

CHAPTER 907
Lakewood Hospital

EDITOR'S NOTE: Ordinance 63-86, passed January 5, 1987, approved the transfer of the operation, management and assets of Lakewood Hospital from the Board of Trustees of Lakewood Hospital to Lakewood Hospital Association, authorizing the execution and delivery of a lease between the City of Lakewood and Lakewood Hospital Association, and approving and authorizing related matters. Copies of Ordinance 63-86 may be obtained, at cost, from the Clerk of Council.

907.01 REAL ESTATE FOR LAKEWOOD HOSPITAL.

Council hereby declares it necessary and conducive to the public health and general welfare to establish a municipal hospital of the City to be known as The Lakewood Hospital of Lakewood, Ohio, and hereby authorizes the Mayor to take all necessary steps to acquire by gift, in the name of the City, the real estate of The Lakewood Public Hospital Company described as follows:

Parcel 1. Situated in the City of Lakewood, County of Cuyahoga and State of Ohio and known as being part of original Rockport Township Section No. 22, and bounded and described as follows:

Beginning at the intersection of the westerly line of land conveyed to Joseph Hall, by deed recorded in Volume 31, page 686 of Cuyahoga County Records, with the southerly line of Detroit Street; thence southerly along said westerly line, 200 feet; thence westerly parallel with Detroit Street, 100 feet; thence northerly parallel with the westerly line of land so conveyed to Hall, 200 feet to the southerly line of Detroit Street; thence easterly along the southerly line of Detroit Street, 100 feet to the place of beginning, be the same more or less, but subject to all legal highways.

Parcel 2. Situated in the City of Lakewood, County of Cuyahoga and State of Ohio, and known as being part of original Rockport Township Section No. 22, and bounded and described as follows:

Beginning on the southerly line of Detroit Avenue at the northwesterly corner of land conveyed to C. Lee Graber by Adam J. Knopf and Nellie Knopf, husband and wife, by deed recorded in Volume 1116, page 267 of Cuyahoga County Records; thence southerly along the westerly line of land so conveyed to Graber, 155 feet to the northeasterly corner of Sublot No. 132 of the "Belle Avenue Allotment" as shown by the recorded plat in Volume 41 of Maps, page 23, of Cuyahoga County Records; thence westerly along the northerly line of such Sublot No. 132, about 74-16/100 feet to the easterly line of Belle Avenue; thence northerly along such easterly line of Belle Avenue, about 148-37/100 feet to the southerly line of Detroit Avenue; thence easterly along said southerly line of Detroit Avenue about 75-9/100 feet to the place of beginning, be the same more or less but subject to all legal highways.

Parcel 3. Situated in the City of Lakewood, County of Cuyahoga and State of Ohio, and known as being all of Sublots Nos. 129, 130, 131 and 132 in the Belle Avenue Allotment of part of original Rockport Township Section No. 22, as shown by the recorded plat in Volume 41, page 23, of Cuyahoga County Records of Maps.

The Mayor is also authorized to take all necessary steps to acquire by gift, in the name of the City, the equipment and personal property of such Company used and useful in connection with the operation of the hospital of such Company, and to take all necessary steps within a reasonable time for the acceptance by the City of such property. Documents pertaining to the title shall be approved by the Director of Law. (Ord. 3136. Passed 9-2-30.)

907.02 ISSUANCE AND SALE OF BONDS TO PURCHASE REAL ESTATE.

Upon the transfer of all of the property, real and personal, of The Lakewood Public Hospital Company to the City and acceptance thereof, Council shall by ordinance establish a municipal hospital to be known as The Lakewood Hospital, for the purpose of using and maintaining the property so transferred to the City until other suitable hospital facilities are provided by the City as determined by Council. For such purpose, in accordance with the general laws and as authorized by the electors of the City, Council may issue and sell bonds in such amounts as may be necessary for the procuring of the necessary real estate

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and the erection, furnishing and equipping of such Hospital or other Hospital facilities which may be provided by the City at any location selected by the duly authorized officials of the City.
(Ord. 3136. Passed 9-2-30.)

907.03 LAKEWOOD HOSPITAL ESTABLISHED.

Council hereby declares it necessary and conducive to the public health and general welfare to establish and it hereby does establish a municipal hospital of the City to be known as The Lakewood Hospital.
(Ord. 3160. Passed 12-1-30.)

907.04 CLERK OF BOARD OF TRUSTEES.

The Board of Trustees of Lakewood Hospital shall appoint a Clerk, who shall perform such duties as are prescribed by the Board and who shall receive such compensation as is established by the Board, which compensation shall be subject to approval of Council.
(Ord. 26-68. Passed 5-6-68.)

907.05 PAYMENT OF HOSPITAL RECEIPTS; RECORDS OF TRANSACTIONS; REQUISITIONING SUPPLIES.

All receipts of the City Hospital shall be paid promptly to the Director of Finance at such times and in such manner as he shall direct, and a complete record of all transactions in connection with the operation, control and management of the Hospital shall be kept in such form as Council, the Director of Finance or State authorities may require. All requisitions for supplies necessary in connection with the operation and maintenance of the hospital shall be made by the Board of Trustees or its duly authorized officers to the Director of Public Works of the City, who shall purchase such supplies and make all contracts in the name of the City, when duly authorized by Council, in the manner provided by the City Charter and the laws of Ohio.

(Ord. 3160. Passed 12-1-30.)

907.06 DISBURSEMENT OF HOSPITAL FUNDS.

The disbursement of funds in connection with the City Hospital shall be made by ordinances adopted by Council appropriating such funds for the purposes set forth in the appropriation ordinances, and upon vouchers approved by the Director of Public Works.

(Ord. 3160. Passed 12-1-30.)

907.07 SETTLEMENT OF ACCOUNTS BY BOARD OF TRUSTEES.

The Board of Trustees of The Lakewood Hospital are hereby authorized, on behalf of the City, to adjust, compromise and settle such accounts for services rendered by The Lakewood Hospital and in such manner and amount as the Board of Trustees shall deem best within its discretion. However, the Board of Trustees shall take into consideration the circumstances, including the collectibility by court action or otherwise, of any and all such accounts.

(Ord. 4095. Passed 7-6-42.)

907.08 REDUCED HOSPITAL RATES TO EMPLOYEES AND STAFF.

The Board of Trustees of Lakewood Hospital, as part of the compensation of employees and members of the staff, is hereby authorized to grant free or reduced rate service to any hospital employee or any member of the staff, where need for such hospital service in Lakewood Hospital is occasioned by services

rendered by such person to the City, and all such services and charges shall be subject to the approval of the Board of Trustees. Where the injury or illness is such as to authorize a claim to be made to the Industrial Commission of Ohio, such claim for hospital services shall be presented promptly to the Industrial Commission of Ohio and a charge made accordingly. (Ord. 3288. Passed 4-4-32.)

907.09 ADMISSION OF INDIGENT NONRESIDENTS.

The Mayor, as President of the Board of Trustees of Lakewood Hospital, is hereby authorized to enter into a contract with other municipalities for the admission of eligible indigent persons, residents of such other municipalities, to the privileges of Lakewood Hospital upon the request of some official of such other municipality duly authorized by Council to enter into a contract and request such hospital service, and to agree for and on behalf of such other municipality to pay for all such services so rendered upon the request of such authorized official. All such services shall be charged for at the rate established for such services.

(Ord. 3212. Passed 7-6-31.)

907.10 LAKEWOOD HOSPITAL ASSOCIATION.

Council hereby incorporates into Council records the procedure for the appointment and nomination by Council of members of the Governing Board of the Lakewood Hospital Association, a nonprofit hospital agency, as follows:

(a) Two members of Council shall be representatives of the City and members ex officio of the Governing Board, with all the privileges and emoluments of such membership, including voting rights. The members of Council to be members of the Governing Board shall be selected by Council by a majority vote of all of its members with, if more than one political party is represented in Council, one from each of the two political parties having the largest and second largest number of representatives on Council as of January 2 of the year in which the two-year term commences. Those initially selected shall serve until December 31, 1987, or in each case until that person ceases to be a member of Council, whichever is earlier. If a member of the Governing Board so selected by Council ceases to be a member of Council prior to the expiration of his or her term, the vacancy in the Governing Board created thereby shall be filled for the unexpired term by Council in the same manner as the original appointment.

(b) Council shall nominate two persons to serve as members of the Governing Board. The persons so nominated shall be considered by the Governing Board in its capacity as members of the Lakewood Hospital Association. The Governing Board may, but need not, elect one or more of the nominees as members of the Governing Board and shall request that Council nominate additional names for the position not filled. The term of the members elected pursuant to this subsection shall be five years, except that of the persons initially selected pursuant to this subsection, one nominated by Council shall serve until December 31, 1988, and the other until December 31, 1990. Thereafter, Council shall deliver the names of persons nominated pursuant to this subsection to the Lakewood Hospital Association prior to November 1 in the year in which the term of the incumbent appointed pursuant to this subsection will expire. If a member of the Governing Board selected pursuant to this subsection ceases to be a member prior to the expiration of his or her term, the vacancy in the Governing Board created thereby shall be filled for the unexpired term in the same manner as for the original appointment.

(c) Council shall nominate three members of the Governing Board to be appointed as representatives of community organizations. The term of members of the Governing Board selected pursuant to this subsection shall be five years, except that the terms of the initial members shall expire on December 31, 1988, December 31, 1989, and December 31, 1990. The terms of the initial members shall be determined by lot. The persons so nominated shall be considered by the Governing Board in its capacity as members of the Lakewood Hospital Association. The Governing Board may, but need not, elect one or more of the nominees as members of the Governing Board and shall request that Council nominate additional persons

for any position not filled. If any person selected pursuant to this subsection should cease to be a member of the Governing Board prior to the expiration of that person's term, such vacancy shall be filled in the same manner as provided herein for the original appointment.

(d) No member of the Governing Board, except those identified in subsection (a) hereof, shall hold any public office or employment other than as a member of the State militia or a reserve component of the Armed Forces of the United States. (Res. 6150-87. Passed 6-15-87.)

ARTICLE XV. - LAKEWOOD HOSPITAL

SECTION 1. ESTABLISHMENT; BOARD OF TRUSTEES.

Council may by ordinance establish a municipal hospital and for such purpose may, in accordance with general law, issue and sell bonds in such amounts as may be necessary for the procuring of the necessary real estate and the erection, furnishing, equipping and maintaining said hospital or for the purpose and acquisition of any existing hospital and its furnishings and equipment. Any such hospital shall be operated, controlled and managed by a Board of Trustees consisting of eighteen members, including the Mayor, who shall serve as President of the Board, the Commissioner of Health, and the member of Council who serves as Chairperson of Council's Hospital Committee. The additional fifteen Trustees shall be appointed by the Mayor with the approval of Council. No fewer than eight of such additional Trustees shall be resident electors of the City. Members of the Board of Trustees shall receive no compensation for their services as members of the Board.

SECTION 2. TERM OF BOARD MEMBERS.

The term of office of the appointed members of the Board shall be five years. Three members shall be appointed each year for a full term of five years. A majority of the acting members of the Board shall constitute a quorum. The Mayor shall file any vacancies on the Board with the approval of Council.

SECTION 3. DUTIES AND POWERS OF THE BOARD.

(A) The Board of Trustees shall have control and management of such hospital and shall establish such rules for its government and the admission of persons to its privileges as it deems expedient, and shall annually appoint the professional staff as determined by approved hospital administration. The Board shall also employ an administrator, department heads, and such assistants, nurses, physicians and surgeons and such other employees as said Board deems necessary, and fix their compensation, which compensation shall, however, be subject to the approval of Council.

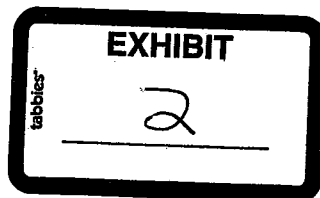
(B) The Board shall have control over all improvements to, work for, or repairs to said hospital as well as the purchase of all necessary supplies, material or equipment for said hospital. All work done for the repair or improvement of said hospital shall be made either by direct employment of labor and the necessary supplies and materials or by contract. The Board shall by resolution determine by which method any improvement shall be made. All such contracts shall be executed in the name of the City by the Hospital Administrator only after approval by the Board.

(C) All such contracts entailing expenditures by the City in excess of a certain dollar amount shall be awarded to the lowest and best bidder after approval by the Board and after competitive bidding, unless competitive bidding is determined by Council not to be required. Council may specify such certain dollar amount, prescribe the procedures for competitive bidding, and determine the circumstances, if any, under which competitive bidding shall not be required.

(D) Until Council takes those actions required by Division (C) of this Section, the general law shall govern with respect to the dollar amounts in excess of which competitive bidding shall be required; the procedures for competitive bidding; and the circumstances under which competitive bidding shall not be required. All contracts subject to competitive bidding under this Division shall be awarded to the lowest and best bidder after approval by the Board.

SECTION 4. LEASE ALTERNATIVE.

Notwithstanding any other provision of this Charter, including, without limitation, those of this Article, Council, by ordinance duly passed by the affirmative vote of at least five (5) of its members, may lease, pursuant to a lease approved by the Board of Trustees, real and personal property and transfer the non-capital assets of the municipal hospital established pursuant to Section 1 of this Article, all as identified in such ordinance, to a nonsectarian Ohio nonprofit corporation organized for charitable purposes. Such power to lease may be exercised by Council from time to time, provided that the term of each such lease shall not exceed thirty (30) years, with the right in the lessee to renew for a like period of years. Each lease entered into pursuant to this Section shall place the control, operation and management of the hospital in the lessee and shall include such terms and provisions as Council reasonably believes necessary to provide for the health and welfare of the residents of the City, the protection of the employees of the hospital and may require the lessee under such lease to include in its governing body, representatives of the City. Control, operation and management of such hospital during any period it is not under lease shall be provided pursuant to Sections 1 through 3 of this Article. During the terms of any lease pursuant to this Section, no provision of this Charter shall be applicable to the lessee.



candidates thus nominated shall appear on a nonpartisan judicial ballot in the regular municipal election. There shall not be a primary election in regard to judicial candidates. (Amended 11-5-02)

ARTICLE XX. INITIATIVE

SECTION 1. RIGHT TO INITIATIVE.

Any proposed ordinance may be submitted to Council by a petition signed by qualified electors equal in number to at least five percent (5%) of the total votes cast for the office of Mayor at the last preceding regular municipal election at which a Mayor was elected.

SECTION 2. FORM OF PETITION.

Petitions submitting proposed ordinances to Council shall be filed with the Clerk of Council. Signatures to such petition need not all be appended to one paper, but all petition papers circulated with respect to any proposed ordinance shall be uniform in character and shall contain the proposed ordinance in full and there shall appear thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purposes hereinafter set forth.

SECTION 3. SIGNATURES TO PETITION.

Each signer of a petition shall sign his or her name in ink or indelible pencil, and shall place on the petition paper, after his or her name, his or her place of residence by street and number. To each petition paper there shall be attached an affidavit by the circulator thereof stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and was made in the presence of the affiant.

SECTION 4. FILING OF PETITION.

All papers comprising a petition shall be assembled and filed with the Clerk of Council as one instrument. Within twenty (20) days after the filing of a petition the Clerk shall ascertain whether it is signed by the required number of qualified electors. Upon the completion of the Clerk's examination, the Clerk shall endorse upon the petition a certificate of the result thereof.

SECTION 5. ADDITIONAL SIGNATURES.

If the Clerk's certificate shows that the petition contains insufficient valid signatures in its support, the Clerk shall at once notify each member of the committee described in Section 2 of this Article by depositing the same in the United States mail with postage prepaid. In the event the initial petition contained prima-facie sufficient signatures, additional signatures of qualified electors, signed in the manner required in Section 3 hereof, appended to petitions in form as previously filed, may, within fifteen (15) days from the date of the notification to the committee, be filed with the Clerk. Within ten (10) days after the filing of such further signatures, the Clerk shall examine them and attach thereto

a certificate of the result. If still insufficient, or if no further petitions have been filed, the Clerk shall file the petition in the Clerk's office and shall notify, in the manner herein provided, each member of the committee of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

SECTION 6. HEARING BY COUNCIL COMMITTEE.

When the certificate of the Clerk shows the petition and supplemental petition, if any, to be sufficient, the Clerk shall submit the proposed ordinance to Council at its next regular meeting and Council shall at once read and refer the same to an appropriate committee, which may be the committee of the whole. Provisions shall be made for at least one public hearing upon the proposed ordinance before the committee to which it is referred. Thereafter the committee shall report the proposed ordinance to Council with its recommendation thereon, not later than the third regular meeting of Council following that at which the proposed ordinance was submitted to Council by the Clerk.

SECTION 7. ACTION BY COUNCIL.

Upon receiving the proposed ordinance from the committee Council shall at once proceed to consider it and shall take final action thereon within thirty (30) days from the date of such committee report.

SECTION 8. POWER OF COUNCIL.

If Council rejects the proposed ordinance or passes it in a form different from that set forth in the petition, the committee of the petitioners may, as hereinafter provided, require that it be submitted to a vote of the electors in its original form, or that it be submitted to a vote of the electors with any proposed change, addition or amendment, which was presented in writing either at a public hearing before the committee to which such proposed ordinance was referred, or during the consideration thereof by Council.

SECTION 9. CERTIFICATION; SUPPLEMENTAL PETITION.

When an ordinance proposed by petition is to be submitted to a vote of the electors, the committee of the petitioners shall certify that fact and the proposed ordinance to the Clerk of Council within thirty (30) days after final action on such proposed ordinance by Council and shall also file with the Clerk a supplemental petition asking that the proposed ordinance be submitted to popular vote signed by that number of qualified electors which when added to the number of electors who signed the original petition provided for in Sections 1 and 5 of this Article will equal fifteen percent (15%) of the total votes cast, for the office of Mayor, at the last preceding regular municipal election at which a Mayor was elected. Such supplemental petitions shall be in the form, signed in the same manner and verified by the circulator all as required of original petitions. The sufficiency of any such supplemental petition shall be determined, and it may be further supported, in the manner provided for original petitions for proposing ordinances to Council.

SECTION 10. SUBMISSION TO ELECTORS.

- (A) When the certificate of the Clerk shows the petition and supplemental petition, if any, to be sufficient, the Clerk shall certify the fact to Council at its next regular

meeting. If a primary, regular municipal or general election is to be held not more than six (6) months or less than thirty (30) days after the receipt of the Clerk's certificate by Council, such proposed ordinance shall then be submitted to a vote of the electors. If no such election is to be held within that time, Council may provide for submitting the proposed ordinance to the electors at a special election. If no other provision is made as to the time of submitting a proposed ordinance to a vote of the electors, it shall be submitted at the next primary, regular municipal or general election.

- (B) If a majority of the qualified electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the City.
- (C) If the provisions of two or more ordinances adopted or approved at the same election conflict, the provisions of the ordinance receiving the highest affirmative vote shall prevail.

SECTION 11. BALLOT FORM.

The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted on and below it the two propositions "For the Ordinance" and "Against the Ordinance".

SECTION 12. REPEALING ORDINANCES.

Proposed ordinances for repealing any existing ordinance or ordinances in whole or in part may be submitted to Council as provided in this Section.

SECTION 13. PUBLICATION, AMENDMENT OR REPEAL.

Ordinances adopted as provided in this Section shall be published and may be amended or repealed by Council as the case of other ordinances.

ARTICLE XXI. REFERENDUM

SECTION 1. RIGHT TO REFERENDUM.

If at any time within forty (40) days after (a) the passage of any ordinance or the adoption of any resolution by Council, (b) the expiration of the time within which it may be disapproved by the Mayor, or (c) its passage or adoption notwithstanding the disapproval by the Mayor, as the case may be, a petition signed by qualified electors equal in number to at least fifteen percent (15%) of the total votes cast for the office of Mayor at the last preceding regular municipal election at which a Mayor was elected is filed with the Clerk of Council requesting such ordinance or resolution be repealed or be submitted to a vote of the electors, such ordinance or resolution shall not become operative until the steps set forth in this Article have been taken.

SECTION 2. FORM OF PETITION.

**DEFINITIVE AGREEMENT
BY AND BETWEEN
THE CLEVELAND CLINIC FOUNDATION
AND
LAKEWOOD HOSPITAL ASSOCIATION**

EXHIBIT

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DEFINITIVE AGREEMENT

THIS DEFINITIVE AGREEMENT (the "Agreement"), dated as of this ____ day of _____, 1996, is entered into by and between The Cleveland Clinic Foundation, an Ohio not-for-profit corporation ("CCF") and Lakewood Hospital Association, an Ohio not-for-profit corporation ("Lakewood").

RECITALS

WHEREAS, CCF and Lakewood are health care systems which provide hospital and health care services to residents of the greater Cleveland area and the surrounding regions, both directly and through their various subsidiaries and related companies; and

WHEREAS, CCF and Lakewood share a common vision of how best to serve the health care needs of the residents of the communities served by CCF and Lakewood; and

WHEREAS, based upon mutual study of demographic, economic, and medical trends, and evaluation of options to better serve their communities in light of these trends, CCF and Lakewood believe that the integration of Lakewood and the CCF health care system will:

- (i) assure the availability of high quality, technologically advanced clinical services and professional practitioners in a more cost-effective and clinically efficient manner than either organization can achieve on its own;
- (ii) enhance recruitment and development of resources for new programs and services;
- (iii) maintain and enhance medical services for the underserved and/or underprivileged; and
- (iv) lower the cost of care through the avoidance of inefficient investments in expensive technology and facilities, combining clinical programs, reducing the costs of administering health services, better deploying existing resources and capacity, and other measures.

WHEREAS, as a result of the integration of CCF and Lakewood, CCF and Lakewood will work together to improve access to healthcare services through development of:

- (i) enhanced physician recruitment;
- (ii) a primary care network in strategic areas;
- (iii) quality improvement systems;

requirements;

- (iv) geographical distribution of hospitals to meet managed care
- (v) improved attractiveness for managed care contracting; and
- (vi) a competitive quality provider system in northeast Ohio.

WHEREAS, the parties agree that the following principles will guide the integration of Lakewood and the CCF health care system:

(i) Lakewood will become an active participant in the integrated delivery system established by CCF and shall participate in CCF's managed care strategy;

(ii) CCF will assure that Lakewood will have the authority to maintain and support the mission which currently defines the operations of Lakewood;

(iii) CCF and Lakewood will work towards creating an integrated delivery system while maintaining the separate corporate identity of Lakewood;

(iv) the integration of Lakewood and the CCF health care system will be accomplished in a manner to protect the private practice of medicine and preserve Lakewood's ability to determine the composition of its medical staff;

(v) the integration will have as its goal to benefit the community through the promotion, expansion and support of community front line physician practices; and

(vi) CCF and Lakewood will work together to expand the quality of care and access to care in the Lakewood Service Area through the development of community family health centers.

NOW THEREFORE, in consideration of these premises and the mutual and dependent promises hereinafter set forth, the parties hereto hereby agree as follows:

ARTICLE 1.

INTEGRATION OF LAKEWOOD AND THE CCF HEALTH SYSTEM

SECTION 1.1 Amendment of Articles of Incorporation and Code of Regulations of Lakewood. As of the Closing (as hereinafter defined), Lakewood shall cause the Articles of Incorporation and the Code of Regulations of Lakewood to be amended substantially in the forms of Schedules 1.1A and 1.1B, attached hereto and incorporated herein. In accordance with such Articles of Incorporation and the Code of Regulations, CCF shall become the sole member (the "Member") of Lakewood and shall have all of the rights, privileges, duties and obligations, if any, of a member of a nonprofit corporation provided by

Chapter 1702 of the Ohio Revised Code, and any amendments thereto or corresponding provisions of any future law, and all other rights of a member under Ohio statutory or case law, and as set forth herein, subject to the rights of the City of Lakewood (the "City") provided in the lease referred to in Section 1.8, below, and as limited or expanded in this Article 1.

1.1.1 The following corporate actions to be taken by the Lakewood Board of Trustees shall require the approval of the Member (but may not be exercised independently by the Member) as set forth in the Code of Regulations:

1.1.1.1 Changes to Lakewood's Articles of Incorporation and Code of Regulations.

1.1.1.2 Any merger, consolidation or other affiliation of Lakewood with any other entity or the sale of all or substantially all of the assets of Lakewood or a dissolution or material change in the operations or purpose of Lakewood.

1.1.1.3 Any management contract, lease or similar contract between Lakewood and any outside entity involving a significant portion of the assets or operations of Lakewood.

1.1.1.4 Appointment of Lakewood's auditors.

1.1.1.5 Any unbudgeted capital projects in excess of \$500,000 or such greater amount as the Member may from time to time specify in writing, or any project requiring a certificate of need.

1.1.1.6 Lakewood's incurrence, assumption or guarantee of any indebtedness, capital expenditures, or disposal of assets, in excess of \$500,000 or such greater amount as the Member may from time to time specify in writing.

1.1.1.7 Lakewood's annual operating and capital budgets.

1.1.1.8 Lakewood shall establish strategic plans consistent with the overall strategic direction and plan of CCF Health System.

1.1.1.9 Lakewood's strategic and financial plans, including the implementation of new or elimination of existing services offered at Lakewood. For purposes of Section 1.1.1.9, the term "services" includes the types of services available at Lakewood at the closing of this Agreement, including, but not limited to Obstetrics/Gynecology, Pediatrics, Emergency Medicine Services, Pathology, Medicine and Surgery. The term "services" does not include the magnitude or level of service, such as hours of service, or the manner (including changes in technology) by which the types of services are provided; provided, however, that the change in magnitude or levels of services does not, as a practical matter result in the significant reduction in such service so as to be an effective elimination of such service.

1.1.1.10 Coordination of financial management programs with such programs utilized by CCF.

1.1.2 The following corporate actions shall be exercised by the Member as set forth in the Code of Regulations:

1.1.2.1 Appointment of the chief executive officer of Lakewood; provided, however, that such individual also must be approved by Lakewood's Board of Trustees.

1.1.2.2 Termination of the chief executive officer after consultation with Lakewood's Board of Trustees; provided, however, that Lakewood's Board of Trustees shall have the right to terminate the chief executive officer after consultation with the Member; and provided, further that CCF hereby designates its Chief Executive Officer as the officer having the authority to exercise the right granted in this subsection 1.1.2.2.

1.1.2.3 Review of all managed care contracts at any point in time and provide specific requirements with regard to the terms thereof or whether or not to renew such agreement, at the time of renewal of such agreements.

1.1.2.4 The right to cause Lakewood to sell or factor its accounts receivables, provided, however, that such right shall only arise at such time or times when Lakewood's accounts receivables exceeds, as measured by days in receivable, the median accounts receivable for Northeast Ohio hospitals by thirty percent (30%), as published by the Greater Cleveland Hospital Association ("GCHA"). National median accounts receivable data may be used if information regarding Northeast Ohio hospital median data are not available from GCHA or such other reliable source.

1.1.3 The Member shall have certain rights with respect to the election of the Lakewood Board of Trustees. Except as otherwise provided in Section 1.1.3.1, below, with respect to the members of Lakewood's Board of Trustees immediately following the Closing, the Code of Regulations shall provide that the trustees shall be elected in accordance with the following:

1.1.3.1 The City shall select three trustees, which selection shall not be subject to any right of approval by the Member, so long as the lease, referred to in Section 1.8, below, remains in effect;

1.1.3.2 The City shall nominate an additional seven trustees, subject first to the approval of the Lakewood Board of Trustees and then to the ratification by the Member, which ratification shall be acted upon by the Member's Board of Trustees or Executive Committee of the Board of Trustees, so long as the lease, referred to in Section 1.8, below, remains in effect;

1.1.3.3 The Member shall elect three trustees, which selection shall not be subject to any right of approval by the City or any other body;

1.1.3.4 The Immediate Past President of Lakewood's Medical Staff shall be a trustee; and

1.1.3.5 The remaining nine trustees shall be selected in accordance with the nomination process in existence prior to the Closing, unless the Code of Regulations is changed as permitted by Section 1.1.1.1, above, provided, however, that at all times during the term of this Agreement, the remaining nine trustees shall be nominated by a committee of Lakewood's Board of Trustees and first approved by the Lakewood Board of Trustees and then to the ratification by the Member, which ratification shall be acted upon by the Member's Board of Trustees or Executive Committee of the Board of Trustees, so long as the lease, referred to in Section 1.8, below, remains in effect.

Notwithstanding the foregoing, except with regard to the trustees selected under Section 1.1.3.3, the Member shall not have the right to remove any of the trustees or fill vacancies, except consistent with the ratification right set forth above for the initial election of trustees. Vacancies shall be filled in the same manner as provided for above with respect to the trustee's original appointment. The Board of Trustees of Lakewood shall otherwise retain the right to remove trustees (other than trustees selected under Section 1.1.3.3, or as otherwise provided in the Lease).

1.1.4 All of the rights set forth in this Section 1.1 shall be exercised by CCF in a fiscally prudent manner, consistent with Lakewood's charitable purpose and Lakewood's obligations under the lease, referred to in Section 1.8, below, in order to preserve the operations of Lakewood as a going concern, as defined under generally accepted accounting principles.

1.1.5 Except as otherwise provided in this Article 1, Lakewood's Board of Trustees shall retain the rights, privileges, duties and obligations of trustees provided by Chapter 1702 of the Ohio Revised Code, and any amendments thereto or corresponding provisions of any future law, and all other rights and obligations of trustees under Ohio statutory or case law.

SECTION 1.2 **Rights of the City.** The City shall have the rights set forth in the lease referred to in Section 1.8, below and annexed hereto as Exhibit 1.8 (the "Lease").

SECTION 1.3 **Officers and Trustees of Lakewood; Committee Members.**

1.3.1 The parties agree that immediately after the Closing, those individuals listed on Schedule 1.3A, attached hereto and incorporated herein, shall be the members of Lakewood's Board of Trustees. The parties further agree that immediately after the Closing, Lakewood's Board of Trustees shall elect those individuals listed on Schedule 1.3B, attached hereto and incorporated herein, to the office listed opposite such individual's name and that

Lakewood's Board of Trustees shall elect those individuals listed on Schedule 1.3C, attached hereto and incorporated herein, to the committees listed on Schedule 1.3C. Thereafter, the members of the Lakewood Board of Trustees and the committees shall be selected in accordance with the Code of Regulations of Lakewood, subject to the City's rights under the Lease.

1.3.2 The Board of Trustees shall have the full authority provided under Ohio law for the management of Lakewood, subject to the rights of the Member set forth in Sections 1.1 and 2.1.3, and the rights of the City as set forth in the Lease referred to in Section 1.8, below. The Board of Trustees shall manage the operations of Lakewood in a fiscally responsible manner, consistent with Lakewood's charitable purpose and with Lakewood's obligations under the Lease, so that Lakewood shall be maintained as a going concern, as defined under generally accepted accounting principles.

SECTION 1.4 Lakewood Medical Staff. All current members of the Lakewood Medical Staff (the "Medical Staff") shall continue to have the same rights and privileges as members of the Medical Staff as such physicians had prior to the Closing; provided, however, that the consummation of the transactions contemplated by this Agreement will not limit the ability of the Lakewood Board of Trustees to grant, withhold or suspend Medical Staff membership or clinical privileges in accordance with the terms and provisions of the Medical Staff Bylaws. Lakewood shall establish Medical Staff development and recruitment plans consistent with overall strategic direction of CCF Health System.

SECTION 1.5 Employees of Lakewood. All persons employed by Lakewood at the time of the Closing shall remain employees of Lakewood after the Closing in positions similar to those held by them prior to the Closing; provided, however, that the consummation of the transactions contemplated by this Agreement shall not limit in any way the ability of Lakewood to terminate or otherwise govern the employment of all employees in a manner consistent with Lakewood's normal personnel policies and procedures.

SECTION 1.6 Integrated Delivery Systems Development and Managed Care Contracting. The parties agree that one of the goals of the integration of Lakewood and the CCF health care system is the development of a regional health care system. Lakewood will be an active participant in such regional health care system. CCF and its Affiliates shall use best efforts to permit Lakewood to become a member of the Cleveland Health Network as of the execution of this Agreement and to maintain Lakewood as a member of the Cleveland Health Network during the term of this Agreement. The development of this regional health care system will allow Lakewood and CCF to improve the quality of health care services offered to residents of the regional area and to improve access to such health care services. The parties also agree that the integration of Lakewood and the CCF health system also will enable the parties to develop and implement a continuing health care system and to evolve or expand the health care services currently being provided by Lakewood.

SECTION 1.7 Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at _____ on

_____, 1996 at _____ P.M., or at such other location, date, and time as may be agreed upon by the parties (the "Closing Date").

SECTION 1.8 City Lease. Lakewood and the City shall enter into a new real and personal property lease (the "Lease"), on terms and conditions acceptable to the City, Lakewood and CCF, which provides for the lease of the real and personal property currently occupied or used by Lakewood for a term of thirty (30) years, with an option of Lakewood to renew for an additional thirty (30) years, subject to CCF's approval, and substantially in the form of Exhibit 1.8. The rent payable under such lease shall be agreed to by the City, Lakewood and CCF. CCF shall have the right to cure any and all defaults of Lakewood under such lease. If CCF does not grant approval and Lakewood desires to renew such Lease, CCF shall have the option to terminate this Agreement pursuant to Section 10.2.2.

1.8.1 Notwithstanding any provisions in this Agreement to the contrary, CCF acknowledges and agrees that no provision of this Agreement will cause Lakewood to take or omit to take any action that could cause Lakewood to fail to perform or to observe, or otherwise be in default of, any of its obligations under the Lease, referred to in Section 1.8.

SECTION 1.9 Participation on CCF's Board of Trustees. CCF shall amend its Code of Regulations to provide that Lakewood shall have the right to elect the Chairman of the Lakewood Board of Trustees to the Board of Trustees of CCF.

