (both of which groups shall be considered a Directing Body); (c) with respect to a general or limited partnership, the holders of a majority of the general partners' interest in the partnership; and (d) with respect to any other entity, its governing board or body. For the purposes of this definition, all references to directors and members shall be deemed to include all entities performing the function of directors or members however denominated.

"Agreement" means this Lease and Transfer Agreement as from time to time amended or supplemented pursuant hereto.

"Assigned Contracts" means all agreements of Transferor assigned pursuant to this Agreement.

"Assumed Liabilities" means all of the liabilities and obligations of Transferor which incurred or arose in connection with the Existing Operations, whether known or unknown, contingent or otherwise, including, without limitation, all obligations and liabilities of Transferor in connection with the Bonds, all obligations incurred in the purchase of Phoebe North, all obligations and liabilities of Transferor under the Assigned Contracts, and all obligations of Transferor to the Medicare and Medicaid programs.

"Bonds" means, collectively, the \$9,775,000 Hospital Authority of Albany-Dougherty County, Georgia Refunding Revenue Anticipation Certificates Series 1990B, the \$29,600,000 Hospital Authority of Albany-Dougherty County, Georgia Revenue Anticipation Certificates Series 1990C, and any other Revenue Anticipation Certificates which may hereafter be issued by Transferor during the term of this Agreement, pursuant to the Bond Indentures.

"Bond Indentures" means that certain Trust Indenture dated as of October 1, 1990 between Transferor and Trust Company Bank, as Trustee, as supplemented by that certain Supplemental Trust Indenture dated as of November 1, 1990 between Transferor and Trust Company Bank, as Trustee, and any other Trust Indentures which may hereafter be executed by Transferor during the term of this Agreement.

"Book Value" means with respect to any Property the value thereof calculated on the basis of the book value of such assets shown on the asset side of the balance sheet in the financial statements for Transferee for the most recent Fiscal Year for which financial statements have been reported on by an Independent Accountant.

"Code" means the Internal Revenue Code of 1986, as amended, and all applicable existing and proposed regulations that may from time to time be issued thereunder.

"Commencement Date" shall have the meaning set forth in Subsections 3.01(c)(1) and 3.01(c)(2) hereof.

"Employees" means all of the employees of the Transferor employed in connection with Existing Operations on the Commencement Date hereof.

"Entity" means a corporation, general or limited partnership, joint venture, association, trust, person or other legal entity.

"Equipment" means all equipment, machinery and furniture owned by Transferor and used in connection with the Existing Operations as of the Commencement Date and all equipment, machinery and furniture acquired and installed in replacement thereof or in

substitution therefor and further shall mean all tangible personal property which is owned by Transferor and leased to Transferee which is not included in the definition of Real Property.

"Existing Facilities" means the Hospital, the Real Property, the Equipment, and all Improvements which are leased by Transferor to Transferee hereunder as the same may change from time to time.

"Existing Operations" means all of the hospital, health care, administrative and related activities conducted as of the Commencement Date hereof or in the past by Transferor in the ordinary course of owning and operating the Existing Facilities. Upon the transfer of the Existing Operations to Transferee pursuant to Section 3.02 hereof, the term "Existing Operations" shall mean all of the hospital, health care, administrative and related activities conducted by Transferee in the ordinary course of owning and operating the Existing Facilities.

"Financial Statements" means the audited financial statements of the Transferor as of July 31, 1990, and as of July 31, 2012.

"Fiscal Year" means the fiscal year of Transferee which shall be August 1 of each year through July 31 of the following year, unless changed by Transferee.

"Hospital" means (a) for purposes of the term of this Agreement through July 31, 2012, the facility and institution known as Phoebe Putney Memorial Hospital located in Albany, Dougherty County, Georgia, together with all deletions, additions and Improvements thereto, with the exception of Phoebe North, and all licenses, permits and approvals, including certificate of need approvals, necessary or desirable for the use and operation thereof; and (b) for purposes of the term of this Agreement commencing on August 1, 2012 and thereafter, Phoebe Putney Memorial Hospital, together with Phoebe North, and all licenses, permits and approvals, including certificate of need approvals, necessary or desirable for the use and operation of such expanded Hospital.

"Improvements" means any and all buildings, structures, improvements, furnishings, machinery, equipment and other personal property which shall be constructed, placed or installed in or upon the Real Property as a substitution for or in renewal or replacement of any buildings, structures, improvements, furnishings, machinery, equipment or other personal property constituting part of the Hospital, and any other additions, alterations and improvements to the Hospital placed or installed in or upon the Real Property.

"Independent Accountant" means a firm of regionally or nationally recognized, independent certified public accountants selected by Transferee.

"Joint Commission" means the Joint Commission.

"Operating Assets" means all assets which are owned by Transferor in connection with the operations of the Existing Facilities (including, without limitation, all assets reflected in the Financial Statements, with such changes as may have occurred after the date of the Financial

Statements in the ordinary course of business) excluding the Existing Facilities, but including, without limitation:

- (a) all cash, bank accounts, savings and loan accounts, certificates of deposit, money market accounts, treasury bills, other investments and revenues (including amounts held in any insurance trust) owned by Transferor in connection with the Existing Facilities;
- (b) all, accounts receivable and all other amounts owed to Transferor in connection with the Existing Facilities;
- (c) all, oral and written agreements of Transferor excepting only those listed in Exhibit "A" hereto which were entered into in connection with the Hospital (the "Assigned Contracts");
- (d) all books, records and other information collected and maintained in connection with the Existing Facilities including, without limitation, patient records and employee records;
- (e) all judgments, choses in action and intangibles owned by Transferor and related to the Existing Facilities;
- (f) the name "Phoebe Putney Memorial Hospital";
- (g) all funded depreciation, board designated or board restricted assets and other similar reserves; and
- (h) all assets not listed above and not otherwise classified as Existing Facilities.

Upon the transfer of the Operating Assets to Transferee pursuant to Section 3.02 hereof, the term "Operating Assets" shall mean all Operating Assets received by Transferee plus all accumulations and additions thereto, and less all deletions and deductions therefrom, as may have occurred in the ordinary course of business of Transferee or as otherwise may have been permitted by the terms of this Agreement.

"Operating Year" means the initial partial year (i) commencing on the Commencement Date hereof and (ii) ending on the last day of the Transferee's Fiscal Year during which the Commencement Date occurred; and thereafter "Operating Year" shall consist of a successive period of twelve calendar months.

"Permitted Encumbrances" means the Bond Indentures, this Agreement and, as of any particular time,

- (a) liens for taxes and special assessments, if any, which are not then delinquent, or if then delinquent are being contested in accordance with the provisions of this Agreement;

(b) utility, access and other easements and rights-of-way, restrictions and exceptions which will not materially interfere with or materially impair the operation of the Hospital, or facilities thereof (or, if they are not being then operated, the operation for which they were designed or last modified);

(c) any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right in respect thereof, if any, if payment is not yet due under the contract in question or if such lien is being contested in accordance with the provisions of this Agreement;

(d) such minor defects and irregularities of title as normally exist with respect to properties similar in character to the land and which do not materially and adversely affect the value of the Hospital or materially impair the property affected thereby for the purpose for which it was acquired or is held by Transferee;

(e) leases to other than Affiliates which relate to portions of the Hospital which are customarily the subject of such leases, such as office space for physicians and educational institutions, food service facilities, gift shops and radiology, pharmacy and similar departments to the extent that such leases will not adversely affect the exemption from federal income taxation of the Bonds, and to the extent the same are permitted by Article V hereof or Section 8.02 hereof;

(f) zoning laws and similar restrictions which are not violated by Transferee or which do not materially and adversely affect the value of the Hospital;

(g) statutory rights under Section 291, Title 42 of the United States Code, as a result of what are commonly known as Hill-Burton grants, and similar rights under other federal and state statutes;

(h) all right, title and interest of the State, municipalities and the public in and to access over, under or upon a public way;

(i) any instrument creating or securing Permitted Indebtedness;

(j) liens on and security interests in Property which secure Permitted Indebtedness to the extent permitted by this Agreement;

(k) interests, including leasehold and ownership interest, of any Affiliate in Property leased or transferred to such Affiliate in accordance with the provisions of Section 5.05 hereof;

(l) liens on and security interests in Property, including those existing on such Property at the time of acquisition thereof (including acquisition by gift, bequest or devise) by Transferee, which (i) either existed at the time of the acquisition of such property or which secure Permitted Indebtedness assumed or incurred by Transferee in connection with the acquisition of such Property, (ii) do not extend to any Property of Transferor other than that so acquired, and (iii) at the time the indebtedness secured

thereby is or was issued or incurred by Transferee or in the case of Property acquired subject to an existing lien or security interest at the time of such acquisition, the aggregate amount remaining unpaid on the indebtedness secured thereby (whether or not assumed by Transferee) shall not exceed the lesser of the acquisition price or the fair market value of the property as determined in good faith by Transferee;

(m) liens on and security interests in Property given, bequeathed or devised to Transferee existing at the time of such gift, bequest or devise, provided that (i) such liens or security interests attach solely to the Property which is the subject of such gift, bequest or devise, and (ii) the indebtedness incurred by such liens or security interests is not assumed by Transferee or, if assumed, is assumed on a nonrecourse basis;

(n) leases of Property entered into by Transferee in order to obtain the use of such Property and which constitute Permitted Indebtedness; and

(o) restrictions or other encumbrances which are either insured over by a reputable, solvent title insurance company which has been writing title insurance in Dougherty County, Georgia for at least five (5) years or which relate to properties which are not contiguous to the property on which the Hospital is situated and the loss of which would have no material adverse impact on the operations of the Hospital.

"Permitted Indebtedness" means the indebtedness or obligations of Transferee permitted under Section 4.19 hereof.

"Phoebe North" means the hospital facility and institution formerly known as Palmyra Medical Center located in Albany, Dougherty County, Georgia (which Transferor acquired as of December 15, 2011 pursuant to the terms of an Asset Purchase Agreement dated December 21, 2010, by and among Transferor, Phoebe Putney Health System, Inc., Phoebe North, Inc., and Palmyra Park Hospital, Inc.), together with all deletions, additions and Improvements thereto, and all licenses, permits, and approvals, including certificate of need approvals, necessary or desirable for the use and operation thereof.

"Pledged Revenues" means accounts receivable, contract rights and general intangibles, and all proceeds of all of the foregoing whether cash or noncash, now existing or hereafter coming into being or now owned or hereafter acquired, of Transferee, excluding; however, (i) all right to receive any gifts, grants, bequests, devises, donations, contributions or pledges and earnings thereon, received or to be received and restricted as to use by the terms of such gift, grant, bequest, devise, donation, contribution or pledge in any way which would prevent its application to the Required Payments required hereunder, and (ii) the proceeds of any borrowing.

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

"Property, Plant and Equipment" means all Property of Transferee which is classified as property, plant and equipment under generally accepted accounting principles.

"Real Property" means (i) the real property previously leased by Transferor to Transferee pursuant to the 1990 Lease, as amended, including all buildings, fixtures, improvements, mechanical systems, drawings or parking areas located thereon and all rights, easements and appurtenances thereto, and (ii) the real property acquired by Transferor in connection with its acquisition of Phoebe North, as more particularly described in Exhibit "B" hereto, including all buildings, fixtures, improvements, mechanical systems, drawings or parking areas located thereon and all rights, easements and appurtenances thereto.

"Required Payments" means any and all of the payments required to be made pursuant to Sections 3.05(a)(i) and 3.05(a)(ii) hereof.

"State" means the State of Georgia.

"Term of this Agreement" or the "term hereof" means the period commencing on the Commencement Date and ending on the last day of the 40th Operating Year hereunder, unless sooner terminated pursuant to the provisions hereof or unless extended pursuant to the provisions hereof.

"Trustee" means the Trustee serving from time to time under the Bond Indentures.

## ARTICLE II

### REPRESENTATIONS

SECTION 2.01. Representations and Warranties by Transferor. Transferor makes the following representations and warranties to Transferee as the basis for the undertakings on Transferee's part herein contained, subject to the order of any court of competent jurisdiction:

(a) Transferor is a public body corporate and politic and an instrumentality of the State of Georgia, duly organized, validly existing and in good standing under the laws of the State of Georgia;

(b) Transferor has good and sufficient fee simple title for purposes of this Agreement in and to the Real Property, and good and valid title in and to the Equipment and the Operating Assets, and such title with respect to the property acquired by Transferor in connection with its acquisition of Phoebe North is free and clear of any material lien, claim, encumbrance or security interest arising therein since the date of such acquisition, other than Permitted Encumbrances, except for those listed in Exhibit "C" attached hereto;

(c) Transferor has full power and authority to enter into this Agreement, to carry out the transactions contemplated hereunder, and to carry out its obligations hereunder;

(d) Transferor has duly authorized the execution, delivery and performance of this Agreement; and

(e) Transferor is not subject to any claim or restriction or subject to any provision of any nature whatsoever contained in Transferor's enabling legislation, charter, ordinances or bylaws or in any evidence of indebtedness, indenture, commitment, agreement or contract to which Transferor is a party or by which it is bound, or subject to any existing judgment, order or decree binding upon Transferor, which in any way prevents Transferor from entering into this Agreement or performing any of its obligations hereunder.

SECTION 2.02. Representations and Warranties by Transferee. Transferee makes the following representations and warranties to Transferor as of the date of delivery hereof:

(a) Transferee is a nonprofit corporation duly incorporated, validly existing and in good standing under the laws of the State of Georgia;

(b) Transferee has full power and authority to enter into this Agreement, to carry out the transactions contemplated hereunder and to carry out its obligations hereunder;

(c) Transferee is duly authorized to execute, deliver and perform this Agreement;

(d) Transferee is, as of the Commencement Date, an organization described in Section 501(c) (3) of the Code exempt from federal income tax under Section 501(a) of the Code and not a private foundation as defined in Section 509(a) of the Code; and

(e) Transferee is not subject to any limitation, restriction or provision of any nature whatsoever contained in Transferee's articles of incorporation or bylaws or in any evidence of indebtedness, indenture, commitment, agreement or contract to which Transferee is a party or by which it is bound, or subject to any existing judgment, order or decree binding upon Transferee, which in any way limits, restricts or prevents Transferee from entering into this Agreement or performing any of its obligations hereunder.

### ARTICLE III

#### LEASING OF EXISTING FACILITIES; TRANSFER OF OPERATING ASSETS; ASSUMPTION OF LIABILITIES; TERM AND REQUIRED PAYMENTS

SECTION 3.01. Leasing of Existing Facilities; Quiet Enjoyment; Commencement Date.

(a) Transferor, for and in consideration of the payment by Transferee of the Required Payments pursuant to Section 3.05 hereof and the performance by Transferee of the covenants and agreements set forth herein, leases the Existing Facilities to Transferee effective as of the Commencement Date, and Transferee effective as of the Commencement Date takes and accepts the Existing Facilities from Transferor, subject to the terms, covenants, conditions and provisions hereinafter stated and the following limitations, restrictions, reservations and encumbrances, to



have and to hold for the term hereof. To the extent permitted under the Act, the term hereof may be extended by mutual agreement of Transferor and Transferee and may be extended by Transferor and Transferee to be co-extensive with the term of any outstanding bonds issued by Transferor. By issuing any bonds after the date hereof, however, Transferor is not obligating itself to agree to any extension of the term hereof.

(b) Effective as of the Commencement Date, Transferor grants to Transferee the right to lease and operate the Existing Facilities, and agrees that so long as Transferee shall pay the Required Payments as provided herein and shall duly observe and perform all the terms, covenants, conditions provisions, stipulations and agreements of this Agreement obligatory upon Transferee and shall operate the Existing Facilities consistent with all obligations currently or in the future existing under the Act which are applicable to the Existing Facilities, then Transferee shall have, hold and enjoy, during the term hereof, peaceful, quiet and undisputed possession of the Existing Facilities, without hindrance or molestation by anyone claiming by or through Transferor subject, however, to the provisions of this Agreement, and Transferor shall from time to time take all necessary or appropriate action to that end.

(c)(1) "Commencement Date" means September 1, 1991, which is the date upon which the 1990 Lease became effective with respect to the lease and transfer of Phoebe Putney Memorial Hospital under the 1990 Lease pursuant to the following provisions thereof:

For purposes of this Agreement, the term "Commencement Date" shall mean the day on which the "Commencement Certificate" (as defined herein) is delivered by the Transferee to the Transferor after the following have been received: (i) a written determination from the Internal Revenue Service recognizing Transferee as a charitable organization within the meaning of Section 501(c)(3) of the Code; (ii) a final written approval from Georgia's State Health Planning Agency ("SHPA") granting certificate of need approval to the leasing and restructuring of the Hospital pursuant to this Agreement; and (iii) all opinions, reports and approvals required by the Bond Indentures in order to affect the leasing and restructuring of the Hospital pursuant to this Agreement.

Transferor and Transferee shall diligently pursue the completion of items (i) through (iii) above and, if required to satisfy such conditions, shall modify this Lease in any reasonable manner. When the events described in items (i) through (iii) above shall have occurred, Transferee shall deliver a certificate to Transferor certifying as to the same (the "Commencement Certificate"). Transferee shall deliver the Commencement Certificate to the Transferor no later than the first day of the month immediately following the date of receipt of all items (i) through (iii) above.

(c)(2) "Commencement Date" means August 1, 2012, with respect to the lease and transfer of the assets, operations, and liabilities of Phoebe North to the Transferee under this Amended and Restated Lease and Transfer Agreement.

SECTION 3.02. Transfer of Operating Assets and Existing Operations. Transferor, for and in consideration of the assumption by Transferee of the Assumed Liabilities pursuant to Section 3.03 hereof and the performance by Transferee of its other agreements hereunder,

including but not limited to providing quality healthcare to the citizens of Dougherty County in a manner which fulfills and carries out Transferor's obligations and mission under the Act, and effective as of the Commencement Date, assigns, transfers and conveys to Transferee all of Transferor's right, title and interest in and to the Operating Assets and Existing Operations. Transferee during the term hereof shall use the Operating Assets and Existing Operations so transferred to it in the operation of the Existing Facilities and in furtherance of Transferee's purposes as set forth in its Articles of Incorporation and as otherwise permitted by this Agreement. At the expiration or earlier termination of the term hereof, (a) Transferee shall assign and return to Transferor all of the Operating Assets and Existing Operations and (b) Transferor, to the extent allowed by law, shall assume in writing all the then current liabilities of Transferee and all other liabilities of Transferee incurred in the ordinary course of business; provided, that such Liabilities shall constitute Permitted Indebtedness hereunder and provided further that such obligation of Transferor shall be payable only from the revenues of the Existing Facilities. Transferee guarantees that it shall return to Transferor at the expiration or earlier termination of the term hereof an amount of total assets (determined in accordance with then generally accepted accounting principles) which when netted against the amount of total liabilities (determined in accordance with generally accepted accounting principles) assumed by Transferor pursuant to (b) above shall be at least equal to the amount of total assets (determined in accordance with generally accepted accounting principles) transferred to Transferee hereunder less the amount of total liabilities (determined in accordance with generally accepted accounting principles) assumed by Transferee hereunder. In the event Transferor cannot at the expiration or earlier termination of the term hereof legally assume any liability of Transferee, Transferee shall cause such liability to be discharged. In the event Transferee is required by Transferor to satisfy a liability that Transferor cannot legally assume, Transferee may utilize the Operating Assets to obtain sufficient funds to discharge any such liability, and Transferee shall then transfer and assign to Transferor the remaining Operating Assets net of the funds required to satisfy any such liability.

SECTION 3.03. Assumption of Liabilities. Effective as of the Commencement Date, Transferee assumes, and agrees to perform and discharge, all of the Assumed Liabilities as of the Commencement Date.

SECTION 3.04. Transfer of the Existing Facilities and Existing Operations. The parties hereby agree and acknowledge that the purpose of this Agreement and other instruments contemplated hereby is to effect, as of the Commencement Date, pursuant and subject to the terms hereof, the transfer of control over all of the Existing Facilities, the Existing Operations and the Operating Assets to Transferee and that the consideration therefor shall consist of the Required Payments made by Transferee pursuant to Section 3.05 hereof, the operation of the Hospital, the assumption or payment by Transferee of the Assumed Liabilities, and the performance of all other agreements and actions required of Transferee under this Agreement.

SECTION 3.05. Required Payments.

(a) In consideration of the leasing of the Existing Facilities to Transferee hereunder, effective as of the Commencement Date, and in addition to performing all other obligations

hereunder and in addition to assuming liabilities and obligations of the Authority as set out elsewhere in this Agreement, Transferee agrees as follows:

(i) On the date that each payment of principal of, premium, if any, and interest on the Bonds shall be due until all the principal of, premium, if any, and interest on the Bonds shall have been paid in full, Transferee shall pay to the Trustee as a Required Payment hereunder an amount of money equal to the amount payable on the payment date as principal of (whether at stated maturity or by redemption or otherwise), premium, if any, and the interest on the Bonds as provided in the Bond Indentures. Transferee shall also pay to the Trustee until the principal of, premium, if any, and interest on the Bonds shall have been paid in full an amount equal to all fees and expenses of the Trustee as and when the same shall become due pursuant to the terms of the Bond Indentures; and

(ii) Transferee shall make all payments to Transferor as required under Section 7.2 or Article VII hereof.

