

## 7.12 Hospital Advisory Board.

(a) As of the Effective Time, the Parties shall establish an advisory board (the “**Advisory Board**”) which shall continue in existence for the Advisory Board Designation Period. During the Advisory Board Designation Period, the Advisory Board will be composed of eight (8) individuals appointed as follows: (i) four (4) of the Advisory Board members, and their replacements, as determined by the Seller Representative, shall be appointed by Seller Representative (the “**Seller Directors**”) and (ii) four (4) of the Advisory Board members, and their replacements, as determined by Buyer, shall be appointed by Buyer, who may be employees of Buyer or any of its Affiliates (the “**Buyer Directors**”). Each Seller Director shall hold office until his or her successor is appointed by the Seller Representative. Seller Directors may be removed with or without cause only by the Seller Representative. Each Buyer Director shall hold office until his or her successor is appointed by Buyer. Buyer Directors may be removed with or without cause only by Buyer. No individual may be appointed as a Seller Director if such individual has a conflict of interest under HCA’s conflict of interest policy (as may be amended from time to time); provided that any disagreement among the other members of the Advisory Board regarding whether such individual has a conflict of interest shall be resolved in accordance with Section 13.3. Notwithstanding the policies applicable to advisory boards at hospitals owned and operated by Affiliates of Buyer, the Advisory Board shall act through block voting, meaning that affirmative action of the Advisory Board can only be taken where a majority of both the Seller Directors and the Buyer Directors, each, respectively, voting as a block at a meeting in which a quorum is present, vote in favor of the particular measure. The quorum requirement shall be satisfied where not less than seventy-five percent (75%) of each of the Seller Directors and the Buyer Directors are present in person upon commencement of the Advisory Board meeting. The purposes of the Advisory Board will be: (I) approving any modifications to Buyer’s obligations set forth in Section 7.10, this Section 7.12, Section 7.13, and Section 7.15 (the “**Continuing Obligations**”); provided that the Advisory Board shall not have any rights or authority regarding the Continuing Obligations with respect to any Hospital owned by a Local Hospital as of the Execution Date and for which the Local Advisory Boards have authority pursuant to Section 7.12(b); (II) consulting with and providing recommendations to Buyer regarding Capital Expenditures as contemplated by Section 7.14(a); and (III) receiving reports prepared by Buyer pursuant to Sections 7.14(e) and 7.17.

(b) As of the Effective Time, Buyer and each Local Hospital shall establish an advisory board (each a “**Local Advisory Board**” and, collectively, the “**Local Advisory Boards**”) which shall continue in existence for the applicable Local Advisory Board Designation Period. During the applicable Local Advisory Board Designation Period, such Local Advisory Board will be composed of eight (8) individuals appointed as follows: (i) four (4) of the Local Advisory Board members shall be appointed by the board of the Local Hospital (the “**Hospital Local Directors**”) and their replacements shall be determined by the other Hospital Local Directors of the applicable Local Advisory Board at such time, and (ii) four (4) of the Local Advisory Board members, and their replacements, as determined by Buyer, shall be appointed by Buyer, who may be employees of Buyer or any of its Affiliates (the “**Buyer Local Directors**”). No individual may be appointed as a Hospital Local Director if such individual has a conflict of interest under HCA’s conflict of interest policy (as may be amended from time to time); provided that any disagreement among the other members of the applicable Local Advisory Board regarding whether such individual has a conflict of interest shall be resolved in accordance with Section 13.3. The initial Hospital Local Directors shall be identified as of the Closing Date. Each Hospital Local Director shall serve during the Local Advisory Board Designation Period until his or her death or resignation, unless removed from office upon the affirmative vote of the other Hospital Local Directors. Each Buyer Local Director shall hold office until his or her successor is appointed by Buyer. Buyer Local Directors may be removed with or without cause only by Buyer. The voting and quorum requirements set forth in the eighth and ninth sentences of Section 7.12(a) shall apply *mutatis mutandis* to each Local Advisory Board. The purposes of each Local Advisory Board will be (I) approving the discontinuance of

the provision of services at its applicable Local Hospital Facility pursuant to Section 7.13(b), (II) approving the sale or closure of its applicable Local Hospital Facility pursuant to Section 7.13(c) and (III) approving any change to the Uninsured and Charity Care Policy of its applicable Local Hospital Facility pursuant to Section 7.15 (collectively, the “**Local Continuing Obligations**”).