ARTICLE 2.

POST-CLOSING COMMITMENTS

SECTION 2.1 Covenants and Rights of CCF. From and after the Closing Date, the parties agree as follows:

2.1.1 CCF shall assure that Lakewood shall have a cash to debt ratio of 1:1 on a fiscal year basis. Such ratio shall be determined based on the annual audited financial statement of Lakewood. Cash shall include all cash in any accounts of Lakewood maintained for any purpose, whether or not such purpose is limited to a specific use; provided, however, that cash shall not include: (a) cash on deposit for any employee welfare plan maintained by Lakewood which represents: (i) funds contributed by employees, (ii) funds contributed to such employee welfare plan which represent employer matching funds which Lakewood is legally obligated to contribute, or (iii) funds representing the vested portion of such plan; or (b) funds generated from Medical Staff dues. Cash shall also include marketable securities. Cash shall also include the proceeds of any disposition of accounts receivable, whether or not such disposition is at the direction of CCF, as provided in Section 1.1.2.4, above, provided that such proceeds shall only count towards cash for the amount received for accounts receivable that exceed by thirty percent (30%), as measured in days in receivable, the median accounts receivable referenced in Section 1.1.2.4. Debt shall include, but not be limited to, revolving

working capital loans, debt incurred as a result of a pledge of accounts receivables, long term debt, and current installments of long term debt; provided, however, that debt shall not include debt which has not been approved in accordance with and to the extent required by Section 1.1.1.6. In addition, required payments to the City of Lakewood under the Lease Agreement shall be included as debt only if unpaid in the year the payment is due. If, as a result of such annual audit, it is determined that Lakewood does not meet such ratio, CCF shall advance sufficient funds to Lakewood to meet such ratio. Further, if Lakewood's cash to debt ratio exceeds 1:1, Lakewood shall return to CCF fifty percent (50%) of such excess cash until all advances shall have been repaid to CCF; provided, however, that any advances not repaid to CCF at such time as the lease, referred to in Section 1.8, above, terminates shall be forgiven by CCF; and provided, further, that none of such advances, whether or not repaid shall be considered to be debt. CCF shall provide any such advance of funds requested hereunder within thirty (30) days of the receipt of the fiscal year audited financial statement for Lakewood only and not on a consolidated basis with any affiliate of Lakewood for the then concluding fiscal year, which shall be the period of measurement of the ratio set forth herein.

2.1.1.1 In determining the availability of cash, for a period of two years after the Closing, such determination shall be made without any reduction in cash which may be used to satisfy liabilities of Lakewood for matters which were not disclosed under Article 3. For purposes of this exclusion, liabilities which are not disclosed under Article 3, include those liabilities which, while not "material" as defined below, are nevertheless not disclosed to CCF.

2.1.2 Capital expenditures by Lakewood (which are anticipated to be provided from Lakewood's cash generation and net liquid assets), within the Lakewood Service Area, will average \$5 million per year over a rolling ten year period for the investment in or replacement of physical plant, the acquisition of equipment, and the implementation of new programs; provided, however, that at least an average of \$3 million is expended annually over a rolling three year period. Of the average \$5 million per year over a rolling ten year period and of the average \$3 million per year over a rolling three year period, at least seventy-five percent (75%) of such average minimum capital expenditures shall be made in the City of Lakewood. All capital expenditures in excess of \$500,000 for a particular item shall require a business plan approved by CCF. Cash which may be set aside for such expenditures unless and until actually spent shall be included in determining whether the requirements set forth in Section 2.1.1 have been fulfilled or whether CCF is required to advance funds to permit Lakewood to meet the ratio set forth therein; provided, however, that such cash, which has been set aside, shall not be treated as a capital expenditure under this Section 2.1.2 unless and until it has been actually spent.

2.1.3 Right to Manage. If cash generation from Lakewood operations and investments averages less than \$3 million per year in any consecutive (i.e., rolling) three year time period (the "Period of Deficiency"), as reported in the audited financial statement entitled "Statements of Cash Flows", or CCF is required to advance funds which total in the aggregate \$30 million or more to meet any requirement in the Agreement, CCF shall have the right to assume the management of the day to day operations of Lakewood, subject to the authority of

the Lakewood Board of Trustees. Notwithstanding the prior sentence, during the period in which CCF provides the management of the day-to-day operations of Lakewood, CCF shall have the right to appoint a new CEO and Lakewood Board of Trustees shall not have the right to terminate or approve the CEO as provided in Section 1.1.2.2 of this Agreement. For example, Lakewood's cash generation in 1994 and 1995 was \$9,627,409 and \$12,992,588, respectively. Such determination shall be made without regard to any cash contributed by CCF hereunder. Such management rights shall exist for a period of three years from the end of the Period of Deficiency.

2.1.4 CCF shall provide Lakewood with funds (without any obligation to repay) in an aggregate amount of \$10 million to assist Lakewood in the development or improvement of some or all of the programs and facilities listed on Exhibit 2.1.4A, attached hereto; provided, however, that seventy-five percent (75%) of such expenditures shall be made for programs or facilities located within the City of Lakewood. Such funds shall be committed and provided over a five year period from Closing, in accordance with a plan to be agreed to by the CCF and Lakewood, which plan may thereafter be amended from time to time by agreement of CCF and Lakewood; provided, however, that any plan or amendment thereto will provide for the funds to be used in the development or improvement of programs or facilities located within the Lakewood Service Area.

2.1.5 CCF shall use its best efforts to ensure that its affiliated and employed physicians who practice in the Lakewood Service Area, including the CCF Westlake satellite, shall maintain admitting privileges at Lakewood, subject to the staff privileges requirements adopted by Lakewood as applied to any particular physician. Further, CCF and Lakewood shall use their respective best efforts to ensure that (i) Lakewood shall participate, including proportionate management and Board governance (proportionate as to participation and investment), in the western regional system established by CCF as part of its overall strategic plan. If Lakewood participates in the western regional system, the corporate management and governance offices of the western regional system will be located at a physical location other than any physical location generally identified and/or associated with any of the participants; (ii) Lakewood and CCF affiliated and employed physicians practicing in the Lakewood Service Area shall participate, including proportionate management and Board governance (proportionate as to participation and investment) in the physician-hospital organization established for the western region by CCF, to the extent that such physicians individually meet any participation criteria adopted by such organization; and (iii) CCF primary care physicians maintain privileges at Lakewood and are encouraged to utilize all inpatient and outpatient services of CCF Health Care System facilities in the western region.

2.1.6 Upon request by Lakewood, CCF shall work together with Lakewood to establish the joint operation of specialty services at Lakewood, all of which specialty service modification shall be consistent with the overall strategic plan and budget which shall be as established by CCF.

2.1.7 Upon request by Lakewood, CCF shall work together with Lakewood to establish and operate medical educational programs with Lakewood as a residency rotation site.

2.1.8 Upon request by Lakewood, CCF and Lakewood will jointly establish programs to improve administrative efficiency and cost reduction and other clinical/administrative services to which the parties agree.

2.1.9 At any time, CCF may cause the Board of Trustees of Lakewood to take all action necessary for the defeasance and/or redemption of any or all of its then outstanding tax exempt debt obligations; provided, however, that the cost of such defeasance and/or redemption, including the payment of principal thereunder, shall be borne by CCF.

SECTION 2.2 Maintenance of Insurance. From and after Closing, Lakewood will insure the hospital facilities at all times and carry such other insurance with respect to the operation and maintenance of the hospital facilities of such type and in such amounts as are normally carried by hospital facilities or health care facilities of similar type and size, and against such risks as are customarily insured against in connection with hospital operations and hospital facilities or health care facilities of similar type and size, and will at all times carry and maintain or cause to be carried and maintained, and will pay or cause to be paid timely premiums with financially sound and reputable insurers. Notwithstanding the forgoing, Lakewood will maintain at least the types of insurance listed in Exhibit 2.2.

ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF LAKEWOOD

Lakewood represents and warrants to CCF that, as of the date of this Agreement and except as set forth in the Schedules:

SECTION 3.1 Organization, Qualification and Corporate Power.

3.1.1 Lakewood and each Affiliate (as hereinafter defined in Section 3.2) is duly incorporated, validly existing, and in good standing under the laws of the State of Ohio. Lakewood and each Affiliate has the corporate power and authority to own and hold its respective properties and to carry on its respective business as now conducted.

3.1.2 The trustees, directors and officers of Lakewood and each Affiliate, a true and complete list of whom is set forth on Schedule 3.1, have been duly and properly elected and all actions of the Board of Trustees or Board of Directors of Lakewood and each Affiliate required for the consummation of the transactions contemplated by this Agreement thereby requiring Board of Trustee or Board of Director approval have been taken pursuant to proper and valid Board approvals. Lakewood and each Affiliate has previously made available to CCF for review complete and correct copies of minutes of all meetings of the members or

shareholders of Lakewood and each Affiliate and copies of minutes of all meetings of the Board of Trustees or Board of Directors of Lakewood and each Affiliate.

SECTION 3.2 Affiliates.

3.2.1 Schedule 3.2.1 identifies each Affiliate of Lakewood and the percent ownership or voting control by Lakewood of such Affiliate. There are no Lakewood Affiliates other than those identified on Schedule 3.2.1. For purposes of this Agreement, the term "Affiliate" means an entity which is controlled by, controls, or is under common control with Lakewood, and shall also include Lakewood Health Care Foundation and Hospital Admission Physician Services, Inc. "Control" of an entity shall mean possession of more than fifty percent (50%) of the voting interest in the controlled entity. Except as disclosed on Schedule 3.2.1, Lakewood does not (i) own of record or beneficially, directly or indirectly, any shares of capital stock or securities convertible into capital stock, or hold the membership right of any other corporation or have any participating interest in any partnership, joint venture, limited liability company or other business enterprise; or (ii) control, directly or indirectly, any other entity.

3.2.2 With respect to Lakewood's membership interest in Surgery Center West, LLC, a company formed for the purpose of operating an ambulatory surgery center in Westlake, Ohio ("Surgery Center"), Lakewood is not required to provide any services, monies or make any capital contributions to the Surgery Center other than the commitments and contributions described in Schedule 3.2.2 hereof. To Lakewood's knowledge, (i) the Surgery Center is being operated in accordance with applicable law in all material respects; (ii) there is no pending or threatened claim, suit or action against the Surgery Center that would have a material adverse effect on the Surgery Center; (iii) the financial statements of Surgery Center for the period ended November 30, 1996 fairly present in all material respects the financial condition and results of operations of Surgery Center and there has been no material change in such financial condition; and (iv) the sale of membership interests in the Surgery Center to physicians as provided for under the terms of the Operating Agreement are in compliance with federal securities law and any other applicable law in all material respects. Neither Lakewood nor any Affiliate possesses any ownership, membership or other voting interest in the Lakewood Hospital Foundation ("Hospital Foundation") or the West Shore Medical Care Foundation ("West Shore") and, except as disclosed in Schedule 3.2.2, is obligated to provide any monies or other services to the Hospital Foundation or West Shore. Except as disclosed in Schedule 3.2.2, Lakewood and its Affiliates are not responsible for and are not guarantors of any obligations of Surgery Center, Hospital Foundation or West Shore.

SECTION 3.3 No Breach. The execution, delivery and performance by Lakewood of this Agreement and related agreements contemplated herein do not and will not (i) contravene or conflict with the respective Articles of Incorporation or respective Codes of Regulations (as contemplated by Section 1.1) of Lakewood or any of the Affiliates; (ii) contravene, violate, or conflict with any material law, regulation, judgment, order or decree applicable to Lakewood or any of the Affiliates; or (iii) constitute a default under or give rise

to any right to terminate any material agreement, contract or other instrument binding upon Lakewood or any of the Affiliates, or any material license, permit or other similar authorization held by Lakewood or any of the Affiliates.

SECTION 3.4 Title to Properties. Except as disclosed in Schedule 3.4, Lakewood and the Affiliates have no title to any of the real property and equipment used in the operation of their respective businesses, as such real property and equipment is leased from the City.

SECTION 3.5 Compliance With Law. To the knowledge of Lakewood, Lakewood and each of the Affiliates has complied with and is complying with all applicable laws, rules, regulations, and ordinances (including Medicare and Medicaid laws, fraud and abuse and Stark laws) and has obtained all material state, federal, special or local governmental authorizations, licenses, certificates (including Certificates of Need) or permits (the "Permits") required to conduct their respective businesses, as such businesses are presently being conducted, the failure or absence of which would have a material adverse effect on the businesses of Lakewood and the Affiliates on a consolidated basis. Schedule 3.5A contains a list and brief description of all Permits, including those granted or derived from governmental sources, issued or granted to Lakewood and each of the Affiliates. To the knowledge of Lakewood, persons who provide professional services under agreements with any of Lakewood or the Affiliates have not been excluded from the Medicare program or any state health care program under 42 U.S.C. § 1320-7 and Lakewood is not aware of any pending or threatened exclusion action against such professional persons.

SECTION 3.6 Leasehold Interests. Except as disclosed in Schedule 3.6, all of the material real and personal property used by Lakewood in connection with their respective businesses are leased from the City. Such lease with the City is a valid and subsisting agreement without any default by Lakewood, and, to the knowledge of Lakewood, without any default thereunder by the City. No event has occurred and is continuing which, with due notice or lapse of time or both, would constitute a default or event of default by Lakewood under such existing lease with the City.

SECTION 3.7 Corporate Structure. Lakewood is a non-profit corporation. The current members of Lakewood are Lakewood's Board of Trustees. Lakewood's Board of Trustees is self-perpetuating, subject to the right of the City to elect ten members of the Board of Trustees. Except as set forth in Schedule 3.7, each of the Affiliates is a not-for-profit corporation without any capital stock and Lakewood is the sole member of each such Affiliate.

SECTION 3.8 Validity. Lakewood has the full corporate power and authority to execute and deliver this Agreement and all other agreements and documents necessary to consummate the contemplated transaction and all corporate action of Lakewood necessary for such execution and delivery and the performance thereof has been duly taken. This Agreement does, and all agreements related to the contemplated transaction when duly executed and delivered by Lakewood and by the other parties thereto will, constitute the legal, valid, and

binding obligation of Lakewood enforceable in accordance with their terms, subject as to enforcement of remedies to the discretion of courts in awarding equitable relief and to applicable bankruptcy, reorganization, insolvency, moratorium and similar laws affecting the rights of creditors generally.

SECTION 3.9 Financial Statements. Lakewood has furnished to CCF (i) the audited financial statements of Lakewood as of December 31, 1993, 1994 and 1995, including the balance sheet and the related statements of revenue and expenses, cash flows and changes in general fund balances of Lakewood for the years then ended, with an unqualified report thereon from KPMG Peat Marwick, LLP, independent certified public accounting firm (the "Lakewood Audited Financial Statements"), including any management letters regarding the internal operations of Lakewood with respect to such fiscal year that have been delivered to Lakewood, (ii) unaudited financial statements of Lakewood's Affiliates as of December 31, 1993, 1994 and 1995, including the balance sheet and the related statements of revenue and expenses, cash flows and changes in general fund balances of Lakewood for the years then ended (the "Affiliates' Unaudited Financial Statements"), and (iii) unaudited interim financial statements of Lakewood and its Affiliates for the monthly periods from January 1, 1996, to September 30, 1996, and will furnish such unaudited interim financial statements for the monthly periods through the month ending immediately prior to the Closing Date (collectively referred to as the "Lakewood Unaudited Financial Statements") (the Lakewood Audited Financial Statements, the Affiliates Unaudited Financial Statements and the Lakewood Unaudited Financial Statements are sometimes referred to herein collectively as the "Lakewood Financial Statements"). The Lakewood Financial Statements have been (or will be when delivered) prepared in accordance with generally accepted accounting principles consistently applied (except, in the case of the Lakewood and Affiliates Unaudited Financial Statements, for the absence of footnotes and year end adjustments) and fairly present in all material respects the financial position of Lakewood and its Affiliates and the results of operations and changes in financial position as of the dates and for the periods specified. Except as set forth in the Lakewood Financial Statements, neither Lakewood nor any of its Affiliates on a consolidated basis has incurred any material liability other than in the ordinary course of business. Since December 31, 1995, (i) there has been no material change in the assets, liabilities or financial condition of Lakewood or its Affiliates, on a consolidated basis, from that reflected in the most recent Lakewood Audited Financial Statements, except for changes in the ordinary course of business and consistent with past practice which, in the aggregate, have not been materially adverse to the business, prospects, financial condition, operations, property, or affairs of Lakewood or its Affiliates, on a consolidated basis; and (ii) none of the business, prospects, financial condition, operations, property, or affairs of Lakewood or its Affiliates, on a consolidated basis, has been materially adversely affected by any occurrence or development, individually or in the aggregate, whether or not insured against.

SECTION 3.10 Absence of Undisclosed Liabilities. None of Lakewood or the Affiliates, on a consolidated basis, has any material liability of any nature (whether absolute, accrued, contingent or otherwise) including, without limitation, liabilities to Medicare, Medicaid and other third party payors, or liabilities for federal, state, local or foreign taxes or liabilities

to customers or suppliers, other than (i) liabilities for which full provision has been made on the Lakewood Financial Statements referred to in Section 3.9; and (ii) other material liabilities arising since the date of the Lakewood Audited Financial Statements and prior to the Closing Date in the ordinary course of business and consistent with past practice which are not inconsistent with the representations, warranties and covenants of Lakewood or any other provision of this Agreement or related agreements and instruments.

SECTION 3.11 Events Subsequent to the Date of the Lakewood Audited Financial Statements. Except as disclosed on Schedule 3.11, since the date of the Lakewood Audited Financial Statements, none of Lakewood or the Affiliates has: (i) issued any stock, bond or other corporate security or created any membership interest; (ii) borrowed any amount or incurred or become subject to any liability (absolute, accrued or contingent), except current liabilities incurred, and liabilities under contracts entered into in the ordinary course of business; (iii) discharged or satisfied any lien or encumbrance or incurred or paid any obligation or liability (absolute, accrued or contingent) other than current liabilities shown on the Lakewood Audited Financial Statements and reflected on the Lakewood Unaudited Financial Statements in the ordinary course of business; (iv) declared or made any payment or distribution to members or shareholders or purchased or redeemed any membership or share of its capital stock or other security; (v) mortgaged, pledged or subjected to lien any of its assets, tangible or intangible, other than liens which arise by operation of law, liens of current real property taxes not yet due and payable or liens on assets pursuant to purchase money security interests incurred in the ordinary course of business; (vi) sold, assigned or transferred any of its tangible assets or cancelled any debt or claim, except in the ordinary course of business; (vii) suffered any material, uninsured loss of property or waived any material right whether or not in the ordinary course of business; (viii) made any change in officer compensation, other than regularly scheduled increases consistent with an existing compensation program and past practices; (ix) made any material change in the manner of business or operations including any change in accounting principles and practices; (x) entered into any transaction except in the ordinary course of business or as otherwise contemplated hereby; or (xi) entered into any commitment (contingent or otherwise) to do any of the foregoing.

SECTION 3.12 Outstanding Debt. There exists no default under the provisions of any instrument evidencing any indebtedness of Lakewood or any of the Affiliates, or otherwise of any agreement relating thereto. Except as disclosed in Schedule 3.12, none of Lakewood or the Affiliates has made any outstanding loans or advances to any person and is not obligated to make any such loans or advances other than advances to employees for expenses incurred on behalf of Lakewood or its Affiliates in the ordinary course of business.

SECTION 3.13 Litigation and Investigations. To the knowledge of Lakewood and its Affiliates, and except as disclosed on Schedule 3.13, there is no: (i) action, suit, claim, proceeding, or investigation pending or threatened against Lakewood or the Affiliates by any private party or any federal, state, municipal, or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which if decided adversely to

Lakewood or the Affiliates would have a material adverse effect on Lakewood's financial condition or results of operations on a consolidated basis; (ii) arbitration proceeding relating to Lakewood or the Affiliates pending under collective bargaining agreements or otherwise; or (iii) governmental or professional inquiry pending or threatened against or directly affecting Lakewood or the Affiliates (including, without limitation, any inquiry as to the qualification of Lakewood or the Affiliates to hold or receive any license or permit). None of Lakewood or the Affiliates is in default with respect to any order, writ, injunction, or decree known to or served upon it of any court or of any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign.

SECTION 3.14 Taxes.

3.14.1 Lakewood, on behalf of itself and the Affiliates, has filed all federal, state, county and local tax returns, including, without limitation, income, sales, single business, payroll, premium, withholding, informational and personal property tax returns, required to be filed by it and such returns have been duly prepared and filed and were true, correct, and complete. Except as disclosed in Schedule 3.14.1, all taxes due by reason of the operations conducted by Lakewood and the Affiliates have been paid, including, without limitation, all taxes which Lakewood and the Affiliates are obligated to withhold from accounts owing to employees, creditors, and third parties. Except as disclosed in Schedule 3.14.1, all such taxes for which any such party has become obligated pursuant to elections made in accordance with generally accepted accounting principles have been paid and adequate reserves have been established for all taxes accrued but not yet payable. The federal income tax returns of Lakewood and the Affiliates have never been audited by the Internal Revenue Service, except as disclosed in Schedule 3.14.1. There is no tax lien, whether imposed by any federal, state, county or local taxing authority outstanding against the assets, properties or businesses of Lakewood or the Affiliates. None of Lakewood or the Affiliates have executed or filed any consent or agreement to extend the period for assessment or collection of any such taxes.

3.14.2 Lakewood is exempt from Federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Tax Code"), and Lakewood is a "hospital" within the meaning of Section 170(b)(1)(A)(iii) of the Tax Code. Lakewood is not aware of any proceeding, pending or threatened, or of any existing circumstances, which could reasonably be anticipated to result in the loss or revocation of the aforementioned exemption held by Lakewood.

SECTION 3.15 Labor Relations. Each of Lakewood and the Affiliates has complied in all material respects with all applicable laws relating to the employment of its employees, including provisions relating to wages, hours, equal opportunity, collective bargaining, and the payment of Social Security and other taxes, the failure of which will not have a material adverse effect on the businesses of Lakewood or the Affiliates, on a consolidated basis, and no employee or former employee has filed any pending claim nor has Lakewood or any Affiliate been notified to the contrary. None of Lakewood or any Affiliate has entered into

any collective bargaining agreement and none of Lakewood or any Affiliate has received notice that any of their respective employees are represented by a collective bargaining agent.

SECTION 3.16 Insurance Coverage. Schedule 3.16 sets forth a complete and correct list of all insurance policies in force with respect to Lakewood and the Affiliates and identifies the insurer, type and amount of coverage for each, and the anniversary date for each.

SECTION 3.17 Contracts and Other Commitments. Schedule 3.17A lists all material written agreements and all material oral understandings including, but not limited to, all material provider contracts, material group, hospital and medical services agreements, material management agreements, material leases and material services contracts to which Lakewood and the Affiliates are subject on the date hereof. Each such material contract or commitment is a valid and binding obligation of Lakewood and the Affiliates, as applicable, and to their knowledge, the other parties thereto, enforceable in accordance with its terms (subject to bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights generally and except for limitations upon the availability of equitable remedies, including specific performance). Except as disclosed on Schedule 3.17B, none of the transactions contemplated by this Agreement creates in any party to such contracts and commitments the right to revise the terms of, to terminate, to accelerate any obligation of Lakewood or any Affiliate, or otherwise declare that such contracts or commitments have been breached. None of Lakewood or any Affiliate is aware of any defaults, and none of Lakewood or any Affiliate has any reason to believe that a default may occur by Lakewood or any Affiliate or any other party to the material contracts and commitments to which Lakewood and the Affiliates may become a party (by assignment, transfer by operation of law, succession, or otherwise).

SECTION 3.18 Other Approvals. To the knowledge of Lakewood and the Affiliates, upon Lakewood's and the Affiliate's receipt of written approval for the transactions contemplated from the applicable federal and state regulatory bodies, all consents, approvals, qualifications, orders or authorizations of, or filings with, any governmental authority, including any court or other governmental third party, required in connection with Lakewood's valid execution, delivery, or performance of this Agreement, or the consummation of any transaction contemplated by this Agreement, shall have been duly made and obtained and shall be effective on and as of the Closing Date.

SECTION 3.19 Cost Reports. The Medicare and Medicaid cost reports of Lakewood were filed when due. Except for disputes between Lakewood and the intermediary which concern the payment of an individual claim (as opposed to such disputes concerning the right of Lakewood to receive Medicare or Medicaid reimbursement generally or to participate in the Medicare or Medicaid programs), there is no dispute between Lakewood and any governmental authorities or the Medicare fiscal intermediary regarding such cost reports, other than with respect to adjustments thereto made in the ordinary course of business which do not involve amounts in excess of \$300,000 in the aggregate. Lakewood is not subject to any pending, but unassessed Medicare or Medicaid claim payment adjustments, except to the extent Lakewood has established adequate reserves for such adjustments.

SECTION 3.20 Medicare and Medicaid Certification; Accreditation.

3.20.1 To the extent applicable to their respective businesses, each of Lakewood and the Affiliates has met and does meet, without material exception, the conditions for participation in the Medicare and Medicaid programs, and, to the knowledge of Lakewood, there is no pending or threatened proceeding or investigation under such programs involving Lakewood or the Affiliates.

3.20.2 Lakewood is fully accredited by the Joint Commission on Accreditation of Healthcare Organizations ("JCAHO"). To the knowledge of Lakewood, there is no pending or threatened investigation of Lakewood by JCAHO which investigation is not otherwise conducted in the ordinary course of business.

SECTION 3.21 Employee Benefit Plans. For purposes of this Agreement, the term "Employee Plan" includes any pension, retirement, savings, disability, medical, dental or other health plan, life insurance (including any individual life insurance policy as to which Lakewood or any Affiliate makes premium payments whether or not any of Lakewood or the Affiliates is the owner, beneficiary or both of such policy) or other death benefit plan, profit sharing, deferred compensation, stock option, bonus or other incentive plan, vacation benefit plan, severance plan or other employee benefit plan or arrangement (whether written or arising from custom), including, without limitation, any employee pension benefit plan ("Pension Plan") as defined in Section 3(2) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and any employee welfare benefit plan as defined in Section 3(1) of ERISA ("Welfare Plan"), whether or not any of the foregoing is funded, and whether written or oral.

3.21.1 There are no Employee Plans, other than those listed in Schedule 3.21, (i) to which Lakewood or any Affiliate is a party or by which Lakewood or any Affiliate (or any of its rights, properties or assets) is bound or (ii) with respect to which Lakewood or any Affiliate has made payments, contributions or commitments or may otherwise have any liability (including any such plan or arrangement formerly maintained by Lakewood or any Affiliate).

3.21.2 Except as disclosed in Schedule 3.21, no Pension Plan is a "defined benefit plan" as defined in Section 3(35) of ERISA or a "multi-employer plan" as defined in Section 4001(a) of ERISA.

3.21.3 Except as disclosed in Schedule 3.21, to Lakewood's knowledge, each Employee Plan, the administrator and fiduciaries of each Employee Plan, and Lakewood and the Affiliates have at all times complied with the applicable requirements of ERISA, as it relates to them, including, but not limited to, the fiduciary responsibilities imposed by Part 4 of Title 1, Subtitle B of ERISA, and any other applicable law (including regulations and rulings thereunder) governing each Employee Plan, including, without limitation, Sections 403(b) and 457 of the Tax Code, and each Employee Plan has at all times been properly administered in

accordance with all such requirements of law, and in accordance with its terms and the terms of any applicable collective bargaining agreement to the extent consistent with all such requirements of law with respect to all of the foregoing in this sentence, the failure of which will not have a material adverse effect on the businesses of Lakewood and the Affiliates on a consolidated basis. To the knowledge of Lakewood, no lawsuits or complaints to, or by, any person or governmental entity have been filed or are pending and no state of facts or contemplated event could be reasonably likely to give rise to any such lawsuit or complaint with respect to any Employee Plan. Without limiting the foregoing and except as disclosed in Schedule 3.21, the following are true, with respect to each Employee Plan:

3.21.3.1 Lakewood and the Affiliates have filed or caused to be filed on a timely basis each and every return, report, statement, notice, declaration and other document required by any government agency, federal, state and local (including, without limitation, the Internal Revenue Service and the Department of Labor), with respect to each Employee Plan.

3.21.4 Except as disclosed in Schedule 3.21, with respect to each Employee Plan, there has not occurred, nor is any person or entity contractually bound to enter into, any transaction giving rise to any tax or liability under Section 4975 of the Tax Code or Section 406 or Section 502(i) of ERISA for which an exemption is not available.

3.21.5 Lakewood has made available to CCF true and correct copies of all financial statements, if any, and annual reports on Form 5500 for each Employee Plan and, except as disclosed in Schedule 3.21, no change which has a material adverse effect to the financial condition of Lakewood and the Affiliates or any Employee Plan has occurred with respect to the financial condition or funding of the Employee Plans since the date of such financial statements.

3.21.6 Lakewood and the Affiliates have in all material respects complied with the requirements, to the extent applicable, of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") with respect to the continuation of employer-provided health benefits following a "qualifying event" which would otherwise terminate such benefits, as provided in Section 4980B(f) of the Tax Code and applicable regulations and Internal Revenue Service rulings, notices, and other pronouncements.

3.21.7 Except as disclosed in Schedule 3.21, there is no agreement or other promise, written or oral, of Lakewood or any of the Affiliates, to the effect that any Employee Plan may not be terminated at Lakewood's or the Affiliate's discretion at any time, subject to any applicable provisions of ERISA, the Tax Code and any regulations promulgated thereunder.

SECTION 3.22 Hill-Burton Loan. None of Lakewood or the Affiliates has any outstanding obligation to repay any loans, grants, or loan guarantees, or to provide

uncompensated care in consideration thereof, pursuant to the Hill-Burton Act (42 U.S.C. § 291a, et seq.).

SECTION 3.23 Environmental Liabilities.

3.23.1 With regard to any of Lakewood's and the Affiliates' properties, Lakewood has knowledge of no facts regarding the use, storage, treatment, transportation, manufacture, refinement, handling, production, or disposal of Hazardous Materials or Petroleum Products in violation of Environmental Laws, the violation of which would have a material adverse effect on the businesses of Lakewood and the Affiliates on a consolidated basis.

3.23.2 To the knowledge of Lakewood, no pending claims have been made against Lakewood or the Affiliates, no currently outstanding citations or notices have been issued against Lakewood or the Affiliates and none of Lakewood or the Affiliates has any obligation or liability, matured or not matured, absolute or contingent, assessed or unassessed, which in the case of any of the foregoing have been or are imposed by reason of or based upon any provision of any Environmental Laws.

3.23.3 As used in this Section 3.23, "Environmental Laws" shall mean any and all federal, state, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, or other court or arbitrator, in each case whether of the United States or foreign, regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Material or Petroleum Products or environmental protection, as now or may at any time hereafter be in effect, together, in each case, with any amendment thereto, and the regulations adopted and publications promulgated thereunder and all substitutions thereof.

3.23.4 As used in this Section 3.23, "Hazardous Materials" shall mean any hazardous materials, hazardous wastes, infectious medical wastes, hazardous or toxic substances, asbestos, asbestos fibers, friable asbestos, any PCB's, or constituents of the foregoing, defined or regulated as such in or under any Environmental Law.

3.23.5 As used in this Section 3.23, "Petroleum Products" shall mean gasoline, diesel fuel, motor oil, waste or used oil, heating oil, kerosene, and any other petroleum products.

ARTICLE 4. REPRESENTATIONS AND WARRANTIES OF CCF

CCF represents and warrants to Lakewood as follows:

SECTION 4.1 Organization, Qualification & Corporate Power. CCF is duly incorporated, validly existing and in good standing under the laws of the State of Ohio. CCF

has the corporate power and authority to own and hold its properties and to carry on its business as now conducted.

SECTION 4.2 **No Breach.** The execution, delivery and performance by CCF of this Agreement and related agreements contemplated herein do not and will not (i) contravene or conflict with the Articles of Incorporation or Codes of Regulations of CCF; (ii) contravene, violate, or conflict with any material law, regulation, judgment, order or decree applicable to CCF; or (iii) constitute a default under or give rise to any right to terminate any material agreement, contract or other instrument binding upon CCF, or any material license, permit or other similar authorization held by CCF.

SECTION 4.3 **Validity.** CCF has the full corporate power and authority to execute and deliver this Agreement and all other agreements and documents necessary to consummate the contemplated transactions and all corporate action of CCF necessary for such execution and delivery and the performance thereof will, by the Closing Date, have been duly taken. This Agreement and all agreements related to this transaction have been duly executed and delivered by CCF and, when duly executed by the other parties thereto, constitute the legal, valid, and binding obligation of CCF enforceable in accordance with their terms, subject as to enforcement of remedies to the discretion of courts in awarding equitable relief and to applicable bankruptcy, reorganization, insolvency, moratorium and similar laws affecting the rights of creditors generally. To the knowledge of CCF, the execution and delivery by CCF of this Agreement, and the performance of its obligations hereunder, does not require any action or consent of any party other than CCF pursuant to any contract, agreement or other undertaking of CCF, or pursuant to any order or decree to which CCF is a party or to which its properties or assets are subject.

SECTION 4.4 **Compliance With Law.** To the knowledge of CCF, CCF has the lawful authority and all material state, federal, special or local governmental authorizations, licenses or permits required to conduct its business as such business is presently being conducted the absence of which would not have a material adverse effect on the business of CCF.