The foregoing payments shall be in addition to Transferee's obligations to pay or discharge the Assumed Liabilities as specified in Section 3.03 hereof and all liabilities incurred by the Transferee in connection with the Existing Facilities after the Commencement Date and during the term hereof as well as any other payment obligation Transferee may have hereunder.

(b) In the event Transferee shall fail to make any Required Payment under Section 3.05(a)(ii) above when due, then in addition to any other remedies provided in Article IX, Transferor shall have the right (but not the obligation) to make such payment and to otherwise cure any default under the Bond Indentures caused by such failure by Transferee to timely make such Required Payment, and if Transferor does so elect to cure such failure, then the amounts paid by Transferor to effect such cure shall constitute a debt due from Transferee to Transferor, which debt shall be due on demand and which shall bear interest from the date so advanced by Transferor until repaid by Transferee at the rate equal to the publicly announced "prime" or "base" (or equivalent) lending rate of the Trustee (or its successor), which rate shall be adjusted as and when adjusted by said Trustee.

#### SECTION 3.06. Security Interest.

(a) To secure the prompt payment of the Required Payments and to secure the performance by Transferee of its other obligations hereunder, Transferee, effective as of the Commencement Date, pledges to Transferor and grants to Transferor a security interest in Transferee's Pledged Revenues and in all equipment, machinery, furniture and other Operating Assets owned by Transferor and used in connection with the Existing Operations and all equipment, machinery and furniture acquired and installed in replacement therefor or in substitution therefor; provided, however, that such pledge and grant of security interest with respect to Pledged Revenues shall be subject and subordinate to Transferee's grant of a security interest in and pledge of the "Gross Revenues," as defined in the Bond Indentures, to Transferor in its capacity as issuer of the Bonds, which pledge and security interest have been assigned to the Trustee under the Bond Indentures. This grant of a security interest shall remain in full force and effect until all payments required by this Agreement have been made.

(b) Transferee (as Debtor) and Transferor (as Secured Party) will each execute a Form UCC-1 Financing Statement to be recorded in the public records of Dougherty County, Georgia designating as the "Collateral" the Pledged Revenues and all equipment, machinery, and furniture owned by Transferor and used in connection with the Existing Operations and all equipment, machinery and furniture acquired and installed in replacement therefor in substitution therefor. Transferee will cause the Form UCC-1 Financing Statement prepared for recording in the public records, as provided in this paragraph, to be recorded in the public records of Dougherty County, Georgia. Transferor and Transferee hereby agree that they shall make, execute and record or file such continuation statements as may be necessary or advisable in order to perfect, preserve and maintain Transferor's title to, lien upon and security interest in the properties, right and interests referred to in this Section. Transferee shall be responsible for timely notifying Transferor as to the need to make, execute and record or file any of the foregoing. Transferor shall, from time to time, at the request of Transferee, execute such releases as may be necessary to permit the Transferee to dispose of Property in accordance with Article V hereof. Transferor's consent to a release of its security interest shall not be required except and to the same extent as required for a disposition of property pursuant to Article V.

SECTION 3.07. Absolute Obligation to Pay Required Payments. The obligation of Transferee to make the Required Payments in accordance with Section 3.05 hereof shall be a general obligation of Transferee, shall be absolute and unconditional and shall not be abated, rebated, set off, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever, regardless of any rights of set off, recoupment or counterclaim that Transferee might otherwise have against Transferor. Failure to receive any prior notice of the due date of any Required Payment will not relieve Transferee of its obligation to pay such installment thereof, without notice or demand therefor, in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts.

SECTION 3.08. Bonds and Bond Indentures. For as long as any Bonds are outstanding, each party hereto covenants with each other party that it shall comply at all times with the term of the Bonds, the Bond Indentures, and the documents related thereto that are applicable to it.

## A R T I C L E   I V

### COVENANTS OF TRANSFEROR AND TRANSFEE

The following covenants contained in this Article IV shall be effective from and after the Commencement Date.

SECTION 4.01. Maintenance of Existing Facilities. Transferee shall, at its sole cost and expense, at all times during the term of this Agreement, keep and maintain the Existing Facilities and all Improvements, both inside and outside, structural and nonstructural, in a good state of repair and preservation, ordinary wear and tear and acts of God excepted, and Transferee shall make all repairs and replacements that may be necessary to maintain the Existing Facilities and all Improvements (including without limitation all electrical, plumbing, HVAC systems and

equipment and such equipment as shall be reasonably required to meet Joint Commission or comparable accreditation standards and to comply in all material respects with all applicable codes) in such state of repair. Transferee covenants that it will not permit, commit or suffer any waste of the whole or any part of the Existing Facilities and the Improvements and shall not use or permit the use of the Existing Facilities, or any part thereof, for any unlawful purpose or permit any nuisance to exist thereon. Transferee covenants and agrees that it shall provide at its own cost and expense, to the extent not financed with proceeds of the Bonds, current and modern equipment as generally used in accredited, comparable community hospitals, and shall provide all equipment, machinery, furnishings, supplies and other personal property required or necessary for the proper operation, repair and maintenance of the Hospital, consistent with standards of hospital organization and administration generally acceptable for fully accredited hospitals comparable to the Existing Facilities.

SECTION 4.02. Operation of Hospital. Transferee will faithfully and efficiently administer, maintain and operate the Hospital as a charitable facility open to the general public, free of discrimination based upon race, color, religion, creed, national origin or sex and will use, maintain and operate the Hospital on a revenue-producing basis, consistent with Transferee's obligations under this Agreement and the parties' obligations under the Act. Transferee further covenants and agrees that:

(a) it will at all times use its best efforts to maintain and operate the Hospital to meet the standards and requirements and provide health care of such quality and in such manner as shall enable the Hospital to participate in, and provide services in connection with, recognized medical insurance programs, and Transferee agrees that, so long as it shall remain a participating facility under such recognized programs, it will use its best efforts to comply with the standards and requirements for remaining a participating medical facility thereunder, unless Transferee shall determine, by resolution adopted by its Board of Directors, that it is not in the best interest of Transferee to comply therewith and that the financial condition of the Transferee will not be adversely and materially affected by noncompliance;

(b) it will comply with applicable federal and state laws prohibiting discrimination based on race, religion, creed, color, sex or national origin;

(c) it will use the Existing Facilities only in furtherance of the lawful purposes of Transferee;

(d) it will not use the Existing Facilities or any part thereof for sectarian instruction nor will it use the Existing Facilities as a place of religious worship or as a facility used as a part of a program of a school or department of divinity for any religious denomination or the religious training of ministers, priests, rabbis or other similar persons in the field of religion; provided, however, that the foregoing restrictions shall not be construed to prevent Transferee from (i) maintaining a chapel for the use of patients, employees and visitors as part of the Existing Facilities, (ii) conducting medical education programs on any subject with one or more institutions, whether or not sectarian, or seminars or meetings explaining the operating policies of Transferee with

regard to abortions or other medical or surgical services or (iii) maintaining pastoral care programs of the kind provided by hospitals generally;

(e) it will not use the Existing Facilities or suffer or permit the Existing Facilities to be used by any person or in any manner which would result in the loss of tax exemption of interest on the Bonds otherwise afforded under the Code and, further, it will not permit any of the proceeds of the Bonds to be used, directly or indirectly, in any manner which would result in the Bonds being classified as "arbitrage bonds" within the meaning of Section 148 of the Code;

(f) it will not be in material violation of any laws, ordinances, governmental rules or regulations to which it is subject and will not fail to obtain any licenses, permits, franchises or other governmental authorizations necessary to the ownership of the Existing Facilities or the conduct of its activities, which violation or failure to obtain might materially adversely affect the Hospital or the condition (financial or otherwise) of Transferee;

(g) no person in need of immediate or emergency medical treatment shall be denied admission because of inability to pay for services, charge or costs for which such person would ordinarily be responsible, provided, however admission may be denied when medical treatment is of a nature requiring services not offered at the Hospital;

(h) it will continue to provide indigent care in accordance with all requirements of law and will irrevocably provide indigent care substantially in accordance with the present indigent care practices of the Hospital and at not less than the level provided when the leasehold interest of Transferor first took effect. Transferor hereby assigns to Transferee all of Transferor's right, title and interest in and to any funds Transferor receives from Dougherty County, Georgia pursuant to any subsequent indigent care agreement or arrangement with Dougherty County, Georgia;

(i) Transferee shall provide an annual report to the Transferor addressing Transferee's performance on making additional facilities and care available in the community and/or lowering the cost of health care in the community;

(j) As a nonprofit corporation, Transferee, within ninety (90) days after the close of each Fiscal Year, shall submit to the Transferor copies of its annual Community Benefit Report and of annual reports of Transferee disclosing certain transactions with Transferee or with the Transferor, prepared subject to O.C.G.A. §§ 31-7-75(22) and 31-7-76(d)(4). The reports shall be made available to the public at or prior to the Transferor's meeting at which the Transferor reviews the report. Transferee, as a nonprofit corporation, shall not operate the Hospital for profit and shall fix rates and charges of the Hospital consistent therewith and in accordance with the policies and requirements of the Act, including the provisions of O.C.G.A. § 31-7-77;

(k) At least every three years, Transferee shall furnish a community needs assessment to the Transferor as required by U.S.C. § 501(r)(3). Further, Transferee shall

annually furnish a report to Transferor of any plan for the unmet health needs of the community. These reports shall be made available to the public at or prior to any Transferor's meeting at which the Transferor reviews the reports;

(l) Transferee shall at all times have prepared and have available a written summary of certain hospital and related services charges in compliance with O.C.G.A. § 31-7-11. Such summary shall be presented by Transferee to Transferor upon Transferor's request from time to time, and in any event at least annually at the time Transferee presents its annual financial statements to Transferor as provided in (m) below. Such summary must at all times be in compliance with the Act, including O.C.G.A. § 31-7-77; and

(m) Annually, within 90 days after the close of its fiscal year, Transferee shall provide Transferor a complete and detailed audited financial statement showing its operations and financial condition for the fiscal year just completed and its budget for the current fiscal year. Also, from time to time as reasonably requested by Transferor, Transferee shall provide such current operating and financial information, including budgets, for Transferee's operations of the Hospital as is necessary to demonstrate Transferee's compliance with this Agreement and the Act. Transferor and Transferee shall take any and all action necessary and appropriate to protect the proprietary and confidential nature of any information provided hereunder pursuant to any and all provisions of the Act and of any other applicable provisions of law.

So long as Transferee is not in default under this Agreement, Transferee shall have sole and exclusive charge of the operation of the Hospital including, but not limited to, the selection or retention of any or all employees or personnel of Transferee.

Transferee shall employ the Operating Assets in accordance with reasonably prudent practices in the health care field.

#### SECTION 4.03. Compliance With Applicable Law.

(a) Transferee shall not use or occupy, nor permit any use or occupancy of, the Hospital or any part thereof contrary to any material applicable law, ordinance or governmental regulation now or hereinafter in force. Transferee covenants and agrees that throughout the term of this Agreement, at its sole cost and expense, it shall promptly comply with all such material applicable laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments, and appropriate departments, commissions, boards and offices thereof, whether or not requiring structural repairs or alterations to the Hospital or relating to the use or occupancy or manner of use of the Hospital. Transferee shall also observe and comply with in all material respects the requirements respecting the Hospital of all policies of insurance or programs of self-insurance at any time in force with respect to any of the buildings, improvements, machinery or equipment constituting a part of the Hospital. Transferee will not use or occupy the Hospital or permit its use or occupancy in such manner as may be reasonably be deemed to prejudice Transferor's title to or interest in the Hospital, or any portion thereof, or as may provide a basis for claims of adverse use or possession by the public or implied

dedication to public use of any part of the Hospital or as may in any way impair the efficient operation, use or control of the Hospital.

(b) Transferee shall operate the Existing Facilities in a manner which will not contravene the Act or the intent and policies of the Act, and Transferee will fix rates and charges for services by the Hospital and the Existing Facilities in accordance with the intent of and the policy established by the Act. To the extent permitted by law, Transferor delegates to Transferee the authority to establish rates and charges for services provided at or by the Hospital and Existing Facilities; provided however, such rates and charges must be established by Transferee in good faith in a manner which complies with the provisions, policies, and intent of the Act, including, but not limited to, O.C.G.A. § 31-7-75(7) and 31-7-77, or otherwise shall constitute an event of default under Section 9.01(b) of this Agreement. In connection with such establishment of all rates and charges for services by the Hospital, Transferee and Transferor shall take any and all action necessary and appropriate to protect the proprietary and confidential nature of the budgets of Transferee and the Hospital pursuant to any and all provisions of the Act and of any other applicable law.

(c) Nothing in this Section 4.03 shall require Transferee to comply with any law, ordinance or governmental regulation so long as there is a substantial and legitimate question as to its applicability to Transferee or so long as the interpretation or validity of such law, ordinance or governmental regulation shall be contested in good faith and by appropriate legal proceedings, including securing any necessary injunctive relief which will stay enforcement of such law, ordinance or governmental regulation.

(d) Transferor and Transferee may establish and maintain such guidelines as to day-to-day policies regarding compliance with the provisions of the Act and this Agreement as they may mutually deem appropriate from time to time.

SECTION 4.04. Liens and Encumbrances. Except for Permitted Encumbrances or as set forth in Section 3.06 of this Agreement, Transferee covenants and agrees that it shall not create or suffer to be created any lien, encumbrance or charge upon the Hospital, the Operating Assets or the Pledged Revenues and that it will satisfy or cause to be discharged or structure a settlement with respect to or shall make adequate provision to satisfy and discharge, within sixty (60) days after the same shall be due, all lawful claims and demands for labor, materials, supplies or other items. Nothing in this Section shall require Transferee to satisfy or discharge any such charge, claim or demand so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings if the Transferee shall have posted a bond or other security to avoid any such risk to Transferor's interest in the Hospital, the Operating Assets or the Pledged Revenues.

SECTION 4.05. Payments of Other Obligations.

(a) Transferee covenants and agrees to pay when due the Required Payments and all assessments, levies, taxes (ordinary or extraordinary, special or general) and insurance premiums and self-insurance payments, of every kind and nature relating to the whole or any part of the Existing Facilities or this Agreement, or any interest therein and all sales, use or excise taxes, if



any, levied upon the Required Payments and other payments due under this Agreement, and all costs, expenses, liabilities and charges of every kind and nature, including charges for gas, electricity, water, sewer and other utilities, relating to the maintenance, repair, replacement and improvement, if undertaken hereunder by Transferee, of the Hospital, or any part, thereof, or the facilities, machinery or equipment thereon or in connection therewith which may arise or accrue during the term of this Agreement; provided, however, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, Transferee shall be obligated to pay only such installments as are required to be paid during the term of this Agreement.

(b) Transferee shall not be required to pay any tax, charge, assessment or imposition, nor to remove any lien required to be removed under this Agreement, so long as Transferee shall contest or there shall be contested on Transferee's behalf, in good faith and at Transferee's own cost and expense, the amount or validity thereof, in an appropriate manner or by appropriate proceedings which shall operate during the pendency thereof to prevent the collection of or other realization upon the tax, assessment, levy, fee, rent, charge, lien or encumbrance so contested, and the sale, forfeiture, or loss of the Existing Facilities or any part thereof or interest therein, to satisfy the same; provided, that no such contest shall subject Transferor to the risk of any liability or loss or materially impair the obligations of Transferee under this Agreement. Each such contest shall be promptly prosecuted to final conclusion (subject to the right of Transferee to settle any such contest), and in any event Transferee will save Transferor harmless against all losses, judgments, decrees and costs (including attorneys' fees and expenses in connection therewith) and will, promptly after the final determination of such contest or settlement thereof, enter into a structured payment agreement with respect to, or pay and discharge, the amounts which shall be levied, assessed or imposed or determined to be payable therein, together with all penalties, fines, interest, costs and expenses thereon or in connection therewith. Transferee shall give Transferor prompt written notice of any such contest. If in the reasonable opinion of counsel to Transferor, by nonpayment of any of the foregoing items, the Hospital, or any substantial part thereof, will be subject to imminent loss or forfeiture, then Transferor shall notify Transferee and Transferee shall promptly pay all such unpaid items and cause them to be satisfied and discharged.

SECTION 4.06. Transferor's Performance of Transferee's Obligations. In the event Transferee at any time neglects, refuses or fails to perform any of its obligations under this Agreement, Transferor, at its option and following at least thirty (30) days' written notice to Transferee, except where a shorter period of notice is necessary to avoid a default on the Bonds, or to prevent any loss or forfeiture thereof, or to prevent any material loss to the Existing Facilities or its operations, may (but is not obligated to) perform or cause to be performed such obligation, and all expenditures incurred by Transferor thereby shall be promptly paid or reimbursed, plus interest at the rate specified in Section 3.05(b) hereof, by Transferee to Transferor.

SECTION 4.07. Improvements. The parties hereto covenant and agree that in the event Improvements shall be provided to, on, within or above the Real Property, the provisions of this Agreement pertaining to the Existing Facilities shall automatically extend to such Improvements.

SECTION 4.08. Tax-Exempt Status. Transferee represents that as of the Commencement Date: (i) it is an organization described in Section 501(c)(3) of the Code; (ii) the facts and circumstances which form the basis of the application for tax-exempt status as represented to the Internal Revenue Service continue to exist; and (iii) it is exempt from federal income taxes under Section 501(a) of the Code, and is not a "private foundation" as defined in Section 509(a) of the Code. Transferee agrees that it shall not perform any act or enter into any agreement which shall adversely affect the federal income tax status of Transferee and conduct its operations and the Hospital and the affairs of its Affiliates, if any, so as to maintain Transferee's status as a charitable organization within the meaning of Section 501(c)(3) of the Code which is exempt from Federal income taxes under Section 501(a) of the Code, or any successor provisions of federal income tax law.

SECTION 4.09. Regulatory Controls. Transferee covenants and agrees that it shall take all appropriate action to obtain such consents, exceptions, exemptions or approvals of governmental authorities as may be necessary to permit it to comply fully with all of its covenants, stipulations, obligations and agreements contained in this Agreement. Transferor covenants to cooperate reasonably with Transferee in this regard.

SECTION 4.10. License and Accreditation. Transferee will procure and maintain in good standing a license from the State of Georgia to operate the Hospital as a hospital. Transferee will cause the Hospital to have Joint Commission accreditation or similar accreditation by another nationally approved and recognized accrediting body throughout the term of this Agreement, or in the event that such accreditation is superseded by comparable and federally recognized standards which provide for third party payor authorization, Transferee shall cause the Hospital to obtain in a reasonable period of time such other accreditation; provided, however, that Transferor may waive this requirement if the Board of Directors of Transferee shall have determined in good faith, evidenced by a resolution of said Board, that such compliance is not in Transferee's best interest and that lack of such compliance would not materially impair its ability to make the Required Payments and comply with its other covenants hereunder.

SECTION 4.11. Medical Staff. The Medical Staff and Medical Staff Bylaws of Transferee prior to the effective date of this Agreement shall remain on and after such effective date as the Medical Staff and Medical Staff Bylaws of Transferee and the Hospital, subject to such changes thereafter which Transferee may deem necessary or appropriate with respect to medical staff bylaws, appointments, and privileges.

SECTION 4.12. Medicare/Medicaid Filings. During the term hereof, Transferee shall be responsible for making all filings due to the Medicare and Medicaid programs and Transferor shall not file any reports or other documents or make any other filings in connection with Medicare and Medicaid reimbursement with respect to the Existing Facilities, including but not limited to any cost reports, without allowing Transferee at least thirty (30) business days to review any such filings and related documentation and obtaining Transferee's prior written approval of such filing. Transferee shall be responsible for taking all actions with respect to any liability to the Medicare or Medicaid program and Transferor shall, at Transferee's expense,

execute such documents, respond to any audit or Notice of Program Reimbursement and pursue any appeal with respect thereto in the manner and at the time deemed appropriate by Transferee in its sole discretion.

SECTION 4.13. Transfer of Employees; Benefits. All Employees employed by Transferor immediately prior to the Commencement Date shall be offered employment by Transferee effective as of the Commencement Date; subject, however, to Transferee's right as employer to terminate the employment of any such employee thereafter and to vary the compensation, duties and benefits of any employee for any reason permitted under applicable state and federal employment laws and in accordance with Transferee's personnel policies, which policies may be amended by Transferee during the term hereof. Thus, management personnel of the Hospital will be substantially maintained despite the leasing of the Hospital hereunder, and accordingly this transaction qualifies as a lease of the Hospital pursuant to a reorganization as described in § 7.12(c) of the Bond Indenture dated as of October 1, 1990 between Transferor and the Trustee. As to retirement benefits, Transferee shall offer a retirement plan for such employees with benefits at least equal to Transferor's plan as of the Commencement Date. No employee shall be a third party beneficiary of the provisions of this Section.