### 7.13 Operations of the Hospitals.

(a) Unless otherwise consented to in writing by the Advisory Board for a period of ten (10) years immediately following the Closing Date, Buyer shall not discontinue the provision of the services set forth on Schedule 7.13(a) (the “**Mission Hospital / CarePartners Services**”) at the Mission Hospital Campus Facility or the Community CarePartners Facilities, as applicable, subject to Force Majeure making the provision of such services impossible or commercially unreasonable (but only for the period of Force Majeure and the applicable Remediation Period). From and after such ten (10)-year period, unless otherwise consented to in writing by the Advisory Board Buyer shall continue the provision of each Mission Hospital / CarePartners Service at the Mission Hospital Campus Facility or the Community CarePartners Facilities, as applicable, subject to Force Majeure making the provision of such services impossible or commercially unreasonable (but only for the period of Force Majeure and the applicable Remediation Period) until such time as a Contingency is finally determined to have occurred in accordance with Section 7.13(d) with respect to the provision of such Mission Hospital / CarePartners Service at such Mission Hospital Campus Facility or the Community CarePartners Facilities, as applicable; provided, that prior to terminating any Mission Hospital / CarePartners Service, Buyer shall have first used, prior to the delivery of the applicable Contingency Notice pursuant to Section 7.13(d), commercially reasonable efforts to adjust its operation of such Mission Hospital / CarePartners Service to resolve the adverse impact of such Contingency and reasonably determined that satisfactory resolution of such Contingency is not feasible using commercially reasonable efforts.

(b) Unless otherwise consented to in writing by the applicable Local Advisory Board, for a period of five (5) years immediately following the Closing Date, Buyer shall not discontinue the provision of the services set forth on Schedule 7.13(b) (the “**Member Hospital Facility Services**”) at any Member Hospital Facility, subject to Force Majeure making the provision of such services impossible or commercially unreasonable (but only for the period of Force Majeure and the applicable Remediation Period). From and after such five (5)-year period, Buyer shall have the right to discontinue any Member Hospital Facility Service at any of the Member Hospital Facilities; provided that Buyer shall maintain emergency services at each of the Member Hospital Facilities for a period of at least ten (10) years immediately following the Closing Date, subject to Force Majeure making the provision of such services impossible or commercially unreasonable (but only for the period of Force Majeure and the applicable Remediation Period). For the avoidance of doubt, this Section 7.13(b) shall not apply to the Mission Health Campus Facility or the Community CarePartners Facilities that are addressed in Section 7.13(a).

(c) Unless otherwise consented to in writing by (i) with respect to any Material Facility other than the Local Hospital Facilities, the Advisory Board, or (ii) with respect to any Local Hospital Facility, its applicable Local Advisory Board, for a period of ten (10) years immediately following the Closing Date, Buyer shall not sell or close any of the Material Facilities unless Force Majeure makes the continued operation by Buyer of the Material Facilities impossible or commercially unreasonable; provided that if the Force Majeure is capable of being remediated in a commercially reasonable manner within a six (6) month period following the occurrence of the Force Majeure such that the continued operation of the Material Facility would cease to be impossible or commercially unreasonable, Buyer shall use commercially reasonable efforts to mitigate the Force Majeure for up to six (6) months prior to such sale or closure. From and after such ten (10)-year period, unless otherwise consented to in writing by (i) with respect to any Material Facility other than the Local Hospital Facilities, the Advisory Board, or (ii) with respect to any Local Hospital Facility, its applicable Local Advisory