SECTION 4.5 **Financial Statements.** CCF has furnished to Lakewood (i) the audited financial statements of CCF as of December 31, 1993, 1994 and 1995, including the balance sheet and the related statements of revenue and expenses, cash flows and changes in general fund balances of CCF for the years then ended, with an unqualified report thereon from Ernst & Young, LLC, independent certified public accounting firm (the "CCF Audited Financial Statements"), including any management letters regarding the internal operations of CCF with respect to such fiscal year that have been delivered to CCF and (ii) unaudited interim financial statements of CCF for the monthly periods from January 1, 1996, to March 31, 1996, and will furnish such unaudited interim financial statements for the monthly periods through the month ending immediately prior to the Closing Date (collectively referred to as the "CCF Unaudited Financial Statements") (the CCF Audited Financial Statements and the CCF Unaudited Financial Statements are sometimes referred to herein collectively as the "CCF Financial Statements"). The CCF Financial Statements have been (or will be when delivered)

prepared in accordance with generally accepted accounting principles consistently applied (except, in the case of the CCF Unaudited Financial Statements, for the absence of footnotes and year end adjustments) and fairly present in all material respects the financial position of CCF and the results of operations and changes in financial position as of the dates and for the periods specified. Except as set forth in the CCF Financial Statements, CCF has not incurred any material liability other than in the ordinary course of business. Since December 31, 1995, except as disclosed in Schedule 4.5: (i) there has been no material change in the assets, liabilities or financial condition of CCF from that reflected in the most recent CCF Audited Financial Statement, except for changes in the ordinary course of business and consistent with past practice which, in the aggregate, have not been materially adverse to the business, prospects, financial condition, operations, property, or affairs of CCF; and (ii) none of the business, prospects, financial condition, operations, property, or affairs of CCF has been materially adversely affected by any occurrence or development, individually or in the aggregate, whether or not insured against.

SECTION 4.6 Events Subsequent to the Date of the CCF Audited Financial Statements. Except as disclosed on Schedule 4.6, since the date of the CCF Audited Financial Statements, CCF has not incurred any liability of any nature which would have a material adverse effect on CCF's financial condition or results of operations on a consolidated basis, and CCF has not: (i) issued any stock, bond or other corporate security or created any membership interest; (ii) borrowed any amount or incurred or become subject to any liability (absolute, accrued or contingent), except current liabilities incurred, and liabilities under contracts entered into in the ordinary course of business; (iii) discharged or satisfied any lien or encumbrance or incurred or paid any obligation or liability (absolute, accrued or contingent) other than current liabilities shown on the CCF Audited Financial Statements and current liabilities incurred since the date of the CCF Audited Financial Statements and reflected on the CCF Unaudited Financial Statements in the ordinary course of business; (iv) declared or made any payment or distribution to members or shareholders or purchased or redeemed any membership or share of its capital stock or other security; (v) mortgaged, pledged or subjected to lien any of its assets, tangible or intangible, other than liens which arise by operation of law, liens of current real property taxes not yet due and payable or liens on assets pursuant to purchase money security interests incurred in the ordinary course of business; (vi) sold, assigned or transferred any of its tangible assets or cancelled any debt or claim, except in the ordinary course of business; (vii) suffered any material, uninsured loss of property or waived any material right whether or not in the ordinary course of business; (viii) made any change in officer compensation; (ix) made any material change in the manner of business or operations including any change in accounting principles and practices; (x) entered into any transaction except in the ordinary course of business or as otherwise contemplated hereby; or (xi) entered into any commitment (contingent or otherwise) to do any of the foregoing, any of which would have a material adverse effect on CCF's financial condition or results of operation on a consolidated basis.

SECTION 4.7 Litigation and Investigations. To the knowledge of CCF, and except as disclosed on Schedule 4.7, there is no: (i) action, suit, claim, proceeding, or investigation pending or, threatened against CCF by any private party or any federal, state,

municipal, or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which if decided adversely to CCF would have a material adverse effect on CCF's financial condition or results of operations on a consolidated basis; (ii) arbitration proceeding relating to CCF pending under collective bargaining agreements or otherwise; or (iii) governmental or professional inquiry pending or threatened against or directly affecting CCF (including, without limitation, any inquiry as to the qualification of CCF or the Affiliates to hold or receive any license or permit), which if decided adversely to CCF would have a material adverse effect on CCF's financial condition or results of operations on a consolidated basis. CCF is not in default with respect to any order, writ, injunction, or decree known to or served upon it of any court or of any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign.

SECTION 4.8 **Tax Exempt Status.** CCF is exempt from Federal income tax pursuant to Section 501(c)(3) of the Tax Code, and CCF is a "hospital" within the meaning of Section 170(b)(1)(A)(iii) of the Tax Code. CCF is not aware of any proceeding, pending or threatened, or of any existing circumstances, which could reasonably be anticipated to result in the loss or revocation of the aforementioned exemption held by CCF.

SECTION 4.9 **Medicare and Medicaid Certification; Accreditation.**

4.9.1 To the extent applicable to its businesses, CCF has met and does meet, without material exception, the conditions for participation in the Medicare and Medicaid programs, and, to the knowledge of CCF, there is no pending or threatened proceeding or investigation under such programs involving CCF, which if decided adversely to CCF would have a material adverse effect on CCF's financial condition or results of operations on a consolidated basis.

4.9.2 CCF is fully accredited by the Joint Commission on Accreditation of Healthcare Organizations ("JCAHO"). To the knowledge of CCF, there is no pending or threatened investigation of CCF by JCAHO which investigation is not otherwise conducted in the ordinary course of business.

ARTICLE 5.
CONDITIONS TO THE OBLIGATIONS OF CCF

The obligations of CCF to consummate this Agreement and any other transaction contemplated by this Agreement are, at its option, subject to the satisfaction, on or before the Closing Date, of the following conditions:

SECTION 5.1 **Opinion of Counsel for Lakewood.** CCF shall have received from counsel for Lakewood an opinion, dated as of the Closing Date, in form and substance satisfactory to it and its counsel, to the effect that:

5.1.1 Lakewood (i) is validly existing, and in good standing under the laws of the State of Ohio; (ii) has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Tax Code, as an organization (and not a private foundation) as defined in Section 509(a) of the Tax Code, and a "hospital" within the meaning of Section 170(b)(1)(A)(iii) of the Tax Code; there have not been brought to our attention any changes in the Internal Revenue Service's position or the facts on which Lakewood's exemption is based which are likely to result in such exemption or status being jeopardized; (iii) is duly qualified to transact business in the State of Ohio; and (iv) has the corporate power to own and hold its properties and to carry on its business as now conducted. Lakewood has the corporate power and authority to execute, deliver, and perform its obligations under this Agreement and the Lease contemplated herein. All regulatory approvals necessary for Lakewood to perform fully the transactions contemplated herein have been obtained.

5.1.2 Lakewood has the full corporate power and authority to execute, deliver, and perform this Agreement, and, upon the requisite approvals thereof, all corporate action of Lakewood necessary for such execution, delivery, and performance will have been duly taken. This Agreement and the Lease have been duly executed and delivered by Lakewood and constitute the legal, valid, and binding obligation of Lakewood enforceable in accordance with their terms (subject as to enforcement of remedies to the discretion of the courts in awarding equitable relief and to applicable bankruptcy, reorganization, insolvency, moratorium, and similar laws affecting the rights of creditors generally).

SECTION 5.2 Representations and Warranties to be True and Correct. The representations and warranties made by Lakewood contained in Article 3 shall be true, complete, and correct in all material respects on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of such date, and an officer of Lakewood shall have certified to such effect to CCF in writing.

SECTION 5.3 Lease Agreement. The City and Lakewood shall enter into the Lease as referred to in Section 1.8, above.

SECTION 5.4 Bond Trustee Consent. Bond trustee for the holders of bonds for which Lakewood is the obligor shall have consented to the transactions contemplated herein, to the extent necessary.

SECTION 5.5 Performance. Lakewood shall have performed and complied in all material respects with all agreements contemplated herein that are required to be performed or complied with by Lakewood prior to or at the Closing Date.

SECTION 5.6 All Proceedings to be Satisfactory. All corporate and other proceedings to be taken by Lakewood in connection with the transactions contemplated hereby and all documents incident thereto shall be reasonably satisfactory in form and substance to CCF and its counsel, and CCF and its counsel shall have received all such counterpart originals or certified or other copies of such documents as they reasonably may request.

SECTION 5.7 **Absence of Material Adverse Change.** There shall have been no material adverse change, since the date of the most recent Lakewood Audited Financial Statements, in the business, assets, financial condition, or operations of Lakewood or any Affiliate or any other event that would, with the passage of time or otherwise, impair or otherwise affect in any material respect the accuracy of any of the representations and warranties of Lakewood. Prior to Closing, Lakewood shall have promptly notified CCF in writing of any event of which its officers have knowledge that occurred, or was reasonably likely to occur, and which was reasonably likely to result in a material adverse change in the business, assets, financial condition, or operations of Lakewood or any Affiliate and of any other event that would, with the passage of time or otherwise, impair or otherwise affect in any material respect the accuracy of any of the representations and warranties of Lakewood contained herein on and as of the Closing Date.

SECTION 5.8 **Approvals.** All necessary corporate and regulatory approvals for the transactions contemplated by this Agreement shall have been obtained, including, but not limited to: (i) approval of the Ohio Department of Health to the change of membership; and (ii) the approval of the Department of Justice and Federal Trade Commission (or passage of the appropriate waiting period) pursuant to the Hart-Scott-Rodino Antitrust Improvement Act of 1976. The Board of Trustees of Lakewood shall have approved the transactions contemplated hereby.

SECTION 5.9 **Supporting Documents.** CCF and its counsel shall have received copies of the following documents:

5.9.1 The Articles of Incorporation of Lakewood and each Affiliate, certified within thirty (30) days of the Closing by the Secretary of the State for the State of Ohio;

5.9.2 A certificate of the Secretary of State for the State of Ohio dated within thirty (30) days of the Closing as to the due incorporation and good standing of Lakewood and each Affiliate and listing all documents of Lakewood and each Affiliate on file with said Secretary; and

5.9.3 The Code of Regulations of Lakewood and each Affiliate.

5.9.4 A certificate of the Secretary or an Assistant Secretary of Lakewood dated as of the Closing Date and certifying: (i) that attached thereto is a true and complete copy of the Articles of Incorporation and the Code of Regulations of Lakewood, as amended and as in effect on the date of such certification; (ii) that attached thereto is a true and complete copy of all resolutions adopted by the Board of Trustees of Lakewood authorizing the execution, delivery, and performance of this Agreement and all transactions contemplated by this Agreement and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated by this Agreement; (iii) that the Articles of Incorporation have not been amended since the date of the last amendment referred to in the certificate delivered pursuant to Section 5.9.2 above; and (iv) to the incumbency and specimen signature

of each officer of Lakewood executing this Agreement and a certification by another officer of Lakewood as to the incumbency and signature of the officer signing the certificate referred to in this Section 5.9.2.

5.9.5 A certificate of an officer of each of the Affiliates dated as of the Closing Date and certifying: (i) that attached thereto is a true and complete copy of the Articles of Incorporation and Code of Regulations of such entity in effect as of the date of such certification; and (ii) that Articles of Incorporation and Code of Regulations have not been amended since the date of the last amendment referred to in the certificate delivered pursuant to Section 5.9.2 above.

5.9.6 Such additional supporting documents and other information with respect to the operations and affairs of Lakewood as CCF or its counsel reasonably may request.

SECTION 5.10 Due Diligence. CCF shall have completed, and the results shall be to its reasonable satisfaction, a complete business, financial, and legal due diligence review of Lakewood and the Affiliates, including, but not limited to, an analysis of any antitrust implications of the contemplated transactions. If CCF does not terminate the Agreement on or before October 15, 1996 because of this condition, the condition shall be deemed to be waived.

ARTICLE 6. CONDITIONS TO THE OBLIGATIONS OF LAKEWOOD

The obligations of Lakewood to consummate this Agreement and any other transaction contemplated by this Agreement are, at its option, subject to the satisfaction, on or before the Closing Date, of the following conditions:

SECTION 6.1 Opinion of Counsel for CCF. Lakewood shall have received from counsel for CCF an opinion, dated as of the Closing Date, in form and substance satisfactory to it and its counsel, to the effect that:

6.1.1 CCF (i) is validly existing, and in good standing under the laws of the State of Ohio; (ii) has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Tax Code and as an organization (and not a private foundation) as defined in Section 509(a) of the Tax Code; there have not been brought to our attention any changes in the Internal Revenue Service's position or the facts on which CCF's exemption is based which are likely to result in such exemption or status being jeopardized; (iii) is duly qualified to transact business in the State of Ohio; and (iv) duly empowered and authorized to own and hold its properties and to carry on its business as now conducted. CCF has the corporate power and authority to execute, deliver, and perform its obligations under this Agreement and the Lease contemplated herein. All regulatory approvals necessary for CCF to perform fully the transactions contemplated herein have been obtained.

6.1.2 CCF has the full legal power and authority to execute, deliver, and perform this Agreement and, upon the requisite approvals thereof, all corporate action of CCF necessary for such execution, delivery, and performance will have been duly taken. This Agreement has been duly executed and delivered by CCF and constitutes the legal, valid, and binding obligation of CCF enforceable in accordance with their terms (subject as to enforcement of remedies to the discretion of the courts in awarding equitable relief and to applicable bankruptcy, reorganization, insolvency, moratorium, and similar laws affecting the rights of creditors generally).

SECTION 6.2 **Representations and Warranties to be True and Correct.** The representations and warranties made by CCF contained in Article 4 shall be true, complete, and correct in all material respects on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of such date, and officers of CCF shall have certified to such effect to Lakewood in writing.

SECTION 6.3 **Performance.** CCF shall have performed and complied in all material respects with all agreements contemplated herein that are required to be performed or complied with by CCF prior to or at the Closing Date.

SECTION 6.4 **All Proceedings to be Satisfactory.** All corporate and other proceedings to be taken by CCF in connection with the transactions contemplated hereby and all documents incident thereto shall be reasonably satisfactory in form and substance to Lakewood and its counsel, and Lakewood and its counsel shall have received all such counterpart originals or certified or other copies of such documents as they reasonably may request.

SECTION 6.5 **Absence of Material Adverse Change.** There shall have been no material adverse change, since the date of the most recent CCF Audited Financial Statement, in the business, assets, financial condition, or operations of CCF or any other event that would, with the passage of time or otherwise impair or otherwise affect in any material respect, the accuracy of any of the representations and warranties of CCF. Prior to Closing, CCF shall have promptly notified Lakewood in writing of any material event of which its officers have knowledge that occurred, or was reasonably likely to occur, and which was reasonably likely to result in a material adverse change in the business, assets, financial condition, or operations of CCF and of any other event that would, with the passage of time or otherwise, impair or otherwise affect, in any material respect, the accuracy of any of the representations and warranties of CCF contained herein on and as of the Closing Date.

SECTION 6.6 **Approvals.** All necessary corporate and regulatory approvals for the transactions contemplated by this Agreement shall have been obtained, including, but not limited to: (i) approval of the Ohio Department of Health to the change of membership; and (ii) the approval of the Department of Justice and Federal Trade Commission pursuant to the Hart-Scott-Rodino Antitrust Improvement Act of 1976. The Board of Trustees of CCF shall have approved the transactions contemplated hereby.

SECTION 6.7 **Due Diligence.** Lakewood shall have completed, and the results shall be to their reasonable satisfaction, a business, financial, and legal due diligence review of CCF, including, but not limited to, an analysis of any antitrust implications of the contemplated transactions. If Lakewood does not terminate the Agreement on or before October 15, 1996 because of this condition, the condition shall be deemed to be waived.

SECTION 6.8 **Membership in Cleveland Health Network.** Lakewood shall be a member of the Cleveland Health Network prior to or on the Closing Date.

ARTICLE 7.
INTERIM COVENANTS OF LAKEWOOD
BETWEEN THE DATE OF THIS AGREEMENT AND THE CLOSING DATE.

Lakewood covenants to CCF that for the period between the date of this Agreement and the Closing Date:

SECTION 7.1 **Maintenance of Properties and Business.** Lakewood shall use its reasonable best efforts to conduct Lakewood's business so as to maintain the properties and business of Lakewood and to preserve the business organization and the goodwill of customers and suppliers of Lakewood. Except as otherwise herein provided, without the prior written consent of CCF, which consent shall not be unreasonably withheld or delayed, Lakewood shall not:

7.1.1 Declare or pay any distributions of its assets to any member;

7.1.2 Amend its Articles of Incorporation or Code of Regulations except as otherwise provided by this Agreement;

7.1.3 Make any material change in its business, including any changes in accounting principles and practices or make any capital expenditures individually in excess of \$2.5 million or in excess of \$5 million in the aggregate ;

7.1.4 Execute, renew or extend any lease obligations which individually or in the aggregate are greater than \$2.5 million per year;

7.1.5 Acquire any other material business or interest therein;

7.1.6 Increase the compensation of any trustee, officer, or employee other than regularly scheduled increases consistent with an existing compensation program and past practices;

7.1.7 Mortgage, sell, or lease any of its material assets, except as permitted under Section 8.1.1 above other than in the ordinary course of business and consistent with past practices;

7.1.8 Incur any indebtedness or make any loans, which individually or in the aggregate are greater than \$2.5 million per year;

7.1.9 Enter into any material agreement or renew any material agreement except as is consistent with past practices; or

7.1.10 Agree to do any of the foregoing.

SECTION 7.2 Announcements. Lakewood will not, without prior consultation with CCF, make any announcement to the public concerning the transactions contemplated by this Agreement.

SECTION 7.3 Access to Information. Prior to Closing, Lakewood shall permit CCF and its counsel, accountants, and other representatives reasonable access during normal business hours to all properties, books, contracts, commitments, and records of Lakewood and the Affiliates reasonably necessary for CCF's due diligence review and Lakewood shall furnish such statements (financial and otherwise), records, reports, documents, and other information concerning the operations of Lakewood and the Affiliates as CCF and its counsel reasonably request from time to time. To the extent reasonably requested by CCF, Lakewood shall request its accountants, attorneys, and other representatives to cooperate with the representatives of CCF in connection with the right of access granted herein.

SECTION 7.4 Notice of Breach. Lakewood shall promptly give notice to CCF of the occurrence of any event, or the failure of any event to occur that results in a material breach of any representation or warranty of Lakewood or a failure by Lakewood to comply with any material covenant, condition or agreement contained herein.

SECTION 7.5 Consents and Approvals. Lakewood will use its reasonable efforts to obtain all licenses, consents or other approvals required to be obtained by it from any appropriate governmental agency or authority or other person in connection with the consummation of the transactions contemplated by this Agreement.

ARTICLE 8.

INTERIM COVENANTS OF CCF BETWEEN THE DATE OF THIS AGREEMENT AND THE CLOSING DATE

SECTION 8.1 Announcements. CCF will not, without prior consultation with Lakewood, make any announcement to the public concerning the transactions contemplated by this Agreement.

SECTION 8.2 Access to Information. Prior to Closing, CCF shall permit Lakewood and its counsel, accountants, and other representatives access during normal business hours to all properties, books, contracts, commitments, and records of CCF, reasonably necessary for Lakewood's due diligence review of CCF and CCF shall furnish such statements, records, reports, documents and other information concerning the operations of CCF as Lakewood and its counsel reasonably request from time to time. To the extent reasonably requested by Lakewood, CCF shall request its counsel, accountants, and other representatives to cooperate with the representatives of Lakewood in connection with the rights of access granted herein.

SECTION 8.3 Notice of Breach. CCF will promptly give notice to Lakewood of the occurrence of any event or the failure of any event to occur that results in a material breach of any representation or warranty of CCF or a failure by CCF to comply with any material covenant, condition or agreement contained herein.

SECTION 8.4 Consents and Approvals. CCF will use its best efforts to obtain all licenses, consents and other approvals required to be obtained from any appropriate governmental agency or authority or other person in connection with the consummation of the transactions contemplated by this Agreement.

ARTICLE 9. JOINT COVENANTS OF THE PARTIES

SECTION 9.1 Confidentiality of Business Information. The parties heretofore have received and hereafter may receive various financial and other information concerning their respective activities, businesses, assets, and properties. The parties agree that:

9.1.1 all such information thus received by the parties shall not at any time, or in any way or manner, be utilized by the parties for their respective advantage or disclosed by the parties to others for any purpose whatsoever;

9.1.2 the parties shall take all reasonable measures to assure that no employee or agent under their respective control shall at any time use or disclose any information described in this Section; and

9.1.3 this Section shall not apply to; (i) any such information that was known to the parties prior to its disclosure to the parties in accordance with this Section or was, is, or becomes generally available to the public other than by disclosure by the parties or any of their respective employees or agents in violation of this Section; or (ii) legally compelled disclosure of any such information; provided, however, that prior to such latter disclosure, the party proposing to make such disclosure as a result of such legal process shall provide the other party with reasonable notice prior to disclosure to allow such other party to contest such disclosure or otherwise obtain any limitations on such disclosure from the applicable tribunal.

SECTION 9.2 Confidentiality of this Agreement. The existence, terms and contents of this Agreement and its Schedules and Exhibits and the nature and status of the transactions described herein and therein are confidential. Without the prior written consent of the other parties, no party will disclose to any person, other than to its respective trustees, officers, and key employees, affiliates, accounting, investment banking, and legal advisers, any such confidential information unless, in the written opinion of counsel to the party seeking to make the disclosure, such a disclosure is required by applicable corporation or securities laws, the Hart-Scott-Rodino Antitrust Improvement Act of 1976 or any other federal or state governmental authority, or as required by the City of Lakewood in connection with its approval of the Lease. The timing and content of any announcements, press releases, or other public statements concerning the transactions contemplated by this Agreement will occur upon, and be determined by, the mutual agreement and consent of the parties.

SECTION 9.3 Negotiations.

9.3.1 From the date of this Agreement to the earlier of the Closing Date or the termination of the Agreement (the "Interim Period"), CCF and Lakewood agree that the parties will negotiate with each other in good faith and only with each other regarding the subject matter of this Agreement; provided, however, that this Section 9.3 shall not be construed as limiting the ability of CCF, in any way, to discuss or negotiate any other transactions for the integration of other health care providers or practitioners, including hospitals and/or physicians, into the CCF health care system. Lakewood and any officer, director or controlling person thereof will not solicit any competing proposals for the integration, consolidation or acquisition of Lakewood by any other person or entity during the Interim Period. Further, any proposal which is received from any officer, director or controlling person of Lakewood, or any affiliate thereof, whether or not solicited by Lakewood shall be rejected during the Interim Period, in accordance with this Section 9.3.

9.3.2 Lakewood acknowledge and agree that a remedy at law for any breach or threatened breach of the provisions of Section 9.3 hereof would be inadequate and, therefore, agree that CCF shall be entitled to injunctive relief in addition to any other available rights and remedies in cases of any such breach or threatened breach; provided, however, that nothing contained herein shall be construed as prohibiting CCF from pursuing any other rights and remedies available for such breach or threatened breach.

**ARTICLE 10.
TERMINATION**

SECTION 10.1 Termination Prior to Closing. This Agreement may be terminated prior to Closing by mutual consent of the parties or by CCF or Lakewood by notice to the other party:

10.1.1 in the event that any of the conditions precedent to the performance of the obligations of the party giving such notice shall not have been fulfilled and cannot be fulfilled on or prior to the Closing Date and shall not have been waived by such party, or if a default shall be made by another party in the observance or in the due and timely performance of any of the covenants and agreements herein contained that cannot be cured on or prior to the Closing Date and shall not have been waived by the party giving such notice; provided, however, that nothing provided herein shall be construed as permitting a party to terminate when the party has been in default such that CCF may not terminate if CCF is in default and Lakewood may not terminate if Lakewood is in default;

10.1.2 at either CCF's or Lakewood's option, in the event of the institution of litigation or proceedings against CCF or Lakewood, which constitutes a serious threat to enjoin, hinder or delay or to obtain damages or other relief in connection with this Agreement or the transactions contemplated herein or therein; or

10.1.3 if any consents or approvals which are necessary to the consummation of the transactions contemplated by this Agreement or the continuing business properties or prospects of the entity resulting from the consummation of the transactions contemplated by this Agreement shall have been refused or withdrawn by any governmental authority having jurisdiction, including, but not limited to, the Department of Justice, the Federal Trade Commission or the Ohio Department of Health.

10.1.4 if the Closing does not occur within ninety (90) days of the date of execution of this Agreement (the "Abandonment Date"); provided, however, that if the Closing is delayed beyond ninety (90) days from the execution date of this Agreement solely by virtue of any delay in obtaining regulatory approvals, the Abandonment Date shall be extended until such approvals have been obtained or denied; provided further, however, that CCF or Lakewood shall have the option of terminating this Agreement after one hundred eighty (180) days after the date of execution of this Agreement.

SECTION 10.2 Termination After Closing. This Agreement may be terminated after Closing by mutual consent of the parties or:

10.2.1 If CCF sells all or substantially all of its assets to a for profit corporation, Lakewood shall have the right to terminate this Agreement; and

10.2.2 If the Lease expires or terminates, after CCF has had a reasonable opportunity to cure any such default.

SECTION 10.3 Approval by Board of Trustees. Any termination pursuant to Section 10.1 or 10.2 shall first be approved by the Board of Trustees of the party seeking termination, to the extent that such approval is required for such action.

SECTION 10.4 **Appointment of Attorney in Fact.** In the event of a termination arising out of Section 10.2, and CCF thereafter fails or refuses to approve a change to the Articles of Incorporation and/or Code of Regulations necessary to terminate its rights as the Member, the President of Lakewood or such other officer or agent of Lakewood as may be appointed by the Board of Trustees shall be deemed to be the attorney in fact of CCF solely to exercise CCF's power as the Member, to approve any amendments to the Articles of Incorporation and/or Code of Regulations necessary to terminate CCF's rights as the sole Member. Such attorney in fact shall have no other authority, express or implied, to act on behalf of CCF, except with regard to voting to approve any such necessary amendments.

SECTION 10.5 **Continuation of Certain Sections.** Upon termination of this Agreement, as provided in this Article 10, neither party shall have any further obligation to the other party (other than any obligation due as a result of any action at law or equity which either party may have against the other in the event of a termination arising from any breach of this Agreement), except that the provisions of Article 9 of this Agreement shall survive the termination.

ARTICLE 11.

DISPUTES

SECTION 11.1 **Resolution of Certain Disputes.**

11.1.1 A matter shall not be deemed a Dispute until one party (the "Declaring Party") declares, by the delivery of written notice (the "Notice") to the other party that there exists a Dispute. The notice shall specify the cause of the Dispute and the action that the Declaring Party deems necessary to resolve the Dispute. In the event the Dispute is not resolved within thirty (30) days of the date of the Notice, the matter shall be resolved in accordance with the following procedures, except as otherwise provided in Section 11.1.4, below.

11.1.2 At any time prior to the commencement of arbitration or otherwise during the pendency of any Dispute, either party may request that the matter be submitted for discussion and resolution, if possible, by the Chief Executive Officers of the parties. Notwithstanding this provision, the procedures, including time limits, set forth herein shall continue to apply.

11.1.3 At any time prior to the commencement of arbitration or otherwise during the pendency of a Dispute, either party may request that the matter be submitted for discussion and resolution, if possible, by a committee comprised of the Chief Executive Officer of Lakewood, the Chief Executive Officer of CCF, the Mayor of the City of Lakewood, a member of the Board of Trustees of Lakewood selected in accordance with Section 1.1.3.3, and two members of the Board of Trustees of Lakewood selected in accordance with Section 1.1.3.5.

11.1.4 Except as otherwise provided in Section 11.1.4, below, all Disputes, to the extent otherwise not resolved by informal action of the parties, or by voluntary mediation, shall be settled by arbitration in Cleveland, Ohio, or in such other location as mutually agreed to by the parties, in accordance with the then current rules of the American Arbitration Association. Any demand for arbitration must be made within thirty (30) days of the occurrence of the arbitration issue by the Declaring Party. An arbitration issue shall be deemed to have occurred upon the date that the Declaring Party provides written notice to the other party that an arbitration issue exists. The parties shall select one arbitrator to hear the controversy. If the parties are unable to agree on an arbitrator, each party shall each select one arbitrator and the two arbitrators shall select a third arbitrator who shall hear the controversy. The decision of the arbitrator shall be consistent with the terms of this Agreement, including the parties' intent as expressed herein, and shall be binding upon all parties; provided, however, that the decision of the arbitrator may not have the effect of causing either party to expend any funds as a result thereof. The expenses of the arbitration shall be borne jointly by the parties.

11.1.5 Notwithstanding the foregoing, the requirement of resolving a Dispute by arbitration shall not apply to any Dispute in which the remedy or relief sought by the Declaring Party includes the payment of money.

ARTICLE 12. MISCELLANEOUS

SECTION 12.1 Definitions.

12.1.1 For the purposes of this Agreement, the word "knowledge" shall be defined as actual knowledge.

12.1.2 For purposes of this Agreement, the word "material" shall mean having an affect on the business, operations, prospects or condition of Lakewood, or having an affect on the properties or assets used by Lakewood in its business or operations, which has an economic effect of \$2.5 million, singly, or \$5 million, in the aggregate.

SECTION 12.2 Amendments. This Agreement may not be amended or modified without the written consent of the parties hereto.

SECTION 12.3 Waiver. Failure to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement at any one time shall not be deemed a waiver of such term, covenant, or condition at any other time nor shall any waiver or relinquishment of any right or power herein at any time be deemed a waiver or relinquishment of the same or any other right or power at any other time.

SECTION 12.4 Notices. All notices, payments, or other communications required or permitted hereunder shall be in writing and delivered by personal delivery, mail, overnight courier or telecopier and shall be deemed to have been duly given, if by personal delivery, when

received; if by mail, when mailed by registered or certified mail, postage prepaid, and return receipt requested; or if by overnight courier or telecopier, when delivered to such courier or sent by telecopier (provided that the party giving the notice has confirmation of such delivery or sending), and addressed as follows (or at such other addresses as designated by the parties from time to time):

12.4.1 If to Lakewood:

Lakewood Hospital Association
14519 Detroit Avenue
Lakewood, Ohio 44107
Attn: Mr. Jules Bouthillet
President and Chief Executive Officer

with a copy to:

Lakewood Hospital Association
14519 Detroit Avenue
Lakewood, Ohio 44107
Attn: General Counsel

and

Christopher J. Swift, Esquire
Baker & Hostetler
3200 National City Center
1900 East 9th Street
Cleveland, Ohio 44114

and

Sara J. Fagnilli
Director of Law
City of Lakewood
12650 Detroit Avenue
Lakewood, Ohio 44107

12.4.2 If to CCF:

Cleveland Clinic Foundation
9500 Euclid Avenue
Cleveland, Ohio 44195
Attn: Frank L. Lordeman
Chief Operating Officer

and

David W. Rowan, Esquire
General Counsel
Cleveland Clinic Foundation
9500 Euclid Avenue
Cleveland, Ohio 44195

with a copy to:

Steven B. Epstein, Esquire
Robert D. Reif, Esquire
Epstein Becker & Green, P.C.
1227 25th Street, N.W.
Washington, D.C. 20037

SECTION 12.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SECTION 12.6 Enforceability and Severability. In the event any provision of this Agreement or portion thereof is found to be wholly or partially invalid, illegal, or unenforceable in any proceeding, then such provision shall be deemed to be modified or restricted to the extent and in the manner necessary to render the same valid and enforceable, or shall be deemed excised from this Agreement, as the case may require, and this Agreement shall be construed and enforced to the maximum extent permitted by law as if such provision had been originally incorporated herein as so modified or restricted or as if such provision had not been originally incorporated herein, as the case may be.

SECTION 12.7 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Ohio.

SECTION 12.8 Section Titles. The titles of the sections have been inserted as a matter of convenience and reference only and shall not control or affect the meaning or construction of this Agreement.

SECTION 12.9 Assignment. This Agreement shall not be assignable or delegated by any party without the prior written consent of the other party.

SECTION 12.10 Expenses. Each party hereto will pay its own expenses in connection with the transactions contemplated hereby, whether or not such transactions shall be consummated.

SECTION 12.11 Survival of Representations and Warranties. All representations and warranties made herein or in any other agreement, certificate, or instrument delivered to any party pursuant to or in connection with this Agreement shall survive the execution and delivery of this Agreement for a period of two years from the date of Closing. All statements contained in any certificate or other instrument delivered by CCF or Lakewood hereunder or in connection herewith shall be deemed to constitute representations and warranties made by that entity. Such representations and warranties shall survive until the time specified herein in full force and effect notwithstanding any investigation by the party relying upon them.

SECTION 12.12 Brokerage. Each party hereto will indemnify and hold the others harmless against and in respect of any claim for brokerage or other commissions relative to this Agreement or to the transactions contemplated hereby, based in any way on agreements, arrangements, or understandings made or claimed to have been made by such party with any third party.

SECTION 12.13 Parties in Interest. All representations, covenants, and agreements contained in this Agreement by or on behalf of any of the parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto whether so expressed or not.

SECTION 12.14 Remedies. All remedies for breach of this Agreement shall be cumulative.

SECTION 12.15 Third Parties. Except as specifically provided herein, this Agreement does not and is not intended to create any rights in any person or entity which is not a party to this Agreement.

SECTION 12.16 Entire Agreement. This Agreement, including the Schedules hereto, constitutes the sole and entire agreement and understanding of the parties with respect to the subject matter hereof. All Schedules hereto are incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereto have duly executed this Definitive Agreement this 11 day of December, 1996.

THE CLEVELAND CLINIC FOUNDATION

LAKEWOOD HOSPITAL ASSOCIATION

By: Floyd D. Loop, M.D.