SECTION 4.14. Participation and Reimbursement Agreements. Transferee will enter into such participation and reimbursement agreements as it may, from time to time, deem to be appropriate, with Medicare, Medicaid, Blue Cross, and other third-party payors and insurers.

SECTION 4.15. Articles and Bylaws of Transferee. The existing Articles of Incorporation and Bylaws of Transferee are in the forms attached as Exhibit "D" and Exhibit "E", respectively, and have been approved by Transferor.

During the Term of this Agreement, the Board of Directors of the Transferee shall in any event include not less than one full voting member who is also a member of the governing body of Transferor.

SECTION 4.16. Implementation of Parent Holding Company Structure. Transferee has previously implemented the creation of a parent holding company structure for its operations of the Hospital, including the creation of an Affiliate which controls Transferee (the "Parent Affiliate") and any other Affiliates controlled by the Transferee, Parent Affiliate, or other Affiliates, provided that primary operations at the Hospital shall be retained by Transferee. Except as set forth in Section 5.05 (b) of this Agreement, Transferee and/or Parent Affiliate must cause to be included and continuously maintained in the organizational document of any Affiliate a provision stating that: (A) upon the first to occur of either dissolution of such Affiliate or dissolution of Parent Affiliate all interest in the Affiliate shall ultimately revert to Transferee, provided further such reversion may be provided for by reversion to one or more other Affiliates and/or the Parent Affiliate and (B) that upon the first to occur of either dissolution of Transferee or termination of this Agreement, all of Transferee's interest in all such Affiliates (inclusive of the Parent Affiliate) shall revert to Transferor. For the purposes hereof, the term "interest" shall mean the right to receive assets in liquidation, the right to receive profits (if applicable), the right to appoint the membership and/or Board of Directors of the Affiliate (if any), and any and all

ownership, equity, contractual, or other rights created or defined by the Affiliate's organizational documents or otherwise. Prior to initial implementation of such parent holding company structure, the Parent Affiliate executed an Agreement To Be Bound. Upon the effective date of this Amended and Restated Lease and Transfer Agreement, the Parent Affiliate must execute a similar Agreement To Be Bound in the form of Exhibit "F" attached hereto. The existing Articles of Incorporation and Bylaws of Transferee's Parent Affiliate are attached hereto as Exhibit "G" and Exhibit "H", respectively, and have been approved by Transferor.

The Articles of Incorporation and Bylaws of the Transferee shall at all times provide that: (1) the Parent Affiliate shall be the sole member of the Transferee; (2) all vacancies on the Board of Directors of the Transferee shall be filled by the Board of Directors of the Parent Affiliate; and (3) the Transferee may not take any of the following actions without the prior approval of the Parent Affiliate:

- (a) Adopt a plan of dissolution of the Transferee;
- (b) Authorize the Transferee to engage in, or enter into, any transaction providing for the sale, mortgage or other disposition of all or substantially all of the assets of the Transferee;
- (c) Adopt a plan of merger or consolidation of the Transferee with another corporation;
- (d) Adopt any annual or long-term capital and operational budgets of the Transferee or approve any changes therein exceeding ten percent (10%) of any budgeted item;
- (e) Amend or take any action to terminate any lease between the Transferee and the Transferor with respect to the Hospital;
- (f) Take any action which would, or reasonably could be expected to, cause the Transferee to exceed its annual budget for capital expenditures;
- (g) Incur an expenditure for any particular project or service of or for the Transferee in an amount in excess of \$1,000,000;
- (h) Take any action which would, or reasonably could be expected to, result in an adverse variance (on an annualized basis) of total expenses of greater than 2% of total annual budgeted expenses;
- (i) Appoint or remove the independent auditors of the Transferee;
- (j) Select or remove the President/Chief Executive Officer of the Transferee;
- (k) Adopt or permit any changes to any long term, strategic or master institutional plans of the Transferee; or
- (1) Amend the Articles of Incorporation or Bylaws of Transferee.

SECTION 4.17. Consents and Notices. Transferor shall obtain all material consents and give all notices which may be required in connection with the transfer of the Assigned Contracts to Transferee and the assumption by Transferee of the Assumed Liabilities hereunder in accordance with the terms of such agreements and liabilities. Transferor shall provide Transferee with satisfactory evidence that all such consents have been obtained and notices have been given upon Transferee's written request.

SECTION 4.18. Indigent Care. The parties will cooperate to provide indigent care pursuant to the provisions of Section 4.02(h) herein.

In addition, Transferee shall annually allocate funds for the purpose of providing charity care. The funds allocated will be no less than 3% of the gross revenues of the Hospital after provisions for bad debt and Medicaid and Medicare adjustments have been deducted. The funds allocated will be based on the previous year's financial records.

The parties hereto agree that the provisions of O.C.G.A. § 31-7-75.1 are not applicable to the transaction contemplated herein.

SECTION 4.19. Permitted Indebtedness. Except as permitted or required by this Agreement, Transferee covenants that it will not create, guarantee, assume, permit to exist or become liable, directly or indirectly, in respect to any indebtedness of any kind or character for money borrowed or in connection with acquisition of a capital asset (including, without limitation, any liability by way of endorsement, guarantee or agreement to repurchase or supply to repurchase or supply funds or any extension of its credit, directly or indirectly, in support of the obligations or undertakings of others) except that Transferee may incur "Permitted Indebtedness" as the same is described in Article XIII of the Bond Indenture dated as of October 1, 1990, which description (and all internal definitions used therein) is (and are) incorporated herein by this reference in this Section 4.19 and shall survive any termination of the Bond Indentures.

SECTION 4.20 Financial Books and Records. Transferee shall install and maintain proper books of record and account of all business and affairs of Transferee, in which full and correct entries shall be made in accordance with generally accepted accounting principles. Transferee will deliver to Transferor and to the County Commission of Dougherty County, Georgia, within ninety (90) days after the end of each Fiscal Year, a financial report for such Fiscal Year, a statement of changes in financial position of Transferee for such Fiscal Year and a statement of revenues and expenses of Transferee for such Fiscal Year. Such report shall be audited by a firm of Independent Accountants and shall contain their opinion as to whether the report fairly presents the results of operations and was prepared in accordance with generally accepted accounting principles, applied on a consistent basis.

SECTION 4.21. Competition with Hospital. During the term of this Agreement, Transferor may acquire or establish a project, as that term is defined in the Act, provided that the Transferor shall extend to Transferee an opportunity to lease such project under substantially the same terms and conditions as provided in this Agreement, including the assumption of any

necessary acquisition debt service by Transferee. Except as otherwise provided in this Section 4.21, the Transferor shall not, without prior written consent of Transferee, own, manage, operate, or control the ownership, management, operation, or control of any hospital or other health care facility (other than the Existing Facilities) in Dougherty County, Georgia, or in any other areas of operation of the Transferor as permitted under the Act.

SECTION 4.22. Eminent Domain. During the term of this Agreement, Transferor shall not exercise its right of eminent domain, granted pursuant to O.C.G.A. § 31-7-75(12) or any other provision of law, to acquire any of the Existing Facilities.

SECTION 4.23. Existing Certificates of Need. Transferee shall comply with the terms of all Certificates of Need granted to Transferor prior to the Commencement Date. Transferor shall cooperate with Transferee in complying with all Certificate of Need requirements, including requirements relating to the implementation of any outstanding Certificates of Need.

SECTION 4.24. Name of the Hospital. Transferee agrees that during the term of this Agreement the Hospital shall always be named "Phoebe Putney Memorial Hospital"; provided, however, Transferee may designate Phoebe North with such name as it chooses, and as may be approved by the Parent, so long as the designated name indicates the affiliation with Phoebe Putney Memorial Hospital.

## ARTICLE V

### IMPROVEMENTS; DISPOSITIONS OF PROPERTY; ALTERATIONS

SECTION 5.01. After-Acquired Property as Part of the Existing Facilities. All buildings, structures, improvements, machinery, equipment and other property which shall be constructed, placed or installed in or upon the Real Property as an addition to, or as a substitute for in renewal or replacement of buildings, structures, improvements, furnishings, equipment or other property constituting part of the Existing Facilities shall (unless Transferor and Transferee otherwise provide by signed written agreement directed to a specific item) become Improvements hereunder without any further act or deed. At the request of Transferee, Transferor shall cooperate in securing such permits and authorizations and shall join in the application for such municipal and other governmental permits and authorizations as may be deemed necessary or advisable to be obtained in connection with any such construction, acquisition or installation, provided that Transferee shall indemnify and hold Transferor harmless against and from all costs and expenses which may be incurred by Transferor in connection with any such joinder or application.

SECTION 5.02. Covenant Against Unauthorized Disposition. Except as otherwise provided in this Article V and elsewhere in this Agreement, neither the Existing Facilities, nor the Operating Assets, nor any Property may be disposed of by Transferee, Parent Affiliate, or any other Affiliate unless such disposition is either in the ordinary course of business or the prior written consent of Transferor has been obtained. Transferee shall maintain accurate records of the location of, and any transfers with respect to, the Existing Facilities, the Operating Assets or

Property. For purposes of this Article V, the term "dispose of" means to transfer, assign, contribute, sell, lease, or sublease.

SECTION 5.03. Dispositions of Property Without Notice. Transferee may, from time to time, at its cost and expense, without notice to and without obtaining the approval of Transferor and free of any obligation to make any replacement thereof, remove or dispose of:

(a) Property for fair market value in a transaction which qualifies as a transaction in the ordinary course of business of operating a hospital similar to the Hospital;

(b) Property that in the discretion of Transferee is obsolete or unusable for its intended purpose; or

(c) Property (i) for fair market value and (ii) provided that during any consecutive twelve (12) calendar month period the aggregate Book Value thereof at the times of all such dispositions does not exceed five percent (5%) of the Book Value of the Property, Plant and Equipment of Transferee, and (iii) such dispositions will not impair the structural soundness or usefulness of the Hospital nor adversely affect the Hospital operations or the purposes of this Agreement.

Such Property disposed of as aforesaid shall thereafter not constitute part of the Hospital or the Existing Facilities: Transferee shall file a report with Transferor at least annually within one hundred-twenty (120) days following the end of each Fiscal Year stating the type or character of Property removed or otherwise disposed of pursuant to Section 5.03(c) and a fair market value and book value thereof at the time or times of such removal or other disposition.

SECTION 5.04. Dispositions of Property With Notice. Except for transfers made pursuant to Sections 5.03, 5.05 or 8.02 hereof, Transferee may not in any consecutive twelve (12) month period, cause one or more dispositions of Property, if the Book Value of which at the times of all such dispositions of Property totals, in the aggregate, in excess of five percent (5%) of the book value of the Property, Plant and Equipment of Transferee, unless not less than thirty (30) days prior to the last of such dispositions which causes such excess to occur the written consent of Transferor is obtained with respect to said last such disposition.

SECTION 5.05. Transfers to Affiliates.

(a) Notwithstanding the other provisions of this Agreement and except as set forth in Section 5.05(b) below, Transferee, Parent Affiliate, and any other Affiliate shall have the right to make dispositions of Property (including, without limitation, Real Property and nonrestricted gifts, grants and contributions) to an Affiliate so long as the organizational documents of such Affiliate provide that (A) upon the first to occur of either dissolution of such Affiliate or dissolution of Parent Affiliate all interest in the Affiliate shall ultimately revert to Transferee, provided further such reversion may be provided for by reversion to one or more other Affiliates and/or the Parent Affiliate (B) that upon the first to occur of either dissolution of Transferee or termination of this Agreement, all of Transferor's interest in all such Affiliates (inclusive of the Parent Affiliate) shall revert to Transferor. For the purposes hereof, the term "interest" shall

mean the right to appoint the membership and/or Board of Directors of the Affiliate (if any), and any and all ownership, equity, contractual, or other rights created or defined by the Affiliate's organizational documents or otherwise. Except as set forth in Section 5.05(b) below Transferee and Parent Affiliate shall cause any investment by Transferee or Parent Affiliate or any Affiliate in any corporation, limited or general partnership, joint venture, limited liability company, limited liability partnership, limited liability limited partnership, business trust or similar entity that does not otherwise meet the definition of an Affiliate to provide for an appropriate mechanism to liquidate, sell or redeem such investment upon the termination of this Agreement or upon the dissolution of Transferee, Parent Affiliate or the investing Affiliate. Notwithstanding the foregoing, without the prior written consent of Transferor, the Transferee shall not dispose of to any person (whether or not an Affiliate) either: (i) all of the Operating Assets or the Existing Facilities; or (ii) so substantial a part of the Operating Assets or the Existing Facilities as would remove Transferee from direct involvement with the day to day operations of the Hospital.

(b) Notwithstanding any other provision of this Agreement, in the event an Affiliate of Parent Affiliate (other than Transferee) enters into a lease or other agreement with a public body corporate and politic which is an instrumentality of the State of Georgia, organized and existing under the Georgia Hospital Authorities Act, O.C.G.A. §§ 31-7-70 et seq. as amended, (other than Transferor), then Transferee or Parent Affiliate shall have the right to: (A) make investments in or dispositions of Property to, excluding, however, from Property that may be transferred to such Affiliate any Real Property of Transferee, Parent Affiliate or an Affiliate located in Dougherty County, Georgia or Worth County, Georgia, but including within Property that may be transferred to such Affiliate, without limitation, nonrestricted gifts, grants and contributions and (B) Transferee or Parent Affiliate may enter into any other agreements, including financial guaranties, reasonably necessary to enable such Affiliate to perform the terms of its agreements provided: (i) Transferor has been given prior written notice of the intention of such Affiliate to enter into such lease or other agreement; (ii) Transferor has been given a copy of the proposed lease or other agreement in substantially final form together with written description of the general terms of the lease or other agreement prior to its execution and such lease or other agreement may not be amended in any material manner without the written consent of Transferor, which consent shall not be unreasonably withheld or delayed; (iii) the organizational documents of such Affiliate provide that upon dissolution of such Affiliate or upon termination of the lease or other agreement, and subject to payment and satisfaction of all obligations, all remaining assets owned or held by such Affiliate shall be returned to such other public body corporate and politic which is an instrumentality of the State of Georgia, organized and existing under the Georgia Hospital Authorities Law, O.C.G.A. §§ 31-7-70 et seq. as amended, and (iv) Transferor approved such Affiliate's execution of the lease or other agreement by a duly adopted resolution setting forth therein Transferor's basis and reasons for such approval. Provided items (i) through (iv) above occur, then the governing documents of such Affiliate shall not contain provisions requiring such Affiliate to liquidate, sell or redeem such dispositions or investments upon the termination of this Agreement or upon the dissolution of Parent Affiliate or any other Affiliate of Transferee and upon termination of this Agreement the interests of Transferee or Parent Affiliate in such Affiliate shall not revert to Transferor and Transferor shall have no right, title, claim or interest in and to such Affiliate or the assets owned or held by such Affiliate and Transferee and Parent Affiliate shall not be in violation of Section



5.05(a) of this Agreement nor any other similar provision of this Agreement with regard to such Affiliate. Notwithstanding anything to the contrary in the foregoing, without the prior written consent of Transferor, the Transferee shall not dispose of to any person (whether or not an Affiliate) either: (i) all of the Operating Assets or the Existing Facilities; or (ii) so substantial a part of the Operating Assets or the Existing Facilities as would remove Transferee from direct involvement with the day to day operations of the Hospital.

SECTION 5.06. Alterations. Transferee shall not, without Transferor's written consent, demolish or structurally alter the Real Property in any material respect unless such demolition or alteration is in connection with a project by Transferee to repair, remodel or make additions to such Real Property.

SECTION 5.07. Compliance with Bonds. Any disposition of Property pursuant to this Article V must at all times be in full compliance with the requirements of the Bonds and the Bond Indentures.

## ARTICLE VI

### INSURANCE

SECTION 6.01. Insurance.

(a) Transferee covenants and agrees that it shall, during the term of this Agreement, keep and maintain at all times insurance (in such amounts and with such deductibles as shall be comparable to coverage carried by institutions similar to Transferee):

(1) fire, with uniform standard extended coverage endorsements, flood and crime, vandalism and malicious mischief insurance, as may be approved for issuance in the State, including insurance against loss or damage from lightning, windstorm, civil commotion, aircraft vehicles and smoke, covering the Hospital at all times in an amount not less than the full insurable value thereof;

(2) insurance coverage of boilers, pressure vessels, auxiliary piping and selected machinery objects (pumps and compressors);

(3) comprehensive general liability insurance including but not limited to use and occupancy, and professional liability insurance protecting Transferee against liability for death, injury, loss or damage as a result or arising out of examination, diagnosis, treatment or care of (or failure to so examine, diagnose, treat or care for) any patient of the Hospital or any occupant of the same;

(4) comprehensive automobile liability insurance;

(5) worker's compensation and unemployment coverage as required or permitted by the State;

- (6) business interruption insurance;
- (7) fidelity bonds on all officers and employees of Transferee who have access to or have custody of revenues, receipts or income from the Hospital or any funds of Transferee;
- (8) builder's risk insurance during the construction of any Improvements; and
- (9) directors' and officers' liability insurance (including officers and directors of Transferor).

SECTION 6.02. Insurers and Policies. Transferee further agrees that each insurance policy required by Section 6.01 hereof (i) shall be by such insurer (or insurers) as is financially responsible, allowed to write the respective insurance in the State and of recognized standing, including Underwriters at Lloyds and insurers having at least a Best's "A" rating, (ii) shall be in such forms and with such provisions (including, without limitation, the loss payable clause, the waiver of subrogation clause, relieving the insurer of liability to the extent of minor claims, and the designation of the named assureds) as are generally considered standard provisions for the type of insurance involved and (iii) shall prohibit cancellation or substantial modification by the insurer without at least thirty (30) days, prior written notice to Transferor and Transferee. Without limiting the generality of the foregoing, all insurance policies carried pursuant to Section 6.01 above shall name Transferor and Transferee as parties insured thereunder as the respective interest of each of such parties may appear, and loss thereunder shall be made payable and shall be applied as provided in Section 6.03 hereof. Each such policy shall provide that losses thereunder shall be adjusted with the insurer by Transferee on behalf of the insured parties.

SECTION 6.03. Involuntary Loss; Use of Insurance Proceeds, Condemnation Awards and Sale Proceeds.

(a) If all or any part of the Hospital shall be damaged or destroyed by whatever cause or shall be taken by any public authority or entity in the exercise of, or acquired under the threat of the exercise of, the power of eminent domain (for purposes hereof, an "Involuntary Loss"), Transferee shall give prompt notice of such Involuntary Loss to Transferor. There shall be no abatement or reduction in the Required Payments as a result of any Involuntary Loss.

(b) Transferee shall proceed promptly to repair, rebuild or restore the property damaged, destroyed or taken with such changes, alterations and modifications (including the substitution and addition of other property) as may be desired by it and Transferee may receive the insurance proceeds, condemnation awards or sale proceeds resulting from such Involuntary Loss, and shall apply said proceeds for such purpose together with any additional moneys necessary therefor.

(c) Transferee and Transferor shall cooperate fully with one another in the handling and conduct of any prospective, pending or threatened condemnation

proceedings or with respect to any settlement or negotiation proceedings involving coverage provided under any policy of insurance.

(d) Transferee and Transferor agree that Transferor shall be entitled to the entire award attributable to any taking of all or part of the Hospital and Transferee shall not be entitled to any award by reason for the loss of its leasehold estate; provided, however, Transferee shall be entitled to claim compensation from the condemning authority for business interruption as long as any award to Transferee does not impair or diminish the award otherwise payable to Transferor.

(e) Any balance remaining after completion of the repair, rebuilding or restoration of the Hospital shall be considered part of the operating assets of Transferee, subject to set-off for any sums then due and payable to Transferor.

(f) In the event that it is determined by an independent management consultant that the taking or other loss results in Transferee's inability to generate revenues sufficient to meet its obligations under the Bonds and the resolutions of Transferor authorizing and securing said Bonds, all funds contemplated by this Article will be paid to the Trustee to be disposed of in accordance with the terms of the said resolutions authorizing and securing said Bonds.

SECTION 6.04. Failure to Carry Insurance. In the event Transferee shall at any time neglect or refuse to procure or maintain insurance or self-insurance as herein required, Transferor may at its option and following at least thirty (30) days' written notice to Transferee, except where a shorter period of written notice is necessary to avoid a default on the Bonds, or to prevent any loss or forfeiture thereof, procure and maintain such insurance and Transferee shall be obligated to reimburse promptly Transferor for all amounts expended in connection therewith.