Board, Buyer shall not close any Material Facility (unless Force Majeure makes the continued operation by Buyer of the Material Facilities impossible or commercially unreasonable; provided that if the Force Majeure is capable of being remediated in a commercially reasonable manner within the period described in this proviso such that the continued operation of the Material Facility would cease to be impossible or commercially unreasonable, Buyer shall use commercially reasonable efforts to mitigate the Force Majeure for up to the earlier of (x) six (6) months prior to such closure or (y) such time as a Contingency is finally determined to have occurred in accordance with Section 7.13(d)) until such time as a Contingency is finally determined to have occurred in accordance with Section 7.13(d) with respect to such Material Facility; provided, that prior to closing such Material Facility, Buyer shall have first used, prior to the delivery of the applicable Contingency Notice pursuant to Section 7.13(d), commercially reasonable efforts to adjust its operation of such Material Facility to resolve the adverse impact of such Contingency and reasonably determined that satisfactory resolution of such Contingency is not feasible using commercially reasonable efforts.

(d) In the event that Buyer determines that a Contingency has occurred with respect to a Mission Hospital / CarePartners Service or the operation of a Material Facility, as the case may be, Buyer may deliver to Seller Representative a notice (a “**Contingency Notice**”) describing in reasonable detail the Contingency and the calculations, if any, underlying Buyer’s determination with respect to the same. Seller Representative may in good faith dispute the occurrence of the Contingency set forth in the Contingency Notice by delivering written notice to Buyer within thirty (30) days of Seller Representative’s receipt of the Contingency Notice, which notice shall state in reasonable detail the basis for such dispute and Seller Representative’s calculations, if any, underlying the same; provided, however, that if Seller Representative does not so deliver a notice of dispute, the Contingency set forth in the Contingency Notice shall be deemed to have been finally determined to have occurred for purposes of Sections 7.13(a) and 7.13(c). If Seller Representative does so deliver a notice of dispute, Seller Representative and Buyer shall attempt to reconcile their respective determinations as to whether the Contingency set forth in the Contingency Notice occurred, which reconciliation, if any, shall be in a writing signed by any Seller Representative and Buyer and shall be Final and Binding upon Sellers and Buyer for purposes of Sections 7.13(a) and 7.13(c). If Seller Representative and Buyer are unable to reconcile their respective determinations within thirty (30) days following Seller Representative’s delivery to Buyer of its notice of dispute, then (A) if the Contingency set forth in the Contingency Notice is of a type contemplated by clause (iv) of the definition of “Contingency”, Seller Representative and Buyer shall submit the dispute to the Accounting Firm for resolution pursuant to the process set forth below, (B) if the Contingency set forth in the Contingency Notice is of a type contemplated by clauses (i)-(iii) or (v) of the definition of “Contingency”, Sellers and Buyer shall resolve the dispute pursuant to the arbitration process set forth in Section 13.3, and any such resolution of the dispute shall be Final and Binding upon Sellers and Buyer for purposes of Sections 7.13(a) and 7.13(c) and (C) if the Contingency set forth in the Contingency Notice is of a type contemplated by clause (vi) of the definition of “Contingency”, the dispute shall be resolved by the affirmative vote of the Advisory Board, with respect to any Mission Hospital / CarePartners Service or any Material Facility that is not a Local Hospital Facility, or the affirmative vote of the applicable Local Advisory Board, with respect to its affected Local Hospital Facility, provided that no Seller Director or Hospital Local Director, as applicable, unreasonably withholds his or her affirmative vote. In the event that a dispute is submitted to the Accounting Firm pursuant to this Section 7.13(d): (A) Buyer and Seller Representative shall make readily available to the Accounting Firm the financial books and records relevant to the dispute, including any accountants’ work papers (subject to the execution of any access letters that such accountants may require in connection with the review of such work papers); (B) Buyer and Seller Representative shall enter into a customary engagement letter with the Accounting Firm, which engagement letter shall explicitly provide that, in resolving the amounts in dispute, the Accounting Firm shall (x) consider only those items or amounts disputed by Seller Representative in its dispute notice; (y) not assign a value to any item or amount in dispute greater than the greatest value for such item or amount assigned by Buyer or Seller