Title: Chief Executive Officer

and Chairman, Board of Governors

By: William R. [Signature]

Title: Chairman

STATEMENT PER CIV.R. 10(D)(1)

**SELECTED EXHIBITS,
ATTACHMENTS, AND SCHEDULES
TO THE CONTRACT HAVE BEEN
INTENTIONALLY OMITTED
BECAUSE ALREADY A PUBLIC
DOCUMENT, TOO VOLUMINOUS,
AND NOT NECESSARY TO
COMMENCE THIS ACTION.**

PLEASE SUBSTITUTE FOR ORDINANCE NO. 51-96
ORIGINALLY SUBMITTED WITH THIS EVENING'S DOCKET,
WHICH HAD BEEN PLACED ON 1st READING & REFERRED
TO COMMITTEE OF THE WHOLE 11/18/96; 2nd READING
ON 12/2/96.

ORDINANCE NO. 51-96

BY: Boscia, Corrigan, Flannery,
George, Roth, Seelie, Smith

AN ORDINANCE, authorizing the amendment and restatement of a Lease dated June 26, 1987, by and between the City of Lakewood, Ohio ("City"), as Lessor, and Lakewood Hospital Association, a non-sectarian Ohio non-profit corporation organized for charitable purposes ("LHA") as Lessee, and authorizing the execution and delivery of an amended and restated Lease between the City and LHA, to permit an affiliation between LHA and The Cleveland Clinic Foundation ("CCF"), and authorizing and approving related matters.

WHEREAS, the City of Lakewood owns certain real and personal property comprising hospital facilities and property located in the City, which are managed and operated by the Lakewood Hospital Association pursuant to a Lease dated June 26, 1987, under the authority of Article XX, Section 4 of the Amended Charter of the City of Lakewood; and

WHEREAS, there have been, and continue to be, significant changes in the health care industry, including changes in the method and amounts of payments to hospitals and physicians for health care services, increased competition for patients among hospitals and alternative health care delivery systems, reductions in patients days and revenues due to utilization review pressures, aggressive efforts by business coalitions to limit hospital costs and obtain price discounts and increases in the aged population; and

WHEREAS, in today's economy and changing health care environment, community hospitals are particularly vulnerable due to limitations on their ability to compete with larger hospital networks and other private health care delivery systems for patient revenues; and

WHEREAS, community hospitals in Ohio and across the nation have determined that it is in the best interest of their institutions to affiliate with a larger hospital network so as to obtain the flexibility and financial support necessary to compete in the current and expected future economic conditions of the health care industry; and

WHEREAS, the LHA Board of Trustees has examined the potential options for the future of Lakewood Hospital and has determined that an affiliation with The Cleveland Clinic Foundation will provide LHA with greater resources and more flexibility to gain financial and competitive advantages necessary to continue and thrive as both a health care provider and major employer in the City of Lakewood; and

WHEREAS, LHA has requested that the City approve and enter into an amended and restated Lease so that LHA may meet the conditions of its entering into a Definitive Agreement with CCF; and

WHEREAS, this Council has determined that it is in the best interests of the residents and taxpayers of the City of Lakewood, and LHA and its patients, that the current Lease dated June 26, 1987 be amended by agreement of the parties, and that an amended and restated Lease be entered into by and between Lakewood Hospital Association and the City of Lakewood on the terms and conditions, and in substantially the form attached hereto as Exhibit "A," as approved by the Director of Law, and in accordance with Chapter 140 of the Ohio Revised Code; and

WHEREAS, the amended and restated Lease will require LHA to continue to pay the principal of and any premium and interest on the City's outstanding bonds under the Trust Indenture dated March 15, 1983, and the First Supplemental Trust Indenture dated June 15, 1989, between the City and National City Bank as Trustee, and will require LHA to make other additional payments, including a new Additional Payment to the City; therefore,

EXHIBIT

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BE IT ORDAINED BY COUNCIL OF THE CITY OF LAKEWOOD, OHIO, TWO-THIRDS OF THE MEMBERS THEREOF VOTING AFFIRMATIVELY;

Section 1. The current Lease dated June 26, 1987, by and between the City of Lakewood and Lakewood Hospital Association will be amended and replaced by an amended and restated Lease on the terms and conditions, and in substantially the form attached hereto as Exhibit "A," and as approved by the Director of Law.

Section 2. In consideration of the payments to be made by Lakewood Hospital Association under the terms of the Lease, and the covenants and other obligations contained therein, this Council authorizes and approves the amendment and restatement of the Lease dated June 26, 1987, and the execution and delivery of an amended and restated Lease, in substantially the form attached hereto as Exhibit "A," and as approved by the Director of Law, with such changes, if any, which are approved by the officers of this City executing the Lease, permitted by the Bond Indentures, consistent with law and this Ordinance, in the best interest of this City and in a form approved by the Director of Law.

Section 3. The Mayor, President of Council and Director of Finance are hereby authorized and directed to execute the Lease on behalf of the City of Lakewood, and to execute such other documents and take such other actions as are necessary and appropriate to give effect to the amended and restated Lease. The Lease may be signed upon the passage of this Ordinance, placed into escrow upon terms and conditions approved by the Director of Law and shall become effective upon the closing of the Definitive Agreement by and between the Lakewood Hospital Association and The Cleveland Clinic Foundation.

Section 4. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements.

Adopted: December 16, 1996

John Boscie
President

Karen G. Schaser
Clerk

Approved: December 17, 1996

Madelaine Hain
Mayor

AMENDED AND RESTATED
LEASE

by and between

CITY OF LAKEWOOD, OHIO

AND

LAKEWOOD HOSPITAL ASSOCIATION

THIS AMENDED AND RESTATED LEASE dated as of December 23, 1996 (the "Lease"), is made by and between the City of Lakewood, Ohio (the "City"), a municipal corporation and political subdivision in and of the State, and duly organized and validly existing under the laws of the State and Lakewood Hospital Association (the "Lessee"), a nonprofit hospital agency, as defined in Section 140.01, Ohio Revised Code, now having its principal office in Lakewood, Ohio and the operator of the healthcare facility known as Lakewood Hospital (the "Hospital").

Since 1987 major changes have occurred in the method by which many individuals ensure their ability to afford hospital care and in the selection of acute care providers by entities paying the costs of hospitalization and other costs; and

Entities paying the costs of hospitalization currently are insisting on a single contract providing for acute hospital care for all of its insureds or members in a large geographic area which has caused individual hospitals to enter into affiliations and other arrangements to meet the demands of those entities paying hospitalization costs; and

The Lessee needs to affiliate the Hospital with other hospitals to provide in a single contract a large geographic coverage of hospital care and for that purpose proposes to affiliate with The Cleveland Clinic Foundation ("CCF") and the Cleveland Health Network and in order to effect that affiliation needs to enter into a revised lease with the City in order to accommodate that affiliation.

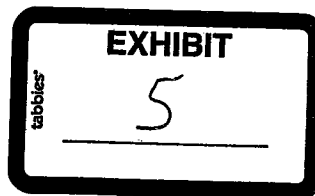
STATEMENT OF INTENT

PURPOSE

The purpose of this Lease is to continue the services and traditions of the Hospital.

The Lease will continue to relieve the City of any obligations or necessity of providing tax monies to subsidize the operation of the Hospital.

Because of the affiliation with CCF that will be made possible by the Lease, the Lessee will be able to compete on a fair and equal basis with other hospital systems, enter business relationships necessary to insure its financial well-being, establish the mass necessary to secure managed care contracts, continue healthcare services to residents of the City and develop new programs.



PARTIES TO AGREEMENT

The City is the lessor under this Lease.

The Lessee is Lakewood Hospital Association, a non-profit corporation organized for the charitable purpose of operating the Hospital and its related health care facilities and services.

GOVERNING BODY

The Hospital will, subject to certain matters reserved to the member of the Lessee, be governed by the Lessee's Board of Trustees ("Governing Board").

The Governing Board will be composed of twenty-three members consisting of the Mayor of the City; two members of the Council of the City (representing the political parties with the largest and second largest number of representatives in Council) selected by Council; three representatives of community organizations of the City nominated by the Council of the City and elected by the Governing Board with the election ratified by the Member; four members, two of whom are nominated by the Mayor and two by the Council and elected by the Governing Board with the election ratified by the Member; three members elected by the Member; nine members nominated and elected by the Governing Board with the election ratified by the Member; and the immediate past President of the Medical Staff of the Hospital.

The Governing Board will elect its own Chairperson and Vice Chairperson.

~~The meetings of the Governing Board shall be open to the public to assure full disclosure of the operations of the Hospital unless the Governing Board determines that public discussion or action by the Governing Board would be detrimental to the interests of the patients of the Hospital or the welfare of the residents of the City or the Hospital.~~

LEASE: TERM: RENT AND ADDITIONAL PAYMENTS

This agreement is a lease of the real and personal property for the operation of the Hospital from the City to the Lessee and continues the transfer from the City to the Lessee of all liabilities, debts, monies, accounts and inventories of the Hospital.

~~The term of the Lease is thirty years~~ with the parties agreeing that the Lessee has an option to renew this Lease for an additional term of thirty years commencing at the expiration of the original thirty-year term of this Lease.

At the end of the term of this Lease or of the additional term if the Lessee exercises its option, the Lessee shall retire or make provision for retiring all of the Lessee's indebtedness and pay or cause to be paid all of its liabilities and shall relinquish the real and personal property of the Hospital and all monies, accounts and inventories then held by the Lessee to the City.

The Lessee agrees to pay, in each year, the amount necessary, to retire the revenue bonds of the City issued to pay for improvement of the Hospital, which payments if those bonds remain outstanding to their final maturity, will aggregate \$53,082,649, and to assume all other obligations of the City relating to the Hospital, and to pay as Additional Payments the amounts in each year set forth for the respective year in Schedule 1 hereto.

~~The Lessee in consideration of and in accordance with the Lease agrees to maintain the Hospital in good repair and operating condition and also agrees to replace equipment and other personal property necessary to the activities then to be carried on in operation of the Hospital.~~

PROVISION FOR INDIGENT CARE

The Lessee agrees to continue to provide healthcare services in accordance with this Lease to residents of the City without regard to their ability to pay based on eligibility guidelines established by the Community Services Administration of the United States Department of Health and Human Services or any successor thereto or, if there is no successor, by the then community services standards used by hospitals servicing comparable communities.

OPERATION AND SERVICES OF THE HOSPITAL

The Lessee agrees to continue to provide within the City healthcare services in accordance with the terms of this Lease and, so long as effective, the Definitive Agreement between the Lessee and CCF.

The Lessee agrees to continue to provide residents of the City from facilities located within the City acute care medical/surgical services (including for children and adolescents), obstetrical/gynecological services, 24 hour a day emergency room providing trauma services, intensive care services and rescue squad/paramedic services as required by this Lease.

The Lessee agrees to maintain as one of its objectives providing high quality, affordable healthcare services with rates and charges consistent with other providers in Cuyahoga County of comparable size.

The Lessee agrees that so much of the Hospital as is operated as in-patient acute care facilities will be operated in compliance with the standards of the Joint Commission on Accreditation of Healthcare Organizations.

The Lessee agrees that its operations will be conducted without discrimination as to race, sex, creed, color, age or national origin.

The Lessee recognizes the need for positive employee relations and agrees to continue fair and just employment policies.

An equitable private pension benefit has been made available to employees not participating in the Public Employees Retirement System.

The Lessee agrees to provide the City and its residents a full disclosure of its finances through an annual audit of its financial statements which will be available to the public.

This Statement of Intent does not purport to be complete and is subject in all respects to Articles I to XIV, both inclusive, and is qualified in its entirety by reference to the terms and provisions of those Articles. The language contained in said Articles I to XIV shall control and be determinative of the interpretation of this Lease and this Statement of Intent.

WITNESSETH, THAT

In consideration of the premises and the mutual covenants hereinafter contained, and in order for the City to carry out this Lease, the parties hereto covenant, agree and bind themselves as follows; provided that no covenant, agreement or obligation of the City under this Lease shall be a general debt on the City's part, but shall be payable solely out of the rentals, revenues and other income, charges and moneys realized from the use, lease, sale or other disposition of the Leased Premises, the sale of the Bonds and any insurance and condemnation awards as herein provided:

ARTICLE I

DEFINITIONS, DETERMINATIONS AND REPRESENTATIONS

Section 1.1. Use of Defined Terms. In addition to the words and terms defined elsewhere in this Lease, the words and terms set forth in Section 1.2 hereof have the meanings set forth therein, unless the context or use indicates a different meaning or intent. Those definitions are applicable equally to both the singular and plural forms of any of the words and terms defined herein. Any words or terms not defined and used herein specifically as defined words or terms have the meanings assigned to them in the Indenture.

Section 1.2. Definitions.

"Accountant" means a recognized firm of independent certified public accountants, of good repute licensed by, or permitted to practice in, the State, retained by the Lessee and designated by the Authorized Lessee Representative, which firm shall not have any interest, direct or indirect, in either the Lessee or the Issuer and shall not have a partner, member, director, officer or employee who is a member, director, trustee, officer or employee of either the Lessee or the Issuer.

"Act" means the Charter of the City, Chapter 140, Ohio Revised Code, as amended, and other applicable provisions of the laws of the State.

"Additional Payments" means the amounts required in Section 3.2 hereof to be paid as Additional Payments.

"Affiliated Corporation" means any corporation, trust, association, person or entity directly or indirectly Controlled by the Lessee, including, without limitation, by a majority of its trustees, or by any other entity which is itself Controlled directly or indirectly by the Lessee or any Affiliated Corporation, or jointly by a combination thereof.

"Authorized Lessee Representative" means the person designated by the chief executive officer of the Lessee which shall be evidenced to the Trustees and City by a certificate signed by the chief executive officer of the Lessee. Such certificate may designate an alternate or alternates who shall have the same authority, duties and powers as the Authorized Lessee Representative.

"Basic Rent" means (i) the monthly amounts necessary to make the deposits required by the Indentures and Section 3.1(a) of this Lease to be made to the Special Funds, and (ii) any other amounts required by Section 3.1 hereof to be paid on or prior to the respective Rental Payment Dates during the Lease Term.

"Bond" and "Bonds" means the revenue bonds of the City authorized, authenticated and issued under the Indentures, which may be designated either bonds or notes.

"Bondholder", "holder" and "holder of Bonds", and "holder" means the person in whose name a registered Bond is registered on the Bond Register, or any person who is the bearer of a coupon Bond which is not registered as to principal or the principal of which is registered to bearer, and "holder" when used with reference to a coupon means the bearer of the coupon.

"Bond Service Charges" means the principal of and premium, if any, and interest on the Bonds payable at any time or during any period.

"Business Day" means any day other than a Saturday or a Sunday or any day on which the Trustees are required, authorized or not prohibited by law (including executive orders) to close and are closed.

"CCF" means The Cleveland Clinic Foundation, a nonprofit corporation organized under the laws of the State.

"Charter" means the amended charter of the City adopted at an election held November 5, 1957 as heretofore and hereafter amended.

"City" means the City of Lakewood, Ohio, a municipal corporation and political subdivision in and of the State.

"Code" means the Internal Revenue Code of 1986, as amended, and successors thereto. References to the Code include, without limitation, relevant regulations, temporary regulations and proposed regulations thereunder and under the Internal Revenue Code of 1954, as amended, and any successor provisions to those regulations, temporary regulations or proposed regulations.

"Community Organizations" means religious congregations or organizations representing spiritual leaders of religious organizations, organizations restricting membership to persons age 60 or older or whose activities are directed toward persons age 60 or older and organizations directing their activities to civic, educational or philanthropic endeavors for the benefit of the City or its residents.

"Control" means the power to direct the management and policies of a corporation, trust, association, person or entity, directly or indirectly, whether through voting power for the election of all or a majority of the members, trustees, directors or officers, ownership of voting securities, or rights by privilege of membership, by contract or otherwise.

"Convenience Activities" means patient or employee convenience activities, such as, without limitation, gift shops, snack shops, barber and beauty shops, doctors', dentists', and podiatrists' accommodations, flower shops, travel agencies, banks, counselling services, pharmaceutical sales and services, telephone centers, retail sales of health care related items and services, living accommodations for persons providing services within, or for persons who are visitors to, Hospital Facilities operated by the Lessee and residential properties acquired for future expansion of Hospital Facilities.

"Council" means the Council of the City.

"Definitive Agreement" means the Definitive Agreement dated as of December 19, 1996 between CCF and the Lessee.

"Event of Default" means any one or more of the Events of Default described in Section 13.1 hereof.

"Executive" means the Mayor of the City or, in that officer's absence or unavailability, the acting Mayor as provided in the Charter.

* "Existing Facilities" means the structures, improvements, equipment, furnishings and other real, personal and mixed real and personal property located on the Leased Real Premises on the date of the commencement of the Lease Term, which structures are more fully described in Exhibit C hereto.

"First Supplemental Senior Indenture" means the First Supplemental Trust Indenture dated as of June 15, 1989 by and between the Senior Trustee and the City, amending and supplementing the Senior Indenture.

"First Supplemental Senior Ordinance" means Ordinance No. 32-89 of the City passed by the Council on June 5, 1989.

"Fiscal Officer" means the Director of Finance of the City, or in that officer's absence or unavailability, the person performing the functions of that office.

"Fiscal Year" means a period of twelve consecutive months commencing on the first day of January of any year and ending on the last day of December of the same year, both inclusive; or such other consecutive twelve-month period as may hereafter be established as the fiscal year of the Lessee for budgeting and accounting purposes to be evidenced, for purposes hereof, by a certificate of the Authorized Lessee Representative filed with the Trustee and the Fiscal Officer.

"Governing Board" means the Board of Trustees of the Lessee as constituted at the relevant time.

"Governmental Restrictions" means federal or State or other applicable governmental laws or regulations affecting the Leased Premises and placing restrictions and limitations on the rates, fees and charges to be fixed, charged and collected by the Lessee; provided, however, that no change in law or regulation shall be deemed applicable by reason of this definition if such change would in any way constitute an impairment of the rights of the City, a Holder, the Lessee or the Trustees under this Lease.

"Gross Revenues" means all present and future revenue of the Lessee from whatever source derived, including without limitation, all

(a) cash, accounts, chattel paper, instruments, documents, money and general intangibles, including without limitation, contract rights and rights to payment (i) for goods and properties sold or leased or for services rendered, (ii) under agreements respecting insurance, Medicare, Medicaid or Blue Cross, and under other arrangements with governmental units, agencies and instrumentalities, prepaid health organizations and other Persons, (iii) from any insurance or eminent domain award or agreement in lieu of an award resulting from eminent domain proceedings and awards on warranties,

(b) income from, and revenues realized upon the liquidation, sale, maturity or redemption of securities held by or on behalf of the Lessee,

(c) proceeds of those items constituting Gross Revenues to which reference is made in clauses (a) and (b) above, and

(d) gifts, grants, bequests, contributions and donations, including without limitation, the unrestricted income and profits therefrom.

"Guaranty" means the Guaranty and Security Agreement dated as of June 15, 1989 between the Lessee and the Senior Trustee.

"Hospital Facilities" means hospital facilities as defined in Section 140.01, Ohio Revised Code.

"Hospital Funds" means all moneys, accounts receivable and instruments, and all proceeds received therefrom, held or hereafter received by the Hospital Trustees or the Fiscal Officer and comprising funds received from or as a result of the operation or ownership of the Leased Premises but does not include moneys, accounts receivable and instruments, and all proceeds therefrom, held or hereafter received by the Lessee unless and until they are delivered by the Lessee to the Hospital Trustees or the Fiscal Officer.

"Hospital Specialty Services" means services related to the operation of Hospital Facilities, including without limitation, services in connection with the practice of pathology, pediatrics, radiology, physical medicine, anesthesiology, electro-cardiology, physical therapy, behavior therapy and psychiatry, emergency room operations, data, long term care, subacute care, skilled nursing facilities, long term hospital and word processing operations, and pharmaceutical, optical, other health care related sales and services and also including without limitation, space and equipment for the practice of medicine, dentistry, podiatry or other health related services.

"Hospital Trustees" means the Board of Trustees of Lakewood Hospital created by the Charter.

"Improvements" means any future additions, extensions, improvements, equipment, machinery or other facilities, including land and rights in land, to, of or for the Leased Premises and any other facilities acquired, constructed and operated by the Lessee and any other interest of the Lessee in a facility in which the Lessee has a financial or operating interest, which under generally accepted accounting principles are required to be capitalized.

"Indebtedness" shall mean, without duplication, (i) all indebtedness of the Lessee for borrowed moneys or which has been incurred or assumed in connection with the acquisition of Property by the Lessee, (ii) all indebtedness, no matter how created, secured by Property of the Lessee, whether or not such indebtedness is assumed by any Person, provided, that non-recourse indebtedness shall be deemed Indebtedness only to the extent of the value of the Property securing same, (iii) the liability of the Lessee under any lease (other than this Lease) of real or personal property which is properly capitalized on the balance sheet of the Lessee in accordance with generally accepted accounting principles, and (iv) any guaranty by the Lessee of indebtedness of any other Person for borrowed moneys or which has been incurred or assumed by such Person in connection with the acquisition of Property or the leasing of real or personal property which is properly capitalized on the balance sheet of such Person in accordance with generally accepted accounting principles; provided that there shall be excluded from the definition of Indebtedness this Lease and any obligation of the Lessee which is secured by an irrevocable extension of credit of, or is subject to any agreement to purchase such obligation from the holder thereof by, a Person and that there shall be included as Indebtedness the obligation which would be incurred pursuant to the reimbursement agreement executed and delivered in connection with such irrevocable extension of credit or purchase agreement if such credit were drawn upon completely or such purchase were fully effected and the advance made under the reimbursement agreement were to be repaid in accordance with the terms of such reimbursement agreement, and any such Indebtedness shall be deemed to have been incurred at the time such reimbursement agreement is executed and delivered; and provided further there shall be excluded from this definition of Indebtedness any debt of the Lessee created by operation of Section 2.1.1 of the Definitive Agreement or Section 3.2(a) of this Lease.

"Indentures" means collectively the Trust Indentures dated as of March 15 and November 1, 1983 among the City, the Hospital Trustees and the Trustees, as supplemented and amended from time to time in accordance with the provisions thereof.

"Intangible Assets" means all contracts and contract rights (including particularly contracts, agreements, contract rights and agreement rights, between the City and the State with

respect to Medicaid, the City and third-party insurers of City's patients, and City and the United States of America with respect to Medicare and all other equivalent insurance programs, or any state or federal program substituted in lieu thereof), general intangibles and documents, which are associated with the City's ownership and the Hospital Trustees' operation of the Leased Facilities.

"Interest Rate for Advances" means the greater of (i) the rate of ten percent per annum or (ii) a rate which is one percent per annum in excess of the interest rate then announced publicly by the Senior Trustee, in its lending capacity as a financial institution, as its prime or base rate.

"Lease" means this Lease, as duly amended or supplemented from time to time in accordance with the terms hereof and of the Senior Indenture.

"Lease Term" means the period commencing with the delivery of this Lease and ending on the Termination Date.

"Leased Premises" means, collectively, the Leased Real Premises, Existing Facilities, any Improvements and all appurtenances thereto and thereof, and all substitutions or replacements therefor, whether now existing or hereafter acquired, leased, used or operated by the Lessee in connection therewith and located within the City including all "Hospital Facilities" as defined in the Indentures less such Property as may from time to time be disposed of by the Lessee.

"Leased Real Premises" means the interests in real estate described in Exhibit A hereto which Exhibit A is incorporated herein as if the same were fully set forth herein, together with any substitutions or additions made thereto, but less any removals made therefrom, from time to time in the manner and to the extent provided herein and in the Indentures.

"Lessee" means Lakewood Hospital Association, an Ohio nonprofit corporation and a nonprofit hospital agency, as defined in Section 140.01, Ohio Revised Code, and its lawful successors, including without limitation, any surviving, resulting or transferee corporation or entity, as provided in Sections 9.3 and 9.4 hereof. The term Lessee does not include any for profit or not for profit corporation which Controls, is Controlled by or is under common Control with the Lessee.

"Management Contract" means an agreement with a partnership or corporation which is not an Affiliated Corporation or is not the Member or a partnership or corporation, controlling the Member or, on November 1, 1996, controlled by the Member to provide substantially all of the executive management of the Leased Premises.

"Member" means CCF or any Permitted Affiliate designated by CCF as the Member pursuant to the Definitive Agreement or (i) in the event that CCF or the designated Permitted Affiliate resigns or otherwise ceases to be the Member and a Permitted Affiliate is not concurrently designated by CCF as the Member or (ii) if the Definitive Agreement should terminate and the failure or refusal contemplated by Section 10.4 thereof occurs, then the Governing Board.

"Notice Address" means:

- (a) As to the City: City of Lakewood, Ohio
Lakewood City Hall
12650 Detroit Avenue
Lakewood, Ohio 44107
Attention: Director of Finance
with a copy to the attention of each
of the Mayor, the Director of Law and
the Clerk of Council
 - (b) As to the Lessee: Lakewood Hospital Association
14519 Detroit Avenue
Lakewood, Ohio 44107
Attention: Chief Legal Officer
 - (c) As to the Senior Trustee: National City Bank
1900 East Sixth Street
Cleveland, Ohio 44114
Attention: Corporate Trust Administration
 - (d) As to the Subordinated Trustee: KeyBank National Association
Key Tower, 127 Public Square
Cleveland, Ohio 44114
Attention: Corporate Trust Department
 - (e) As to the Member: The Cleveland Clinic Foundation
9500 Euclid Avenue
Cleveland, Ohio 44195-5108
Attention: Chief Executive Officer
- with a copy to:
- General Counsel
The Cleveland Clinic Foundation
9500 Euclid Avenue
Cleveland, Ohio 44195-5108

or a different address as to which notice is given pursuant to Section 14.2 hereof.

"Operator" means the City or the Lessee, whichever is the operator of the Leased Premises at the relevant time.

"Original Lease" means the lease between the City and the Lessee dated as of June 26, 1987 and recorded in Volume 87-4264, Page 17 of Cuyahoga County, Ohio Lease Records as amended by the First Amendment of Lease dated as of June 15, 1989 and recorded in Volume 89-3550, Page 8 of Cuyahoga County, Ohio Real Property Records.

"Outstanding Bonds" or "Bonds then outstanding" means, as of the applicable date, all Bonds which have been authenticated and delivered, or are then being delivered, under the Indentures except:

- (i) Bonds cancelled by the respective Trustee or surrendered to the respective Trustee for cancellation pursuant to the Indenture,

(ii) Bonds or portions thereof deemed to have been paid and discharged in accordance with Article XIII of the Indentures,

(iii) Bonds not deemed to be outstanding under the provisions of Section 1 of the Senior Ordinance and of the Subordinated Ordinance, and

(iv) Bonds in lieu of which other Bonds shall have been authenticated and delivered under Article II of the Indentures.

"Permitted Affiliate" means any corporation, partnership, trust or entity which, directly or indirectly, (i) owns or controls CCF; or (ii) with which CCF is commonly owned or controlled. For purposes hereof, "own or control" shall mean owning in excess of fifty percent (50%) of the voting securities or having the right (i) to elect or appoint more than fifty percent (50%) of the trustees or directors; or (ii) to receive more than fifty percent (50%) of the net earnings; or (iii) to receive more than fifty percent (50%) of the net assets upon dissolution.

"Permitted Encumbrances" means, as of any particular time, (i) statutory rights of the United States of America under 42 U.S.C. §291 et. seq., and similar rights under other federal and state statutes, (ii) the lien and charge of the Indentures and any lease of the Leased Premises not disapproved by the Trustees or authorized by the Indentures and not requiring prior consent of the Senior Trustee, including this Lease and any leases from the City existing as of the date of delivery of this Lease, (iii) liens securing indebtedness for the payment, redemption or satisfaction of which, moneys (or Eligible Investments) in the necessary amount shall have been deposited in trust with a trustee or other holder of such indebtedness, (iv) utility, access and other easements and rights of way, restrictions, reservations and exceptions which an architect or engineer certifies will not materially interfere with or impair the operations being conducted in the Leased Premises or as may be insured over with adequate title insurance, or rights of way permitting the Leased Premises access to other facilities owned or controlled by the City or the Lessee, (v) any liens for ad valorem taxes, special assessments or other governmental charges not then delinquent or if delinquent being contested as provided in Section 5.16 of the Senior Indenture and in the Subordinated Indenture; (vi) mechanic's, laborer's, materialman's, supplier's, or vendor's lien or right to a purchase money security interest in respect thereof if payment is not yet due and payable under the contract in question, or if such lien is contested in good faith, (vii) any lien which secures Secured Hospital Debt for which the Trustee has received an Officer's Certificate stating that the test for permitted Secured Hospital Debt has been met, (viii) liens arising by reason of good faith deposits in connection with tenders, leases of real estate, bids or contracts (other than contracts for the payment of money), deposits to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds and deposits of security for the payment of taxes or assessments or other similar charges, (ix) any lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation (A) as a condition to the transaction of any business or the exercise of any privilege or license, or (B) to enable the Operator to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workers' compensation, unemployment insurance, old-age pensions or other social security, or to share in the privileges or benefits required for companies participating in such arrangements, (x) any judgment lien or notice of pending action, so long as the finality of such judgment or the pending action is being contested and execution thereon is stayed or the period for responsive pleading has not elapsed or provision for payment of the judgment has been made in accordance with applicable law or by the deposit of cash or eligible investments with the Trustee or a commercial bank or trust company acceptable to the Trustee, (xi) existing liens, provided they are not renewed or extended on more stringent terms, (xii) liens resulting from governmental regulations on the use of Property, (xiii) liens securing Hospital Debt permitted under the Senior Indenture, (xiv) liens on Property arising from the rights of

third party payors for recoupment of amounts paid to the Operator, (xv) liens on Property acquired by the Operator if the assumption of the Hospital Debt secured by such lien is additional Hospital Debt permitted under the Senior Indenture and if an Officer's Certificate is delivered to the Trustee certifying that (A) such lien and the Hospital Debt secured thereby were created and incurred by a person other than the Operator prior to acquisition of such Property by the Operator, (B) such lien was created prior to the decision of the Operator to acquire the Property and was not created for the purpose of enabling the Operator to avoid the limitations of the Senior Indenture on creation of liens on Property, and (C) the lien attaches solely to the Property and does not extend by its terms to other Property of the Operator, and (xvi) such minor defects, irregularities, encumbrances, utility, access and other easements and rights of way, restrictions, reservations, exceptions and clouds on title as normally exist with respect to properties similar in character to the Leased Premises and as do not in the opinion of Independent Counsel, in the aggregate materially impair the property affected thereby for the purpose for which it is or will be held by the City.

"Rental Payment Date" means the fifteenth day of each month.

"Required Services" means (i) obstetrical/gynecological services, (ii) 24 hour a day emergency room providing trauma services, (iii) rescue squad/paramedic services, (iv) intensive care services and (v) acute care medical/surgical services (including, without limitation, care for children and adolescents), of the nature then generally provided by a community hospital in communities comparable to the City; or such services as may result from amendments to this definition pursuant to Section 9.16 hereof. The term "Required Services" does not include the magnitude or level of service, such as hours of service, or the manner (including changes in technology) by which the types of services are provided; provided, however, that the change in magnitude or levels of services does not, as a practical matter, result in the significant reduction in such service so as to be an effective elimination of such service.

"Senior Indenture" means the Trust Indenture dated as of March 15, 1983 between the City and the Senior Trustee, as supplemented and amended by the First Supplemental Senior Indenture, as such may be amended or supplemented from time to time in accordance with the provisions thereof.

"Senior Ordinance" means Ordinance No. 8-83 of the City passed by the Council on February 26, 1983.

"Senior Trustee" means National City Bank, Cleveland, Ohio and any successor thereto as trustee under the Senior Indenture.

"Special Funds" means, collectively, the funds or accounts permitted by, established under, or identified in the Indentures.

"State" means the State of Ohio.

"Subordinated Indenture" means the Trust Indenture dated as of November 1, 1983 between the City and the Subordinated Trustee.

"Subordinated Ordinance" means Ordinance No. 106-83 of the City passed by the Council on October 17, 1983.

"Subordinated Trustee" means Mellon Bank, F.S.B., successor trustee to KeyBank National Association, Cleveland, Ohio (formerly known as Society National Bank and successor by merger to Central National Bank of Cleveland) and any successor thereto as trustee under the Subordinated Indenture.

"Termination Date" means the later of (i) January 2, 2027, or (ii) January 2, 2057 if extended by the Lessee exercising its option pursuant to Section 2.5 hereof, subject to earlier termination of this Lease by the Lessee pursuant to Section 12.1, and by the City pursuant to Sections 13.2 and 13.4 hereof subject to reinstatement under Section 13.2 or 13.8 hereof.

"Total Operating Revenues" means total patient revenue less provision for uncollectible accounts, charity cases and any contractual adjustments, plus other operating revenues.

"Trustees" means collectively the Senior Trustee and the Subordinated Trustee.

"Unassigned Rights" means all of the rights of the City (i) to receive Additional Payments under Section 3.2 hereof, (ii) to be held harmless and indemnified under Section 9.9 hereof, (iii) to be insured under insurance policies and/or plans required under Section 6.4 hereof, (iv) to receive prior notice of any proposed sublease, right to use or assignment of the Leased Premises or Management Contract under Section 11.1 hereof and to prevent the effectuation thereof pursuant to that Section, (v) to receive prior notice of and prevent the effectuation of the termination of services pursuant to Section 9.16 hereof, (vi) to exercise the remedies available to the City under Section 13.2 hereof, (vii) to be reimbursed for attorneys' fees and expenses under Section 13.5 hereof, (viii) to accept the surrender by the Lessee of the Leased Premises upon termination of this Lease under Section 14.1 hereof, (ix) to receive notices, determine whether to provide requested approvals and terminate this Lease under Section 14.15 hereof and (x) to execute amendments hereto under Section 14.6 hereof.