## ARTICLE VII

### INDEMNIFICATION

SECTION 7.01. Indemnification; No Liability; Damage Claims. Transferee shall protect, indemnify and save harmless Transferor and its present or future members, officers, employees or agents against and from any and all liabilities, suits, actions, claims, demands, damages, losses, expenses (including reasonable counsel fees) and costs of every kind and nature incurred by, or asserted or imposed against, Transferor and its former, present or future members, officers, agents or employees, or any of them, by reason of any matter relating to the financing, leasing, construction, operation, management, maintenance or the existence of the Hospital or relating to the Assumed Liabilities or associated with or related to the acquisition, or any divestiture, of any part or all of the Phoebe North assets, unless resulting from the gross negligence or willful misconduct or fraud of any such persons, during the term of this Agreement, and regardless of whether such liabilities, suits, actions, claims demands, damages, losses, expenses and costs be against or be suffered or sustained by Transferor or by any of its respective present or future members, officers, agents or employees, or be against or be suffered or sustained by other persons, corporations or other legal entities to whom Transferor or any of

its respective present or future members, officers, agents may become liable therefor. Neither Transferor nor any of its former, present or future members, officers, employees or agents shall be liable for any damage or injury occurring during the term of this Agreement to property of Transferee. Transferee may, and if so requested by Transferor shall, undertake to defend at Transferee's sole cost and expense, any and all suits, actions or proceedings brought against Transferor or any of its respective present or future members, officers, agents or employees, in connection with any of the matters mentioned in this Section, provided that Transferor shall give Transferee timely notice of and shall forward to Transferee every demand, notice, summons or other process received with respect to any claim or legal proceeding within the preview thereof. Notwithstanding the foregoing, Transferee shall not be liable to Transferor to the extent Transferor is protected against any liability by the doctrine of sovereign immunity.

SECTION 7.02. Reimbursement of Costs and Expenses. In order to fund any and all obligations which might arise in connection with Transferee's indemnification obligations to Transferor under Section 7.01 above, Transferee shall transfer the sum of \$100,000 to a designated bank account of the Transferor as of the effective date of this Amended and Restated Lease and Transfer Agreement. Such amount shall be available for the Transferor's use in its sole discretion in connection with payment of any amount due under this Article VII and also in paying the Transferor's ordinary operating expenses including, but not limited to, payment for any necessary employees, legal, accounting or expert consultant support for oversight activities under the terms of this Agreement. At any time that such amount is not sufficient to pay the costs and expenses of Transferor, Transferee shall make additional necessary deposits to such fund. It is the intention of the parties that Transferor shall at all times have under its control in such account during the term of this Agreement an amount of not less than \$100,000 to pay Transferor's costs and expenses. The parties shall periodically review the amount of funds in such account and mutually agree in writing to adjust the total amount of funds kept on hand by Transferor in such account to accurately reflect its actual costs and expense needs.

SECTION 7.03. Continuation of Liability. Each of the foregoing provisions of this Article VII shall be severable from and independent of and may be enforced without regard to the enforcement of the other provisions of this Article VII and other provisions of this Agreement, and the provisions of this Article shall survive the termination of this Agreement with respect to acts occurring prior to the termination of this Agreement.

## ARTICLE VIII

### ASSIGNMENTS; SUBLEASES; OPERATING ARRANGEMENTS

SECTION 8.01. Maintenance of Corporate Existence; Permitted Mergers, Consolidations and Sales. During the term of this Agreement, Transferee agrees that it will maintain its corporate existence, will not dissolve or otherwise dispose of its assets except as permitted elsewhere in this Agreement and in its Articles of Incorporation and will not, without the approval of Transferor, (i) consolidate with or merge into another corporation or other entity or permit one or more corporations or other entities to consolidate with or merge into it (and the lease and transfer to the Hospital of assets, operations, and liabilities acquired by Transferor from

Palmyra Park Hospital, Inc. are not, and shall not be deemed, subject to this provision), or (ii) transfer all or substantially all of its assets to any other person or Entity.

SECTION 8.02. Subleases and Operating Contracts. Transferee may sublease any part, but not all or substantially all, of the Existing Facilities (or all or substantially all of the Hospital) or contract for the performance by others of operations or services on or in connection with any part, but not all or substantially all of the Existing Facilities (or all or substantially all of the Hospital) for any lawful purpose, if (i) each such sublease or contract is consistent with and subject to the provisions of this Agreement, (ii) Transferee shall remain fully obligated and responsible under this Agreement to the same extent as if such sublease or contract had not been executed, and (iii) if any Bonds are issued and outstanding, an opinion of nationally recognized bond counsel that the lease or contract does not jeopardize the federal tax exempt status of the Bonds; provided, however, that no opinion of counsel need be rendered to enter into subleases or contracts for any specialty services related to the operation of the Hospital and including, but not limited to, activities conducted at any professional office building located on the Real Property or at any of the other Existing Facilities related to gift shop, doctors' office space, food service, electronic banking machines, parking and similar services.

SECTION 8.03. Prohibition on Other Assignments and Subleases. Transferee shall not assign or sublet all or any part of the Existing Facilities without Transferor's consent except as described in Sections 5.03, 5.04, 5.05, 8.01 and 8.02 of this Agreement.

## ARTICLE IX

### DEFAULT BY TRANSFEREE

SECTION 9.01. Events of Default. The following shall constitute events of default under this Agreement:

(a) if Transferee shall fail to pay, when due and payable, any Required Payment, and, for any such failure to pay other than a payment of the principal of, premium, if any, and interest on the Bonds, such failure shall continue for a period of fifteen (15) business days after written notice of failure of payment shall have been given to Transferee by Transferor;

(b) substantial failure by Transferee to observe and perform in any material respect any covenant, condition or agreement in this Agreement on Transferee's part to be observed or performed, other than as referred to in subsection (a) of this Section, with such failure continuing unremedied for a period of thirty (30) days after written notice (specifying such failure and requesting that it be remedied) has been given to Transferee by Transferor, unless Transferor shall agree in writing to an extension of such time prior to its expiration; provided, however that if such failure by Transferee is of the type that cannot be remedied within such thirty (30) day period and Transferee immediately commences and diligently pursues on a continuous basis appropriate actions to remedy such failure, and there shall be no risk of substantial economic loss or forfeiture to Transferee, the agreement for a reasonable extension by Transferor shall not be withheld;

(c) the occurrence of an event of default under the Bond Indentures as a result of any action or inaction by Transferee, together with a declaration of default thereunder by the Trustee;

(d) if Transferee shall file a voluntary petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file any petition or other pleading seeking any reorganization, composition, readjustment, liquidation or similar relief for itself under any present or future law or regulation, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of it or of all or any substantial part of its assets or of the Hospital, or shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due;

(e) if a petition or other pleading shall be filed against Transferee seeking an adjudication of bankruptcy, reorganization, composition, readjustment, liquidation or similar relief under any present or future law or regulation and shall remain undismissed or unstayed for sixty (60) days, or if, by an order or decree of a court of competent jurisdiction, Transferee shall be adjudicated a bankrupt or insolvent or relief shall be granted under or pursuant to any such petition or other pleading, or if by order or decree of such court, there shall be appointed without the consent or acquiescence of Transferee, a trustee in bankruptcy or reorganization or a receiver or liquidator of it or of all or any substantial part of its property or of the Hospital and any such order or decree shall have continued unvacated, or unstayed on appeal or otherwise and in effect for a period of sixty (60) days, or if Transferee shall be dissolved or liquidated;

(f) the abandonment by Transferee of the Hospital, or any substantial part thereof, for no valid reason;

(g) loss of federal tax exempt status for the interest on the Bonds as a result of any action or inaction by Transferee;

(h) the entry of a final judgment or judgments from which no further appeals are available for the payment of money aggregating in excess of fifteen percent (15%) of operating revenues of Transferee for the most recent Fiscal Year for which audited financial statements are available against Transferee, for which there does not exist adequate insurance, adequate self-insurance reserves or appropriate bonds, any one of which remains outstanding for more than sixty (60) days from the date it shall become unappealable without having been discharged in full, structured so that no annual payment required thereunder is in excess of 5% of operating revenues of Transferee, stayed or superseded; or

(i) any material representation or warranty by Transferee in this Agreement, or as provided in any other certificate, document or agreement by Transferee as required by or in connection with this Agreement or the restructuring of the Hospital shall clearly have been untrue in any material respect at the time such representation or warranty was

given or made and Transferee has been or is likely to be substantially damaged as a result of such untrue representation or warranty.

SECTION 9.02. Termination. Upon the occurrence of any one or more of the events of default specified in Section 9.01 hereof, Transferor may give to Transferee written notice that this Agreement shall terminate upon a date specified in such notice, which date shall be not less than twenty (20) days after the date of such notice. Upon any such termination of this Agreement, Transferee shall peaceably vacate and surrender possession of the Existing Facilities and the Operating Assets, including such additional or renewal or replacement facilities, furnishings or equipment as Transferee may have placed on or in the Existing Facilities, and Transferor, or its designee, may reenter and take possession of any interest that Transferor may then have in the Existing Facilities and the Operating Assets, including such additional or renewal or replacement facilities, furnishings, equipment or Improvements as Transferee may have placed on or in the Existing Facilities. If Transferor elects to exercise its remedies under this Section 9.02 and any of the Bonds are outstanding, Transferor shall take possession of the Existing Facilities and the Operating Assets subject and subordinate to the pledge of the Gross Revenues that has been granted to the Trustee pursuant to the Bond Indentures, and Transferor shall continue and maintain, or cause any lessee or operator of the Existing Facilities to continue and maintain, the pledge and grant of the security interest in the Gross Revenues of the Existing Facilities to the Trustee for the benefit of bondholders.

SECTION 9.03. Repossession Without Termination. Upon the occurrence of any one or more of the events of default specified in Section 9.01 above, in lieu of terminating this Agreement, at the option of Transferor, Transferee shall vacate (and surrender possession of the Hospital including such additional or renewal or replacement facilities, furnishings or equipment as Transferee may have placed on or in the Hospital and Transferor or its designee may reenter and take possession for Transferee's account. To protect its interest in the Hospital, Transferor upon such repossession without termination may provide for the use and occupancy of all or any part of the Hospital from time to time in the name of Transferee or Transferor without further notice, for such term or terms, on such conditions and consideration and for such uses and purposes as Transferor, in its discretion, may determine, and (subject to the prior pledge of the Gross Revenues under the Bond Indentures) may collect and receive all revenues and rentals derived therefrom and apply the same after deduction of all appropriate operating expenses, to the payment of the Required Payments payable hereunder by Transferee, Transferee shall remain liable for any deficiency in the Required Payments payable by it hereunder and all costs incurred by Transferor in connection with such reletting including without limitation all repairs, charges and attorneys' fees.

SECTION 9.04. Damages. Upon the termination of this Agreement pursuant to Section 9.02 hereof, Transferee shall be obligated to pay, and shall forthwith pay, as damages to Transferor:

- (a) an amount equal to all unpaid Required Payments accrued through the effective date of termination; and

(b) an additional amount sufficient to pay and satisfy all other unpaid costs and obligations reasonably incurred by Transferor in connection with or as a result of Transferee's default under this Agreement, and the termination hereof.

SECTION 9.05. Additional Remedies. The rights and remedies of Transferor specified in this Agreement shall be cumulative. In addition thereto, Transferor shall have all of the rights and remedies now or hereafter conferred by law or in equity, including, among other remedies, receivership and injunctions to restrain violations or attempted violations of any provision of this Agreement by Transferee. Transferee agrees that a default under the terms of this Agreement is such a default that entitles Transferor to specific performance of this Agreement.

SECTION 9.06. No Waiver of Rights. No failure by Transferor to insist upon the strict performance of any term, covenant, condition or provision of this Agreement, or to exercise any right or remedy consequent upon any event of default hereunder, and no acceptance of Required Payments during the continuance of any such default shall constitute a waiver of any such default or of such term, covenant, condition or provision or a waiver or relinquishment for the future of the right to insist upon and to enforce by any appropriate legal remedy a strict compliance with all the terms, covenants, conditions and provisions of this Agreement, or of the right to exercise any such rights or remedies, if any default by Transferee be continued or repeated, or of the right to recover possession of the Existing Facilities by reason thereof. No term, covenant, condition or, provision of this Agreement binding upon Transferee, and no breach hereof or default hereunder, shall be waived, altered or modified, except as set forth in a written instrument executed by Transferor. No waiver of any breach shall affect or alter this Agreement but every term, covenant, condition and provision of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach hereof.

SECTION 9.07. Reversion of Assets. Except as set forth in Section 5.05(b) of this Agreement, upon the expiration or earlier termination of this Agreement, or upon a material breach of the terms of this Agreement by Transferee and such breach has not been cured if so allowed hereunder, or in the event this Agreement shall become void or unenforceable, all assets of the Transferee, including all of Transferee's interest in its Affiliates, shall become the property of the Transferor absolutely.

## ARTICLE X

### MISCELLANEOUS

SECTION 10.01. Captions, Background and Recitals. The captions of the Articles and Sections hereof have been inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect. The background and recitals contained in this Agreement shall be considered part thereof for all purposes, including the construction or the interpretation thereof.



SECTION 10.02. Covenants Considered Material. All covenants made by Transferor or Transferee contained herein shall be considered to be material to the Agreement and the relationship between Transferor and Transferee.

SECTION 10.03. Amendment of Agreement. This Agreement may be amended by a written agreement duly executed by Transferee and Transferor, except that unless permitted by future amendment to the Act, the provisions of Section 4.02(m) dealing with Transferee's annual financial statements and the provisions of Section 4.15 dealing with Transferee's board membership, may not be altered or amended for the duration of this Agreement.

SECTION 10.04. Georgia Law Controlling. This Agreement shall be construed and enforced in accordance with the laws of the State of Georgia.

SECTION 10.05. Consents and Approvals. Whenever the written consent or approval of Transferor or Transferee or any officer thereof shall be required under the provisions of this Agreement, such consent or approval shall not be unreasonably delayed or withheld.

SECTION 10.06. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original constituting but one and the same instrument.

SECTION 10.07. Severability. If any one or more of the sentences, sections or other portions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, the invalidity of any such sentence, section or other portion of this Agreement shall in no way affect the validity or effectiveness of the remainder of this Agreement, and this Agreement shall continue in force to the fullest extent permitted by law.

SECTION 10.08. Transferee's Remedies. In the event Transferor shall fail to perform any of its obligations under this Agreement, Transferee may institute such action against Transferor as Transferee may deem necessary to compel performance. In addition, Transferee shall have all of the rights and remedies conferred in this Agreement or now or hereafter conferred at law or in equity, which rights and remedies are cumulative.

SECTION 10.09. Assignments. Except as otherwise provided herein, neither Transferor nor Transferee shall give, assign or pledge its rights under this Agreement without the consent of the other party.

SECTION 10.10. Recording. The parties agree that a short form memorandum of this Agreement in customary form may be recorded in such office in the State as may be at the time provided by law as the proper place for the recordation of a deed conveying the Existing Facilities. This provision in no way precludes either party from recording this Agreement in its entirety.

SECTION 10.11. Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by Transferee or Transferor shall be in writing and shall be deemed to be properly given or made three business days after being properly deposited in the

United States mail, certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

(a) As to Transferee--

Phoebe Putney Memorial Hospital, Inc.  
417 Third Avenue  
Albany, Georgia 31703  
Attention: Chief Executive Officer

with a copy to its General Counsel at the same address.

(b) As to Transferor--

Hospital Authority of Albany - Dougherty County, Georgia  
P.O. Box 70752  
Albany, Georgia 31708-0752  
Attention: Chairman

with a copy to its General Counsel at its usual business address.

Any of such addressees and addresses may be changed at any time upon written notice of such changes sent by United States certified or registered mail, return receipt requested, postage prepaid, to the other party by the party effecting the change. Any time periods commencing with notice prescribed by the terms of this Agreement shall commence with the date of receipt of written notice as evidenced by the return receipt required by this Section.

SECTION 10.12. Validity of Pledge. The Pledged Revenues are subject to the lien of the pledge hereunder without any physical delivery of the Pledged Revenues or further act, and (subject to the rights of the Trustee under the Bond Indentures) the lien of such pledge is valid and binding against all parties having claims of any kind against Transferor or Transferee or other operator or lessee of the Hospital (irrespective of whether such parties have notice of such pledge and create a perfected security interest) without the necessity for separation or delivery of the Required Payments or for the filing or recording of this Agreement or any other resolution or instrument by which such pledge is created or any certificate, statement or other document with respect to such pledge. The pledge under this Agreement of the Pledged Revenues shall be effective and the moneys therefrom and thereof may be applied to the purposes for which pledged without necessity of any further act of appropriation.

SECTION 10.13. No Personal Liability. Notwithstanding anything to the contrary contained herein or in any other instrument or document executed by or on behalf of Transferor or Transferee in connection herewith, no stipulation, covenant, agreement or obligation contained herein or therein shall be deemed or construed to be a stipulation, covenant, agreement or obligation of any present or future member, director, trustee, affiliate, officer, employee or agent of Transferor or Transferee or of any incorporator, member, affiliate, director, trustee, officer, employee or agent of any successor to Transferor or Transferee, in any such person's

individual capacity, and no such person, in his individual capacity, shall be liable personally for breach or nonobservance of or for any failure to perform, fulfill or comply with any such stipulations, covenants, agreements or obligations, nor shall any recourse be had for the payment of any of the Required Payments due hereunder or for any claim based thereon or on any such stipulation, covenant, agreement or obligation, against any such person, in his individual capacity, either directly or through Transferor or Transferee or any successor to Transferor or Transferee, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such person, in his individual capacity, is hereby expressly waived and released.

SECTION 10.14. Payments. All payments to be made by Transferee hereunder shall be made in immediately available funds (by wire transfer or otherwise) on or before the day on which such payments are due.

SECTION 10.15. Survival of Covenants, Representations and Warranties. All covenants, representations and warranties set forth herein shall survive the execution of this Agreement.

SECTION 10.16. Entire Agreement. This Agreement, together with the attachments and exhibits attached hereto, contains the entire understanding of the parties with respect to the transactions contemplated hereby and supersedes all other agreements and undertakings, oral or written, between or among the parties.

SECTION 10.17. Good Faith. Good faith is the essence of this Agreement. Transferor and Transferee each agrees to exercise good faith and commercial reasonableness in the interpretation, performance and enforcement of this Agreement.

SECTION 10.18. Relationship of Parties. Nothing contained in this Agreement shall be construed or deemed by the parties hereto or by any third party to create a relationship of partnership or of joint venture or of any association whatsoever between Transferor or Transferee, it being expressly understood and agreed that no provisions in this Agreement nor any acts of the parties hereto shall be deemed to create any relationship between Transferor and Transferee other than the relationship of landlord and tenant.

SECTION 10.19. Brokerage Commission. Transferor and Transferee each hereby represents to each other that the negotiations relative to this Agreement and the transactions contemplated hereby do not give rise on account of either of their respective actions to any claim against any of the parties to this Agreement for a finder's fee, brokerage commission or other like payment.

SECTION 10.20. Attorneys' Fees and Costs. If any legal action is brought by any party hereto to enforce, defend or interpret its rights under this Agreement, the prevailing party in such action shall be entitled to receive as additional damages all court costs, all reasonable costs incurred in enforcing or defending its rights under this Agreement, and reasonable attorneys' fees incurred by the prevailing party, whether out of court, in the trial court, on appeal or in bankruptcy proceedings.

SECTION 10.21. Time is of the Essence. Time is of the essence in the performance by each party of its obligations hereunder.

SECTION 10.22. Specific Performance. This Agreement and each and every provision hereof shall be specifically enforceable. Each party hereto upon the introduction and presentation to the applicable court having jurisdiction over the matter of evidence showing a material breach by the other party hereto shall be entitled to injunctive relief mandating specific performance.

SECTION 10.23. Termination. Unless sooner terminated in accordance with the provisions hereof, this Agreement shall terminate on July 31, 2052.

## ARTICLE XI

### CONDITIONS

Both the effectiveness of this Agreement and commencement of the Term of this Agreement with respect to the 1990 Lease were subject to and conditional upon receipt by Transferor and Transferee of the various determinations, approvals, opinions and reports referenced in Subsection 3.01(c)(1) herein, which conditions were previously met. The effectiveness of this Agreement and commencement of the Term of this Agreement with respect to Phoebe North and all assets, operations and liabilities associated therewith shall occur on August 1, 2012.

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

TRANSFEROR:

Signed, sealed and delivered  
in the presence of:

HOSPITAL AUTHORITY OF ALBANY-  
DOUGHERTY COUNTY, GEORGIA

\_\_\_\_\_  
Unofficial Witness

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

(SEAL)

My Commission Expires:

Attest:

[NOTARIAL SEAL]

By: \_\_\_\_\_

Title: \_\_\_\_\_

TRANSFereeE:

Signed, sealed and delivered  
in the presence of:

PHOEBE PUTNEY MEMORIAL HOSPITAL,  
INC.