Representative, or less than the smallest value for such item or amount assigned by Buyer or Seller Representative; and (z) act as an expert and not as an arbitrator; (C) the Accounting Firm's determination will be based solely upon information presented by Buyer and Seller Representative, and not on the basis of independent review; (D) Buyer and Seller Representative shall cause the Accounting Firm to deliver to Buyer and Seller Representative as promptly as practicable (but in any event within thirty (30) days of its retention) a written report setting forth its resolution of the dispute; and (E) Buyer and Seller Representative shall be responsible for the fees and expenses of the Accounting Firm pro rata, as between Buyer and Seller Representative, in proportion to the relative difference between the positions taken by Buyer and Seller Representative compared to the determination of the Accounting Firm. Buyer shall also deliver a copy of any Contingency Notice (i) to the Advisory Board with respect to a Contingency relating to a Material Facility other than the Local Hospital Facilities or (ii) to the applicable Local Advisory Board with respect to a Contingency relating to a Local Hospital Facility.

(e) Unless otherwise consented to in writing by the Advisory Board, for a period of two (2) years immediately following the Closing Date, Buyer shall not discontinue the provision of long-term acute care services at the St. Joseph campus of Mission Hospital (Asheville, North Carolina) (the "**LTAC Services**"), subject to Force Majeure making the provision of such services impossible or commercially unreasonable (but only for the period of Force Majeure and the applicable Remediation Period). From and after such two (2)-year period, Buyer shall have the right to discontinue any LTAC Service at the St. Joseph campus of Mission Hospital (Asheville, North Carolina).

#### **7.14 Capital Expenditures.**

(a) Within five (5) years following the Effective Time, Buyer or any of its Affiliates shall make Capital Expenditures (excluding the Committed Capital Projects other than any Additional New Tower Expenditures) equal to or greater than the Capital Expenditure Target; provided, however, such five (5) year period shall be extended as reasonably necessary to allow Buyer and its Affiliates sufficient time to make such Capital Expenditures to the extent the failure or inability of Buyer and its Affiliates to make such Capital Expenditures results, in whole or in part, from (i) Force Majeure (but only for the period of Force Majeure and the applicable Remediation Period) or (ii) Buyer's or its Affiliates' failure to obtain any requisite Approvals (other than due to an intentional act or omission of Buyer or its Affiliate that was the principal cause of such failure to obtain Approval ) (the calendar day immediately following such five (5)-year period, as may be extended pursuant to the foregoing proviso, the "**Post-Closing Capital Expenditure Deadline**").

(b) If Buyer and its Affiliates have not made Capital Expenditures in an aggregate amount equal to or greater than the Capital Expenditure Target prior to the Post-Closing Capital Expenditure Deadline, Buyer shall deposit within thirty (30) days of such deadline the Cap Ex Shortfall Amount into an escrow account (the "**Cap Ex Escrow Account**") pursuant to an escrow agreement in a form substantially similar to Exhibit O attached hereto, subject to commercially reasonable changes required by the applicable escrow agent. The date on which the Cap Ex Shortfall Amount is to be deposited into the Cap Ex Escrow Account is referred to herein as the "Escrow Due Date" for such funds. All funds in the Cap Ex Escrow Account shall remain the property of Buyer, and Buyer shall be permitted to utilize the funds in the Cap Ex Escrow Account to make the remainder of such Capital Expenditures; provided, however, that Seller Representative shall be entitled to the earnings on all amounts in such Cap Ex Escrow Account (and shall pay any Taxes arising therefrom) until such time as Buyer and its Affiliates have made Capital Expenditures in an aggregate amount equal to or greater than the Capital Expenditure Target, after which Buyer shall have satisfied its obligation under Section 7.14(a) and this 7.14(b) to make Capital Expenditures. The funds placed into the Cap Ex Escrow Account shall be disbursed to (i) fund Capital Expenditures as directed by Buyer, and (ii) reimburse Buyer and its Affiliates for Capital Expenditures made by them.