Section 1.3. Certain Words Used Herein; References; and Headings. Any reference herein to the City, the Hospital Trustees, the Executive, the Council, the Fiscal Officer, any members or officers of the City, the Council or the Hospital Trustees, or other public boards, commissions, departments, institutions, agencies, bodies or entities, or members or officers thereof, includes those succeeding to their functions, duties or responsibilities pursuant to or by operation of law or performing their functions lawfully.

Any reference to a section or provision of the Constitution of the State or the Charter, a section, provision or chapter of the Ohio Revised Code, federal or State laws, or regulations governing Medicare or Medicaid includes that section, provision or chapter, or those laws or regulations, as amended, modified, revised, supplemented or superseded from time to time; provided, however, that no amendment, modification, revision, supplementation or supersession of the Constitution, laws of the State or the Charter shall be deemed to be applicable by reason of this Section, if that applicability would constitute in any way an impairment of the rights or obligations of the Bondholders, the City, the Lessee or the Trustees under this Lease.

Words of any gender include the correlative words of any other gender. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa. The terms "hereof", "herein", "hereby", "hereto" and "hereunder", and similar terms, refer to this Lease; and the term "hereafter" means after, and the term "heretofore" means before, the date of delivery of this Lease.

Section 1.4. Status and Authority of City. The City represents and warrants that it has been duly organized and is validly existing under the laws of the State and that it has authority (i) by virtue of the Act and the Charter, to enter into this Lease and (ii) pursuant to Section 5.13 of the Indenture to enter into this Lease.

Section 1.5. Public Purpose for Lease. The Council has found and determined and confirms hereby that this Lease of the Leased Premises to Lessee will promote the public

purposes as stated in Section 140.02, Ohio Revised Code, and that the City will be duly benefitted thereby.

Section 1.6. Qualification of Lessee. The City has found and determined and confirms hereby that the Lessee is a nonprofit hospital agency, as defined in Section 140.01, Ohio Revised Code, which has authority to lease and operate the Leased Premises as a facility open to the public, providing Required Services without regard to race, sex, creed, color or national origin.

(End of Article I)

ARTICLE II

LEASED PREMISES; TERM OF LEASE; PURPOSE

Section 2.1. Leased Premises and Possession. In consideration of the Basic Rent, Additional Payments and other amounts for which provision is made herein, and of the covenants, agreements and obligations, and in reliance upon the representations and warranties, of the Lessee herein, the City covenants and agrees to lease, and hereby leases, the Leased Premises to the Lessee, and the Lessee hereby leases the Leased Premises from the City, subject to the provisions of this Lease and the Permitted Encumbrances,

TO HAVE AND TO HOLD the Leased Premises unto the Lessee for the Lease Term.

Possession of the Leased Premises shall be delivered and accepted upon the commencement of the Lease Term.

Section 2.2. Purpose. During the Lease Term, the Lessee, as between itself and the City, has sole and exclusive charge of the operation, maintenance, management, use, occupancy, and repair of the Leased Premises (unless there is an Event of Default and the Lessee has been excluded from possession of the Leased Premises hereunder), and the Lessee will manage, administer, maintain and operate so much of the Leased Premises as from time to time are Hospital Facilities as Hospital Facilities as contemplated by the Act and all of the Leased Premises in accordance with the terms of this Lease for the service of the general public, without discrimination by reason of race, sex, creed, color or national origin; provided that, subject to compliance with the requirements of this Lease, nothing in this Section or in this Lease is intended to prevent the Lessee from entering into affiliations with other healthcare providers, insurers or reimbursers and as part of such affiliation ceding to others the right to control or direct activities of the Lessee or to take control of the Lessee in specified circumstances.

Section 2.3. Assumption of Liabilities. Lessee has assumed and, except for future Bond Service Charges, paid all existing obligations and liabilities of the City and the Hospital Trustees whether fixed or contingent, known or unknown, associated with or arising out of the City's ownership of the Leased Premises and the Hospital Trustees' prior operation of the Leased Premises. Lessee further agrees to pay all future obligations and liabilities associated with the use, operation or ownership of the Leased Premises including future Bond Service Charges and to hold the City and the Hospital Trustees harmless therefrom.

Section 2.4. Assignment of Intangible Assets and Hospital Funds. In consideration of the promises and agreements made by the Lessee to the City in the Original Lease, for the purpose of paying a portion of the costs of Hospital Facilities, the costs of the management, operation, occupancy, use, maintenance, and repair of the Leased Premises, and the costs of programs, projects, activities and services useful to, connected with, supplementing, or otherwise related to the health care services provided and to be provided by Lessee and by the operation of the Leased Premises, the City did assign to Lessee all of the City's respective right, title and interest in and to (a) the Intangible Assets, (b) all moneys, accounts receivable, warranties and instruments comprising Hospital Funds and all proceeds realized therefrom and (c) inventory, supplies, materials, consumables and other property owned, accrued, held or received in connection with the Leased Premises prior to the Leased Premises initial leasing to the Lessee. All moneys, accounts, receivables and instruments which are held in trust or restricted to a particular purpose by the donor, shall be used, to the extent permitted by law, by the Lessee for the restricted purposes set forth in the instruments creating the trust or providing donations.

Section 2.5. Extension of Lease. The City and the Lessee agree that the Lessee has an option to extend the Lease Term of this Lease for a period of thirty years following January 2, 2027 by providing to the City a notice in writing of the exercise of the option to so extend the Lease Term which notice shall be given not earlier than January 1, 2021 and not later than December 1, 2024. Exercise by the Lessee of its option to extend the Lease Term shall be irrevocable.

(End of Article II)

ARTICLE III

RENT AND ADDITIONAL PAYMENTS

Section 3.1. Basic Rent.

(a) The Lessee covenants and agrees that on behalf of the City, and as its payment of part of the Basic Rent due the City hereunder, the Lessee will pay directly to the Senior Trustee and the Subordinated Trustee, respectively, for the account of the City, the moneys which as to amount and time of payment will satisfy the requirements of Section 16 of the Senior Ordinance and Section 8 of the Subordinated Ordinance.

(b) The Lessee further covenants and agrees that it will deposit with the appropriate Trustee all other moneys required to be deposited by the Indentures and will timely perform each and every obligation, duty and right of the City under the Indentures.

(c) Except for any interest which may arise hereafter with respect to moneys pursuant to Sections 4.02 of the Indentures, the Lessee and the City each acknowledges that, except as otherwise provided in the Indentures, neither the Lessee nor the City has any interest in any of the funds created by the Indentures or any moneys deposited therein and that such funds and moneys shall be in the custody of and held by the Trustees for the benefit of the Bondholders.

Section 3.2. Additional Payments. Subject to the pledge made in and the security interest granted by the Guaranty and after making the payments required by Section 3.1 hereof, the Lessee covenants and agrees to make Additional Payments as follows:

(a) To the City on March 31, June 30 and September 30 in each year, commencing March 31, 1997, the amount shown opposite the date and year of payment in Schedule 1 hereto, provided that if the Closing Date (as defined in the Definitive Agreement) occurs after March 31, 1997 then the amounts shown on Schedule 1 to have been paid prior to the Closing Date shall be paid on the Closing Date, provided further, that if the City should impose or levy on the Lessee an ad valorem, income, franchise or business excise or tax, then the Additional Payment to be made in a year shall be reduced by an amount equal to the amount of such excise or tax paid by the Lessee and received in that year by the City, whether paid to it directly or paid to the State or a taxing unit thereof. Such reduction shall, to the extent possible, be applied equally against each of the payments required to be made in that year.

(b) To the City, the Member or the Trustees, as the case may be, regardless of whether an Event of Default has occurred hereunder, payment for or reimbursement or prepayment of any and all reasonable costs, expenses and liabilities:

(i) incurred or paid by the City, the Member or the Trustees, as the case may be, in satisfaction of any obligations of the Lessee hereunder or of the City, the Member or the Lessee under the Indentures not performed by the Lessee in accordance with the provisions hereof or thereof,

(ii) incurred as a result of a request by the Lessee or a requirement of this Lease or the Indentures, or

(iii) incurred in the defense of any action or proceeding with respect to the Leased Premises or in enforcing this Lease or arising out of or based upon any document related to the issuance of the Bonds.

(c) To the extent such costs and expenses are not paid out of the proceeds of the Bonds:

(i) the fees and other costs incurred for services of the Trustees, paying agents and Bond registrars;

(ii) all costs incurred in connection with the required purchase or redemption of Bonds to the extent moneys in a fund created by the Indentures are not available therefor;

(iii) the fees and other costs incurred for services of such engineers, architects, attorneys, consultants and independent accountants as are employed to make examinations, render opinions and prepare reports required under the Indentures;

(iv) amounts advanced by the Trustees under authority of the Indentures and which the City otherwise would be obligated to repay.

The City and the Lessee agree that the obligation of the Lessee to make payments under this Section 3.2 is not secured by a security interest in the Gross Revenues and does not constitute or cause this Lease to constitute Indebtedness.

In the event the Lessee shall fail to make any payment as required by this Lease, the payment so in default shall continue as an obligation of the Lessee until the amount in default shall have been fully paid; provided, however, that nothing in this Section shall require the Lessee to pay costs and expenses mentioned in subparagraph (c)(iv) above, so long as the validity or the reasonableness thereof shall be contested in good faith unless the appropriate Trustee shall receive an opinion of Independent Counsel that such contest jeopardizes the interest of the Lessee or the City in the Leased Premises or the rights or interest of the Holders or Trustee under the applicable Indenture, in which event the Lessee shall make such payment or take such action as causes such opinion to be withdrawn.

All costs, expenses, liabilities, fees and charges described in this Section, together with interest thereon at the Interest Rate for Advances from the date payment is requested of the Lessee, shall be paid by the Lessee on demand. In any action brought to collect those Additional Payments, the City, a Trustee, the other paying agent or the Bond registrar, as the case may be, shall be entitled to the recovery of the Additional Payments, except as limited by law or judicial order or decision.

Section 3.3. Place of Payments. The Basic Rent shall be paid to the appropriate Trustee at its corporate trust office for the account of the City and shall be deposited in the appropriate Special Fund for which intended. Additional Payments payable under Section 3.2(a) hereof shall be paid to the City at the Notice Address. Other Additional Payments shall be paid directly to the party to which they are due.

Section 3.4. Obligations Absolute and Unconditional. The obligations of the Lessee to pay Basic Rent, Additional Payments and any other amounts payable under this Lease and to observe and perform its covenants, agreements and obligations provided in this Lease are absolute and unconditional. The Lessee hereby covenants and agrees to make any payments required of it hereunder from any moneys legally available to the Lessee in the manner and at the times provided in this Lease.

Until the Termination Date, the Lessee

(a) will not suspend, reduce or discontinue payment of any Basic Rent, Additional Payments or any other amounts payable under this Lease;

(b) will observe and perform all of its covenants, agreements and obligations under this Lease;

(c) will make all payments of principal of and premium, if any, and interest on all of its obligations; and

(d) except upon exercise of the Lessee's termination options as provided herein, will not terminate this Lease for any cause including without limitation, (i) any acts or circumstances which may constitute failure of consideration, (ii) destruction of or damage to the Leased Premises or other properties owned or operated by the Lessee, (iii) commercial frustration of purpose, (iv) any change in tax or other laws or administrative rulings of, or administrative actions by or under authority of, the United States of America or the State, (v) the inaccuracy of any representation or warranty made by the City herein, or (vi) any failure of the City or either Trustee to observe or perform any covenant, agreement or other obligation, whether expressed or implied, or any duty, liability or obligation arising out of or connected with this Lease, the Indentures, or the Bonds.

At the Lessee's own cost and expense, in its own name and on its own behalf or, to the extent lawful, in the name and on behalf of the City, the Lessee may prosecute or defend any action or proceeding or take any other action involving third persons which the Lessee deems to be reasonably necessary to secure or protect its rights of possession, occupancy and use hereunder. In that event, the City covenants and agrees (i) to cooperate fully with the Lessee, but at the Lessee's expense, and (ii) if the Lessee shall so request, to take all action necessary to effect the substitution of the Lessee for the City in that action or proceeding.

Section 3.5. Rent Abatement. If at any time,

(a) the Indentures shall have been defeased pursuant to their provisions under circumstances not resulting in termination of this Lease,

(b) provision satisfactory to the City and the Trustees shall have been made for paying all Additional Payments, and all other amounts, payable under the Lease, due or to become due through the date on which the last of the Bonds is then scheduled to be retired or redeemed, and

(c) there is no Event of Default hereunder,

the Lessee shall be entitled to use and occupy the Leased Premises from that time to the Termination Date so long as the Lessee makes payment of the Additional Payment during that interval required to be paid by Section 3.2(a) hereof but without payment of any Basic Rent, but otherwise on the terms and conditions hereof. No other circumstance pursuant to any provision of this Lease shall abate the payment of Basic Rent in any way.

Section 3.6. Security Interest in Lessee's Gross Revenues. The Gross Revenues may be used by the Lessee for any lawful purpose of the Lessee, except the Lessee covenants, agrees and acknowledges that it will not grant a security interest in all present and future Gross Revenues, which security interest is a first priority security interest unless it shall concurrently grant to the Senior Trustee a security interest which is on a parity with the security interest proposed to be granted.

Section 3.7. Rates and Charges. So long as any Bonds are outstanding, the Lessee covenants and agrees to comply with the provisions of Sections 5.02 of the Senior Indenture and of the Subordinated Indenture as if the word "Issuer" used therein referred to the Lessee.

Section 3.8. Prepayment of Basic Rent and Additional Payments; Moneys for Purchase or Optional Redemption. There is reserved expressly to the Lessee the right, and the Lessee is authorized and permitted, at any time it may choose, to prepay all or any part of the Basic Rent relating to the Senior Bonds, Additional Payments and other amounts payable under the Lease, or to deliver to the Senior Trustee moneys sufficient to cause the Senior Bonds to be deemed paid and discharged pursuant to Article IX of the Senior Indenture following which the Lessee shall have the right to prepay in whole or in part the Basic Rent relating to the Subordinated Bonds.

Section 3.9. Past Due Basic Rent, Additional Payments and Other Amounts. In the event that the Lessee should fail to make any payment of Basic Rent, Additional Payments or other amounts payable under the Lease, (i) the payment in default shall continue as an obligation of the Lessee until the amount in default shall have been paid fully, (ii) during the default period, the amount in default shall bear interest at the Interest Rate for Advances, and (iii) that interest shall be payable on demand and shall constitute Additional Payments hereunder. In any action brought to collect those Additional Payments, the City shall be entitled to the recovery of the Additional Payments, except as limited by law or judicial order or decision.

Section 3.10. Redemption of Bonds. On delivery to the Senior Trustee, or if the Senior Indenture has been deemed paid and discharged, to the Subordinated Trustee, of sufficient moneys for redemption of all or part of the Senior Bonds, or if the Senior Bonds are deemed paid and discharged, of all or part of the Subordinated Bonds, then at the written request of the Lessee, the City will take forthwith all steps required of the City under the applicable redemption provisions of the Senior Indenture, and after defeasance thereof the Subordinated Indenture, to effect redemption of all or part of the then Senior Bonds or Subordinated Bonds, as the case may be, on the redemption date on which that redemption is to be made.

(End of Article III)

ARTICLE IV

CONSTRUCTION

Section 4.1. Acquisition, Construction and Equipping. The Lessee covenants that any acquisition, construction or installation of Improvements and any furnishing, renovating, remodeling, improving and equipping of the Leased Premises shall be in conformity with law and all requirements of all governmental authorities having jurisdiction thereover, and that it will complete any such acquisition, construction, furnishing, renovation, remodeling, improvement and equipping with all expedition practicable; provided, however, that nothing in this Article authorizes or permits any activity which would violate the provisions of the State's health planning law and any Certificate of Need issued to Lessee pursuant thereto. Except as provided by Section 4.3 of this Lease, any Improvements which are real property or mixed real and personal property shall become a part of the Leased Premises and are leased by this Lease.

Section 4.2. Remedies Against Contractors, Subcontractors and Sureties. In the event of any action taken by the Lessee against any contractor, subcontractor or surety in connection with Improvements, the City as landlord covenants and agrees to cooperate fully with the Lessee.

Section 4.3. Installation of Personal Property by Lessee. From time to time, in their sole discretion and at their own expense, the Lessee or any sublessee of the Lessee may install personal property on the Leased Premises, including without limitation, personal property which becomes in whole or in part a fixture when installed. Subject to Section 14.1 hereof, all personal property so installed, except substitute or replacement personal property, shall be property of the Lessee, except property of any sublessee of the Lessee which shall remain the sole property of the sublessee, in which the City and the Trustees shall have no interest, and may be removed by the owner thereof at any time. The City shall execute such documents as are reasonably necessary to evidence that such personal property is the property of the Lessee or the Sublessee.

Nothing contained herein shall prevent the Lessee or any of its sublessees from purchasing personal property under a conditional sale, installment purchase or lease sale contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof; provided, however, that no lien or security interest shall attach to any part of the Leased Premises or the Gross Revenues.

Section 4.4. Movable Furnishings, Equipment and Other Personal Property. The Lessee covenants and agrees to obtain and maintain within the Leased Premises all movable furnishings, equipment and other personal property, in addition to movable furnishings, equipment and other personal property made available by City, essential to the then operation of the Leased Premises, subject to the rights of removal specified in Sections 4.3 and 6.2 hereof.

The Lessee further covenants and agrees to replace promptly any worn out or obsolete movable furnishings, equipment or other personal property used by the Lessee in connection with the administration, operation and maintenance of the Leased Premises with movable furnishings, equipment or other personal property of comparable operating capacity and for the same purpose or use, unless in the determination of the Lessee the worn out or obsolete movable furnishings, equipment or other personal property are no longer essential to the then operation of the Leased Premises.

The Lessee covenants and agrees that any movable furnishings, equipment or other personal property constituting part of the Leased Premises and necessary for the then operation of the Leased Premises and the provision of the then Required Services will not be removed or relocated without securing a replacement therefor, except in compliance with Sections 4.3 and

6.2 hereof or unless it is worn out or obsolete. Any moneys realized from any disposition made pursuant to this Section shall be used by the Lessee solely for acquisition of movable furnishings, equipment or other personal property used as part of or for the Leased Premises.

(End of Article IV)

ARTICLE V

SPECIAL FUNDS; INVESTMENTS

Section 5.1. Depreciation Reserve Fund. Lessee covenants and agrees to abide by and perform any requirements of Section 16(f) of the Senior Ordinance as originally enacted as long as those requirements remain in effect. The Lessee may request disbursements in the name and on behalf of the City from the Depreciation Reserve Fund for the purposes and in the manner set forth in Section 16 of the Senior Ordinance.

Section 5.2. Investment of Fund Moneys. Money held for the credit of all Special Funds shall, to the extent practicable, be continuously invested and reinvested by the Trustees in Eligible Investments and the request or direction of the Authorized Lessee Representative in connection therewith shall be deemed to be the request or direction of the Fiscal Officer.

Section 5.3. Covenant as to Arbitrage. The City and the Lessee each covenant and agree hereby that it will restrict the use of the proceeds of the Bonds in the manner and to the extent, if any, which is necessary; after taking into account reasonable expectations at the time of the delivery of and payment for the Bonds, so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code, or any successor to that Section.

(End of Article V)

ARTICLE VI

MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 6.1. Maintenance and Modifications of Leased Premises by Lessee. The Lessee, at its expense, during the Lease Term shall at its own cost (a) keep and maintain or cause to be kept and maintained the Leased Premises, including all appurtenances thereto and any personal property therein or thereon, in good repair and in good operating condition to provide the Required Services, replacing any part or parts thereof which may become worn out or damaged by other suitable property provided that nothing herein is intended to require the installation of property which is not useful or economically feasible, and (b) maintain the suitability of the Leased Premises as a health care facility. Upon the expiration of the Lease Term or termination of this Lease, the Lessee shall surrender the then Leased Premises and appurtenances thereto and all movable equipment, furnishings and other personal property which then comprise the Leased Premises to the City in as good repair as prevailed at the time the Lessee was put in full possession thereof, loss by fire or other casualty covered by insurance, ordinary wear and tear, obsolescence, removal and replacements and acts of God excepted, subject to the provisions of the second following paragraph and of Sections 4.3, 4.4 and 6.2 of this Lease, and shall transfer to the City all of the Intangible Assets used in the operation of the Leased Premises which are of the same nature as the Intangible Assets transferred by the City to the Lessee in 1987.

The Lessee shall have the privilege of remodeling the Leased Premises or making additions, modifications, removals and improvements thereto, including the Leased Real Premises, from time to time as it, in its discretion, may deem to be desirable for its uses and purposes, provided that such remodeling, additions, modifications, removals or improvements do not diminish the value of the Leased Premises or its utility in providing the Required Services. The cost of such remodeling, additions, modifications, removals and improvements shall be paid by the Lessee and to the extent the same are fixtures shall be the property of the City and be included under the terms of this Lease as part of the Leased Premises.

Section 6.2. Substitution or Removal of Portions of the Leased Premises. (a) ~~Lessee covenants and agrees that the suitability taken as a whole of the Leased Premises to provide the Required Services will not be impaired.~~ The Lessee shall, consistent with Sections 4.3 and 4.4 of this Lease, have the privilege from time to time of substituting or replacing personal property or fixtures comprising a part of the Leased Premises for any portions of the Leased Premises, provided that the personal property or fixtures so substituted or replaced shall not impair the value of the Leased Premises or its utility in providing the Required Services or adversely affect the exemption from federal income tax of interest on the Bonds. Any such substituted or replaced property or fixtures shall become the property of the City, subject to any permitted security interest therein, and be included under the terms of this Lease. All buildings, structures, improvements, machinery, equipment and other property which shall be constructed, placed or installed in or upon the Leased Premises as an addition to or as a substitute for or in renewal or replacement thereof, shall become a part of the Leased Premises and be included under the terms of this Lease.

(b) In any instance where the Lessee in its sole discretion determines that any items of equipment constituting Leased Premises have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Lessee may remove such items of such equipment from the Leased Premises and sell, trade-in, exchange or otherwise dispose of them (as a whole or in part), provided that the Lessee substitutes and installs in the Leased Premises (subject to the provisions of the next sentence of this Section) other equipment having comparable utility (but not necessarily having the same function) in the operation of the Leased Premises and provided further that such removal and substitution shall not impair the operating viability of the Leased Premises. The Lessee shall not be required to install other equipment in substitution for

any equipment removed pursuant to the preceding sentence if, in the reasonable opinion of management of the Lessee, such substitution is not necessary to preserve the operating viability of the Leased Premises.

(c) The Lessee shall have the right to have any land, improvement or other interest in real property constituting a portion of the Leased Premises which is not essential to the operation of the Leased Premises released from the definition of Leased Premises and the provisions of this Lease and the Indenture. The Executive and Fiscal Officer on behalf of the City and the Trustees shall join in any such release upon the written request of the Lessee therefor.

Section 6.3. Taxes, Other Governmental Charges and Utility Charges. The Lessee covenants and agrees to fulfill the obligation of the City under Section 5.16 of the Senior Indenture.

Section 6.4. Insurance. The Lessee covenants and agrees to fulfill the obligations of the City under Sections 5.06 and 5.07 of the Senior Indenture and to perform pursuant to those Sections as if the word "Issuer" used therein referred to the Lessee. On expiration or termination of the Senior Indenture, the Lessee agrees to maintain the insurance coverage required by said Sections 5.06 and 5.07 and to perform pursuant to such sections as if such sections continued in existence except that the word "Trustee" used in such sections shall read as "City".

Section 6.5. Payment by City or Trustee. If the Lessee, or the Member on behalf of the Lessee, fails to perform any obligation of the City under the Senior Indenture or the Subordinated Indenture, then in addition to any other right or remedy of the City or either Trustee, the City or the applicable Trustee may advance funds to pay any required charges, although the City and the applicable Trustee shall not be obligated to do so. Any funds so advanced, together with interest thereon at the Interest Rate for Advances from the date of advancement, shall constitute Additional Payments and shall be paid by the Lessee, or the Member on behalf of the Lessee, on demand. In any action brought to collect those Additional Payments, the City and the applicable Trustee, as the case may be, shall be entitled to the recovery of the Additional Payments, except as limited by law or judicial order or decision.

(End of Article VI)

ARTICLE VII

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1. Damage and Destruction. In the event the Existing Facilities along with any Improvements are damaged to the extent or destroyed, both as described in Section 5.11 of the Senior Indenture, the Lessee may request the City to call the Bonds for redemption as provided in that Section and if the City does not within thirty (30) days of the receipt of such request commence the proceedings for redemption of the Bonds the Lessee may cancel this Lease pursuant to Section 12.1 hereof.

Section 7.2. Eminent Domain. In the event all or a portion of the Leased Premises is taken or damaged by the exercise of the power of eminent domain as described in Section 5.10 of the Senior Indenture, the Lessee may request the City to call the Bonds for redemption as provided in that Section and if the City does not within thirty (30) days of the receipt of such request commence the proceedings for redemption of the Bonds the Lessee may cancel this Lease pursuant to Section 12.1 hereof or, subject to the Trustees having moneys sufficient to effect such redemption, may take on behalf of the City those actions necessary to be taken by the City under the Indentures to accomplish such redemption and such actions when taken shall be the actions of the City.

Section 7.3. Damages to, Destruction of and Condemnation of Lessee-Owned Property. The Lessee, each of its sublessees and the Member shall be entitled to any Net Proceeds paid for damages to, destruction of or takings of their own property.

(End of Article VII)

ARTICLE VIII

MECHANICS' AND OTHER LIENS

Section 8.1. Maintenance of Ownership and No Other Liens. Except as permitted by this Lease, the Lessee covenants and agrees that it will not sell or otherwise dispose of, all or any part of the Leased Premises, or create a lien against the Lessee's or City's interest therein or directly or indirectly create or suffer to be created or to remain any mortgage, lien, encumbrance or charge upon, pledge of, security interest in or conditional sale or other title retention agreement with respect to the Leased Premises, or the interest of the City or of either Trustee in, the Special Funds or the Net Hospital Receipts, Basic Rent, Additional Payments, or any part thereof, other than Permitted Encumbrances.

Section 8.2. Mechanics' Liens. Lessee covenants and agrees that it will perform the obligations of the City under Section 5.12 of the Senior Indenture as if the word "Issuer" used therein referred to the Lessee.

(End of Article VIII)

ARTICLE IX

CERTAIN REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS

Section 9.1. Certain Representations, Warranties, Covenants and Agreements of City. The City represents and warrants that:

- (a) It is a municipal corporation and political subdivision in and of the State, duly organized and validly existing under the laws of the State.
- (b) It is not in violation of or in conflict with any provision of the laws of the State which would impair its ability to observe and perform its covenants, agreements and obligations under the Indentures and this Lease.
- (c) It has, and with respect to the Indentures had at the time of execution of the Indentures, full power and authority (i) to execute, deliver, observe and perform the Indentures and this Lease and all other instruments and documents executed and delivered by the City in connection with the Bonds and (ii) to enter into, observe and perform the transactions contemplated in the Indentures and this Lease and those other instruments and documents.
- (d) It has duly authorized the execution, delivery, observance and performance of the Indentures and this Lease and the issuance and delivery of the Bonds issued pursuant to the Indentures.
- (e) It will not issue any additional Bonds pursuant to the Indentures unless requested in writing to do so by the Lessee.

The City covenants and agrees that it will do all things in its power required of it to maintain its existence or to assure the assumption of its obligations under the Indentures and this Lease by any successor public body.

Section 9.2. Certain Representations, Warranties, Covenants and Agreements of Lessee. The Lessee represents and warrants that:

(a) The Lessee (i) is a nonprofit corporation duly organized and validly existing under the laws of the State, no part of the net earnings of which inure or may inure lawfully to the benefit of any member or private individual, (ii) is in good standing under the laws of the State, (iii) is duly qualified to transact its business as now and as intended to be transacted by it, and to lease the Leased Premises, (iv) has duly accomplished all conditions necessary to be accomplished by it prior to the execution and delivery of this Lease and (v) is not in violation of or in conflict with any provision of the laws of the State which would impair its ability to observe and perform its covenants, agreements and obligations under this Lease and all other instruments given to secure the Bonds issued pursuant to the Indentures.

* (b) The Lessee has full power and authority (i) to own or lease, as applicable, and operate its facilities, including without limitation, the Leased Premises, (ii) to execute, deliver, observe and perform this Lease and all other instruments and documents executed and delivered to satisfy conditions and provisions of the Indentures and the Bonds issued pursuant to the Indentures, (iii) to enter into, observe and perform the transactions contemplated in this Lease and those other instruments and documents. The Lessee has duly authorized the execution, delivery, observance and performance of this Lease and those other instruments and

documents. That execution, delivery, observance and performance do not contravene any provision of law applicable to the Lessee or the Lessee's Articles of Incorporation or Code of Regulations, and do not contravene or constitute a default under any indenture, agreement or undertaking to which the Lessee is a party or by which it or its property is or may be bound. *This Lease and those other instruments and documents have been duly authorized by proper action and have been duly executed and delivered by the Lessee. All necessary steps have been taken by the Lessee to constitute this Lease and those other instruments and documents valid and binding obligations of the Lessee.

(c) The Lessee's Articles of Incorporation and Code of Regulations, and its operations conform to those acceptable and required for:

(1) the Lessee's exemption from the payment of income taxes under the Code as a nonprofit organization; and

(2) the Lessee to be duly constituted and empowered as an Ohio nonprofit corporation, organized for charitable hospital purposes and eligible to be a lessee under Sections 140.03 and 140.05, Ohio Revised Code.

(d) The Lessee is, as of the date of the delivery of this Lease, an organization (i) which is described in Section 501(c)(3) of the Code, (ii) which is exempt from the payment of federal income taxes under Section 501(a) of the Code and (iii) which is eligible to be a lessee under Sections 140.03 and 140.05, Ohio Revised Code. The status of the Lessee as an organization described in Section 501(c)(3) and its exemption under Section 501(a) have been confirmed by a letter dated May 19, 1987, from the Internal Revenue Service, and the Lessee's status as not being a private foundation as defined in Section 509(a), has been confirmed by a letter dated May 19, 1987, from the Internal Revenue Service. Those letters have not been modified, limited or revoked, and no audit or other proceeding with respect to those statuses or that exemption is pending or to the knowledge of Lessee threatened. The Lessee is a 501(c)(3) organization with respect to the operations of the Leased Premises within the meaning of Section 145 of the Code.

The Lessee covenants and agrees that, at all times during the Lease Term:

(e) So long as it is the Lessee hereunder, (i) it will remain a nonprofit corporation duly organized, validly existing in good standing, and qualified to transact its business and to own its properties, in the State.

* (f) The Lessee will maintain corporate power and authority (i) to own or lease, as applicable, and operate its facilities, including without limitation, the Leased Premises, and (ii) to observe and perform this Lease and all other instruments and documents executed and delivered by the Lessee to satisfy conditions and provisions of the Bonds issued pursuant to the Indentures and to enter into, observe and perform the transactions contemplated in or permitted by this Lease and those other instruments and documents.

(g) The Lessee's Articles of Incorporation, its Code of Regulations, and its operations will conform to those acceptable and required as described in subparagraph (c) above.

(h) The Lessee will take all appropriate measures to assure that it retains the characteristics, status and exemption described in subparagraph (d) above and not to affect adversely the exemption from federal income tax of interest on the Bonds.

The Lessee will not perform any acts or enter into any agreements which will affect adversely the characteristics, status and exemption so described and will not use, carry on or permit to be carried on in the Leased Premises any trade or business that would adversely affect those characteristics, status and exemption.

(i) The Governing Board shall appoint a Community Advisory Committee consisting of representatives of Community organizations. The Governing Board shall provide in its Code of Regulations for the Community Advisory Committee.

(j) Its Articles of Incorporation and Code of Regulations will require at all times:

(i) The Member will be the sole member of the Lessee and the Lessee or the Governing Board will be the member of any Affiliated Corporation requiring a member;

(ii) The Governing Board shall consist of 23 members who shall serve without compensation and for a term as hereafter specified commencing on January 1, except as hereafter provided. Except for members of the Governing Board elected pursuant to subparagraph (4) hereof, the Governing Board may adopt rules providing for removal from the Governing Board of any member of the Governing Board whose absence from the number of meetings of the Governing Board specified in such rules is not excused by the Governing Board.

(1) The Executive and two members of Council shall be representatives of the City and members ex officio of the Governing Board with all the privileges and emoluments of such membership including voting rights. The members of Council to be members of the Governing Board shall be selected by Council by a majority vote of all of its members with, if more than one political party is represented in Council, one from each of the two political parties having the largest and second largest number of representatives on Council as of January 2 of the year in which the two year term commences and those initially selected shall serve until December 31, 1997 or in each case until that person ceases to be a member of Council, whichever is earlier. In the event a member of the Governing Board so selected by Council ceases to be a member of Council prior to expiration of his term, the vacancy in the Governing Board created thereby shall be filled for the unexpired term by Council in the same manner as the original appointment.

(2) The Council and the Executive shall each nominate two persons to serve as members of the Governing Board. The persons so nominated shall be considered first by the Governing Board and if approved by the Governing Board submitted for consideration for ratification by the Member in its capacity as the member of the Lessee, and the Member may, but need not, ratify the approval of one or more of the nominees approved by the Governing

Board as members of the Governing Board. If the Governing Board or the Member does not approve or ratify the approval of a nominee, it shall request the nominator of any nominee not approved or ratified to nominate additional names for the position not filled. The term of the members elected pursuant to this paragraph shall be five years except that of the persons initially selected pursuant to this paragraph, one nominated by the Mayor shall serve until December 31, 1997 and the other until December 31, 2001 and one nominated by the Council shall serve until December 31, 1998 and the other until December 31, 2000. Thereafter the Council and the Executive shall deliver the names of persons nominated pursuant to this paragraph to the Lessee and the Member prior to November 1 in the year in which the term of the incumbent appointed pursuant to this paragraph will expire. In the event a member of the Governing Board selected pursuant to this paragraph ceases to be a member prior to the expiration of his term, the vacancy in the Governing Board created thereby shall be filled for the unexpired term in the same manner as for the original appointment.