\_\_\_\_\_  
Unofficial Witness

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

(CORPORATE SEAL)

My Commission Expires:

Attest:

[NOTARIAL SEAL]

By: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT "A"

EXCEPTED CONTRACTS

None

**EXHIBIT "B"**  
**Real Property**

Tract	Owner	Parcel	Use	Address
1	HCA Realty, Inc.	0000N/00016/001	MOB	2100 Palmyra Rd, Albany, GA
2	Hospital Corporation of America	000LL/00009/01D	Parking Lot	808 14th Ave, Albany, GA
3	Hospital Corporation of America	000LL/00009/01E	MOB	808 14th Ave, Albany, GA
4	Palmyra Park Hospital	000LL/00009/001	Main Hospital Parcel	(excluding Kanan MOB) 2000 Palmyra Rd, Albany, GA
5	Albany Urology Clinic	000LL/00009/025	MOB	1950 Palmyra Rd, Albany, GA
5	Albany Urology Clinic (rear)	000LL/00009/026	Vacant/Rear	1950 Palmyra Rd rear, Albany, GA
6-A2	Palmyra Park Hospital Corp.	000LL/00009/4A2	Condo	810 13th Ave, Condo Unit A2, Albany, GA
6-B	Palmyra Park Hospital Corp.	000LL/00009/04B	Condo	810 13th Ave, Condo Unit B, Albany, GA
6-C	Palmyra Park Hospital Corp.	000LL/00009/04C	Condo	810 13th Ave, Condo Unit C, Albany, GA
6-D	Chappel A. Collins, Jr.	000LL/00009/04D	Condo	810 13th Ave, Condo Unit D, Albany, GA
6-E	Palmyra Park Hospital Corp.	000LL/00009/04E	Condo	810 13th Ave, Condo Unit E, Albany, GA
7	Palmyra Park Hospital, Inc.	000LL/00009/07B	MOB	804 13th Ave, Albany, GA
8	Palmyra Park Hospital, Inc.	000LL/00009/007	MOB	1912 Arlington Lane, Albany, GA
9	Palmyra Park Hospital Corp.	000LL/00009/07C	Unimproved Land	Aberdeen Rd, Albany, GA
10 #1	Palmyra Park Hospital Corp.	000LL/00009/8A1	Condo	1909 Aberdeen Rd, Condo Unit 1, Albany, GA
10 #2	Hospital Corporation of America	000LL/00009/8A2	Condo	1909 Aberdeen Rd, Condo Unit 2, Albany, GA
10 #3	HCA Realty, Inc.	000LL/00009/8A3	Condo	1909 Aberdeen Rd, Condo Unit 3, Albany, GA
10 #4	Hospital Corporation of America	000LL/00009/8A4	Condo	1909 Aberdeen Rd, Condo Unit 4, Albany, GA
10 #6	Palmyra Park Hospital, Inc.	000LL/00009/8A6	Condo	1909 Aberdeen Rd, Condo Unit 6, Albany, GA
10 #7	Hospital Corporation of America	000LL/00009/8A7	Condo	1909 Aberdeen Rd, Condo Unit 7, Albany, GA
11	Palmyra Park Hospital Corp.	000LL/00009/008	Unimproved Land	Aberdeen Rd, Albany, GA
12	HCA Health Services of GA	000LL/00009/005	Unimproved Land	1901 Arlington Lane, Albany, GA
13	Palmyra Park Hospital Corp.	000LL/00009/006	Unimproved Land	1900 Arlington Lane, Albany, GA
14	Palmyra Park Hospital, Inc.	000LL/00009/009	Unimproved Land	1900 Aberdeen Rd, Albany, GA
15	HCA Realty, Inc.	0000O/00039/002	Unimproved Land	Dawson Rd, Albany, GA
16	HCA Realty, Inc.	0000O/00039/003	Unimproved Land	Dawson Rd, Albany, GA
17	HCA Realty, Inc.	0000O/00039/004	Unimproved Land	Dawson Rd, Albany, GA
18	HCA Realty, Inc.	0000O/00039/005	Unimproved Land	Dawson Rd, Albany, GA
19	Max Kuo (acquired 12/28/11)	000LL/00009/4A1	Condo	810 13th Ave, Condo Unit A1, Albany, GA

EXHIBIT "C"

EXISTING LIENS, CLAIMS AND ENCUMBRANCES

All liens, claims, encumbrances and security interests in and against the Real Property, Equipment and Operating Assets in existence as of the Commencement Date.



EXHIBIT "D"

ARTICLES OF TRANSFEREE

**RESTATED  
ARTICLES OF INCORPORATION  
OF  
PHOEBE PUTNEY MEMORIAL HOSPITAL, INC.  
amended as of December 2003**

ARTICLE I

Name

The name of the Corporation is Phoebe Putney Memorial Hospital, Inc.

ARTICLE II

Organization

The Corporation is organized pursuant to the Georgia Nonprofit Corporation Code.

ARTICLE III

Period of Duration

The period of duration of the Corporation shall be perpetual.

ARTICLE IV

Purposes

The Corporation is organized and shall be operated exclusively for charitable, scientific and educational purposes, including:

(a) To own, manage, control, operate, govern, reconstruct, repair and lease existing medical facilities, hospitals and related support facilities in Georgia; and to own, operate, construct, lease and joint venture other medical facilities, hospitals and related support facilities which may be constructed in Georgia;

(b) To establish, operate and/or joint venture hospitals, extended care facilities, ambulatory surgery facilities, clinics, teaching units and any other health care services for the

(i) To exercise any of the powers enumerated herein or in the Georgia Nonprofit Corporation Code, as it now exists or is subsequently amended or superseded, by the Corporation singly or by joint venture or partnership with any person or entity, whether or not said entity is for profit or not for profit, so long as the Corporation's participation in the joint venture or partnership is primarily in furtherance of the charitable, educational and scientific purposes for which the Corporation is organized;

(j) To form and own shares in affiliated or related corporations, whether said corporations are for profit or not for profit, so long as said formation and ownership is not inconsistent with the furtherance of the charitable, educational and scientific purposes for which the Corporation is organized;

(k) To conduct and provide such other programs, activities and services as are necessary, incident or pertaining to the foregoing purposes of the Corporation.

#### ARTICLE V

##### Sole Member

The sole member of the Corporation shall be Phoebe Putney Health System, Inc., a corporation organized pursuant to the Georgia Nonprofit Corporation Code, whose principal offices are located at 417 Third Avenue, Albany, Georgia 31703. Membership in the Corporation is not transferable or assignable.

#### ARTICLE VI

##### Election of Directors

The affairs of the Corporation shall be managed by the Board of Directors. The qualifications, minimum and maximum number and manner of election of the Directors shall be provided in the Bylaws of the Corporation.

purpose of furnishing medical, surgical and psychiatric aid, nursing, medical and psychiatric care, food and any other necessary care for those suffering from illness, disease, injuries or disabilities and to operate an emergency room or rooms in such hospitals, extended care facilities, ambulatory surgery facilities and clinics; and to lend or advance money to or otherwise invest in such hospitals, extended care facilities, clinics, teaching units and health care services;

(c) To carry on any education or other activities relating to the rendering of care to the sick and injured or to the promotion of the general health and welfare of the citizens of the State of Georgia and surrounding areas;

(d) To participate in any activity designed and carried on to promote the general health of the citizens of the state of Georgia and surrounding areas;

(e) To promote and carry on scientific research and educational activities related to the care of the sick and injured;

(f) To solicit and receive funds, gifts, endowments, donations, devises and bequests;

(g) To lease or purchase wherever located land or lands, building or buildings, and purchase and construct buildings for purposes in connection with the activities of the Corporation, including, but not limited to, hospitals, doctors' offices, clinics, ambulatory surgical facilities, laboratories or any related medical activity;

(h) To exercise, without limitation, all the powers enumerated in the Georgia Nonprofit Corporation Code, as it now exists or is subsequently amended or superseded, and to do and perform such acts and to have such powers as shall be desirable and necessary in furtherance of any of the powers hereinabove enumerated which are not in derogation of the laws of the State of Georgia;

## ARTICLE VII

Initial Board of Directors

The initial Board of Directors shall consist of not less than eleven (11) nor more than thirteen (13) members, whose names and addresses are set forth below. Each member of the initial Board of Directors shall serve as a director for a term of the number of years appearing opposite his name or until his successor has been elected and qualified.

	<u>Director</u>	<u>Term</u>
1.	Laurence Crimmins, M.D. 1111 Palmyra Road Albany, Georgia	4 years
2.	Willie D. Hampton 2 Dorsett Street Albany, Georgia	4 years
3.	John L. Brunson 801 Highland Avenue Albany, Georgia	5 years
4.	Dr. Billy C. Black 504 College Drive Albany, Georgia	5 years
5.	Lamar H. Moree, M.D. 2604 E. Doublegate Drive Albany, Georgia	During term as Chief of Medical Staff of Phoebe Putney Memorial Hospital
6.	William George, Jr., M.D. 5023 Gillionville Road Albany, Georgia	3 years
7.	Will Sims 6014 Old Dawson Road Albany, Georgia	4 years
8.	Wilhmenia Hall 512 Mercer Avenue Albany, Georgia	4 years

- |     |  |  |
|-----|--|--|
| 9.  | Robert D. Jones<br>2512 E. Alberson Drive<br>Albany, Georgia | Earlier of 3 years or election of<br>successor                           |
| 10. | Edwin J. Ollie<br>2530 Pheasant Drive<br>Albany, Georgia     | Earlier of 3 years or election of<br>successor                           |
| 11. | Joel Wernick<br>417 Byron Plantation Road<br>Albany, Georgia | During tenure as President/Chief<br>Executive Officer of the Corporation |

The Board of Directors of the Corporation shall at all times include the Chief Executive Officer of the Corporation and at least three (3) physician members who are members of the Medical Staff of Phoebe Putney Memorial Hospital. These ex-officio Board Members shall be full voting members.

#### ARTICLE VIII

##### Powers

The Corporation shall have all powers enumerated herein and in the Georgia Nonprofit Corporation Code.

#### ARTICLE IX

##### Restrictions

This Corporation is organized exclusively for charitable, educational and scientific purposes, as a nonprofit corporation, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and its activities shall be conducted for such purposes in such a manner that no part of its net earnings shall inure to the benefit of any director, officer or individual. In addition, the Corporation shall be authorized to exercise the powers permitted nonprofit corporations under the Georgia Nonprofit Corporation Code; provided, however, that the Corporation while exercising any one or more powers shall do so in

furtherance of the charitable, educational and scientific purposes for which it has been organized as described in Section 501(c)(3) of the Code. All of the assets and earnings of the Corporation shall be used exclusively for the charitable, educational and scientific purposes hereinabove set forth, including the payment of expenses incidental thereto, and all of the powers of the Corporation shall be exercised exclusively for such purposes. No part of the Corporation's activities shall inure to the benefit of any individual, and no substantial part of its activities shall be for the carrying on of a program of propaganda or for influencing legislation, nor shall it participate in any political campaign on behalf of any candidate for public office. The Corporation shall not carry on any activities not permitted to be carried on by an organization exempt from federal income taxation under Section 501(c)(3) of the Code, or any organization to which contributions are deductible under Section 170(c)(2) of the Code.

#### ARTICLE X

##### Dissolution

Upon dissolution of the Corporation, all of its assets remaining after the payment of all costs and expenses of such dissolution, and after adequate provision has been made for the discharge or assumption of its liabilities, shall be distributed to the Hospital Authority of Albany-Dougherty County, Georgia (the "Authority"), which is a public body corporate and politic and an instrumentality of the State of Georgia, to be used exclusively for a public purpose, and none of the assets will be distributed upon such dissolution to any member, officer or director of the Corporation. If the Corporation enters into an agreement with the Authority pursuant to which the Authority leases, transfers and assigns to Phoebe Putney Memorial Hospital (the "Hospital"), then upon the termination of such lease, transfer or assignment agreement, or upon termination of any renewal or extension thereof, all of the assets of the Corporation (after adequate provision

is made for the discharge or assumption of the Corporation's liabilities) shall be distributed to the Authority to be used exclusively for a public purpose, and the Corporation shall be dissolved, and none of the assets will be distributed upon such termination to any member, officer or director of the Corporation. In the event the Authority is not then in existence or is for any reason unable to accept title to such assets, then all of the net assets of the Corporation shall in that event be distributed exclusively for the purposes of the Corporation, in such manner, and to such organization or organizations, organized and operated exclusively for charitable, scientific and educational purposes, as shall at the time qualify as an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States internal revenue law), as the Board of Directors shall determine. Any of such assets not so disposed of shall be disposed of by the Superior Court of Dougherty County, exclusively for such purposes and to such organization or organizations, as such court shall determine. The Authority shall have the authority to compel the Corporation's compliance with this Article.

## ARTICLE XI

### Restrictions on the Authority of the Board of Directors

The Board of Directors of the Corporation may not, without the prior approval of Phoebe Putney Health System, Inc., as the sole member of the Corporation, take any of the following actions:

- (a) Adopt a plan of dissolution of the Corporation;
- (b) Authorize the Corporation to engage in, or enter into, any transaction providing for the sale, mortgage or other disposition of all or substantially all of the assets of the Corporation;



(c) Adopt a plan of merger or consolidation of the Corporation with another corporation;

(d) Adopt any annual or long-term capital and operational budgets of the Corporation or approve any changes therein exceeding ten percent (10%) of the budgeted item;

(e) Amend or take any action to terminate any lease between the Corporation and the Authority with respect to Phoebe Putney Memorial Hospital;

(f) Take any action which would, or reasonably could be expected to, cause the Corporation to exceed its annual budget for capital expenditures;

(g) Incur an expenditure for any particular project or service of or for the Corporation in an amount in excess of \$1,000,000;

(h) Take any action which would, or reasonably could be expected to, result in an adverse variance (on an annualized basis) of total expenses of greater than two percent (2%) of total annual budgeted expenses;

(i) Appoint or remove the independent auditors of the Corporation;

(j) Select or remove the President/Chief Executive Officer of the Corporation;

(k) Adopt or permit any changes to any long-term, strategic or master institutional plans of the Corporation; or

(l) Amend the Articles of Incorporation or Bylaws of the Corporation.

## ARTICLE XII

### Registered Office and Agent

The initial registered office of the Corporation shall be at 417 Third Avenue, Albany, Dougherty County, Georgia 31703. The initial registered agent at such address shall be Joel Wernick.

ARTICLE XIII

Incorporator

The name and address of the Incorporator is:

John H. Parker, Jr.  
PARKER, HUDSON, RAIN ER & DOBBS  
1200 Carnegie Building  
133 Carnegie Way  
Atlanta, Georgia 30303

ARTICLE XIV

Amendments

Subject to the restrictions set forth in Article XI herein, these Articles of Incorporation may be amended at any time and from to time by the affirmative vote of a majority of all the Directors then in office.

EXHIBIT "E"

BYLAWS OF TRANSFEREE

**AMENDED AND RESTATED  
BYLAWS  
OF  
PHOEBE PUTNEY MEMORIAL HOSPITAL, INC.  
(the “Corporation”)  
(as Amended July 11, 2012)**

ARTICLE I

Membership

The sole Member of Phoebe Putney Memorial Hospital, Inc., a Georgia nonprofit corporation under the Georgia Nonprofit Corporation Code (the “Corporation”), shall be Phoebe Putney Health System, Inc., a Georgia nonprofit corporation (“PPHS”), whose principal offices are located at 417 Third Avenue, Albany, Georgia 31701.

ARTICLE II

Board of Directors

Section 2.1. Authority. The Board of Directors shall carry out the purposes of the Corporation in compliance with the Articles of Incorporation and the Bylaws of the Corporation. The property, affairs, business and operation of the Corporation shall be managed by a Board of Directors

Section 2.2. Composition. The Board of Directors shall consist of not less than eleven (11) nor more than thirteen (13) Directors, and shall at all times include the President/Chief Executive Officer of the Corporation and at least three (3) physician Directors who are members of the Medical Staff of Phoebe Putney Memorial Hospital. A majority of the Directors shall be independent directors as defined in Section 2.3. below.

Either at a regular or special meeting, the Board of Directors of PPHS may from time to time elect persons to serve as Directors Emeritus, which shall be lifetime designations once awarded to a person by the Board of Directors of PPHS. To be eligible for designation as Director Emeritus, a person must have served on the Board of Directors of the Corporation for a significant period of time, with fifteen (15) years of service generally being required; must be a person who has made significant contributions to the Corporation; and must be a person of good reputation and high integrity. Persons who are designated as Directors Emeritus may attend any meetings of the Board of Directors of the Corporation. Persons who are designated as Directors Emeritus shall not be counted as Directors for purposes of Article II, Section 2.2 and 2.3 or Article IV, Section 4.3, shall have no vote at any meetings and shall not be required to serve as members of any committee.

Section 2.3. Independence. A majority of the Directors on the Board must be “independent.” To be considered independent, the Board of Directors of PPHS must determine that a Director does not have any material relationship with the

Corporation, PPHS, or any of PPHS' subsidiaries (either directly or as a partner, shareholder or officer of an organization that has a material relationship with the Corporation, PPHS, or any of PPHS' subsidiaries). The following guidelines shall be used to assist the Board of Directors of PPHS in determining director independence:

Independent Directors shall, during the current fiscal year:

- (a) Not be an employee of the Corporation, PPHS, or any of PPHS' subsidiaries, nor have an immediate family member who is an executive officer of the Corporation, PPHS, or any of PPHS' subsidiaries. "Immediate Family" includes a person's spouse, parents, children, grandchildren, and siblings.
- (b) Not be the recipient of, nor have an immediate family member who is the recipient of, more than \$50,000.00 in direct compensation from the Corporation, PPHS, or any of PPHS' subsidiaries, excluding pension or other deferred compensation for prior services.
- (c) Not be an executive officer or an employee, nor have an immediate family member who is an executive officer, of another company that makes payments to, or receives payments from, the Corporation, PPHS, or any of PPHS' subsidiaries for property or services in an amount which exceeds the greater of (i) \$100,000.00 or (ii) 10% of the other company's consolidated gross revenues.

The Board of Directors of PPHS will also evaluate, on a case-by-case basis, any other relationship, direct or indirect, between a Director and the Corporation, PPHS, or any of PPHS' subsidiaries and its officers, which might have the appearance of potentially impairing a Director's independence of judgment. Special attention will be paid to service on a non-profit or charitable board by a Director or a close personal relationship between a Director and any executive officer.

Section 2.4. Qualifications. Directors must exhibit the desire, time, interest and ability to support the Corporation and shall be selected based upon interest in and loyalty to the objectives and purposes of the Corporation as set forth in the Articles of Incorporation. Whenever possible, Directors shall also be selected based upon their involvement and interest in the community of which the Corporation is a part.

No person shall be eligible to serve as a Director who has been convicted of a felony or any crime involving moral turpitude.

No two persons who are immediate family members may serve at the same time as Directors on the Board.

Section 2.5. Election. Director vacancies shall be filled by appointment by the Board of Directors of PPHS, which shall make its selection from persons approved by the Nominating/Governance Committee of PPHS. Directors appointed or elected to fill

vacancies on the Board of Directors due to death, removal, or resignation shall hold office for the unexpired portion of the term.

Section 2.6. Term of Service. All Directors shall serve for a term of five (5) years and until their respective successors are elected and qualified, except for the person who is a Director by virtue of being a member of the Medical Staff of Phoebe Putney Memorial Hospital, who shall serve for a term of two (2) years and until his or her successor is elected and qualified. However, in the event any such physician Director shall cease to be a member of said Medical Staff, such physician Director shall be deemed to have resigned from the Board of Directors and such vacancy shall be filled by another member of the Medical Staff of Phoebe Putney Memorial Hospital to serve the remainder of the term. The terms of the Directors shall be staggered so that the terms of no less than approximately one-third (1/3) are expiring in any one (1) year. Directors may serve for unlimited successive terms. The person who is a Director by virtue of being the President/Chief Executive Officer of the Corporation shall serve as long as he or she holds that position.

Section 2.7. Conflicts of Interest. No Director shall use his or her position on the Board of Directors for financial, political, or other self-interest that could be interpreted by the Board of Directors or the Corporation as not being in the Corporation's best interests, and the Director shall maintain unselfish loyalty to the Board of Directors and will disclose to the entire Board of Directors the full particulars of his or her financial interest in any matter under consideration by the Board of Directors. Each Director (whether a voting or non-voting member of the Board of Directors) shall file a "No Conflict of Interest and Loyalty" statement with the Chairperson of the Board of Directors. Said statement shall be in such form as approved by the Board of Directors from time to time. If, in the view of the Director or of the Board of Directors, an interest of a Director in a matter under consideration by the Board of Directors may interfere with the exercise of such Director's unselfish loyalty to the Corporation or may pose a conflict between duty and self-interest, the Director shall neither vote on the issue nor participate in the discussion, but shall leave the room and the minutes shall so reflect that he or she left the room and neither voted nor participated in discussion on the issue (nevertheless the presence of a Director with voting rights may be counted for purposes of establishing a quorum).