- (3) The Council shall nominate three members of the Governing Board to be appointed as representatives of Community Organizations. The term of members of the Governing Board selected pursuant to this paragraph shall be five years except that the terms of the initial members shall expire on December 31, 1998, December 31, 1999 and December 31, 2000. The terms of the initial members shall be determined by lot. The persons so nominated shall be considered first by the Governing Board and if approved by the Governing Board submitted for consideration of ratification by the Member in its capacity as the member of the Lessee which Member may, but need not, ratify the approval of one or more of the nominees as members of the Governing Board. If the Governing Board or the Member does not approve or ratify the approval of a nominee, it shall request the Council to nominate additional persons for any position not filled. In the event any person selected pursuant to this paragraph should cease to be a member of the Governing Board prior to the expiration of that person's term, such vacancy shall be filled in the same manner as provided herein for the original appointment.
- (4) The Member in its capacity as the member of the Lessee shall elect three members of the Governing Body which election shall be conclusive and not subject to any other approval or designation. The term of members of the Governing Board elected pursuant to this paragraph shall be five years except that the terms of the initial members shall expire on December 31, 1998, December 31, 2000 and December 31, 2001. In the event any person

selected pursuant to this paragraph should cease to be a member prior to the expiration of the term, the vacancy shall be filled for the unexpired term in the same manner as for the original appointment.

- (5) The other initial members of the Governing Board shall be (i) the immediate past President of the Medical Staff of Lakewood Hospital, who shall have all the privileges and emoluments of such membership including voting rights, and (ii) nine (9) members who shall be appointed by the Governing Board of the Lessee of which nine (9) members, two (2) shall serve until December 31, 1997, three (3) until December 31, 1998, two (2) until December 31, 1999 and two (2) until December 31, 2000. With respect to those persons appointed and ratified pursuant to clause (ii) of the immediately preceding sentence, (x) such terms of the initial members shall be determined by lot, (y) the persons so appointed shall be submitted for consideration of ratification by the Member in its capacity as the member of the Lessee which Member may, but need not, ratify the appointment of one or more of the persons approved by the Governing Board as members of the Governing Board and shall request the then Governing Board to approve additional persons for any position not filled, and (z) their direct or indirect successors shall serve for a term of five years commencing on January 1 and any vacancies occurring in the Governing Board by reason of death, illness, resignation, removal from the area, non-attendance at meetings or the expiration of a term of the member of the Governing Board appointed pursuant to this paragraph shall be filled in the same manner as provided herein for the original appointment. The immediate past President of the Medical Staff shall serve until he shall cease to be the immediate past President and his successor has accepted membership on the Governing Board.
- (6) No person shall have been elected as a member of the Governing Board pursuant to subparagraphs (2), (3) and (5)(ii) of this paragraph (j) until ratification by the Member has occurred.
- (7) A member of the Governing Board who is not ex officio and whose term has expired but whose successor has not been elected shall continue to serve as a member of the Governing Board until his or her successor has been elected.
- (8) The members of the Governing Board at the first meeting in each year shall select a chairman and vice chairman of the Governing Board who shall be members thereof, and a secretary and treasurer who need not be members.

- (9) No member of the Governing Board except those identified in paragraph 1 shall hold any public office or employment other than as a member of the state militia or a reserve component of the armed forces of the United States of America.

(iii) A member of the Governing Board having a conflict of interest or conflict of responsibility on any matter involving the Lessee and any other business entity or person shall disclose such conflict and shall refrain from voting on such matter. A member of the Governing Board shall not be considered to have a conflict of interest or a conflict of responsibility and shall not be required to refrain from voting on any matter merely because of such member's position as a public official or because such member is also a trustee or director of any direct or indirect subsidiary or sister entity of the Lessee or is a trustee, director, officer or employee of the Member or any related entity. No member of the Governing Board shall use his or her position as such member for his or her own direct or indirect financial gain.

(k) It will not take any action that would adversely affect the exemption from federal income taxation of interest paid on the Bonds.

(l) It will perform all of the covenants, agreements and obligations of the City and the Hospital Trustees under the Indentures and all other instruments and documents executed and delivered by the City and the Hospital Trustees in connection with the issuance of the Bonds pursuant to the Indentures.

(m) The Lessee covenants not to incur any additional Indebtedness except as permitted pursuant to Section 14 of the First Supplemental Senior Ordinance, so long as the Senior Indenture remains outstanding. Upon termination or expiration of the Senior Indenture, Lessee covenants and agrees to continue to abide by the financial tests set forth in Section 14 of the First Supplemental Senior Ordinance until a memorandum of restrictions with respect to Indebtedness is filed with the Council and there shall not have been effective within sixty (60) days of such filing an ordinance of the City passed by majority vote of the Council disapproving such memorandum.

Section 9.3. Lessee to Maintain Corporate Existence. The Lessee covenants and agrees that during the Lease Term it will maintain such corporate existence as will not adversely affect the tax-exempt status of interest on the Bonds, its ability to be lessee under this Lease and perform its duties and obligations hereunder and qualify for payment by third party payors for services provided by it on the Leased Premises; provided that the Lessee may merge with or into or transfer substantially all of its assets to another nonprofit corporation if the surviving or receiving corporation shall assume in writing all of the obligations of the Lessee under this Lease, including by way of example but not limitation, those of Section 9.2(j) of this Lease. Any transaction entered into by the Lessee which violates this Section shall, to the extent permitted by law, be null and void.

Section 9.4. Audits and Certificates of No Defaults. The Lessee covenants and agrees that it will keep true and proper books of records and accounts in which full and correct entries will be made of all of its business transactions, all in accordance with generally accepted accounting principles applicable to corporations such as the Lessee.

The Lessee further covenants that promptly after the close of each Fiscal Year it will cause an audit to be made by the Accountant of the books and accounts of the Lessee for

such Fiscal Year. Lessee consents to the Trustee making available to the Accountant all of the books and records in the possession of the Trustee pertaining to the Leased Premises. Within 150 days after the end of each Fiscal Year, the Lessee shall file, or shall cause to be filed, with the Trustee, the City and any corporation which controls Lessee, and shall mail, or cause to be mailed to Standard & Poor's Ratings Group and Moody's Investors Service (i) a copy of its audited financial statements for such Fiscal Year, accompanied by the report thereon of the Accountant prepared in accordance with generally accepted accounting principles, and the Accountant's opinion on the material presented and (ii) a certificate of the Authorized Lessee Representative stating that to the best of his/her knowledge, the Lessee and the Member are in compliance with all material terms and conditions of this Lease and the Definitive Agreement. The audit shall be conducted and the report rendered in accordance with generally accepted auditing standards.

The Lessee shall file or cause to be filed with City on or before April 30, July 31, October 31 and January 31 of each year an unaudited quarterly financial statement.

The Lessee further covenants that it will cause any additional reports or audits relating to the Leased Premises to be made as required by law and that upon request it will furnish, or cause to be furnished, to the Trustees monthly unaudited financial reports covering the matters required by this Section and such other information concerning the Leased Premises as the Trustees reasonably may request.

In addition, the Lessee shall furnish to the Trustees, within 150 days after the end of each Fiscal Year, a certificate signed by the Authorized Lessee Representative which shall state that, to the best of his knowledge, there is no default existing under any of the provisions of the Indentures or this Lease.

The Lessee covenants and agrees to perform the obligations imposed on the City by Section 5.17 of the Senior Indenture and Section 5.03 of the Subordinated Indenture as if the reference therein to the Issuer referred to the Lessee.

Section 9.5. Lessee's Approval of Indentures. The Indentures have been delivered to the Lessee for examination, and the Lessee acknowledges, by execution of this Lease, that it has examined the Indentures. The Lessee approves and accepts all rights of the Trustee and the Bondholders and all duties and obligations of the City which are contemplated in the Indentures to be rights of the Trustee and the Bondholders and duties and obligations of the City. The Lessee covenants and agrees to be bound by those rights and to observe and perform those duties and obligations. The Lessee acknowledges that its rights under this Lease are subordinate to the Indentures.

Section 9.6. No Representation or Warranty of Condition or Suitability. The Lessee and the City agree that the title to the Leased Premises is satisfactory, and the Lessee agrees that all defects, irregularities, encumbrances or clouds on title do not impair the Lessee's use or occupancy or the value of the Leased Premises. The City makes no representation or warranty, either express or implied, as to (i) the suitability or utility of the Leased Premises for the Lessee's purposes or needs, (ii) the earning capacity of the Leased Premises, or (iii) the condition of the Leased Premises.

Section 9.7. Quiet Enjoyment. The City covenants and agrees that it will not take any action, other than pursuant to Article XIII of this Lease, to prevent the Lessee from holding and enjoying the Leased Premises peaceably and quietly for the Lease Term.

The City covenants and agrees further that it will, at the Lessee's request and expense, defend the Lessee's possession and enjoyment of the Leased Premises during the Lease

Term against all parties or will permit the Lessee, in its own name and on its own behalf, or to the extent lawful, in the City's name and on its behalf, to defend that possession and enjoyment.

Section 9.8. Right of Access. The Lessee covenants and agrees that, subject to reasonable security regulations and to reasonable requirements as to notice, the City and the Trustee and their or either of their duly authorized agents, will have the right at all reasonable times to enter upon, examine and inspect the Leased Premises, although the City and the Trustee do not have the obligation to do so.

Section 9.9. Indemnification. The Lessee (i) releases the City from, (ii) covenants and agrees that the City will not be liable for, and (iii) covenants and agrees to indemnify the City against all liabilities, claims, costs, losses and expenses imposed upon or asserted against the City on account of

(a) any loss or damage to property, or injury to, death of or loss by any person, that may be occasioned by any cause whatsoever pertaining to the acquisition, construction, improvement, equipping, maintenance, operation or use of the Leased Premises or occurring otherwise in or about the Leased Premises;

(b) any breach or default on the part of the Lessee in the observance or performance of any covenant, agreement or obligation of the Lessee under the Lease or arising from the acquisition, construction, improvement, equipping, maintenance, operation or use of the Leased Premises, or from any act or failure to act by the Lessee or any of its agents, contractors, servants, employees or licensees;

(c) ownership or lease of any interest in the Leased Premises; and

(d) any action, claim or proceeding brought in connection with any of the foregoing;

provided, however, that indemnification under this Section shall not extend to damages resulting from intentional acts of the City which are not related to its capacity as the issuer of the Bonds.

The Lessee covenants and agrees to indemnify the Trustees for and to hold the Trustees harmless against all liabilities, claims, costs, losses and expenses incurred without negligence or bad faith on the part of the Trustees on account of any action taken or omitted to be taken by the Trustees in accordance with the terms of this Lease, the Indentures or the Bonds, or at the request of or with the consent of the Lessee, including without limitation, the costs and expenses of the Trustees in defending itself against any action, claim or proceeding in connection with any of the foregoing.

In case any action, claim or proceeding is brought or asserted against the City or a Trustee in respect of which indemnification may be sought hereunder, the City or the Trustee, as the case may be, shall give notice promptly thereof to the Lessee. Upon receipt of that notice, the Lessee shall have the obligation and the right to assume the defense of the action, claim or proceeding; provided that failure of the City or the Trustee to give that notice shall not relieve the Lessee from any of its covenants, agreements or obligations under this Section unless that failure prejudices the defense by the Lessee of the action, claim or proceeding. At its own expense, an indemnified party may employ separate counsel and may participate in the defense. The Lessee shall not be liable for any settlement made without its consent.

The release and indemnification set forth in this Section are intended to and shall include the indemnification of all affected officials, directors, officers and employees of the City and the Trustees, respectively. The release and indemnification are intended to and shall be

enforceable by the City and the Trustees, respectively, to the full extent permitted by law. All amounts payable under this Section, together with interest thereon at the Interest Rate for Advances from the date of payment by the indemnified Person, shall constitute Additional Payments and shall be paid by the Lessee on demand by the indemnified Person. In any action brought to collect those Additional Payments, the indemnified Person shall be entitled to the recovery of the Additional Payments, except as limited by law or judicial order or decision.

Section 9.10. Compliance with Applicable Law and Insurance Requirements. The Lessee covenants and agrees to comply promptly with all Legal Requirements, as defined below, during the Lease Term at its sole cost and expense. At its own expense, the Lessee will procure, maintain and comply (or cause compliance) with all permits, licenses and other authorizations required for the Leased Premises.

The Lessee may contest any Legal Requirement, at the Lessee's expense and in its own name and on its own behalf, by any appropriate means in good faith, and may postpone compliance therewith pending the completion of the contest; provided that the Lessee shall deliver to the Trustees an opinion of counsel satisfactory to the Senior Trustee to the effect that the Leased Premises, or any part thereof, will not be subject to imminent loss or forfeiture.

As used in this Section, the term "Legal Requirements" means all laws, statutes, codes, acts, ordinances, resolutions, orders, final judgments and decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which are applicable now or may be applicable at any time hereafter to the Lessee, to the Leased Premises, or any part thereof, to any use or condition of the Leased Premises, or any part thereof, or to health care providers or hospitals generally.

Section 9.11. Operation of the Leased Premises. At all times throughout the Lease Term, ~~the Lessee covenants that it shall~~

(a) operate so much of the Leased Premises as are eligible therefor in compliance with the standards of the Joint Commission on Accreditation of Healthcare Organizations or any substitute organization which is nationally recognized as performing the functions now performed by such Commission.

(b) administer, operate, maintain, repair, occupy and use the Leased Premises in accordance with the terms of this Lease; and ~~faithfully and efficiently administer, operate and maintain as Hospital Facilities~~ so much of the Leased Premises as from time to time are Hospital Facilities ~~rendering the Required Services~~ and related services and care, at all times as facilities are available, without discrimination as to race, sex, creed, color or national origin, ~~to patients who are residents of the City and all members of the general public as facilities are available and as professional opinion determines the necessity thereof.~~

(c) open to the public all meetings of its Governing Board to assure full disclosure of the operations of the Lessee except when the Governing Board by motion adopted by it determines that public discussion or action of the Governing Board would be detrimental to the interests of the patients of the Lessee, the welfare of the residents of the City or the Lessee.

(d) continue to provide the Required Services within the City and to utilize the Leased Premises as a healthcare facility subject to discontinuance pursuant to Section 9.16 of this Lease.

(e) continue the provision of rescue squad and paramedic services as described in Exhibit B hereto.

(f) provide employment policies which are fair and just to all parties and promote positive employer-employee relations.

(g) undertake a pension plan for its employees not eligible for or desirous of participating in the Public Employees Retirement System which is equitable for the employees and the Lessee.

(h) continue to provide the Required Services within the City and other offered healthcare services to residents of the City without regard to their ability to pay based on eligibility guidelines established by the Community Services Administration of the United States Department of Health and Human Services or any successor thereto or, if there is no successor, then community services standards used by hospitals servicing comparable communities.

(i) maintain as one of its objectives providing high quality, affordable healthcare services with rates and charges consistent with comparable facilities in Cuyahoga County.

(j) assume and comply with any requirements imposed on the City by Section 291(i), Title 42, USCA, as amended, as a result of acceptance by the City of so-called Hill Burton grants-in-aid.

Section 9.12. Qualification for Third Party Payments. The Lessee shall at all times, unless a Consultant shall determine that it is in the best interest of the Lessee and holders of the Bonds not to maintain such status, use its best efforts to establish and maintain the status of the Lessee as eligible for payment or reimbursement under Medicare, Medicaid, and significant third party payors and any other successor programs, or any other federal or State programs substituted in lieu thereof or supplementary thereto. For purposes of this Section a third party payor shall be considered significant if it provides more than 15 percent of the Total Revenue for the Fiscal Year as shown on the most recent audited financial statements available pursuant to Section 9.4 hereof.

Section 9.13. Pension Policies. Lessee acknowledges that employees of the City employed in the Leased Premises are members of the Public Employees Retirement System of the State. Lessee agrees that it shall continue to pay the employer's contribution to the Public Employees Retirement System for each such employee so long as such employee is eligible and desires to continue to make and does make that employee's contribution to that System. An equitable private pension benefit will be made available to employees not eligible for or desirous of participating in the Public Employees Retirement System.

Section 9.14. Extent of Provisions Regarding Lessee; No Personal Liability. No representation, warranty, covenant, agreement, obligation or stipulation contained in the Lease, Indenture or other instruments or documents in connection therewith or with the Bonds shall be deemed to constitute a representation, warranty, covenant, agreement, obligation or stipulation of any present or future trustee, member, officer, agent or employee of the Lessee in an individual capacity, and to the extent authorized and permitted by applicable law, no official executing or approving the Lessee's participation in the Lease or the issuance of the Bonds shall be liable personally under the Lease or on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 9.15. Lessee Not to Affect Adversely Tax-Exempt Status of Interest. For the benefit of the City, the Trustees and the holders of the Series 1983 Bonds, the Lessee hereby

represents and warrants that it has not taken or omitted to take, or permitted to be taken on its behalf, and covenants and agrees that it will not take or omit to take, or permit to be taken on its behalf, any action which, if taken or omitted, would affect adversely the exemption from federal income taxation of the interest on the Bonds.

The Lessee covenants and agrees further that it will take, or require to be taken, any acts which may be required of it from time to time under applicable law or regulation to continue the exemption from federal income taxation of the interest on the Bonds. The provisions of the Tax Compliance Agreement, as defined in the First Supplemental Senior Ordinance, are herein incorporated by reference as if fully set forth herein.

Section 9.16. Change in Required Services. The Lessee agrees that it will maintain the Required Services within the City and that it will not terminate any Required Service within the City unless it shall first have notified the City of its intent to terminate a Required Service, the date of the proposed termination, which shall not be earlier than the sixtieth day following such notice, and the reasons for the proposed termination. Such termination may be effected on or after the proposed termination date so long as there shall not have become effective an ordinance of the City directing the Lessee not to terminate the Required Service which was the subject of the notice.

(End of Article IX)

ARTICLE X

RELEASE OF PORTIONS OF LEASED REAL PROPERTY

Section 10.1. Release of Leased Real Property. In addition to Section 6.2(c), the parties hereto reserve the right, at any time and from time to time, to amend this Lease to effect the release of and removal from this Lease and the leasehold estate created hereby.

Section 10.2. No Abatement or Diminution of Basic Rent. No release, grant or conveyance effected under any of the provisions of this Lease shall entitle the Lessee to any abatement or diminution of the Basic Rent, Additional Payments or other amounts payable, or in any covenant, agreement or obligation of the Lessee, under this Lease.

* Section 10.3. Granting Easements. At any time, the City, acting through its Fiscal Officer and without further authorization of its Council, and the Lessee may grant or release, as the case may be, with or without consideration, those easements, licenses, rights-of-way (including without limitation, the dedication of public highways), party wall rights and rights of lateral support and other rights or privileges in the nature of easements with respect to the Leased Premises which may be lawful and reasonably required in connection with the proper and efficient use and operation of the Leased Premises or of adjacent properties.

(End of Article X)

ARTICLE XI

ASSIGNMENT, SUBLEASING AND SELLING

Section 11.1. Subleasing, Assignment and Right to Use. No sublease, right to use or assignment of the Leased Premises, or any portion thereof, shall be effective unless the instrument granting such sublease, assignment or right to use is filed with the City and within sixty (60) days following that filing, there shall not have become effective an ordinance of the City directing the Lessee not to sublease, grant the right to use or assign such facilities provided that prohibition shall not apply to any sublease, right to use or assignment: (a) in effect on the date of delivery hereof or any extension of those subleases, grants or assignments, if a copy of, or a writing describing fully, the sublease, grant or assignment has been provided to the Trustee and the City prior to the delivery date hereof; (b) to facilitate the provision of Hospital Specialty Services or Convenience Activities or (c) the sublease, grant or assignment is to the Member, a Permitted Affiliate or an Affiliated Corporation.

Notwithstanding the immediately preceding paragraph, no Management Contract of the Existing Facilities and no sublease, right to use or assignment of the facilities located on Parcel No. 1 of the Leased Real Premises which together with the then existing subleases, rights-to-use and assignments of the facilities located on Parcel No. 1 of the Leased Premises, sublease, grant the right to use, assign or subject to Management Contract an area of the facilities on Parcel No. 1 which in the most recent Fiscal Year for which audited financial statements are available pursuant to Section 9.4 hereof produced more than 74% of the Total Revenue for that Fiscal Year as shown on those audited financial statements provided by such facilities, shall become effective unless the instrument of such Management Contract, sublease, right to use or assignment is filed with the City and within sixty (60) days following that filing, there shall not have become effective an ordinance of the City directing the Lessee not to contract for management, sublease, grant the right to use or assign such facilities.

Lessee shall provide the City quarterly a report detailing and updating any assignment or subleasing activity with respect to this Lease.

If any Bonds are outstanding, all of the following conditions must be satisfied in order to proceed pursuant to this Section 11.1:

(a) No assignment (other than pursuant to Section 9.4 hereof), sublease or grant shall relieve the Lessee from primary liability for any of its covenants, agreements or obligations under this Lease, and in the event of that assignment, sublease or grant, the Lessee shall continue to remain primarily liable for the payment of the Basic Rent, Additional Payments and other amounts payable, and for the observance and performance of all of its covenants, agreements and obligations, under this Lease.

(b) Any assignment, lease or grant may provide for the use, operation, maintenance, modification and replacement of the Leased Premises, or any part thereof, by the assignee, sublessee or grantee; provided that (1) the use, operation, maintenance, modification or replacement shall be in accordance with this Lease, (2) the Lessee shall obtain or retain all rights and interests necessary or advisable to permit it to observe and perform all of its covenants, agreements and obligations under this Lease, and (3) any assignee shall assume the obligations of the Lessee, to the extent of the interest assigned, to pay Basic Rent, Additional Payments and other amounts payable, and to observe and perform the Lessee's covenants, agreements and obligations, under this Lease.

(c) Prior to the delivery thereof, the Lessee shall furnish or cause to be furnished to the Trustees a true and complete copy of each assignment, sublease or grant, as the case may be, together with any instrument or document of assumption.

(d) No assignment, sublease or grant shall impair materially the usefulness or operation of the Leased Premises.

Any sublease, grant of right to use or leasehold mortgage pursuant to this Section 11.1 must comply with the following:

(A) each assignment, sublease and grant of right to use shall be subject to the terms of this Lease,

(B) no assignment, sublease or grant of right to use shall relieve the Lessee of any of its covenants, agreements or obligations under this Lease, and

(C) no assignment, sublease, grant of right to use or leasehold mortgage shall adversely affect the exclusion from gross income of the holder of interest paid on the Bonds.

Any assignment, sublease or grant by the Lessee in violation of this Section shall, to the extent permitted by law, be null and void.

Section 11.2. Assignment by City. As security for payment of Bond Service Charges and in accordance with applicable law and the Indenture, the City, acting through its Fiscal Officer and without any further action of its Council, may assign to the Trustee the City's rights under and interests in, and may pledge any moneys receivable under, the Lease or from the lease or other use, disposition or sale of the Leased Premises.

Section 11.3. Restrictions on Transfer and Encumbrance of Leased Premises by City. Except as provided otherwise in this Lease, the City covenants and agrees that it will not

(a) sell, assign, transfer, convey, lease or otherwise dispose of its interests in the Leased Premises, or any part thereof, during the Lease Term other than to the Lessee or to the Member or a related entity,

(b) create or suffer to be created any lien or encumbrance on the Leased Premises, or any part thereof, except liens or encumbrances for taxes, governmental charges and special assessments, or

(c) make any pledge or assignment of or create any lien or encumbrance upon the rents, revenues and receipts derived from the sale, assignment, transfer, conveyance, lease or other disposition of its interests in the Leased Premises, or any part thereof.

(End of Article XI)

ARTICLE XII

TERMINATION OF AND SUBSTITUTION FOR LEASE

Section 12.1. Option to Terminate Lease Prior to Payment of Bonds. The Lessee is granted hereby the option to terminate this Lease if, as provided in Sections 7.1 and 7.2 hereof, it requests the City to redeem all of the Bonds issued pursuant to the Indentures pursuant to Section 7(g) of the Senior Bond Ordinance and Section 5(e) of the Subordinated Bond Ordinance providing for redemption of those Bonds in the case of certain catastrophic events and the City has not commenced within thirty (30) days of the receipt of such request the proceedings to call such Bonds for redemption and diligently proceeds with such redemption.

Section 12.2. Termination of Lease and Dissolution. Subject to Section 14.1, on or after expiration of the Lease Term or termination of this Lease, the Lessee may dissolve and if it dissolves, after payment of all its obligations, shall transfer all of its then assets to the City or to another nonprofit corporation organized for the purpose of operating the Hospital provided that such transfer shall not have adverse federal income tax consequences.

(End of Article XII)

ARTICLE XIII

EVENTS OF DEFAULT AND REMEDIES

Section 13.1. Events of Default. The following shall be "Events of Default" under this Lease:

(a) (1) Failure by the Lessee to pay any Basic Rent required to be paid hereunder on or prior to the applicable Rental Payment Date, and continuance of that failure for five days.

(2) Failure by the Lessee to pay any Additional Payment on its due date required to be paid under Section 3.2(a) hereof, and continuance of that failure for five days.

(b) Except as noted in subparagraph (c) below explicitly with reference to this subparagraph, failure by the Lessee to administer, maintain and operate the Leased Premises and provide the Required Services within the City without regard to race, creed, color or national origin.

(c) Except upon an event of Force Majeure (as provided below) or as provided below in this subparagraph, failure by the Lessee to observe or perform any covenant, agreement or obligation on its part to be observed or performed under the Lease, other than as referred to in subparagraphs (a), (b), (d), (e), (f), (g), (h), or (i) of this Section, for a period of sixty (60) days after written notice, by registered or certified mail, to the Lessee by the City or the Senior Trustee of that failure requesting that it be remedied, unless the Senior Trustee agrees in writing to an extension of that sixty (60) day period prior to its expiration; provided, however, that if the Lessee shall proceed to take curative action which, if begun and prosecuted with due diligence, cannot be reasonably completed within a period of sixty (60) days, that period shall be increased to any extent which shall be necessary to enable the Lessee to complete the curative action diligently unless there shall have become effective an ordinance of the City passed by a majority vote of the Council denying such extension provided that the extension shall expire only upon ten (10) days notice to Lessee of such denial; and provided further that if the observance and performance of any covenant, agreement or obligation to which reference is made in subparagraph (b) or in this subparagraph shall be prevented by the application of Governmental Restrictions, federal or State wage, price or economic stabilization controls, cost containment requirements, restrictions on rates, charges or revenues of the Lessee, federal or State environmental laws or regulations or regulations or policies imposed by third party payment agencies (if governmental in the case of subparagraph (b) and whether governmental or private in the case of this subparagraph (c)), and the Lessee shall have complied in full with its covenants, agreements and obligations set forth in Section 3.7 hereof, the inability to observe or perform that covenant, agreement or obligation shall not constitute an Event of Default.

(d) Abandonment by the Lessee of the Leased Premises, or of any substantial part thereof, or of the operations thereon contemplated herein, and continuance of that abandonment for a period of thirty (30) days after written notice to the Lessee by the City or the Trustee of the abandonment.

(e) Dissolution or liquidation of the Lessee or failure by the Lessee to lift promptly any execution, garnishment or attachment of such consequence that it will impair the Lessee's ability to carry out its covenants, agreements and

obligations under the Lease. The term "dissolution or liquidation of the Lessee", as used in this subparagraph, shall not be construed to include the cessation of the corporate existence of the Lessee resulting either from a merger or consolidation of the Lessee into or with another person, or from a dissolution or liquidation of the Lessee following a transfer of all or substantially all of its assets as an entirety, in accordance with Section 9.3 hereof.

(f) The Lessee shall: (i) become insolvent or the subject of insolvency proceedings; or (ii) be unable, or admit in writing its inability, to pay its debts as they mature; or (iii) make an assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its property; or (iv) file a petition or other pleading seeking reorganization, composition, readjustment, or liquidation of assets, or requesting similar relief; or (v) apply to a court for the appointment of a receiver for any of its assets; or (vi) have a receiver or liquidator appointed for any of its assets (with or without the consent of the Lessee) and such receiver shall not be discharged within ninety (90) consecutive days after his appointment; or (vii) become the subject of an "order for relief" within the meaning of the United States Bankruptcy Code; or (viii) file an answer to a creditor's petition admitting the material allegations thereof for liquidation, reorganization, readjustment or composition or to effect a plan or other arrangement with creditors or fail to have such petition dismissed within sixty (60) consecutive days after the same is filed against the Lessee.

(g) Loss under the Code of the tax-exempt status for the interest paid on the Bonds as a result of any action of the Lessee.

(h) Acceleration of payment under any indebtedness or other obligation of the Lessee or under any agreement, instrument or document evidencing, securing or relating to that indebtedness or obligation, after the expiration of any applicable grace period and not waived; provided that the foregoing shall constitute an Event of Default under this Lease only if the accelerated indebtedness or obligations exceed in the aggregate one percent (1%) of the Lessee's Total Operating Revenues as shown in Lessee's most recently available audited financial statement and only if the indebtedness or obligations are owed or payable to other than the Member or an entity related to the Member; and provided further that

(1) after written notice by the Lessee to the City and the Senior Trustee of the Lessee's intention to do so, the Lessee may contest the validity or the amount of any acceleration at its own expense and in its own name and on its own behalf or, to the extent lawful, in the name and on behalf of the City, by appropriate proceedings duly and timely instituted in good faith and diligently prosecuted, and

(2) in the event of a contest, the Lessee may permit any accelerated indebtedness, or the amount thereof, so contested to remain unpaid during the period of the contest and any appeal therefrom without that circumstance constituting an Event of Default under this subparagraph, if

(i) the Lessee delivers to the Senior Trustee or the City an opinion of counsel to the effect that by nonpayment thereof, the liens and priority of the Indentures, this Lease, or the interests of the City and the Lessee in the Leased Premises will not be affected materially, and the Leased Premises, or any part thereof, will not be subject to imminent loss or forfeiture, and

(ii) during the period when any amount so contested remains unpaid, the Lessee sets aside on its books adequate reserves with respect thereto.

(i) Failure by the Lessee to comply with the provisions of Section 6.4 hereof after five business days notice of such failure.

(j) The occurrence of an Event of Default under the Guaranty and Security Agreement or the Tax Compliance Agreement, both as defined in the First Supplemental Senior Indenture.

No event described in subparagraphs (c) and (d) of the preceding paragraph shall constitute an Event of Default hereunder if, by reason of an event of Force Majeure, the Lessee is unable in whole or in part to carry out the covenants, agreements and obligations to which subparagraph (c) applies, other than the covenants, agreements and obligations on the part of the Lessee to carry insurance and to pay Principal and Interest Requirements, Additional Payments and other amounts payable under the Lease, or to which subparagraph (d) applies. The Lessee will give notice promptly to the Senior Trustee or the City of any event of Force Majeure and will use its best efforts to remedy that event with all reasonable dispatch; provided that the Lessee will not be required to settle strikes, lockouts or other industrial disturbances by acceding to the demands of any opposing Person, when in the Lessee's judgment, that course would be unfavorable to it.

As used herein, "Force Majeure" means acts of God; fires; epidemics; landslides; floods; strikes; lockouts or other industrial disturbances; acts of public enemies; acts or orders of any kind of any governmental authority; insurrections; riots; civil disturbances; arrests; explosions; breakage or malfunctions of or accidents to machinery, transmission pipes or canals; partial or entire failures of utilities; shortages of labor, materials, supplies or transportation; lightning, earthquakes, hurricanes, tornadoes, storms or droughts; or any cause or event not reasonably within the control of the Lessee.

The declaration of an Event of Default and the exercise of remedies upon the declaration shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding the declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Section 13.2. Remedies on Default. Whenever any Event of Default under Section 13.1 of this Lease shall have occurred and be continuing, after first giving the Member and the Lessee notice of the remedial step proposed to be taken at least seven (7) Business Days prior to taking the remedial step, any one or more of the following remedial steps may be taken; provided that in no event shall the City be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise to incur liability, unless and until the City has been furnished a satisfactory indemnity bond at no cost or expense to it:

(a) The Senior Trustee may, and if acceleration of maturity of the Bonds is declared pursuant to Section 7.02 of the Senior Indenture, the Senior Trustee shall, declare all installments of Basic Rent, Additional Payments and other amounts payable under this Lease for the remainder of the Lease Term to be immediately due and payable, whereupon those installments of Basic Rent, Additional Payments and other amounts shall become due and payable immediately.

(b) In accordance with applicable law, the Senior Trustee, or upon ten (10) days' written notice and with the prior written consent of the Senior Trustee, the City or its designee, may:

(i) enter and take possession of the Leased Premises, or any appropriate part thereof, without terminating this Lease,

(ii) complete any Improvement, if it is not then completed, holding the Lessee liable for completion costs, if any, not reimbursed to the City or Trustees from the proceeds of the Bonds or otherwise,

(iii) collect rentals and enforce all other remedies of the Lessee under any leases of, or assignments or grants of rights to use or occupy, the Leased Premises, or any part thereof, but without being deemed to have affirmed the leases, assignments or grants, and

(iv) enter into new leases, assignments and grants on any terms which the City or Senior Trustee may deem to be suitable for the Leased Premises, or any part thereof, which leases, assignments and grants shall not be terminated or affected if the Lessee cures the Event of Default.

Rentals and other amounts payable under the leases, assignments and grants described in clauses (iii) and (iv) of the preceding sentence may be applied by the City or Senior Trustee to any costs of administration, operation, repair or maintenance of the Leased Premises, or any part thereof, as the City or Senior Trustee may reasonably deem useful, and the remaining balance shall be applied to the Basic Rent, Additional Payments and other amounts payable, or to become payable, under this Lease in the order of priority to be determined by the City or Senior Trustee in accordance with this Lease. Any balance of the rents and other amounts remaining thereafter shall be paid promptly to the Lessee by the City or Senior Trustee in accordance with this Lease, and the City or Senior Trustee may hold the Lessee liable for the difference between those rents and other amounts and the Basic Rent, Additional Payments and other amounts payable under this Lease.

(c) The City and the Trustees may have access to, inspect, examine and make copies of the Lessee's books, records, accounts, financial and other data, and income and other tax returns.

(d) In accordance with applicable law, all Gross Revenues shall become payable immediately to the Senior Trustee, or in the event no Bonds are then outstanding, to the City, and the Senior Trustee or the City, as applicable, may take whatever steps it deems necessary to notify payors of the Gross Revenues of the Senior Trustee's or the City's right thereafter to receive payments of Gross Revenues directly.

(e) The Senior Trustee or the City if no Bonds are outstanding may exercise any and all and any combination of remedies available to it under the Indenture and this Lease.

(f) The City and the Senior Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the Basic Rent, Additional Payments and other amounts then payable, or to become payable, under this Lease, or to enforce the observance and performance of any covenant, agreement or obligation of the Lessee under this Lease.

Any amounts collected as, or applicable to, Basic Rent pursuant to any action taken under this Section (i) shall be paid to the Trustees and shall be applied in accordance with the provisions hereof and of the Indentures, or (ii) if the Bonds and coupons have been paid and

discharged in accordance with the Indentures, shall be paid as provided in Section 5.14 of the Senior Indenture for transfers of amounts remaining in the Special Funds as defined in the Senior Indenture.

Before any of the foregoing remedies may be exercised by the Senior Trustee or the City in connection with an Event of Default under subparagraph (b) of Section 13.1, the Council shall give written notice to the Lessee, with the prior written consent of the Senior Trustee, that the Council believes that an Event of Default under that subparagraph may have occurred, specifying the charges or circumstances constituting the alleged Event of Default in sufficient detail that the Lessee will be advised fully of the nature of the charges made against it and will be able to prepare an adequate response thereto. The notice shall fix a date, time and place for a hearing, which shall be at the expense of the Lessee, before a hearing officer who shall be a member of the American Arbitration Association or any organization which is nationally recognized as performing the functions now performed by the Association who is knowledgeable concerning health care facilities reasonably comparable in size and type to the Leased Premises, who shall be mutually acceptable to the Lessee and the Council. The hearing shall be on the issue of whether an Event of Default has occurred. That date shall not be sooner than fifteen (15) days following the giving of that notice.

At the date, time and place specified in the notice, unless the Council shall have withdrawn the notice, the Lessee shall be heard on the charges specified in the notice, shall be confronted with the evidence of the alleged Event of Default, shall have the right to examine and to cross-examine witnesses and may introduce any other evidence and testimony with respect to the alleged Event of Default which the Lessee desires. After the hearing is concluded, the hearing officer shall consider whether an Event of Default has occurred and shall report his findings or determinations to the Council and the Lessee.

If the hearing officer determines that an Event of Default has occurred, the Council may give notice of that determination to the Lessee and the Trustee and of its intention to terminate this Lease as of a date not earlier than the fifteenth day following the giving of the notice. If on the date specified for termination, the determination shall not have been enjoined, annulled or otherwise suspended by any judicial authority or suspended or waived by the Council, this Lease shall be terminated.

The provisions of Section 13.2(a) are subject to the further limitation that a rescission by the Trustees of any declaration of acceleration of maturity of Bonds pursuant to the Indentures will constitute a rescission and annulment of any corresponding declaration of acceleration made pursuant to Section 13.2(a) and a waiver of the consequences of that declaration and of the Event of Default with respect to which that declaration has been made; provided that no waiver, rescission or annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

Section 13.3. No Remedy Exclusive. Unless provided otherwise herein explicitly, no right, power or remedy conferred upon or reserved to the City or the Trustees in this Lease is intended to be exclusive of any other available right, power or remedy, but each right, power and remedy shall be cumulative and shall be in addition to every other right, power and remedy available under this Lease or the Indentures or existing now or hereafter at law, in equity, by statute or otherwise, but only to the extent necessary for the protection and benefit of the City, the Trustees and holders of the Bonds. The exercise, the beginning of the exercise, or the partial exercise by the City or the Trustees of any one or more rights, powers or remedies shall not preclude the simultaneous or later exercise by the City or the Trustees of any or all other rights, powers or remedies. No delay or omission in the exercise of any right, power or remedy accruing upon any Event of Default shall impair any other right, power or remedy or shall be construed to be a waiver of the Event of Default, but any right, power or remedy may be exercised from time to time and as often as may be deemed expedient. In order to entitle the

Section 13.8. Reinstatement. Notwithstanding any termination of this Lease, or the exercise of any other right, power or remedy, in accordance with the provisions of Section 13.2, if within sixty (60) days following the occurrence of an Event of Default and prior to the date of termination of this Lease pursuant to the penultimate paragraph of Section 13.2 hereof or the entry of a judgment in a court of law or equity for enforcement hereof after an opportunity for the Lessee to be heard and subject to the Indenture, the Lessee may

City or the Trustees to exercise any right, power or remedy reserved to it in this Article, it shall not be necessary to give any notice, other than as may be required expressly herein.

Section 13.4. Accession to Other Rights of Lessee and Termination of Other Rights of Lessee. In the Event of Default referred to in Section 13.1 hereof, and if rights under paragraph (b) of Section 13.2 hereof are exercised and to the extent permitted by law, the Lessee hereby grants to the City, the Senior Trustee, or receiver or other then operator of the Leased Premises, the full right and authority to take possession, use and operate all additional lands and facilities, as the case may be, adjacent to or related to the Leased Premises, together with such further lands and facilities as the Lessee may then have the right to use in connection with the Leased Premises, as they then exist, and are operated. If the rights under paragraph (b) of Section 13.2 hereof are exercised, Lessee does hereby, without necessity for further act by Lessee or the Senior Trustee and to the extent permitted by law, assign, release, grant or convey, as may be appropriate, to the City, Senior Trustee or to their (or the City's if there are no outstanding Bonds) designee or assignee, all right, title and interest of the Lessee in all of such other lands and facilities which the Lessee then holds for use in connection with the Leased Premises and in such latter case, Lessee shall, upon request of the City, Senior Trustee or their (or the City's if there are no outstanding Bonds) designee or assignee, promptly give such instrument of assignment, release, grant or conveyance as may reasonably be requested to better evidence such assignment, release, grant or conveyance.

Section 13.5. Agreement to Pay Attorneys' Fees and Expenses. In the event that there is an Event of Default or that it shall become necessary for the City or the Trustees to employ attorneys or to incur other expenses to collect Basic Rent, Additional Payments or other amounts payable, or to enforce observance or performance of any covenant, agreement or other obligation on the part of the Lessee, under this Lease, the Lessee, on demand therefor, shall reimburse the reasonable fees and expenses of those attorneys, to the extent permitted by law, and will reimburse the other reasonable expenses so incurred.

If any attorneys' fees or other expenses are not so reimbursed, the amount thereof, together with interest thereon at the Interest Rate for Advances from the date of incurrence by the City or the Trustees, shall constitute Additional Payments, and shall be paid by the Lessee on demand. In any action brought to collect those Additional Payments, the City or the Trustees, as the case may be, shall be entitled to the recovery of those Additional Payments, except as limited by law or by judicial order or decision.

Section 13.6. No Additional Waiver Implied by One Waiver. In the event that any covenant, agreement or other obligation under this Lease or the Indentures should be breached by either the Lessee or the City and the breach should be waived thereafter by the Lessee, the City or the Senior Trustee, as the case may be, the waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other or any subsequent breach thereunder. No failure by the City or the Senior Trustee to insist upon the strict observance or performance by the Lessee of any covenant, agreement or obligation under this Lease, and no failure to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any right to strict observance or performance or a waiver of any breach. No express waiver shall be deemed to apply to any other breach or existing or subsequent right to remedy the failure by the Lessee to observe or perform any covenant, agreement or obligation under this Lease.

(b) enter upon the Leased Premises, or any part thereof, for that purpose, and

(c) take any action which, in the opinion of the Member, the City or the Senior Trustee, as the case may be, may be necessary or appropriate therefor.

All payments so made by the Member, the City or the Senior Trustee and all costs, fees and expenses (including without limitation, to the extent permitted by law, attorneys' fees and expenses) incurred in connection therewith or in connection with the making of that payment or the observance or performance of that covenant, agreement or obligation by the Member, the City or the Senior Trustee, together with interest thereon at the Interest Rate for Advances from the date of payment or incurrence, shall constitute Additional Payments and shall be paid by the Lessee on demand. In any action brought to collect those Additional Payments, the Member, the City or the Trustees, as the case may be, shall be entitled to the recovery of the Additional Payments, except as limited by law or judicial order or decision.

Section 13.10. Notice of Default. The Lessee will notify the Member, the City and the Senior Trustee immediately if the Lessee becomes aware of the occurrence of any Event of Default or any Default which is not cured within the time provided in this Lease.

Section 13.11. Provision Subject to Applicable Law. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law and are intended to be limited to the extent necessary so that they will not render this Lease invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law.

(End of Article XIII)

ARTICLE XIV

MISCELLANEOUS

Section 14.1. Surrender of Leased Premises. Upon the expiration of the Lease Term or the termination of this Lease, the Lessee covenants and agrees to surrender the Leased Premises to the City peaceably and promptly, together with all appurtenances thereto and all assets and obligations of the Lessee including movable equipment, furnishings and other personal property in or on the Leased Premises, in as good condition as prevailed at the time the Lessee was put in full possession thereof; provided that, there is excepted from the foregoing covenants, agreements and obligations, any loss by fire or other casualty covered by insurance, ordinary wear and tear, obsolescence, removals and replacements in accordance herewith, and acts of God and provided further that the foregoing covenants, agreements and obligations are subject to the rights of reinstatement pursuant to Section 13.8 hereof. Concurrently with that surrender the Lessee will execute and deliver to the City such quit claim deeds, bills of sales and other instruments as will convey or transfer to the City the interests of the Lessee in the Leased Premises.

Section 14.2. Notices. All notices, certificates, requests or other communications hereunder shall be given sufficiently and shall be deemed to have been given when mailed by registered or certified mail, postage prepaid, addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate, request or other communication given hereunder to the City, the Lessee or a Trustee shall also be given to the others and to the Member. The Lessee, the City, the Member and a Trustee, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 14.3. Net Lease. This Lease shall be deemed and construed to be a "net lease". The Lessee shall pay absolutely net, during the Lease Term, the Basic Rent, Additional Payments and all other amounts payable under this Lease, free of any deductions, and without abatement or set-off, other than those for which provision is made expressly therein.

Section 14.4. Extent of Provisions Regarding City: Observance and Performance of Provisions. The City retains such rights and interests as will permit the City to perform its obligations under the Indentures. Each duty of the City and of its officers and employees undertaken under the Indentures and the Bonds is a duty enjoined specifically by law pursuant to Section 140.06(J), Ohio Revised Code, upon the City and each of those officers and employees having authority thereunder or by provision of law to perform that duty, resulting from an office, trust or station, within the meaning of Section 2731.01, Ohio Revised Code, providing for enforcement by writ of mandamus.

All representations, warranties, covenants, agreements and obligations of the City under this Lease shall be effective to the extent authorized and permitted by applicable law. None of those representations, warranties, covenants, agreements or obligations shall be deemed to be a representation, warranty, covenant, agreement or obligation of any present or future member, officer, agent or employee of the City in other than his or her official capacity. Neither the members of the Council nor any official executing this Lease or the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the representations, warranties, covenants, agreements or obligations of the City under the Indenture or the Bonds.

Section 14.5. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the City, the Lessee and their respective permitted successors and assigns, subject, however, to the specific provisions hereof.

Section 14.6. Amendments, Changes and Modifications. Except as provided otherwise in this Lease, this Lease may be amended, changed, modified, altered or deleted by the Lessee and the City without the consent of or notice to the Trustees or any other person provided that any such amendment, change, modification, alteration or deletion shall be authorized by ordinance passed by at least a two-thirds affirmative vote of the Council.

Any amendment pursuant to this Section must comply with Sections 8.01 and 8.02.1 of the Senior Indenture.

Section 14.7. Execution Counterparts. This Lease may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same lease.

Section 14.8. Severability. In case any section or provision of this Lease, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason,

(a) that illegality or invalidity shall not affect the remainder hereof or thereof, any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein,

(b) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof, and

(c) each section, provision, covenant, agreement, obligation or action, or part thereof, shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law.

Section 14.9. Captions. The captions and headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

Section 14.10. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State.

Section 14.11. Survival of Representations and Warranties. All representations and warranties of the Lessee and the City herein shall survive the execution and delivery of this Lease.

Section 14.12. Action by the Lessee. The City agrees that (i) the Lessee or the Member may take on behalf of the City any action under the Indentures required of or by City thereunder in order to comply with the Indentures or avoid a default or an event of default thereunder and (ii) the Member may perform any act, obligation or responsibility of the Lessee under this Lease and such performance shall be deemed to be performance by the Lessee.

Section 14.13. Relative Position of this Lease and the Indenture. The rights and options granted to the Lessee in this Lease are subject to the rights and remedies granted by the Indentures to the Trustees on behalf of the Bondholders and, so long as Bonds are outstanding within the meaning of the Indentures, to the extent that the covenants and agreements made by City in the Indentures with respect to the construction, operation and maintenance of the Leased Premises and the security of the Bondholders and applicable to the operation of the Leased Premises are greater than the covenants and agreements made by Lessee in this Lease, the provisions of the Indentures shall control and the Lessee agrees to be bound thereby.

Section 14.14. Trustees. When all Bonds are no longer outstanding under the Indentures, all references to the Senior Trustee, Subordinated Trustee and Trustees shall be deemed eliminated from this Lease and any approval herein required of the Senior Trustee, the Subordinated Trustee or the Trustees shall be eliminated from this Lease.

Section 14.15. Matters Relating to Definitive Agreement. The Lessee has entered into a Definitive Agreement with the Member and the Lessee agrees that it will enforce its rights against the Member given to it in Article 2 of that Definitive Agreement and in the event that the Member should fail to observe its obligation to the Lessee under that Article 2, the Lessee shall promptly notify the City of that failure.

The Lessee acknowledges and agrees that the City may utilize any legally available remedy, including, without limitation, injunctive relief, to compel the Lessee to enforce its rights and entitlements under Article 2 of the Definitive Agreement. The Lessee further agrees that it will not agree to any amendment or modification of the Definitive Agreement that amends, modifies, alters or clarifies the rights and entitlements of the Lessee under Article 2 of the Definitive Agreement in any manner which, in the reasonable judgment of the City, diminishes or impairs any such right or entitlement, and that the Lessee will not waive any refusal or failure by any other party to the Definitive Agreement to fulfill its duties or obligations under Article 2 thereof, unless the Lessee shall first have notified the City of (i) its intent to agree to such amendment or modification or to grant such waiver, the proposed effective date of such amendment, modification or waiver (which shall not be earlier than the seventieth (70th) day following such notification) and (ii) the reasons for agreeing to or granting such amendment, modification or waiver. Such amendment or modification may be entered into or such waiver granted on or after the proposed effective date, so long as there shall not have become effective within sixty (60) days after such notification an ordinance or resolution of the City directing the Lessee not to enter into such amendment or modification or grant the waiver which was the subject of the notification.

Without limiting the generality of the foregoing, the Lessee agrees that it will not terminate or purport to terminate the Definitive Agreement or permit CCF to terminate or purport to terminate the Definitive Agreement, in both cases pursuant to Section 10.2 of the Definitive Agreement, without the prior approval of the City evidenced by an ordinance or resolution of the City. In the event that the Lessee or CCF terminates or purports to terminate the Definitive Agreement without the prior approval of the City, then, in addition to any other rights and remedies that the City may have pursuant to this Lease with respect thereto, the City shall have the right (but shall not be obligated) to terminate this Lease subject to the rights of the holders of the outstanding Bonds (as long as such Bonds remain outstanding). If the City terminates the Lease under this paragraph, the termination will become effective on the last day of the one hundred twentieth (120th) month following the effective date of the termination of the Definitive Agreement unless the effective date of the termination of the Definitive Agreement occurs prior to December 31, 2002 in which event the termination will become effective on December 31, 2012.

The Lessee agrees that it will not assign or purport to assign its rights under the Definitive Agreement nor permit the Member to assign or purport to assign its rights pursuant to Section 12.9 of the Definitive Agreement unless the proposed assignee is both a non-profit corporation and, in the case of an assignment by the Member, is a Permitted Affiliate, and unless the Lessee shall first have notified the City of (i) its intent to make such an assignment or to permit such assignment, the proposed effective date of such assignment (which shall not be earlier than the sixtieth (60th) day following such notification), (ii) whether, in the case of a proposed assignment by the Member, the entity to which the Member seeks to assign its rights is a Permitted Affiliate as herein defined and is a non-profit corporation, and (iii) the reasons for making or permitting such an assignment. Such assignment may be entered into on or after the proposed effective date, so long as there shall not have become effective an ordinance or

resolution of the City directing the Lessee not to enter into such an assignment or permit the assignment which was the subject of the notification.

Section 14.16. Assumption of Obligations of Operator. In furtherance of Section 2.3 hereof, without limiting the generality thereof, the Lessee specifically assumes and agrees to perform all the obligations of the Operator set forth in the Indenture and this Lease.

(End of Article XIV)

(Balance of page intentionally left blank)

IN WITNESS WHEREOF, this Lease has been duly executed and delivered for and in the name and on behalf of each of the City and the Lessee by their duly authorized officers as of the date hereinbefore written.

Signed and acknowledged as to the City in the presence of:

David S. Goodman
Printed name: David S. Goodman

Dorothy Regas Richards
Printed name: DOROTHY REGAS RICHARDS
(Witnesses as to all)

CITY OF LAKEWOOD, OHIO, as Lessor

By: Maddeline A. Cain
Mayor

And by: William F. Davis
President of Council

And by: Yvette M. Vetter
Director of Finance

Signed and acknowledged as to the Lessee in the presence of:

David S. Goodman
Printed name: David S. Goodman

Dorothy Regas Richards
Printed name: DOROTHY REGAS RICHARDS
(Witnesses as to both)

LAKEWOOD HOSPITAL ASSOCIATION,
as Lessee

By: James M. Bauricelet
President

And by: William R. Bauricelet
Secretary

The legal form and substance of the within instrument is hereby approved.

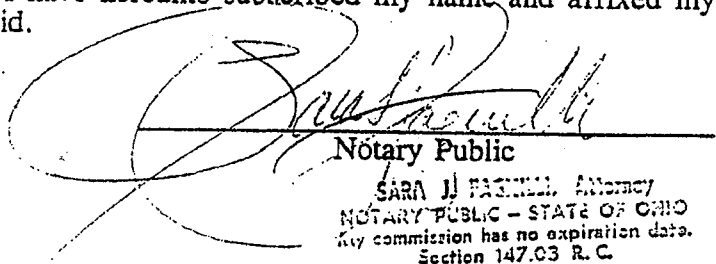
By: James M. Bauricelet
Director of Law
City of Lakewood, Ohio

STATE OF OHIO)
COUNTY OF CUYAHOGA) SS:

On this 23rd day of December, 1996, before me, a Notary Public in and for the foregoing County and State, personally appeared Madeline A. Cain, JoAnn Boscia and Yvette M. Ittu, Mayor, President of Council and Director of Finance, respectively, of the City of Lakewood, Ohio, a municipal corporation and political subdivision in and of the State, who acknowledged their execution of the foregoing instrument as those officers of that City for and in the name and on behalf of that City and by authority of its Council; and that the execution of that instrument is their voluntary act and deed as those officers on behalf of that City and the voluntary act and deed of that City.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

(SEAL)

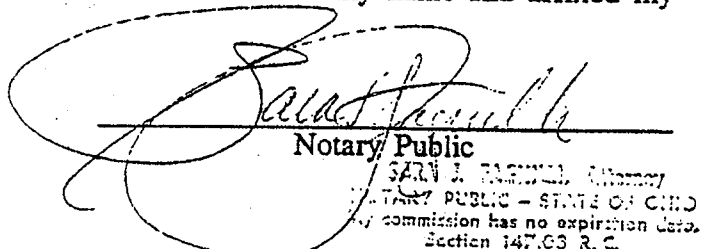

Notary Public
SARA J. FARNHAM, Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.

STATE OF OHIO)
COUNTY OF CUYAHOGA) SS:

On this 23rd day of December, 1996, before me, a Notary Public in and for said County and State, personally appeared Jules W. Bouthillet and William R. Gorton, President and Chief Executive Officer and Chairman of the Board, respectively, of Lakewood Hospital Association, who acknowledged the execution of the foregoing instrument as said officers of said corporation on behalf of said corporation and by authority thereof, and that the same is their voluntary act and deed as said officers on behalf of said corporation, and the voluntary and corporate act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforesaid.

(SEAL)


Notary Public
SARA J. FARNHAM, Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.

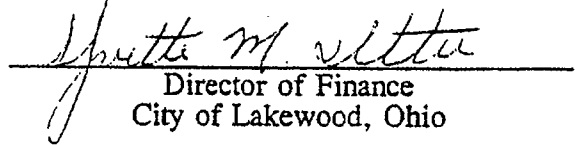
This instrument was prepared by:

Richard K. Desmond, Esq.
Squire, Sanders & Dempsey L.L.P.
4900 Key Tower
127 Public Square
Cleveland, Ohio 44114-1304

FISCAL OFFICER'S CERTIFICATE

The undersigned, fiscal officer of the City under the foregoing Lease, hereby certifies that the moneys required to meet the obligations of the City during the year 1996 under the foregoing Lease have been appropriated lawfully by the Council of the City for that purpose, are in the appropriate funds or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: December 23, 1996



Director of Finance
City of Lakewood, Ohio

CONSENT OF TRUSTEE

National City Bank, as trustee under the Trust Indenture (the "Indenture") dated as of March 15, 1983 among it, the Board of Trustees of Lakewood Hospital, Ohio (the "Hospital Trustees") and the City of Lakewood, Ohio (the "City"), acknowledges that it has received an executed counterpart of the preceding Lease and hereby consents pursuant to Section 5.13(e) of the Senior Indenture, to entry by the City into the foregoing Lease with Lakewood Hospital Association, as lessee.

NATIONAL CITY BANK, as Trustee

By: 

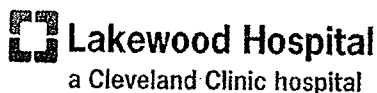
Title: ASSISTANT VICE PRESIDENT

Attest: 

Title: H. E. COCKRELL
SENIOR VICE PRESIDENT

STATEMENT PER CIV.R. 10(D)(1)

**SELECTED EXHIBITS,
ATTACHMENTS, AND SCHEDULES
TO THE CONTRACT HAVE BEEN
INTENTIONALLY OMITTED
BECAUSE ALREADY A PUBLIC
DOCUMENT, TOO VOLUMINOUS,
AND NOT NECESSARY TO
COMMENCE THIS ACTION.**



April 6, 2010

City of Lakewood
c/o The Honorable Edward FitzGerald, Esq.
12650 Detroit Avenue
Lakewood, Ohio 44107

Dear Mayor FitzGerald:

Lakewood Hospital (the "Hospital") is committed to the Lakewood community and will continue to maintain its status as the city's major employer. We're proud of the fact that nearly 1,300 Cleveland Clinic health system employees reside in the City of Lakewood and contribute nearly \$900,000 in the aggregate annually in payroll taxes to the City of Lakewood. We plan to maintain this civic leadership role through the implementation of a plan outlined in this letter that will strengthen and improve Lakewood Hospital and elevate the level of care for the Lakewood community and all communities we serve.

On February 11, 2010, the Board of Trustees of Lakewood Hospital Association ("LHA") held a Special Meeting to discuss an exciting strategic direction for Lakewood Hospital and to receive the recommendation of a Special Committee of the Board that had been established to review an independent third party's report on the same subject. After considerable discussion, the Board of Trustees unanimously voted to approve and implement a bold comprehensive plan (the "Plan") to advance Lakewood Hospital's *Vision for Tomorrow*. The Plan will address the sustainability of Lakewood Hospital, while simultaneously making available the finest services typically provided by hospitals in communities similar to Lakewood. The Plan further aligns Lakewood Hospital with Cleveland Clinic services to create a health delivery system for today's and tomorrow's community health needs.

The agreements between the City of Lakewood and LHA unite the City, the Hospital, and the Cleveland Clinic in a relationship of mutual commitment to serve the community. These agreements, including the Lease (the "Lease"), not only bind us together but recognize that hospital services evolve and change over time. In the spirit of our partnership, we write this letter to describe our Plan, which involves many components. One of the Plan's components involves transitioning the Hospital's trauma service and inpatient pediatrics service to a sister hospital, Fairview Hospital, and affects the Lease as described below. The transition will enable us to expand existing services and transfer new clinical services to Lakewood Hospital. This letter is intended to tell you, members of City Council, others in City administration, and our community about the Board's Plan and why we believe the Plan constitutes a comprehensive framework that will improve Lakewood Hospital's ability to serve the Lakewood population.

Process Behind the Plan

Before reviewing the Plan, we would like to describe the dedication and involvement that was given by the Lakewood community members of our Board, the members of Lakewood Hospital's Medical Staff, and others in formulating the Plan. The Board's Executive Committee, at a meeting on November 5, 2009, established a Special Committee (the "Committee") to review and assess this Plan. Utilizing all available resources, an operational and strategic assessment was conducted which included interviews of more than 40 key Hospital leaders. The Committee had 11 members and included representation from the Board's Executive Committee, Finance Committee, and Medical Staff. The Committee met several times and, with the assistance of management, thoroughly discussed and reviewed the Plan. At its last meeting, the Committee recommended approval of the Plan to the full Board, which adopted it on February 11, 2010. The Plan in part affirmed Lakewood Hospital's *Vision for Tomorrow* plan, which is a multi-year strategic plan shaped to better meet the changing needs of the Lakewood community that was adopted by the Board in 2008.



Positioning Lakewood Hospital for the Future

Lakewood Hospital's *Vision for Tomorrow* and the Plan positions and strengthens our services around four centers of clinical excellence – **Neurosciences, Orthopedics, Diabetes and Geriatrics**; ensures the highest level of care for our patients; creates improved coordination of care on the West Side; and positions the Hospital for long-term stability.

Lakewood Hospital and Fairview Hospital have long served overlapping areas, and as you know we recently announced a unified leadership structure involving the two hospitals. This structure better positions us to provide the highest level of care in Lakewood and the communities we serve; ensures care is provided in the right setting; creates better coordination of services throughout our health system; and strengthens both hospitals' financial outlooks.

Inpatient Pediatrics

We believe focusing our care for children at Lakewood Hospital on outpatient services and emergency care meets the changing needs of patients using our services. In developing the Plan, we found that inpatient pediatrics was under-utilized at Lakewood Hospital. Last year, for example, we averaged one to two patients daily on a 12-bed unit.

This trend is not unique to Lakewood Hospital; nationally pediatric subspecialty care is becoming increasingly concentrated in large regional children's hospitals. In fact, finding one major pediatric center serving an entire metro market, or in some cases an entire state, is not unusual. (A 2004 Survey of Pediatricians, backed by American Hospital Association annual survey, 1992-2004, found a 50% decline in pediatric bed space.)

We believe our pediatric patients will be best served just 3.5 miles away at Fairview Hospital for inpatient care. Fairview Hospital provides full pediatric resources and services, as well as pediatric subspecialty care not currently offered at Lakewood Hospital, to meet the needs of children. The relocation of inpatient pediatric services, moreover, provides needed facility space for acute rehabilitation and geriatric services as contemplated by other components of the Plan.

Trauma

We will continue to provide full-service 24-hour emergency care at Lakewood Hospital for patients of all ages with all types of illnesses and injuries. However, Lakewood Hospital has experienced a decline in the number of trauma cases. To clarify, a trauma is a very serious injury or shock to the body, from violence or an accident that requires immediate and highly specialized care. In fact, out of the 34,801 total emergency patients seen at the Hospital last year, more than 99% were *not* trauma-related. In 2009, we treated 25 trauma patients at Lakewood Hospital. We believe the right approach for patients in this region is to take them to the best trauma center for their care. We are privileged to have two trauma centers (Level I – Metro Health and Level II – Fairview Hospital just 3.5 miles away) in close proximity to the City of Lakewood.

Nationally, research has shown that combining trauma centers increases patient volumes resulting in better outcomes for patients. In addition, consolidation of trauma centers saves money by eliminating duplication of expensive resources. [*Journal of the American Medical Association (JAMA)*, 2001; 285:1164-1171 – results indicated that a strong association exists between trauma center volume and outcomes, with significant improvements in mortality and length of stay; *Journal of the American Medical Association (JAMA)*, Vol. 289, No. 12, Mar. 26, 2003 – the concentration of the most severely injured patients in a limited number of specialty care facilities (i.e., Level I or II trauma centers) will increase patient volumes and experience at these centers and thus improve patient outcomes.]

We take pride in the accreditations we've earned that support our emergency services in chest pain certification and stroke accreditation, and we plan to continue to maintain these exceptional services at Lakewood Hospital.

Expansion of Services

In 2008, Cleveland Clinic expanded and extended the care and services of its Neurological Institute (CCNI) to Lakewood Hospital. This represented a significant investment in Lakewood Hospital by Cleveland Clinic. The Neurological Institute provides patients on the West Side with access to a multi-disciplinary team of specialists who provide a broad spectrum of neurological care, including medical and surgical treatment for stroke and neurosurgery. Our outpatient services facilities and inpatient neurological intensive care unit were improved with capital investments totaling \$3.3 million over the last two years.

Cleveland Clinic continues to extend Neurological Institute offerings at Lakewood Hospital. In 2009, we brought 10 Cleveland Clinic Neurological Institute specialists to Lakewood in a variety of specialties, including Headache/Pain; Neurorehabilitation/ Spasticity Management; Vascular Neurology/ Stroke; Movement Disorders; Multiple Sclerosis; Adult and Pediatric Epilepsy; and Neuromuscular Medicine to complement our community physician staff members. Additional physician recruitment is planned in 2010.

According to the World Health Organization, neurological diseases, ranging from epilepsy to stroke to headache, represent the largest and fastest growing unmet medical need: affecting more than 1 billion people worldwide. It is anticipated that as the population continues to age, this number will continue to rise.

We recently began alignment of inpatient acute rehabilitation from Cleveland Clinic's other West Side hospitals to Lakewood Hospital, enabling the Hospital to serve as the hub for this needed service in this market, complementing Lakewood's centers of excellence in neuroscience and orthopedics. Inpatient rehabilitation will bring a significant financial benefit to the Hospital and will provide intensive physical and occupational therapy so patients can return home to activities of daily living as quickly as possible.

As part of our Plan, we are excited about patient referrals from Cleveland Clinic facilities coming to Lakewood Hospital. We continue to make great strides in orthopedics, including opening a new, \$3.2 million 16-bed orthopedic unit with private rooms. We have developed strong relationships in Lorain County with the Cleveland Clinic facilities and physicians which have resulted in bringing orthopedic surgeries that were previously performed in non-Cleveland Clinic hospitals to Lakewood Hospital.

We also continue to implement strategies to strengthen our geriatric services by broadening our geographic reach through our relationship with medical directors and affiliated physicians caring for patients in assisted living and/or long-term care facilities. This aging patient population benefits from our expanded SeniorCare program offerings, which has long been a strong foothold for Lakewood Hospital. We are expanding our reach beyond Cuyahoga County to care for these patients.

Finally, we have engaged in discussions to align West Side diabetes programs with the goal to develop a regional center at the Hospital in conjunction with the Cleveland Clinic Endocrine Institute.

Reviewing the Lease Provisions

As you can see, the vast majority of the Plan builds upon or adds to the services provided and services we are expanding, but as we indicated above one component of the Plan involves transitioning Lakewood Hospital's trauma service and inpatient pediatric service to Fairview Hospital, which we plan to do on or after June 15, 2010. Below are details regarding the provisions of the Lease, which we believe are important to acknowledge.

The Lease was developed over 25 years ago – in a spirit of collaboration, energy, and trust among the participants. The Lease provides that LHA is required to provide certain services within the City of Lakewood during the entire 30-year term of the Lease. The definition of those services requires that LHA provide hospital services “of the nature then generally provided by a community hospital in communities comparable to the City [of Lakewood].” The Lease further provides that LHA must continue to provide such services within the City, that it will not terminate them unless it first gives notice to the City (which LHA is doing with this letter), and the City does not object to the service changes.

The Lease was intended to be a living document that would contemplate emerging scientific technologies, medical breakthroughs, and evolving service levels. What may have been a service generally provided by a community hospital in the past may not hold for the future. While trauma and inpatient pediatrics may have been standard services for community hospitals when the Lease commenced, they are no longer, and the language of the Lease supports viewing such services in real time, not locked in the past. Further, the LHA Board of Trustees recognized a responsibility, in this changing healthcare environment, to maintain its governance oversight over the services transitioned to assure that access, value and quality are continued.