Section 2.8. Resignation; Removal. Any Director may resign at any time by giving written notice to the President/Chief Executive Officer of the Corporation or Chairperson of the Board of Directors, and giving a copy of said notice to the Secretary of the Corporation. Such resignation, which may or may not be made contingent on formal acceptance, shall take effect on the date of receipt or at any later time specified therein.

Any Director, other than the President/Chief Executive Officer of the Corporation, may be removed for cause by a vote of at least two-thirds (2/3) of the Directors of the Corporation, subject to ratification by the Board of Directors of PPHS. Any Director sought to be removed shall be given reasonable notice and, in the case of a Director removed for cause, an opportunity to be heard regarding the cause or causes

stipulated for his or her removal.

Section 2.9. Compensation. Directors shall not receive compensation for their service to the Corporation, but, at the discretion of the Chairperson of the Board of Directors, may be reimbursed by the Corporation for actual reasonable travel expenses to Board of Directors meetings or when specifically selected to represent the Corporation at a business or educational meeting. Nothing contained in these Bylaws precludes any Director from receiving compensation for services to the Corporation in any other capacity.

### ARTICLE III

#### Officers of the Board of Directors

Section 3.1. Election. The Officers of the Board of Directors shall be a Chairperson and a Vice Chairperson. After consultation with the Nominating Committee of the Board of Directors of PPHS, the Board of Directors of the Corporation shall elect the Chairperson and Vice Chairperson by vote at the annual meeting of the Board of Directors. The election of the Chairperson and Vice Chairperson shall not become effective until approved and ratified by the full Board of Directors of PPHS. Each Officer of the Board of Directors shall serve for a one (1) year term of office. Officers of the Board of Directors may serve unlimited terms in the same office. The Chairperson and Vice Chairperson of the Board of Directors shall be “independent” as is defined in Art. II, Section 2.3. herein.

Section 3.2. Duties. The Chairperson shall preside at all meetings of the Board of Directors. Except as otherwise expressly provided herein, the Chairperson shall appoint all committee members and all committee chairpersons, subject to the ratification by and approval of a majority of the Board of Directors of the Corporation and ratification and approval by the Board of Directors of PPHS. The Chairperson shall have such other duties and responsibilities hereinafter set forth in these Bylaws and delegated by the Board of Directors from time to time.

The Vice Chairperson shall act in the absence of the Chairperson, and when so acting shall have all the authority and powers of the Chairperson. The Vice Chairperson shall perform such other duties as from time to time are assigned to him or her by the Chairperson.

Section 3.3. Successors. Each Officer shall deliver to his or her successor in office all official material of the Corporation not later than ten (10) days following the election of his or her successor.

### ARTICLE IV

#### Meetings of the Board of Directors

Section 4.1. Regular Meetings. The Board of Directors shall hold a regular

monthly meeting at Phoebe Putney Memorial Hospital on the first Wednesday of each month, unless the Board of Directors shall otherwise designate another date or place for its regular monthly meetings.

Section 4.2. Annual Meeting. The regular meeting held in the month of February shall be the annual meeting of the Board of Directors.

Section 4.3. Special Meetings. Special meetings may be called by the Chairperson and shall be called at the written request of at least one-third (1/3) of the Directors. Written notice of special meetings shall be considered duly given if mailed to each Director at least three (3) days before such special meeting or if personally delivered to the home or office of each Director at least 24 hours before such special meeting. The notice shall state the business or the transaction for which the meeting has been called and no other business shall be transacted at such meeting unless by unanimous consent of the Directors present and participating. An emergency meeting of the Board of Directors may be called without the necessity of any notice so long as the notice provisions are waived by at least two-thirds of the Directors.

Section 4.4. Quorum. A majority of the Directors with voting rights shall constitute a quorum of the Board of Directors for the transaction of business, and an act of the majority of the Directors present and voting at a meeting at which a quorum is present shall be the official act of the Board of Directors.

Section 4.5. Attendance. The Directors are expected to attend the regular monthly meetings of the Board of Directors. Any Director, other than the President/Chief Executive Officer of the Corporation, who shall fail to attend two (2) regular meetings of the Board of Directors during any consecutive twelve-month period, without the Chairperson excusing such absence, shall be deemed to have resigned from the Board of Directors.

Section 4.6. Cancellation or Change of Regular Meetings. The Board of Directors, by a vote of two-thirds (2/3) of the Directors present, may dispense with or alter the date of a monthly meeting at the meeting preceding the monthly meeting to be dispensed or altered.

Section 4.7. Action by Written Consent. Any action required or permitted to be taken by the Board of Directors under any provision of law, the Articles of Incorporation, or these Bylaws may be taken without a meeting of the Board of Directors by the collective consent of all the Directors, in writing, setting forth the action so taken. Such written consents shall be filed with the proceedings of the Board of Directors and shall be made available for review at the next regular meeting of the Board of Directors. Such action by written consent shall have the same force and effect as the unanimous vote of the Directors. Any certificate or other document filed under law relating to action so taken shall state that the action was taken by unanimous written consent of the Board of Directors without a meeting and that the Bylaws authorized the Directors to so act.



Section 4.8. Telephonic Participation in Meetings. Directors or members of any Board Committee may participate in any meeting of the Board of Directors or of a Board Committee by means of a conference telephone or similar communication equipment by which means all persons participating in the meeting can hear one another at the same time. Participation with proper notice by such means shall constitute presence in person at a meeting.

Section 4.9. Voting. Each Director with voting rights shall be entitled to one vote on any matter before the Board of Directors. Voting by proxy shall not be permitted.

Section 4.10. Proper Officers. For the purposes of these Bylaws, the Chairperson of the Board of Directors, the Vice Chairperson of the Board of Directors, and the President/Chief Executive Officer of the Corporation shall each be deemed a "proper officer". Whenever any resolution or action adopted by the Board of Directors or a Committee of the Board of Directors shall authorize the "proper officer" of the Corporation to execute any note or other document or take any other action or shall generally authorize any action without specifying the officer or officers authorized to take such action, any proper officer acting alone and without counter signatures may take such action on behalf of the Corporation.

## ARTICLE V

### Committees of the Board of Directors

Section 5.1. Appointment of Committees. The Chairperson of the Board of Directors shall appoint the Chairpersons and all members of the standing committees and such special committees as may be necessary, subject to the ratification by and approval of the Board of Directors of PPHS. Vacancies of committee chairs shall be filled in a like manner. The Chairperson of each committee and all members shall be a Director of the Corporation, unless otherwise provided herein. The Chairperson of the Board of Directors and the President/Chief Executive Officer of the Corporation shall each be ex-officio voting members of all committees.

A committee shall limit its activities to the task or tasks for which the committee is organized, and will have only such authority and responsibility as specifically conferred upon it by the Board of Directors. All committees shall be subject to the control and general supervision of the Board of Directors. Each committee shall meet as required and as set by policy of the Board of Directors.

One-half (1/2) of a committee's members shall constitute a quorum for the carrying out of committee functions and actions.

Section 5.2. Committee Chairperson's Duties. The Chairperson of each committee shall have the following general duties, responsibilities and powers, together with such others as may be designated from time to time by the Board of Directors:

- (a) Coordinate committee activities through the designated management

liaison;

- (b) Prepare an agenda for each committee meeting;
- (c) Preside or designate an alternate to preside at committee meetings;
- (d) Provide for maintenance of official records of the committee and appoint a secretary of the committee for that purpose;
- (e) Report committee activities and formal recommendations to the Board of Directors at its regular meetings;
- (f) Delegate specific responsibilities among committee members; and
- (g) Appoint members to subcommittees as necessary.

Section 5.3. Standing Committees. The following committees shall be appointed annually by the Chairperson, subject to approval and ratification by the Board of Directors of PPHS, and shall serve until their successors have been designated, except as otherwise provided herein.

(a) Finance Committee. This committee shall recommend policy and maintain oversight on all matters relating to the funds, securities, and investments of the Corporation. It shall maintain a continuous and over-all review of income and expenditures and make recommendations on these matters as needed to the Board of Directors. This committee shall annually present to the Board of Directors a fiscal budget of anticipated receipts and expenditures for the coming year

(b) Professional Affairs Committee. The Professional Affairs Committee shall serve as the liaison between the medical staff and the Board of Directors and shall represent the Board of Directors with regard to applications for medical staff membership, including appointment and re-appointment. The Committee shall recommend to the Board of Directors whether or not a practitioner shall be granted appointment or re-appointment and the level of clinical privileges which should be granted to the practitioner.

(c) Community Benefit Committee. The Chairperson and the members of this committee are not required to be a Director of the Corporation. This committee shall (1) facilitate coordinated and collaborative health planning and service delivery through an integrated process involving health providers, educators, local officials, payers and consumers; (2) provide a strong emphasis on community-oriented primary care research and on the evaluation of the community-based programs arising out of the integrated planning process; (3) provide a powerful interface between local and regional providers, recipients and planners and to link these groups with the research and technical support resources available through private and public academic, research, philanthropic and governmental institutions; (4) develop a data gathering, management and analysis consortium which will ensure that appropriate needs,

assessments and program and policy evaluations are undertaken and utilized; (5) evaluate health needs and develop programs to address those needs and to coordinate appropriate research efforts; (6) improve health promotion and education, across a wide spectrum of the population including health care professionals; (7) develop the local capacity necessary to seek, obtain and properly administer grants, foundation and public funding for innovative health care research and programs; and (8) encourage the provision of adequate and appropriate health care services to all citizens in Southwest Georgia.

## ARTICLE VI

### Officers of the Corporation

Section 6.1. General Provisions. The Officers of the Corporation shall consist of a President/Chief Executive Officer, a Secretary, a Treasurer/Chief Financial Officer and such other officer positions as the Board of Directors of the Corporation may create. The President/Chief Executive Officer of PPHS shall be the President/Chief Executive Officer of the Corporation. All other officers shall be elected or appointed by, and shall serve at the pleasure of, the Board of Directors of PPHS. Each Officer shall be elected or appointed for a term of office running until the next annual meeting of the Board of Directors of PPHS or such shorter term as may be provided by (i) resolution of the Board of Directors of PPHS (ii) the appointment to office, or (iii) by employment contract. Each Officer shall serve during the term of office for which he or she is elected, appointed, or employed and until his or her successor has been elected, appointed, or employed and has qualified, or until his or her earlier resignation, removal from office or death.

Any two offices may be held by the same person, except that the President/Chief Executive Officer may not hold any other officer position.

Section 6.2. Removal. Any Officer may be removed from office, with or without cause, upon the majority vote of the Directors of PPHS present at any meeting of the Board of Directors of PPHS at which a quorum is present.

Section 6.3. President/Chief Executive Officer. The President/Chief Executive Officer shall be given the necessary authority and be held responsible for supervision of the total administration of the Corporation in all its activities and departments, subject only to such policies as may be adopted or issued by the Board of Directors or by any of its committees to which the Board of Directors has delegated power for such action. He or she shall act as the duly authorized representative of the Board of Directors in all matters in which the Board of Directors has not formally designated some other person for that specific purpose. The President/Chief Executive Officer of the Corporation shall be a Director and an ex-officio voting member of all committees of the Board of Directors.

Section 6.4. Duties of President/Chief Executive Officer. The authority and duties of the President/Chief Executive Officer shall include among other things:

- (a) Carrying out all policies established by the Board of Directors and formulating and enforcing all rules and regulations necessary and desirable for the proper conduct of the Corporation;
- (b) Perfecting and submitting to the Board of Directors for approval a plan of organization of the personnel and others concerned with the operation of the Corporation;
- (c) Assisting the Secretary of the Corporation with all the duties assigned to the Secretary and assuring that all notices are given in accordance with these Bylaws or as required by law;
- (d) Selecting, employing, controlling and discharging all employees, and developing and maintaining personnel policies and practices for the Hospital;
- (e) Ensuring that all physical properties of the Corporation are kept in a good state of repair and operating condition;
- (f) Making and executing all contracts pertaining to the ordinary affairs and operations of the Corporation, except as to the execution of those contracts specifically reserved to the Board of Directors;
- (g) Supervising all business affairs; and ensuring that all funds are collected and expended to the best possible advantage of the Corporation;
- (h) Working with the Medical Staff and with all those concerned with the rendering of professional service to the end that the best possible care may be rendered to all the patients of the Hospital;
- (i) Serving as the liaison officer and channel of communications between the Board of Directors or any of its committees and the Medical Staff or all other organizations working on behalf of the Corporation;
- (j) Attending all meetings of the Board of Directors; and
- (k) Performing any other duty that may be necessary in the best interest of the Corporation or that the Board of Directors shall require.

Section 6.5. Secretary. The Secretary shall attend all meetings of the Board of Directors; shall keep minutes of all meetings of the Board of Directors; shall have charge of the corporate books and seal of the Corporation; and shall perform such other duties and have such other powers as may from time to time be delegated to him or her by the Board of Directors.

The Secretary shall have the discretion to delegate his or her responsibilities to another person.

Section 6.6. Treasurer/Chief Financial Officer. The Treasurer/Chief Financial Officer shall be charged with the management of all financial affairs of the Corporation; shall have the power to recommend action concerning the Corporation's affairs to the Board of Directors; and shall perform such other duties and have such other powers as may from time to time be delegated to him or her by the Board of Directors.

In addition to the foregoing duties and without limitation thereof, the Treasurer/Chief Financial Officer shall:

- (a) Prepare an annual budget including, but not limited to, anticipated revenue and expenditures; be responsible for all funds and securities of the Corporation; and receive and give receipts for monies due and payable to the Corporation from any source whatever and deposit all such monies in the name of the Corporation in such banks or other depository as shall be selected in accordance with the Bylaws;
- (b) Submit regularly to the Board of Directors, or its authorized committees, periodic reports showing the financial activities of the Corporation; and prepare and submit such special reports as may be required by the Board of Directors; and
- (c) Keep and maintain an up-to-date inventory of all property and equipment (including medical) owned or leased by the Corporation.

## ARTICLE VII

### Medical Staff

Section 7.1. Acceptance of Current Medical Staff. The staff of physicians practicing at the Hospital and the bylaws and rules for such staff, as in effect at the time of adoption of these Bylaws, are hereby adopted as the Medical Staff and as the bylaws of such Medical Staff, subject to review, amendment and final approval by the Board of Directors.

Section 7.2. Subsequent Changes to the Medical Staff. The Board of Directors shall hereafter appoint the Medical Staff of the Hospital in accordance with the bylaws and rules to be adopted by such Medical Staff and which bylaws and rules shall be in accordance with recommendations of the Joint Commission on Accreditation of Healthcare Organizations, which provide, among other things, for the method of appointing additional staff members and for the removal of staff members and which bylaws and any amendments thereto shall be subject to approval by the Board of Directors.

## ARTICLE VIII

### Hospital Rules and Regulations

Such rules and regulations as are necessary for the efficient operation of Phoebe Putney Memorial Hospital shall be adopted by the Board of Directors after receiving the recommendations of the Medical Staff and the President/Chief Executive Officer of the Corporation. The initial rules and regulations shall be the rules and regulations in effect at Phoebe Putney Memorial Hospital on the date of the adoption of these Bylaws.

## ARTICLE IX

### Conflicting Regulations

No charters, constitutions, bylaws, rules, provisions or regulations of any organization operating as a part of the Corporation or as an agency thereof (including the Medical Staff, Phoebe Putney Memorial Hospital, any nursing organization or related organizations), shall be in conflict with or repugnant or contrary to these Bylaws or to the Articles of Incorporation of the Corporation or to the laws of the State of Georgia or of the United States.

## ARTICLE X

### Amendments

These Bylaws may be amended, subject to the restrictions set forth in Article XI of the Articles of Incorporation of the Corporation, by an affirmative vote of a majority of the voting membership of the Board of Directors present at the regular monthly meeting or any special meeting of the Board of Directors.

## ARTICLE XI

### Indemnification by Corporation

Section 11.1. Indemnification. Any person (including the heirs, executors, administrators or estate of such person) who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including any action by or in the right of the Corporation), by reason of the fact that he or she is or was a director, officer, employee, consultant or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, consultant or agent of another corporation, partnership, joint venture, trust or other enterprise, may be indemnified by the Corporation against expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation (and with respect to any criminal action or proceeding, if he or she had no reasonable

cause to believe his or her conduct was unlawful), to the maximum extent permitted by, and in the manner provided by, the Georgia Nonprofit Corporation Code.

Section 11.2. Insurance. The Corporation may purchase and maintain insurance at its expense, to protect itself and any such person against any such liability, cost, payment or expense, whether or not the Corporation would have the power to indemnify such person against such liability.

## ARTICLE XII

### Corporate Seal

The Corporation's Board of Directors may provide for a corporate seal in such form and with such inscription as it shall determine, provided such seal shall always contain the word "Non-profit".

## ARTICLE XIII

### Waiver of Notice

Whenever any notice is required to be given under the provisions of the Georgia Nonprofit Corporation Code, of the Articles of Incorporation, or of these Bylaws, a waiver thereof in writing signed by the person entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice where such waiver is permitted by State law. All waivers shall be filed with the corporate records, or shall be made a part of the minutes of the relevant meeting.

## ARTICLE XIV

### Reserve Powers

The Corporation is subject to powers reserved to PPHS as set forth in Article XI of the Bylaws of PPHS.

IN WITNESS WHEREOF, Phoebe Putney Memorial Hospital, Inc. has caused these Bylaws to be executed, its corporate seal affixed and the foregoing to be attested, all by duly authorized officers on the \_\_\_ day of \_\_\_\_\_, 2012.

PHOEBE PUTNEY MEMORIAL HOSPITAL, INC.

BY: \_\_\_\_\_  
JOHN W. CULBREATH, Chairman

ATTEST: \_\_\_\_\_  
KERRY LOUDERMILK, Secretary

[CORPORATE SEAL]

EXHIBIT "F"

AGREEMENT TO BE BOUND

For \$10.00 and other valuable consideration and in order to induce Transferor to execute the foregoing Amended and Restated Lease and Transfer Agreement, the undersigned Phoebe Putney Health System, Inc., a Georgia nonprofit corporation ("Parent Affiliate"), hereby agrees with Transferor as follows:

(a) Parent Affiliate shall be bound by all the provisions of Section 4.16, Section 5.05, and any other section of the foregoing Amended and Restated Lease and Transfer Agreement that are applicable to Parent Affiliate.

(b) Upon the expiration or earlier termination of the Amended and Restated Lease and Transfer Agreement, or in the event this Agreement or the foregoing Amended and Restated Lease and Transfer Agreement shall become void or unenforceable, except as otherwise provided in Section 5.05(b) of the Amended and Restated Lease and Transfer Agreement, all assets of Parent Affiliate, including the Parent Affiliate's interests in its affiliates, shall become the property of the Transferor absolutely.

Dated: \_\_\_\_\_

PHOEBE PUTNEY HEALTH SYSTEM, INC.

[CORPORATE SEAL]

By: \_\_\_\_\_

Attest:

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_



EXHIBIT "G"

ARTICLES OF PARENT

**RESTATED ARTICLES OF INCORPORATION  
OF  
PHOEBE PUTNEY HEALTH SYSTEM, INC.  
amended as of January 2003**

ARTICLE I

Name

The name of the Corporation is Phoebe Putney Health System, Inc.

ARTICLE II

Organization

The Corporation is organized pursuant to the Georgia Nonprofit Corporation Code.

ARTICLE III

Period of Duration

The period of duration of the Corporation shall be perpetual.

ARTICLE IV

Purposes

The Corporation is organized and shall be operated exclusively for charitable, scientific and educational purposes, including:

(a) To support, promote, advance and strengthen, within the meaning of Section 509(a)(3) of the Internal Revenue Code of 1986, as amended (or corresponding provisions of any subsequent United States internal revenue law) (the "Code"), Phoebe Putney Memorial Hospital, Inc., a Georgia nonprofit corporation ("PPMH"), and, in the discretion of the Board of Directors of the Corporation, to support other nonprofit health care providers organized for charitable and civic purposes; provided that each corporation is an organization described in Section 501(c)(3) of the

Code and in Section 509(a)(1) or (2) of the Code; and, further provided that the Corporation shall be operated, supervised or controlled by or in connection with each additional supported corporation within the meaning of Section 509(a)(3) of the Code;

(b) To itself operate exclusively for charitable, educational and scientific purposes, and in furtherance of the charitable, educational and scientific purposes, causes and objects now or at any time hereafter fostered by said Phoebe Putney Memorial Hospital, Inc., a Georgia nonprofit corporation, and such other nonprofit and tax exempt health care providers as the Board of Directors of the Corporation elects to support;

(c) To participate in, form, own and operate joint ventures, partnerships, corporations or other entities, whether or not any such entity is for profit or not for profit, so long as this Corporation's participation therein is not inconsistent with the furtherance of the charitable, educational and scientific purposes for which the Corporation is organized.

## ARTICLE V

### Election of Directors

The affairs of the Corporation shall be managed by the Board of Directors which shall exercise all of the powers of the Corporation except to the extent that any such powers are reserved to members, if any, of the Corporation in the Bylaws. The qualifications, minimum and maximum number and manner of election of the Directors shall be provided in the Bylaws of the Corporation.

## ARTICLE VI

### Initial Board of Directors

The initial Board of Directors shall consist of nine (9) members, whose names and addresses are set forth below. Each member of the initial Board of Directors shall serve as a director for a term

of the number of years appearing opposite his name or until his successor has been elected and has qualified.

	<u>Director</u>	<u>Term</u>
1.	W. Harry Willson P. O. Box 1275 Albany, Georgia	4 years
2.	Anna Louise McCormack P. O. Box 3170 Albany, Georgia	3 years
3.	Elmer H. Bridges 4917 Van Cise Lane Albany, Georgia	5 years
4.	Nathaniel Cross 1503 Lily Pond Road Albany, Georgia	5 years
5.	Bernard P. Scoggins, M.D. 1712 E. Broad Avenue Albany, Georgia	During term as immediate past Chief of Medical Staff of Phoebe Putney Memorial Hospital
6.	Alfredo Stokes 2405 Greenmount Drive Albany, Georgia	3 years
7.	Tom Law 711 7th Avenue Albany, Georgia	4 years
8.	Walter Carl Gordon, Jr., M.D. 3220 Jacqueline Drive Albany, Georgia	3 years
9.	Joel Wernick 417 Byron Plantation Road Albany, Georgia	During tenure as President/Chief Executive Officer of the Corporation

The Board of Directors of the Corporation shall at all times include the Chief Executive Officer of the Corporation.

The Board of Directors of the Corporation shall also include at least one (1) physician member who is a member of the Medical Staff of Phoebe Putney Memorial Hospital. That Board Member shall serve a term of two years.

The Board of Directors of the Corporation shall at all times include at least one (1) member of the Board of Directors of Phoebe Putney Memorial Hospital, Inc.

In addition, the Chairman of the Board of Directors of Phoebe Putney Memorial Hospital, Inc. shall serve as an ex-officio, non-voting member of the Board of Directors.

## ARTICLE VII

### Membership in the Corporation

The members of the Corporation shall be the Board of Directors who shall be the sole voting members of the Corporation.

The Bylaws may provide for one or more classes of other members who shall be admitted in such manner and who shall have such rights and privileges as are set forth in the Bylaws but who shall not have the right to vote.

## ARTICLE VIII

### Powers

The Corporation shall have all powers enumerated herein and in the Georgia Nonprofit Corporation Code.

## ARTICLE IX

Restrictions

This Corporation is organized exclusively for charitable purposes, as a nonprofit corporation, within the meaning of Section 501(c)(3) of the Code, and its activities shall be conducted for such purposes in such a manner that no part of its net earnings shall inure to the benefit of any member, director, officer or individual. In addition, the Corporation shall be authorized to exercise the powers permitted nonprofit corporations under the Georgia Nonprofit Corporation Code, provided, however, that the Corporation while exercising any one or more powers shall do so in furtherance of the charitable, educational and scientific purposes for which it has been organized as described in Section 501(c)(3) of the Code. All of the assets and earnings of the Corporation shall be used exclusively for the charitable, educational and scientific purposes hereinabove set forth, including the payment of expenses incidental thereto and all of the powers of the Corporation shall be exercised exclusively for such purposes. No part of its activities shall inure to the benefit of any individual and no substantial part of its activities shall be for the carrying on of a program of propaganda or for influencing legislation nor shall it participate in any political campaign on behalf of any candidate for public office. The Corporation shall not carry on any activities not permitted to be carried on by an organization exempt from federal income taxation under Section 501(c)(3) of the Code, or any organization to which contributions are deductible under Section 170(c)(2) of the Code.

## ARTICLE X

Dissolution

Upon dissolution of the Corporation, all of its assets, including all its interests in any affiliated entities, remaining after the payment of all costs and expenses of such dissolution, and after

adequate provision has been made for the discharge or assumption of its liabilities, shall be distributed to PPMH; provided that PPMH is then an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Code, and if not, then to the Hospital Authority of Albany-Dougherty County, Georgia (the "Authority"), which is a public body corporate and politic and an instrumentality of the State of Georgia, to be used exclusively for a public purpose, and none of the assets will be distributed upon such dissolution to any member, officer or director of the Corporation. If PPMH enters into an agreement with the Authority pursuant to which the Authority leases, transfers and assigns to PPMH all of the assets, operations and liabilities of Phoebe Putney Memorial Hospital (the "Hospital"), then upon termination of such lease, transfer or assignment agreement, or upon termination of any renewal or extension thereof, all of the assets of the Corporation, including all its interest in PPMH and any other affiliated entities (after adequate provision is made for the discharge or assumption of the Corporation's liabilities) shall be distributed to the Authority to be used exclusively for a public purpose, and the Corporation shall be dissolved, and none of the assets will be distributed upon such termination to any member, officer or director of the Corporation. In the event the Authority is not then in existence or is for any reason unable to accept title to such assets, then all of the net assets of the Corporation shall in that event be distributed exclusively for the purposes of the Corporation, in such manner, and to such organization or organizations, organized and operated exclusively for charitable, scientific and educational purposes, as shall at the time qualify as an exempt organization under Section 501(c)(3) of the Code (or the corresponding provision of any future United States internal revenue law), as the Board of Directors shall determine. Any of such assets not so disposed of shall be disposed of by the Superior Court of Dougherty County, exclusively for such purposes and to such organizations, as such court

shall determine. The Authority shall have the authority to compel the Corporation's compliance with this Article.

#### ARTICLE XI

##### Registered Office and Agent

The initial registered office of the Corporation shall be at 417 Third Avenue, Albany, Dougherty County, Georgia 31703. The initial registered agent at such address shall be Joel Wernick.

#### ARTICLE XII

##### Incorporator

The name and address of the Incorporator is:

John H. Parker, Jr.  
PARKER, HUDSON, RAINER & DOBBS  
1200 Carnegie Building  
133 Carnegie Way  
Atlanta, Georgia 30303

#### ARTICLE XIII

##### Amendments

These Articles of Incorporation may be amended at any time and from to time by the affirmative vote of a majority of all the Directors then in office.



**ARTICLES OF AMENDMENT TO THE  
ARTICLES OF INCORPORATION OF  
PHOEBE PUTNEY HEALTH SYSTEM, INC.**

I.

The name of the corporation is Phoebe Putney Health System, Inc.

II.

Article VI of the Articles of Incorporation is amended by the deletion of the next to last paragraph of said Article, which read:

"The Board of Directors of the Corporation shall at all times include at least two members who contemporaneously also serve on the Board of Trustees of the Hospital Authority of Albany-Dougherty County, Georgia."

III.

The amendment to the Articles of Incorporation was adopted January 9, 2003.

IV.

The amendment was duly approved by the Board of Directors of the Corporation, in accordance with (a) the Articles of Incorporation of the Corporation; and (b) Section 14-3-1002 of the Georgia Nonprofit Corporation Code.

In witness whereof, the Corporation has caused these Articles of Amendment to be executed and attested by its duly authorized officers on January 9, 2003.

PHOEBE PUTNEY HEALTH SYSTEM, INC.

By:   
Joel Wernick, President

ATTEST:

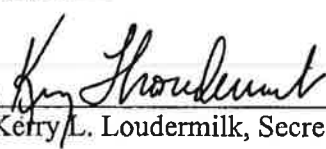
By:   
Kerry L. Loudermilk, Secretary

EXHIBIT "H"

BYLAWS OF PARENT

**AMENDED AND RESTATED  
BYLAWS  
OF PHOEBE PUTNEY HEALTH SYSTEM, INC.  
(the "Corporation")  
(as Amended July 12, 2012)**

ARTICLE I

Board of Directors

Section 1.1. Authority. The Board of Directors shall carry out the purposes of the Corporation in compliance with the Articles of Incorporation and the Bylaws of the Corporation. The property, affairs, business and operation of the Corporation shall be managed by the Board of Directors.

Section 1.2. Composition. The Board of Directors shall consist of not less than nine (9) nor more than twelve (12) Directors. The Board of Directors shall at all times include the President/Chief Executive Officer of the Corporation and at least one (1) physician member who is a member of the Medical Staff of Phoebe Putney Memorial Hospital, Inc. A majority of the Directors shall be independent directors as defined in Section 1.3. below.

The Board of Directors may from time to time elect any person to serve as Director Emeritus, which shall be a lifetime designation once awarded by the Board of Directors. To be eligible for designation as Director Emeritus, a person must have served on the Board of the Corporation for a significant period of time, with fifteen (15) years of service generally being required, be a person who has made significant contributions to the Corporation and be a person of good reputation and high integrity. Persons who are designated as Directors Emeritus may attend any meetings of the Board of Directors of the Corporation. Persons who are designated as Directors Emeritus shall not be counted as Directors for purposes of this Article 1, Section 1.2 or Article III, Section 3.3, shall have no vote at any meetings and shall not be required to serve as members of any committee.

Section 1.3. Independence. A majority of the Directors on the Board must be "independent." To be considered independent, the Board of Directors must determine that a Director does not have any material relationship with the Corporation, its subsidiaries or Phoebe Putney Memorial Hospital, Inc. (either directly or as a partner, shareholder or officer of an organization that has a relationship with the Corporation, its subsidiaries or Phoebe Putney Memorial Hospital, Inc.). The Board will consider the following standards to assist it in determining director independence:

Independent Directors shall, during the current fiscal year:

- (a) Not be an employee of the Corporation, its subsidiaries or Phoebe Putney Memorial Hospital, Inc. nor have an immediate family member who is an executive officer. "Immediate Family" includes a person's spouse, parents, children, grandchildren, and siblings.

- (b) Not be the recipient of, or whose family member is the recipient of, more than \$50,000.00 in direct compensation from the Corporation, its subsidiaries or Phoebe Putney Memorial Hospital, Inc. excluding pension or other deferred compensation for prior services.
- (c) Not be an executive officer or an employee, or whose immediate family is an executive officer, of another company that makes payments to, or receives payments from, the Corporation, its subsidiaries or Phoebe Putney Memorial Hospital, Inc. for property or services in an amount which exceeds the greater of (i) \$100,000.00 or (ii) 10% of the other company's consolidated gross revenues.

The Board will also evaluate, on a case-by-case basis, any other relationship, direct or indirect, between a Director and the Corporation, its subsidiaries or Phoebe Putney Memorial Hospital, Inc. and its officers, which might have the appearance of potentially impairing a Director's independence of judgment. Special attention will be paid to service on a non-profit or charitable board by a Director or a close personal relationship between a Director and any executive officer.

Section 1.4. Qualifications. Directors must exhibit the desire, time, interest and ability to support the Corporation and shall be selected based upon interest in and loyalty to the objectives and purposes of the Corporation as set forth in the Articles of Incorporation. Whenever possible, Directors shall also be selected based upon their involvement and interest in the community of which the Corporation is a part.

No person shall be eligible to serve as a Director who has been convicted of a felony or any crime involving moral turpitude.

No two persons who are immediate family members may serve at the same time as Directors on the Board.

Section 1.5. Election. The Board of Directors shall elect Directors to fill expired terms, or vacancies that have occurred for other reasons from a slate of nominees presented by the Nominating/Governance Committee of the Board.

Section 1.6. Term of Service. All Directors shall serve for a term of five (5) years and until their respective successors are elected and qualified, except for the person who is a Director by virtue of being a member of the Medical Staff of Phoebe Putney Memorial Hospital, Inc., who shall serve for a term of two (2) years and until his or her successor is elected and qualified. However, in the event any such physician member of the Board of Directors loses his or her privileges at Putney Memorial Hospital, Inc., or cease to be a member of said Medical Staff, such physician member shall resign from the Board of Directors and such vacancy shall be filled by another member of the Medical Staff of Phoebe Putney Memorial Hospital, Inc. to serve the remainder of the term. The terms of the Directors shall be staggered so that the terms of no less than approximately one-third (1/3) are expiring in any one (1) year. Directors may serve for unlimited successive terms. The person who is a Director by virtue of being the Chief Executive Officer of the Corporation shall serve as long as he or she holds that position.

Section 1.7. Ex-Officio Board Members. The Chairperson of the Board of Directors of Phoebe Putney Memorial Hospital, Inc., shall serve as an ex-officio, non-voting member of the Board of Directors. The Chairperson of the Board of Directors of Phoebe Putney Memorial Hospital, Inc., shall not be counted as a Director for purposes of Article I, Section 1.2., or Article III, Section 3.3 hereof.

Section 1.8. Conflicts of Interest. No Director shall use his or her position on the Board of Directors for financial, political, or other self-interest that could be interpreted by the Board of Directors or the Corporation as not being in the Corporation's best interests, and the Director shall maintain unselfish loyalty to the Board of Directors and will disclose to the entire Board of Directors the full particulars of his or her financial interest in any matter under consideration by the Board of Directors. Each Director (whether a voting or non-voting member of the Board of Directors) shall file a "No Conflict of Interest and Loyalty" statement with the Chairperson of the Board of Directors. Said statement shall be in such form as approved by the Board from time to time. If, in the view of the Director or of the Board of Directors, an interest of a Director in a matter under consideration by the Board may interfere with the exercise of such Director's unselfish loyalty to the Corporation or may pose a conflict between duty and self-interest, the Director shall neither vote on the issue nor participate in the discussion, but shall leave the room and the minutes shall so reflect that he or she left the room and neither voted nor participated in discussion on the issue (nevertheless the presence of a Director with voting rights may be counted for purposes of establishing a quorum).

Section 1.9. Resignation; Removal. Any Director may resign at any time by giving written notice to the President/Chief Executive Officer of the Corporation or Chairperson of the Board of Directors, and giving a copy of said notice to the Secretary of the Corporation. Such resignation, which may or may not be made contingent on formal acceptance, shall take effect on the date of receipt or at any later time specified therein.

Any Director, other than the President/Chief Executive Officer of the Corporation, may be removed with or without cause by a vote of at least two-thirds (2/3) of the members of the Board of Directors. Any Director sought to be removed shall be given reasonable notice and, in the case of a Director removed for cause, an opportunity to be heard regarding the cause or causes stipulated for his or her removal.

Section 1.10. Vacancies. All vacancies on the Board of Directors (whether due to expiration of the term of a Director, death, resignation, removal or otherwise), shall be filled by majority vote of the remaining Directors from a slate submitted by the Nominating/Governance Committee of the Corporation. Members elected to fill vacancies on the Board of Directors due to death, removal, or resignation shall hold office for the unexpired portion of the term.

Section 1.11. Compensation. Directors shall not receive compensation for their service to the Corporation, but at the discretion of the Chairperson of the Board, may be reimbursed by the Corporation for actual reasonable travel expenses to Board of Director meetings or when specifically selected to represent the Corporation at a business meeting. Nothing contained in these Bylaws precludes any Director from receiving compensation for services to the Corporation in any other

capacity.

## ARTICLE II

### Officers of the Board

Section 2.1. Election. The Officers of the Board of Directors shall be a Chairperson and a Vice Chairperson. The Nominating/Governance Committee shall nominate the Chairperson and Vice Chairperson of the Board, to be voted on for approval by the entire Board at the annual meeting of the Board of Directors. Each Officer of the Board of Directors shall serve for a one (1) year term of office. Officers of the Board of Directors may serve unlimited terms in the same office. At such time as the current Chairperson and Vice Chairperson of the Board vacate that position, then all future Chairpersons and Vice Chairpersons of the Board shall be “independent” as is defined in Art. I, Section 1.3.

Section 2.2. Duties. The Chairperson shall preside at all meetings of the Board of Directors. Except as otherwise expressly provided herein, the Chairperson shall appoint all committee members and all committee chairpersons, subject to the ratification by and approval of a majority of the Board of Directors. The Chairperson shall have such other duties and responsibilities hereinafter set forth in these Bylaws and delegated by the Board from time to time.

The Vice Chairperson shall act in the absence of the Chairperson, and when so acting shall have all the authority and powers of the Chairperson. The Vice Chairperson shall perform such other duties as from time to time are assigned to him or her by the Chairperson.

Section 2.3. Successors. Each Officer shall deliver to his or her successor in office all official material of the Corporation not later than ten (10) days following the election of his or her successor.

## ARTICLE III

### Meetings of the Board of Directors

Section 3.1. Regular Meetings. The Board of Directors shall hold a regular monthly meeting on the first Thursday of each month, unless the Board of Directors shall otherwise designate another date for its regular monthly meetings.

Section 3.2. Annual Meeting. The regular meeting held in the month of January shall be the annual meeting of the Board of Directors.

Section 3.3. Special Meetings. Special meetings may be called by the Chairperson and shall be called at the written request of at least one-third (1/3) of the members of the Board of Directors.

Written notice of special meetings shall be considered duly given if mailed to each member of the Board of Directors at least three (3) days before such special meeting or if personally delivered to the home or office of each Director at least 24 hours before such special meeting. The notice shall state the business or the transaction for which the meeting has been called and no other business shall be transacted at such meeting unless by unanimous consent of the members of the Board of Directors present and participating. An emergency meeting of the Board of Directors may be called without the necessity of any notice so long as the notice provisions are waived by at least two-thirds (2/3) of the members of the Board of Directors.

Section 3.4. Quorum. A majority of the members of the Board of Directors with voting rights shall constitute a quorum of the Board of Directors for the transaction of business, and an act of the majority of the Directors present and voting at a meeting at which a quorum is present shall be the official act of the Board of Directors.

Section 3.5. Attendance. The members of the Board of Directors are expected to attend the regular monthly meetings of the Board of Directors. Any member, other than the President/Chief Executive Officer of the Corporation or the Chairman of the Board of Directors of Phoebe Putney Memorial Hospital, Inc., who shall fail to attend two (2) regular meetings of the Board of Directors during any consecutive twelve (12) month period, without the Chairperson of the Board of Directors excusing such absence, shall create a vacancy of that person's membership on the Board of Directors.

Section 3.6. Cancellation or Change of Regular Meetings. The Board of Directors, by a vote of two-thirds (2/3) of the members present and voting, may dispense with or alter the date of a monthly meeting at the monthly meeting preceding the monthly meeting to be dispensed with or altered.

Section 3.7. Action by Written Consent. Any action required or permitted to be taken by the Board of Directors under any provision of law, the Articles of Incorporation, or these Bylaws may be taken without a meeting of the Board of Directors by the collective consent of all the Directors with voting rights, in writing, setting forth the action so taken. Such written consents shall be filed with the proceedings of the Board of Directors and shall be made available for review at the next regular meeting of the Board of Directors. Such action by written consent shall have the same force and effect as if action were approved at a duly constituted meeting of the Board of Directors. Any certificate or other document filed under law relating to action so taken shall state that the action was taken by unanimous consent of the Board of Directors without a meeting and that the Bylaws authorized the Directors to so act.

Section 3.8. Telephonic Participation in Meetings. Members of the Board of Directors or any committee may participate in any meeting of the Board of Directors or of a Board committee by means of a conference telephone or similar communication equipment by which means all persons participating in the meeting can hear one another at the same time. Participation with proper notice by such means shall constitute presence in person at a meeting.

Section 3.9. Voting. Each Director with voting rights shall be entitled to one vote on any matter before the Board of Directors. Voting by proxy shall not be permitted.

Section 3.10. Proper Officers. For the purposes of these Bylaws, the Chairperson of the Board, the Vice Chairperson of the Board and the President/Chief Executive Officer of the Corporation shall each be deemed a “proper officer.” Whenever any resolution or action adopted by the Board of Directors or a Board Committee shall authorize the “proper officer” of the Corporation to execute any note or other document or take any other action or shall generally authorize any action without specifying the officer or officers authorized to take such action, any proper officer acting alone and without counter signatures may take such action on behalf of the Corporation.

## ARTICLE IV

### Committees of the Board of Directors

Section 4.1. Appointment of Committees. The Board of Directors shall have a Facilities Committee, Finance Committee, Pension and Benefit Committee, Nominating/Governance Committee, Bylaws Committee, Compensation Committee and Audit Committee, and such other standing or special committees of the Board of Directors that may be from time to time created by the Board. The Chairperson of the Board shall appoint the Directors, or such other persons as the Chairman designates, to serve on such standing committees and other special committees of the Board, subject to the ratification by and approval of a majority of the Board of Directors. The chairperson of each committee shall be a member of the Board of Directors of the Corporation and shall be appointed by the Chairperson of the Board. Vacancies of committee chairs shall be filled during the interim by appointment of the Chairperson of the Board. The Chairperson of the Board and the President/Chief Executive Officer of the Corporation shall each be ex-officio voting members of all committees, except the President/Chief Executive Officer is not a member of the Nominating/Governance Committee, the Compensation Committee, and the Audit Committee.

A committee shall limit its activities to the task or tasks for which the committee is organized, and will have only such authority and responsibility as specifically conferred upon it by the Board of Directors. All committees shall be subject to the control and general supervision of the Board of Directors. Each committee shall adopt written charters for its activities which shall be approved by the Board of Directors and shall meet as required and as set by policy of the Board of Directors.

One-half (1/2) of a committee’s members shall constitute a quorum for the carrying out of committee functions and actions.

Section 4.2. Committee Chairperson’s Duties. The chairperson of each committee shall have the following general duties, responsibilities and powers, together with such others as may be designated from time to time by the Board of Directors:

- (a) Coordinate committee activities through the designated management liaison;



- (b) Prepare an agenda for each committee meeting;
- (c) Preside or designate an alternate to preside at committee meetings;
- (d) Provide for maintenance of official records of the committee and appoint a secretary of the committee for that purpose;
- (e) Report committee activities and formal recommendations to the Board at its regular meetings;
- (f) Delegate specific responsibilities among committee members; and
- (g) Appoint members to subcommittees as necessary.

Section 4.3. Standing Committees. The Board of Directors shall have the following standing committees:

- (a) Facilities Committee. This committee shall maintain oversight of all property owned by the Corporation and its subsidiaries. This Committee shall also oversee and develop a facilities master plan.
- (b) Finance Committee. This committee shall recommend policy and maintain oversight on all matters relating to the funds, securities, debt and investments of the Corporation. It shall maintain a continuous and over-all review of income and expenditures and make recommendations on these matters as needed to the Board of Directors. This committee shall annually present to the Board of Directors a fiscal budget of anticipated receipts and expenditures for the coming year.
- (c) Pension and Benefit Committee. This committee shall review all matters related to the pension, benefit and welfare plans of the employees of the Corporation and its subsidiaries.
- (d) Nominating/Governance Committee. This committee shall (i) recommend to the Board a set of corporate governance principles applicable to the Corporation; (ii) review at least bi-annually the corporate governance principles and recommend changes, additions or modifications for approval by the Board of Directors; (iii) nominate the Chairperson and Vice Chairperson of the Board of Directors; and (iv) identify individuals qualified to become Directors of the Corporation or its subsidiaries and recommend that the Board select Director nominees at the next meeting of the Board of Directors. Members of this committee shall be Directors of either the Corporation or of a subsidiary corporation.
- (e) Compensation Committee. This committee shall (i) assist the Board in discharging its responsibilities relating to compensation of the Corporation's executives, (ii) in

consultation with management, establish the Corporation's general policies relating to employee compensation, and (iii) oversee the development and implementation of benefit and welfare programs for the Corporation's executives. All members of this committee shall be independent Directors of the Corporation as defined in Art. 1, Section 1.3.

- (f) Audit Committee. This committee shall provide advice and counsel to management regarding, and to assist the Board of Directors in its oversight of, (i) the integrity of the Corporation's financial statements, (ii) the Corporation's compliance with legal and regulatory requirements, (iii) the independent accountant's qualifications and independence, and (iv) the performance of the Corporation's internal audit function and independent accountant. This committee is empowered, without seeking Board approval, to retain persons having special competence, including outside legal, financial accounting and other advisors, as necessary to assist the committee in fulfilling its responsibility. All members of this committee shall be independent Directors as defined in Art. 1, Section 1.3.
- (g) Bylaws Committee. This committee shall review at least bi-annually the corporation's bylaws and recommend changes, additions or modifications for approval by the Board of Directors.
- (h) Investment Committee. This committee shall provide oversights to all invested funds, and shall be responsible for the selection and review of investment managers and consultants.

## ARTICLE V

### Officers of the Corporation

Section 5.1. General Provisions. The Officers of the Corporation shall consist of a President/Chief Executive Officer, a Secretary, a Treasurer/Chief Financial Officer, and such other officer positions as the Board may create, each of whom shall be elected by, and shall serve at the pleasure of, the Board of Directors. Each Officer shall be elected or appointed for a term of office running until the next annual meeting of the Board of Directors or such other term as may be provided by (i) resolution of the Board of Directors or (ii) the appointment to office or (iii) by employment contract. Each Officer shall serve during the term of office for which he or she is elected or appointed and until his or her successor has been elected or appointed and has qualified, or until his or her earlier resignation, removal from office or death.

Any two offices may be held by the same person, except that the President/Chief Executive Officer may not hold any other officer position.

Section 5.2. Removal. Any Officer may be removed from office, with or without cause, upon the majority vote of the Directors present at any meeting of the Board of Directors at which a quorum is present.

Section 5.3. President/Chief Executive Officer. The President/Chief Executive Officer shall be given the necessary authority and be held responsible for supervision of the total administration of the Corporation in all its activities and departments, subject only to such policies as may be adopted or issued by the Board or by any of its committees to which the Board has delegated power for such action. He or she shall act as the duly authorized representative of the Board of Directors in all matters in which the Board of Directors has not formally designated some other person for that specific purpose. The President/Chief Executive Officer shall be a member of the Board of Directors and an ex-officio voting member of all committees of the Board of Directors except the Compensation Committee and the Audit Committee.

Section 5.4. Duties of President/Chief Executive Officer. The authority and duties of the President/Chief Executive Officer shall include among other things:

- (a) Carrying out all policies established by the Board of Directors and formulating and enforcing all rules and regulations necessary and desirable for the proper conduct of the Corporation;
- (b) Submitting to the Board of Directors for approval a plan of organization of the personnel and others concerned with the operation of the Corporation;
- (c) Assisting the Secretary of the Corporation with all the duties assigned to the Secretary and assuring that all notices are given in accordance with these Bylaws or as required by law;
- (d) Selecting, employing, controlling and discharging all employees, and developing and maintaining personnel policies and practices for the Corporation;
- (e) Ensuring that all physical properties of the Corporation are kept in a good state of repair and operating condition;
- (f) Making and executing all contracts pertaining to the ordinary affairs and operations of the Corporation, except as to the execution of those contracts specifically reserved to the Board;
- (g) Supervising all business affairs and ensuring that all funds are collected and expended to the best possible advantage of the Corporation;
- (h) Serving as the liaison officer and channel of communication between the Board of Directors or any of its committees and all other organizations working on behalf of the Corporation;

- (i) Attending all meetings of the Board of Directors; and
- (j) Performing any other duty that may be necessary in the best interest of the Corporation or that the Board of Directors shall require.

Section 5.5. Secretary. The Secretary shall attend all meetings of the Board of Directors and any and all committees thereof; shall keep minutes of all meetings of the Board of Directors and any and all committees thereof; shall have charge of the corporate books and seal of the Corporation; and shall perform such other duties and have such other powers as may from time to time be delegated to him or her by the Board of Directors.

The Secretary shall have the discretion to delegate his or her responsibilities to another person.

Section 5.6. Treasurer/Chief Financial Officer. The Treasurer/Chief Financial Officer shall be charged with the management of all financial affairs of the Corporation; shall have the power to recommend action concerning the Corporation's affairs to the Board of Directors; and shall perform such other duties and have such other powers as may from time to time be delegated to him or her by the Board of Directors.

In addition to the foregoing duties and without limitation thereof, the Treasurer/Chief Financial Officer shall:

- (a) Prepare an annual budget showing, but not limited to, anticipated revenue and expenditures; be responsible for all funds and securities of the Corporation; and receive and give receipts for monies due and payable to the Corporation from any source whatever and deposit all such monies in the name of the Corporation in such banks or other depository as shall be selected in accordance with the Bylaws;
- (b) Submit regularly to the Board of Directors, or its authorized committees, periodic reports showing the financial activities of the Corporation; and prepare and submit such special reports as may be required by the Board of Directors;
- (c) Keep and maintain an up-to-date inventory of all property and equipment (including medical) owned or leased by the Corporation; and
- (d) Review the annual budgets of Phoebe Putney Memorial Hospital, Inc. and other affiliated corporations and make appropriate recommendations to the Board of Directors of the Corporation concerning their approval.

## ARTICLE VI

### Conflicting Regulations

No charters, constitutions, bylaws, rules, provisions or regulations of any organization operating as a part of the Corporation or as an agency thereof shall be in conflict with or repugnant or contrary to these Bylaws or to the Articles of Incorporation of the Corporation or to the laws of the State of Georgia or of the United States.

## ARTICLE VII

### Amendments

These Bylaws shall be reviewed at least bi-annually by the Bylaws Committee of the Board of Directors and, upon the recommendation of such committee, may be amended by an affirmative vote of at least two-thirds (2/3) of the voting membership of the Board of Directors present at a regular monthly meeting or any special meeting of the Board of Directors.

## ARTICLE VIII

### Indemnification by Corporation

Section 8.1. Indemnification. Any person (including the heirs, executors, administrators or estate of such person) who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including any action by or in the right of the Corporation), by reason of the fact that he or she is or was a director, officer, employee, consultant or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, consultant or agent of another corporation, partnership, joint venture, trust or other enterprise, may be indemnified by the Corporation against expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation (and with respect to any criminal action or proceeding, if he or she had no reasonable cause to believe his or her conduct was unlawful), to the maximum extent permitted by, and in the manner provided by, the Georgia Nonprofit Corporation Code.

Section 8.2. Insurance. The Corporation may purchase and maintain insurance at its expense, to protect itself and any such person against any such liability, cost, payment or expense, whether or not the Corporation would have the power to indemnify such person against such liability

ARTICLE IXCorporate Seal

The Corporation's Board of Directors may provide for a corporate seal in such form and with such inscription as it shall determine, provided such seal shall always contain the word "Non-profit."

ARTICLE XWaiver of Notice

Whenever any notice is required to be given under the provisions of the Georgia Nonprofit Corporation Code, of the Articles of Incorporation, or of these Bylaws, a waiver thereof in writing signed by the person entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice where such waiver is permitted by State law. All waivers shall be filed with the corporate records, or shall be made a part of the minutes of the relevant meeting.

ARTICLE XIReserve Powers

The Corporation may create subsidiary corporations wherein the Corporation is the sole shareholder, partner or member of the subsidiary corporation. Said subsidiary corporations may not take any of the following actions without the prior approval of the Corporation:

- (a) Adopt a plan of dissolution of the subsidiary corporation;
- (b) Engage in, or enter into, any transaction providing for the sale, mortgage or other disposition of all or substantially all of the assets of the subsidiary corporation;
- (c) Adopt a plan of merger or consolidation of the subsidiary corporation with another corporation;
- (d) Adopt any annual or long-term capital and operational budgets of the subsidiary corporation or approve any changes therein exceeding ten percent (10%) of any budgeted item;
- (e) Amend or take any action to terminate any lease between the subsidiary corporation and the Hospital Authority of Albany-Dougherty County, Georgia with respect to Phoebe Putney Memorial Hospital;

- (f) Take any action which would, or reasonably could be expected to, cause the subsidiary corporation to exceed its annual budget for capital expenditures;
- (g) Incur an expenditure for any particular project or service of or for the subsidiary corporation in an amount in excess of \$1,000,000.00;
- (h) Take any action which would, or reasonably could be expected to, result in an adverse variance (on an annualized basis) of total expenses of greater than two-percent (2%) of the subsidiary corporation's total annual budgeted expenses;
- (i) Appoint or remove the independent auditors of the subsidiary corporation;
- (j) Select or remove the Corporate Officers of the subsidiary corporation;
- (k) Adopt or permit any changes to any long-term, strategic or master institutional plans;
- (l) Enter into any debt obligation;
- (m) Approve any annual operating or capital budgets; or
- (n) Amend the Articles of Incorporation or Bylaws of the subsidiary corporation.

IN WITNESS WHEREOF, Phoebe Putney Health System, Inc. has caused these Bylaws to be executed, its corporate seal affixed and the foregoing to be attested, all by duly authorized officers on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

PHOEBE PUTNEY HEALTH SYSTEM, INC.

BY: \_\_\_\_\_  
LEMUEL GRIFFIN, Chairman

ATTEST: \_\_\_\_\_  
KERRY LOUDERMILK, Secretary

[CORPORATE SEAL]

Georgia,  
Dougherty County

### **Agreement for Voluntary Payment in Lieu of Taxes**

This Agreement (the "Agreement" or sometimes referred to herein as the "VPILOT Agreement"), dated as of the first day of August, 2012, by and between Phoebe Putney Memorial Hospital, Inc. ("PPMH") a Georgia non-profit corporation and Phoebe Putney Health System, Inc. ("PPHS") a Georgia non-profit corporation, on the one hand (collectively referred to herein as "Phoebe"), and Hospital Authority of Albany-Dougherty County, Georgia, an instrumentality of the State of Georgia (the "Authority"), on the other hand.

#### **WITNESSETH:**

WHEREAS, PPMH and PPHS are each exempt from federal income taxes pursuant to IRC § 501(c)(3), and each was originally established and organized by the Authority; and

WHEREAS, PPMH was formed by Authority to assist in fulfilling the Authority's public mission pursuant to the Hospital Authorities Law, O.C.G.A. § 31-7-70 et seq., through PPMH's lease and operation of Phoebe Putney Memorial Hospital and related assets, pursuant to the terms of a Lease and Transfer Agreement between the Authority and PPMH, originally dated December 1, 1990 (as the same may be amended from time to time, the "Lease"); and

WHEREAS, on December 15, 2011, the Authority purchased from Hospital Corporation of America (a for profit corporation) or affiliates thereof, certain tangible and intangible personal properties and certain real properties (the tangible personal property and real property so acquired being collectively referred to herein as the "Acquired Tangible Properties"), said Acquired Tangible Properties being located in Dougherty County, Georgia and further described in Exhibit "A" attached; and

WHEREAS, it is anticipated that certain of the Acquired Tangible Properties, especially the tangible personal property included therein, may from the date of the Authority's acquisition thereof and for the term of the Lease, be replaced, substituted for, upgraded, expanded, modified or disposed of and the Acquired Tangible Property as the same changes from time to time, shall be referred to herein as the "Phoebe North Properties"; and

WHEREAS, the Authority and Phoebe each desire to amend and restate the Lease, effective as of August 1, 2012, whereby PPMH will continue to lease and operate the properties heretofore leased and operated by PPMH, and it will from such effective date, also lease and operate the Phoebe North Properties; and

WHEREAS, pursuant to the laws of the State of Georgia, upon the Authority becoming owner of the Acquired Tangible Properties, the Acquired Tangible Properties became exempt from ad valorem taxes, thereby reducing the ad valorem tax base in Dougherty County, Georgia, beginning in 2012; and



WHEREAS, it is and has been the stated intent of both the Authority and Phoebe that the Authority's acquisition of the Acquired Tangible Properties should not have the effect of negatively impacting the ad valorem tax base of Dougherty County, the City of Albany and the Dougherty County School System; and

WHEREAS, for the calendar year 2011, ad valorem taxes with respect to the Phoebe North Properties, shown on Exhibit "A" were paid to the Tax Director of Dougherty County, Georgia in the total amount of \$378,602.72; and

WHEREAS, the parties further desire to have a mechanism in place whereby future changes in the fair market value of the Phoebe North Properties, or in the millage rate generally applicable to real and personal property in Dougherty County, Georgia, may cause adjustments in the amount of the VPILOT Payments described and defined below; and

WHEREAS, PPHS acquired certain Dougherty County property in the aforementioned transaction involving Phoebe North which the parties hereto wish to have subject to the same terms and conditions as the property acquired by the Authority; and

WHEREAS, the parties wish to enter into this VPILOT Agreement.

#### AGREEMENT

NOW, THEREFORE, in consideration of the promises and agreements of the Parties contained herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, it is hereby agreed between and among the parties hereto, as follows:

1. Beginning in calendar year 2012 and continuing annually thereafter for the term of the Lease, Phoebe will make a payment (the "VPILOT Payment") with respect to the Phoebe North Properties, to be used for the same purposes as ad valorem taxes, in the following amounts: for the calendar year 2012, the VPILOT Payment shall be the sum of \$378,602.72, which is the amount of ad valorem tax paid with respect to the Acquired Tangible Properties in 2011; and beginning 2013 and thereafter, the annual VPILOT Payment is to be an amount which is the equivalent of the ad valorem taxes which would have been due with respect to the Phoebe North Properties if the same were for any reason not exempt for ad valorem tax purposes. The agreement to make the VPILOT Payments with respect to any property included in the Phoebe North Properties shall only apply so long as such property continues to be owned by the Authority or Phoebe and remains exempt from ad valorem taxes, so that in no event is Phoebe paying ad valorem tax with respect to certain property while also making a VPILOT Payment with respect to the same property.
2. Annual VPILOT Payments made pursuant to this Agreement shall be paid by Phoebe directly to the Tax Director of Dougherty County, Georgia (or as otherwise directed by the Authority) and such payments shall be due on or before the 20<sup>th</sup> day of December in each calendar year beginning in 2012.

3. As is implicit in paragraph 1. above, the VPILOT Payment amount may be affected by future changes in the Dougherty County millage rates as well as future changes reflecting the fair market value of the Phoebe North Properties.
4. In the event of a general millage rate increase by Dougherty County, Georgia, the City of Albany, Georgia, or the Board of Education of Dougherty County, the amount of payment made hereunder shall be adjusted so that the amount of payment to the Tax Director shall be in an amount equivalent to that payment which would be owed if the subject property were subject to taxation.
5. Notwithstanding that the property hereunder is tax exempt and would not be revalued in the event of a general reevaluations of fair market value for the properties on the tax digest, which might affect the taxable value of the property covered hereunder, if it were not tax exempt, the payment made hereunder will be subject to further agreement between the parties hereto so as to make corresponding adjustments in the amounts to be paid hereunder.
6. Phoebe shall not be required to make a payment in lieu of taxes which is more than the amount that would otherwise properly be due to the Tax Director of Dougherty County, Georgia, in real property taxes and personal property taxes as if the property described in Exhibit A was not exempt from such property taxation.
7. The Dougherty County property acquired by PPHS in the acquisition aforementioned shall be subject to the same terms and conditions as are set forth herein for the property acquired by the Authority.
8. This Agreement may only be enforced by the direct parties hereto or their proper successors or assigns, and no third party shall have rights or standing to seek to enforce the terms of this VPILOT Agreement or to seek any other legal or equitable remedy thereunder.
9. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes any and all prior agreements relating thereto, whether written or oral. This Agreement may only be amended by writing executed by all of the parties hereto, although it may be unilaterally terminated by the Authority upon 30 day prior written notice to Phoebe after a finding by the Authority that the payments hereunder materially threaten the ability of Phoebe and the Authority to fulfill their respective obligations under the Hospital Authorities Law and under the lease between and among the parties hereto.
10. This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns, including the parties' successors in interest; provided, however, there shall be no assignment of any rights, privileges, obligations or benefits which are the subject of this Agreement except upon the written consent of all parties hereto.

11. If any provision of this Agreement or its application is held by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall remain valid and enforceable.
12. This Agreement may be executed in any number of counterparts with the same effect as if all assigning parties had signed the same documents. All counterparts shall be construed together and shall constitute the same instrument.
13. Each of the parties represents and warrants that the execution, delivery and performance of this Agreement (i) has been duly authorized and does not require any other consent or approval, and (ii) will not result in or constitute a default under any indenture or credit agreement or any other agreement or instrument to which any of them is a party. Each party represents that this Agreement shall constitute the legal, valid and binding agreement of the parties enforceable in accordance with its terms.
14. All notices, demands and requests to be given or made hereunder to or by Phoebe shall be in writing and shall be deemed properly given or made upon delivery in person or by United States mail, Certified or Registered mail, Return Receipt Requested, postage prepaid, addressed as follows:

As to Phoebe:

Mr. Joel Wernick, President and CEO  
Phoebe Putney Memorial Hospital  
P.O. Box 1828  
Albany, Georgia 31702

with copy to:

Mr. Thomas S. Chambless, Sr. Vice President and General Counsel  
Phoebe Putney Memorial Hospital  
P.O. Box 1828  
Albany, Georgia 31701

As to Hospital Authority:

Mr. Ralph Rosenberg, Chairman  
Hospital Authority of Albany-Dougherty County, Georgia  
P. O. Box 70752  
Albany, GA 31708-0752

with copy to:

Perry & Walters, LLP  
Attn: Mr. James E. Reynolds  
PO Box 71209  
Albany, GA 31708-1209

Any of such addressees may be changed at any time upon written notice given in accordance with this section to the other party by the party effecting the change. Any time periods commencing with notice prescribed by the terms of this Agreement shall commence with the date of receipt of written notice as provided under this section.

15. Time is of the essence in the performance of each party of its obligations hereunder.

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

PHOEBE PUTNEY MEMORIAL HOSPITAL, INC.

BY:   
Its President

PHOEBE PUTNEY HEALTH SYSTEM, INC.

BY:   
Its President

HOSPITAL AUTHORITY OF ALBANY-DOUGHERTY  
COUNTY, GEORGIA

BY:   
Its Chairman