Continued Commitment to Lakewood

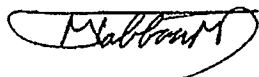
Over the past three years, we have invested \$24.4 million into Lakewood Hospital for a variety of projects that support the *Vision for Tomorrow* plan, including major renovations in Orthopedics, intensive care units, the Neurological Institute, as well as significant infrastructure improvements. We remain committed to investing in facilities and programs at Lakewood Hospital.

Meeting the Community's Changing Health Needs

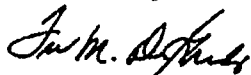
This community is fortunate to have both Lakewood Hospital and Fairview Hospital so close together, and it's our responsibility to determine how we can optimize the care, value and services we provide on the West Side to meet the evolving needs of those who entrust us with their care – both today and in the future.

We believe you will agree that our Plan will ensure that the services Lakewood Hospital provides will continue to meet community health needs, reflect the changing needs of the Lakewood residents, and more deeply align Lakewood Hospital with Cleveland Clinic services to create a health delivery system for today's and tomorrow's community health needs.

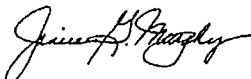
Sincerely,



Mousab Tabbaa, M.D.
Chairman of the Board of Trustees
Lakewood Hospital Association



Fred DeGrandis
President and CEO
Cleveland Clinic Regional Hospitals



Janice Murphy
President
Lakewood Hospital and Fairview Hospital

cc: Members of City Council of Lakewood, Ohio

City of Lakewood, Ohio, Attention: Director of Finance (via certified mail, return receipt requested)

City of Lakewood, Ohio, Attention: Mayor (via certified mail, return receipt requested)

City of Lakewood, Ohio, Attention: Director of Law (via certified mail, return receipt requested)

City of Lakewood, Ohio, Attention: Clerk of Council (via certified mail, return receipt requested)

Lakewood Hospital Association, Attention: Michael J. Meehan, Esq. (via certified mail, return receipt requested)

National City Bank, Attention: Corporate Trust Administration (via certified mail, return receipt requested)

KeyBank National Association, Attention: Corporate Trust Dept. (via certified mail, return receipt requested)

The Cleveland Clinic Foundation, Attention: Delos M. Cosgrove, M.D. (via certified mail, return receipt requested)

The Cleveland Clinic Foundation, Attention: David W. Rowan, Esq. (via certified mail, return receipt requested)



Janice G. Murphy, FACHE
President, Fairview & Lakewood Hospitals

May 24, 2010

Kevin Butler
President, Lakewood City Council
12650 Detroit Avenue
Lakewood, OH 44107

Dear Council President Butler,

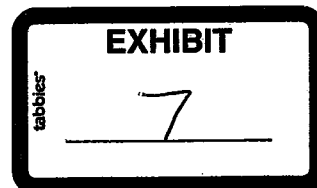
Attached please find responses to the questions as posed by the Committee of the Whole. I look forward to continued dialogue this evening

Thank you for the opportunity to continue this important dialogue

Respectively,

A handwritten signature in cursive script, appearing to read 'Janice G. Murphy'.

Janice G. Murphy
President
Fairview & Lakewood Hospitals



Responses from Lakewood Hospital to Kevin Butler, Lakewood City Council

We have responded below to the questions presented by the members of City Council. We appreciate the depth of City Council's review process and the insight and thought shown by these questions. We remain committed to the Lakewood community and to the patients who entrust us each and every day to provide the best care possible to them. We take this responsibility very seriously and we appreciate the long-standing relationship between the City of Lakewood, the Lakewood Hospital Association, the Lakewood Board of Trustees and Cleveland Clinic.

We look forward to continuing to work to create a healthcare delivery system that advances Centers of Excellence and provides services that match the changing needs of the community, while taking steps to position Lakewood Hospital for viability and sustainability.

What are the intentions of the Clinic? Is this a temporary move to buy time?

Our intentions are described in the Notice letter dated April 6, 2010, addressed to the City of Lakewood. The Lakewood Hospital Association and its Board have worked very carefully and diligently with the Clinic to create a plan which we believe provides the best service to meet the needs of this community.

As stated in the Notice letter dated April 6, 2010,

"The Plan will address the sustainability of Lakewood Hospital, while simultaneously making available the finest services typically provided by hospitals in communities similar to Lakewood. The Plan further aligns Lakewood Hospital with Cleveland Clinic services to create a health delivery system for today's and tomorrow's community health needs."

"Over the past three years, we have invested \$24.4 million into Lakewood Hospital for a variety of projects that support the *Vision for Tomorrow* plan, including major renovations in Orthopedics, intensive care units, the Neurological Institute, as well as significant infrastructure improvements."

What have been total staffing numbers over the term of the lease thus far?

As stated in our Notice letter dated April 6, 2010:

"Lakewood Hospital (the "Hospital") is committed to the Lakewood community and will continue to maintain its status as the city's major employer. We're proud of the fact that nearly 1,300 Cleveland Clinic health system employees reside in the City of Lakewood and contribute nearly \$900,000 in the aggregate annually in payroll taxes to the City of Lakewood."

Lakewood Hospital is supported by both regional staff and corporate staff, which are not represented in these numbers, but who continually provide valuable services and resources for the benefit of Lakewood Hospital and its patients. The following is the number of full-time equivalent Lakewood Hospital employees 2006 – 2010; (2006) 1,144; (2007) 1,150; (2008) 1,148; (2009) 1,098; (2010) 1,078.

What is the viability of the hospital now?

Lakewood Hospital continues to maintain its status as the city's major employer. Currently, its finances are challenged. The Hospital was not in compliance with a bond covenant for the last two years, but its balance sheet remains strong. We believe the Vision Plan, unanimously supported by the Board, positions the Hospital for future sustainability. The Vision Plan is more than just transitioning services, which have been a financial drain due to staffing needs in these areas, as well as low volumes. The Plan involves establishing Centers of Excellence and bringing in key services, which not only meet the changing needs of this community, but support the viability of Lakewood Hospital.

As stated in the Notice letter:

"One of the Plan's components involves transitioning the Hospital's trauma service and inpatient pediatrics service to a sister hospital, Fairview Hospital... The transition will enable us to expand existing services and transfer new clinical services to Lakewood Hospital."

"Lakewood Hospital and Fairview Hospital have long served overlapping areas, and as you know we recently announced a unified leadership structure involving the two hospitals. This structure better positions us to provide the highest level of care in Lakewood and the communities we serve; ensures care is provided in the right setting; creates better coordination of services throughout our health system; and strengthens both hospitals' financial outlooks."

What is the risk of keeping the hospital the same?

As indicated above, the Hospital's finances are challenged. Health care delivery continuously evolves. As stated in the Notice letter:

"The Lease was intended to be a living document that would contemplate emerging scientific technologies, medical breakthroughs and evolving service levels. What may have been a service generally provided by a community hospital in the past may not hold for the future. While trauma and inpatient pediatrics may have been standard services for community hospitals when the Lease commenced, they are no longer, and the language of the Lease supports viewing such services in real time, not locked in the past. Further, the LHA Board of Trustees recognized a responsibility, in this changing healthcare environment, to maintain its governance oversight over the services transitioned to assure that access, value and quality are continued."

Are there alternatives to this plan?

The plan we recommend moving forward with is based on a deliberate and extensive strategic planning process which has been ongoing since 2005. Additionally, the plan was reviewed and updated by a national expert strategic consultant at the direction of the board in 2009.

As stated in the Notice filed April 6, 2010:

"The Board's Executive Committee, at a meeting on November 5, 2009, established a Special Committee (the "Committee") to review and assess this Plan. Utilizing all available resources, an operational and strategic assessment was conducted which included interviews of more than 40 key Hospital leaders. The Committee had 11 members and included representation from the Board's Executive Committee, Finance Committee, and Medical Staff. The Committee met several times and, with the assistance of management, thoroughly discussed and reviewed the Plan. At its last meeting, the Committee recommended approval of the Plan to the full Board, which adopted it on February 11, 2010. The Plan in part affirmed Lakewood Hospital's *Vision for Tomorrow* plan, which is a multi-year strategic plan shaped to better meet the changing needs of the Lakewood community that was adopted by the Board in 2008."

What guarantees does the City get that the services to be augmented will remain so?

As stated in our Notice letter:

"Lakewood Hospital is committed to this community and will continue to maintain its status as the city's major employer."

The Board, which includes significant community representation, will continue to monitor and adjust services to meet the community's changing needs. The 23 positions on the Hospital Board include 10 positions that are either elected city officials from the City of Lakewood or their appointees.

As stated in the Notice filed April 6, 2010:

"Lakewood Hospital's *Vision for Tomorrow* and the Plan positions and strengthens our services around four centers of clinical excellence – **Neurosciences, Orthopedics, Diabetes and Geriatrics**; ensures the highest level of care for our patients; creates improved coordination of care on the West Side; and positions the Hospital for long-term stability."

"This community is fortunate to have both Lakewood Hospital and Fairview Hospital so close together, and it's our responsibility to determine how we can optimize the care, value and services we provide on the West Side to meet the evolving needs of those who entrust us with their care – both today and in the future."

We believe you will agree that our Plan will ensure that the services Lakewood Hospital provides will continue to meet community health needs, reflect the changing needs of the Lakewood residents, and more deeply align Lakewood Hospital with Cleveland Clinic services to create a health delivery system for today's and tomorrow's community health needs."

Will the Clinic consider amending the definition of "required services" in the lease to ensure the city is protected from sudden changes in the future?

The Notice presented to the City is based on a specific provision of the lease established in 1997. We do not believe it is necessary to amend the lease to accomplish these changes or to protect the city from sudden changes. The lease enables such changes as needed to answer the changing health care needs of the community, subject to a minimum 60-day review process and potential objection by City Council. As we stated in our Notice letter, "[t]he Lease was intended to be a living document that would contemplate emerging scientific technologies, medical breakthroughs, and evolving service levels. What may have been a service generally provided by a community hospital in the past may not hold for the future. While trauma and inpatient pediatrics may have been standard services for community hospitals when the lease commenced, they are no longer, and the language of the lease supports viewing such services in real time, not locked in the past." Additionally, it is important to note that amending the lease could delay implementation of critical components of the plan that need to be implemented during 2010.

Will the Clinic consider accepting Council's approval subject to the existence of other practices at the hospital in the future?

We do not believe an approval subject to future events is wise. The lease contemplates a potential objection by Council but not an approval, much less a contingent approval. A contingent approval could be construed as a constructive objection and may raise unanswerable legal questions that could jeopardize timing and cause delay.

We believe that continuing the best method to ensure optimum service levels to address community need and organizational viability is a responsibility vested in the Lakewood Hospital Board of Trustees, the majority of whom are members of the Lakewood community.

How does Lakewood Hospital fit into the strategic plan for the Clinic?

Considerable discussion was afforded to this topic in the Notice Letter to the City dated April 6, 2010. The relationship with the Cleveland Clinic was an integral consideration during the Lakewood Vision for Tomorrow development. It was imperative to develop the Lakewood plan in conjunction with the overall Cleveland

Clinic strategic plan. As such, Lakewood Hospital is envisioned as the West Side center for neurological, diabetes, geriatric and rehabilitation services.

Some specific examples from the Notice are included below.

"The agreements between the City of Lakewood and LHA unite the City, the Hospital and the Cleveland Clinic in a relationship of mutual commitment to serve the community. These agreements, including the Lease (the "Lease"), not only bind us together but recognize that hospital services evolve and change over time..."

"In 2008, Cleveland Clinic expanded and extended the care and services of its Neurological Institute (CCNI) to Lakewood Hospital. This represented a significant investment in Lakewood Hospital by Cleveland Clinic. The Neurological Institute provides patients on the West Side with access to a multi-disciplinary team of specialists who provide a broad spectrum of neurological care including medical and surgical treatment for stroke and neurosurgery. Our outpatient services facilities and inpatient neurological intensive care unit were improved with capital investments totaling \$3.3 million over the last two years."

"We recently began alignment of inpatient acute rehabilitation from Cleveland Clinic's other West Side hospitals to Lakewood Hospital, enabling the Hospital to serve as the hub for this needed service in this market, complementing Lakewood's centers of excellence in neuroscience and orthopedics. Inpatient rehabilitation will bring a significant financial benefit to the Hospital and will provide intensive physical and occupational therapy so patients can return home to activities of daily living as quickly as possible."

"As part of our Plan, we are excited about patient referrals from Cleveland Clinic facilities coming to Lakewood Hospital. We continue to make great strides in orthopedics, including opening a new, \$3.2 million 16-bed orthopedic unit with private rooms. We have developed strong relationships in Lorain County with the Cleveland Clinic facilities and physicians which have resulted in bringing orthopedic surgeries that were previously performed in non-Cleveland Clinic hospitals to Lakewood Hospital."

"We have engaged in discussions to align West Side diabetes programs with the goal to develop a regional center at the Hospital in conjunction with the Cleveland Clinic Endocrine Institute."

"We believe you will agree that our Plan will ensure that the services Lakewood Hospital provides will continue to meet community health needs, reflect the changing needs of the Lakewood residents, and more deeply align Lakewood Hospital with Cleveland Clinic services to create a health delivery system for today's and tomorrow's community health needs."

Where does Lakewood stand compared to Fairview within that strategic plan?

As stated in the Notice letter:

"Lakewood Hospital and Fairview Hospital have long served overlapping areas, and as you know we recently announced a unified leadership structure involving the two hospitals. This structure better positions us to provide the highest level of care in Lakewood and the communities we serve; ensures care is provided in the right setting; creates better coordination of services throughout the health system; and strengthens both hospitals' financial outlooks."

In addition the Lakewood Hospital Board will maintain governance oversight over the services transitioned between the hospitals, as stated in the Notice letter:

"Further, the LHA Board of Trustees recognized a responsibility, in this changing healthcare environment, to maintain its governance oversight over the services transitioned to assure that access, value and quality are continued."

What has been the financial history since the inception of the lease?

Throughout the term of the amended lease, the Hospital has done well as evidenced by the annual Member Reports provided to the City since 2004 and the annual Audit provided to the City each year.

Up until two years ago, the Hospital met the financial performance requirements. The recent financial history of the Hospital, like that of many other hospitals in similar geographic demographics, has seen a decrease in its volumes as a result of the decrease in population (~70,000 in 1980s to ~50,000 currently). Additionally, due to the declining economy, the Hospital has experienced an increase in care for the uninsured and changing patterns of practice.

What statistics are available to show that trauma and in-patient pediatrics are no longer part of the community hospital model locally, regionally and statewide?

As stated in our Notice letter dated April 6, 2010:

"In developing the Plan, we found that inpatient pediatrics was under-utilized at Lakewood Hospital. Last year, for example, we averaged one to two patients daily on a 12-bed unit.

This trend is not unique to Lakewood Hospital; nationally pediatric subspecialty care is becoming increasingly concentrated in large regional children's hospitals. In fact, finding one major pediatric center serving an entire metro market, or in some cases an entire state, is not unusual. (A 2004 Survey of Pediatricians,

backed by American Hospital Association annual survey, 1992-2004, found a 50% decline in pediatric bed space.)”

“Lakewood Hospital has experienced a decline in the number of trauma cases. To clarify, a trauma is a very serious injury or shock to the body, from violence or an accident that requires immediate and highly specialized care. In fact, out of the 34,801 total emergency patients seen at the Hospital last year, more than 99% were *not* trauma-related. In 2009, we treated 25 trauma patients at Lakewood Hospital. We believe the right approach for patients in this region is to take them to the best trauma center for their care. We are privileged to have two trauma centers (Level I – Metro Health and Level II – Fairview Hospital just 3.5 miles away) in close proximity to the City of Lakewood.

Nationally, research has shown that combining trauma centers increases patient volumes resulting in better outcomes for patients. In addition, consolidation of trauma centers saves money by eliminating duplication of expensive resources. [Journal of the American Medical Association (JAMA), 2001; 285:1164-1171 – results indicated that a strong association exists between trauma center volume and outcomes, with significant improvements in mortality and length of stay; Journal of the American Medical Association (JAMA), Vol. 289, No. 12, Mar. 26, 2003 – the concentration of the most severely injured patients in a limited number of specialty care facilities (i.e., Level I or II trauma centers) will increase patient volumes and experience at these centers and thus improve patient outcomes.]”

Do doctors have confidence in the model? Will they continue to send patients to Lakewood?

We were proud of the testimony provided by members of our Medical Staff at your recent Council meeting, May 17, 2010. For example, confidence of the Plan and the Hospital leadership’s willingness to address concerns of the Medical Staff was expressed by Dr. Kristen Ekman, a leading Hospital obstetrician. Dr. John A. Costin, Chair of the Cleveland Clinic Lorain Institute, described and complimented the quality of services provided by Lakewood Hospital to patients he and other physicians from Lorain are bringing to Lakewood Hospital.

Also, as we stated in our Notice letter:

“We would like to describe the dedication and involvement that was given by the Lakewood community members of our Board, the members of Lakewood Hospital’s Medical Staff, and others in formulating the Plan. The Board’s Executive Committee, at a meeting on November 5, 2009, established a Special Committee (the “Committee”) to review and assess this Plan. Utilizing all available resources, an operational and strategic assessment was conducted which included interviews of more than 40 key Hospital leaders. The Committee had 11 members and included representation from the Board’s Executive Committee, Finance Committee, and Medical Staff. The Committee met several times and, with the assistance of management, thoroughly discussed and reviewed the Plan. At its last meeting, the Committee recommended approval of

the Plan to the full Board, which adopted it on February 11, 2010. The Plan in part affirmed Lakewood Hospital's *Vision for Tomorrow* plan, which is a multi-year strategic plan shaped to better meet the changing needs of the Lakewood community that was adopted by the Board in 2008."

How determined is the Clinic Foundation to make this work?

Our letter of April 6, 2010 describes the determination of the Clinic in its ongoing support of Lakewood Hospital:

"The agreements between the City of Lakewood and LHA unite the City, the Hospital and the Cleveland Clinic in a relationship of mutual commitment to serve the community. These agreements, including the Lease, not only bind us together but recognize that hospital services evolve and change over time."

"In 2008, Cleveland Clinic expanded and extended the care and services of its Neurological Institute (CCNI) to Lakewood Hospital. This represented a significant investment in Lakewood Hospital by Cleveland Clinic. The Neurological Institute provides patients on the West Side with access to a multi-disciplinary team of specialists who provide a broad spectrum of neurological care, including medical and surgical treatment for stroke and neurosurgery. Our outpatient services facilities and inpatient neurological intensive care unit were improved with capital investments totaling \$3.3 million over the last two years.

Cleveland Clinic continues to extend Neurological Institute offerings at Lakewood Hospital. In 2009, we brought 10 Cleveland Clinic Neurological Institute specialists to Lakewood Hospital in a variety of specialties, including Headache/Pain; Neurorehabilitation/Spasticity Management; Vascular Neurology/Stroke; Movement Disorders/Multiple Sclerosis; Adult and Pediatric Epilepsy; and Neuromuscular Medicine to complement our community physician staff members. Additional recruitment is planned in 2010.

We recently began alignment of inpatient acute rehabilitation from Cleveland Clinic's other West Side hospitals to Lakewood Hospital enabling the Hospital to serve as the hub for this needed service in this market, complementing Lakewood's Centers of Excellence in neuroscience and orthopedics. Inpatient rehabilitation will bring a significant financial benefit to the Hospital and will provide intensive physical and occupational therapy so patients can return home to activities of daily living as quickly as possible.

As part of our Plan, we are excited about patient referrals from Cleveland Clinic facilities coming to Lakewood Hospital. We continue to make great strides in orthopedics, including opening a new \$3.2 million 16-bed orthopedic unit with private rooms. We have developed strong relationships in Lorain County with the Cleveland Clinic facilities and physicians which have resulted in bringing orthopedic surgeries that were previously performed in non-Cleveland Clinic hospitals to Lakewood Hospital."

"Finally, we have engaged in discussions to align West Side diabetes programs with the goal to develop a regional center at the Hospital in conjunction with the Cleveland Clinic Endocrine Institute."

"Over the past three years, we have invested \$24.4 million into Lakewood Hospital for a variety of projects that support the *Vision for Tomorrow* plan, including major renovations in Orthopedics, intensive care units, the Neurological Institute, as well as significant infrastructure improvements. We remain committed to investing in facilities and programs at Lakewood Hospital."

"We believe you will agree that our Plan will ensure that the services Lakewood Hospital provides will continue to meet community health needs, reflect the changing needs of the Lakewood residents, and more deeply align Lakewood Hospital with Cleveland Clinic services to create a health delivery system for today's and tomorrow's community health needs."

Please provide estimates of patient caseloads that were used to make this decision (e.g., bed census data).

As stated in our Notice letter dated April 6, 2010:

"In developing the Plan, we found that inpatient pediatrics was under-utilized at Lakewood Hospital. Last year, for example, we averaged one to two patients daily on a 12-bed unit.

"This trend is not unique to Lakewood Hospital; nationally pediatric subspecialty care is becoming increasingly concentrated in large regional children's hospitals. In fact, finding one major pediatric center serving an entire metro market, or in some cases an entire state, is not unusual. (A 2004 Survey of Pediatricians, backed by American Hospital Association annual survey, 1992-2004, found a 50% decline in pediatric bed space.)"

"Out of the 34,801 total emergency patients seen at the Hospital last year, more than 99% were *not* trauma-related. In 2009, we treated 25 trauma patients at Lakewood Hospital. We believe the right approach for patients in this region is to take them to the best trauma center for their care. We are privileged to have two trauma centers (Level I – Metro Health and Level II – Fairview Hospital just 3.5 miles away) in close proximity to the City of Lakewood."

How does the Cleveland Clinic senior staff view Lakewood Hospital's importance, viability, and ownership structure? Does this structure create a disincentive to invest for success? (It is the only hospital in the system with its own balance sheet, external audit, and debt structure.)

The incentives to invest are evident from the investments recently made. As we mentioned in the Notice letter:

"Over the past three years, we have invested \$24.4 million into Lakewood Hospital for a variety of projects that support the *Vision for Tomorrow* plan, including major renovations in Orthopedics, intensive care units, the Neurological Institute, as well as significant infrastructure improvements. We remain committed to investing in facilities and programs at Lakewood Hospital."

A specific illustration may be helpful. Lakewood Hospital's plan involves multiple components, one of which is the investment of \$4.2 million to develop a rehabilitation program, for which space is needed. The under-utilized pediatrics inpatient unit is being transitioned to Fairview Hospital to free up the needed space, subject to City Council's review process. If Council does not permit the termination of the pediatric inpatient service at the Hospital, then the rehabilitation program will not be implemented as envisioned. Continued investment in that program, and others, depend on many factors, such as the success of the program, future patient volumes, the support of the Medical Staff, the impact of health care reform regulations, etc., that the Hospital and the Clinic would consider.

As we stated in the Notice letter:

"The agreements between the City of Lakewood and LHA unite the City, the Hospital and the Cleveland Clinic in a relationship of mutual commitment to serve the community. These agreements, including the Lease (the "Lease"), not only bind us together but recognize that hospital services evolve and change over time...."

What are the marketplace trends for the four proposed centers of excellence (Neuroscience, Orthopedics, Diabetes, and Geriatrics) and how would this strategy position Lakewood Hospital to gain market share?

The Plan was developed taking into consideration population trends, disease burden estimates and regional demographic trends.

In looking at population trends in our market, for example, in the next five years, the age group 0-17 is estimated to decrease 8% while the age groups of 55-64 and 65-74 are estimated to have the largest increase—by 3.3% and 1.2% respectively.

The estimated outpatient growth for years 2005 through 2016 in the seven county market area is forecasted as follows: Neuroscience +7.6%, Orthopedics +13.6%, Diabetes +8.5 %

As stated in the Notice letter dated April 6, 2010:

"According to the World Health Organization, neurological diseases, ranging from epilepsy to stroke to headache, represent the largest and fastest growing unmet medical need: affecting more than 1 billion people worldwide. It is anticipated that as the population continues to age, this number will continue to rise."

"We recently began alignment of inpatient acute rehabilitation from Cleveland Clinic's other West Side hospitals to Lakewood Hospital, enabling the Hospital to serve as the hub for this needed service in this market, complementing Lakewood's centers of excellence in neuroscience and orthopedics. Inpatient rehabilitation will bring a significant financial benefit to the Hospital and will provide intensive physical and occupational therapy so patients can return home to activities of daily living as quickly as possible.

"As part of our Plan, we are excited about patient referrals from Cleveland Clinic facilities coming to Lakewood Hospital. We continue to make great strides in orthopedics, including opening a new, \$3.2 million 16-bed orthopedic unit with private rooms. We have developed strong relationships in Lorain County with the Cleveland Clinic facilities and physicians which have resulted in bringing orthopedic surgeries that were previously performed in non-Cleveland Clinic hospitals to Lakewood Hospital.

"We also continue to implement strategies to strengthen our geriatric services by broadening our geographic reach through our relationship with medical directors and affiliated physicians caring for patients in assisted living and/or long-term care facilities. This aging patient population benefits from our expanded SeniorCare program offerings, which has long been a strong foothold for Lakewood Hospital. We are expanding our reach beyond Cuyahoga County to care for these patients.

"Finally, we have engaged in discussions to align West Side diabetes programs with the goal to develop a regional center at the Hospital in conjunction with the Cleveland Clinic Endocrine Institute."

What are the key elements of implementation success (support from physician staff, investments, marketing, etc.)?

Continuing positive partnerships between the City, Lakewood Hospital Association and its Board, as evidenced in your meeting on May 17, 2010, is imperative. The active and effective governance of the Hospital by its Board of Trustees, which continues to monitor and design services to address the changing needs of the community, is paramount.

We believe the active involvement of City officials and their designates on the Board, (10 of 23 members), as well as continued hospital leadership on civic and local organizations, will continue to position us to address the community needs today and in the future. This has been the long established tradition and rich heritage of Lakewood Hospital.

"In addition, the creation of Centers of Excellence at Lakewood Hospital, which is supported by the Board of Trustees, as well as the collaboration and cooperation between Lakewood Hospital and Fairview Hospital will position both hospitals for future sustainability and allow us to meet the communities' needs at a higher level." (As stated by Board Member, Gary Pritts to City Council on May 17, 2010.)

What are the structural considerations that make this strategy more/or less likely to succeed (e.g. geographical location, age and design of the physical structure, demographic trends, technology investments and fit)?

The management structure we've implemented, as well as the organizational changes outlined in the Notice filed April 6, 2010 define these details behind our Plan.

What are the unintended consequences of removing historically core services (pediatrics, cardiology, etc.) on the remaining services?

All organizations need to change and evolve to meet the needs of its customers and the needs of its community. The utilization of the services recommended for transition as noted in the Notice filed April 6, 2010, as well as dedicating service in areas defined in the Plan (our Centers of Excellence), represents effective stewardship by the Lakewood Board of Trustees. Lakewood Hospital will continue to be an acute care hospital and by working more closely with Fairview Hospital will be able to provide additional value to the communities we serve today and in the future.

As stated in the Notice filed April 6, 2010:

"This structure better positions us to provide the highest level of care in Lakewood and the communities we serve; ensures care is provided in the right setting; creates better coordination of services throughout our health system; and strengthens both hospitals' financial outlooks."

What are the implications of the newly passed Healthcare Reform Act 2010 on this strategy?

At this time we continue to evaluate the implications of the Healthcare Reform Act, just like hospitals across the country. Due to the complexity and the provisions of the reform bill it will require considerable study in the months ahead. In the meantime, Lakewood Hospital has scheduled an educational session in June for our Board of Trustees about healthcare reform.

What are patient caseload projections into future years? What are the actuals going back several years?

A significant focus on trends, demographics and other market conditions were key factors which resulted in the development of the Plan. The Plan includes Centers of Excellence, as well as the recommendation regarding transitioning inpatient pediatrics and trauma.

As stated in the Notice filed April 6, 2010:

"We believe you will agree that our Plan will ensure that the services Lakewood Hospital provides will continue to meet community health needs, reflect the

changing needs of the Lakewood residents, and more deeply align Lakewood Hospital with Cleveland Clinic services to create a health delivery system for today's and tomorrow's community health needs."

What are the metrics for success by which the Clinic will evaluate Lakewood Hospital and its transformation plan? What benchmarks must be hit to know the hospital is successful and will have a stable and continuing future?

The metrics will include the following:

- Increased patient activity
- Improved patient experience through the nationally monitored HCAHPs scoring
- Financial sustainability
- Improved quality performance, as measured by CMS and Joint Commission standards

How do business decisions made by the Clinic network to steer patient caseload to other hospitals affect the viability of Lakewood Hospital as a long-term stable center for strokes, arthritis, and other aging conditions?

The health system and Lakewood hospital are focused on developing Centers of Excellence, which first and foremost are designed around the needs of our patients. As we design these services, we anticipate an increase in activity which creates an opportunity for the continued improvement of services. Ultimately, this will continue to grow the reputation of Lakewood Hospital.

A good example of this is the coupling of services around a Center of Excellence. For instance, as part of the Plan, both Neurological Services and Orthopedic Services will be supported by the complementary service — acute rehab. This vital complementary service is envisioned as the only one of its kind in a Cleveland Clinic hospital on the West Side.

As stated in the Notice filed April 6, 2010:

"We recently began alignment of inpatient acute rehabilitation from Cleveland Clinic's other West Side hospitals to Lakewood Hospital, enabling the Hospital to serve as the hub for this needed service in this market, complementing Lakewood's centers of excellence in neuroscience and orthopedics. Inpatient rehabilitation will bring a significant financial benefit to the Hospital and will provide intensive physical and occupational therapy so patients can return home to activities of daily living as quickly as possible."

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Finally, we have engaged in discussions to align West Side diabetes programs with the goal to develop a regional center at the Hospital in conjunction with the Cleveland Clinic Endocrine Institute."

May 24, 2010



MORGANSTERN, MACADAMS & DEVITO CO., L.P.A.

TRIAL ATTORNEYS AND COUNSELORS AT LAW

"Legal Solutions for Individuals, Families, and Businesses"

April 14, 2015

VIA EMAIL, REGULAR U.S. MAIL, AND CERTIFIED MAIL

Kevin M. Butler, Esq, Law Director
Lakewood City Hall
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: Taxpayer Request for Legal Action to Preserve Lakewood Hospital

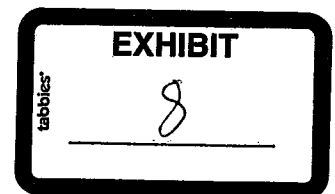
Dear Law Director Butler:

I represent Mr. Edward M. Graham, Esq., Mr. William J. Grulich, Ms. Deborah "D.L." L. Meckes, Marguerite Harkness, and all residents and taxpayers of the City of Lakewood. This letter constitutes the written request pursuant to Article VII, Section 1 (G), of the 2nd Amended Charter of Lakewood and Ohio Revised Code ("R.C.") 733.59 on behalf of my clients that you, as Law Director of the City of Lakewood, promptly apply to a court of competent jurisdiction for relief to preserve and ensure the continued operation of Lakewood Hospital for the benefit of the Lakewood community.

My clients are forced to take this action because of failed leadership. They are committed to holding the Mayor and City Council, and the leadership of Lakewood Hospital Association, Lakewood Hospital Foundation, and the Cleveland Clinic Foundation responsible and accountable for their actions and omissions in managing Lakewood Hospital and failure in being good stewards of these valuable assets in our community. The only course of action the City should be pursuing is to protect these assets and manage them in the best interests of the health and welfare of the citizens of the City of Lakewood. The City needs to ignore the strategic plan of the Cleveland Clinic and begin to focus on the economic and healthcare interests of its residents. The above named taxpayers request that you seek:

- Relief under Article VII, Section 1 (D), of the 2nd Amended Charter of Lakewood and Ohio R.C. 733.56 for an injunction to enjoin abuses of the corporate power of Lakewood and execution or performance of any contract in contravention of the 2nd Amended Charter of Lakewood and the Ordinances of the City of Lakewood relating to the preservation and continued operation of Lakewood Hospital;
- Relief under Article VII, Section 1 (E), of the 2nd Amended Charter of Lakewood and Ohio R.C. 733.57 for specific performance of the Amended and Restated Lease by and between the City of Lakewood and the Lakewood Hospital Association, dated December 23, 1996, as authorized by Ordinance No. 51-96 and the Definitive Agreement by and between the Cleveland Clinic Foundation and the Lakewood Hospital Association, dated December 1996; and

623 West Saint Clair Avenue, Cleveland, Ohio 44113-1204
Office 216.687.1212 or Fax 216.621.2951
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- Relief under Article VII, Section 1 (F), of the 2nd Amended Charter of Lakewood and R.C. 733.58 for a writ of mandamus to compel City of Lakewood Officials, including the Mayor and Council, the performance of their duty under the 2nd Amended Charter of Lakewood and the Ordinances of the City of Lakewood to ensure the preservation and operation of Lakewood Hospital for the benefit of the Lakewood community.

Under the authority of Article XV of the Charter of the City of Lakewood and through adoption of Sec. 907.03 of the Codified Ordinances of the City of Lakewood, Council has declared "it necessary and conducive to the public health and general welfare to establish and it hereby does establish a municipal hospital of the City to be known as The Lakewood Hospital." As authorized by Ordinance No. 51-96, the City of Lakewood and the Lakewood Hospital Association entered into an amended and restated lease permitting the Hospital Association to enter into a definitive agreement with the Cleveland Clinic Foundation pertaining to the operation of Lakewood Hospital. The lease and agreement provide for operation of the Lakewood Hospital through the end of 2026.

The obligations and duties under the 1996 Amended and Restated Lease and Definitive Agreement as authorized by Ordinance No. 51-96 have been and are currently being evaded and/or violated. Among other things, the hospital facilities are not being maintained and services have been significantly diminished or eliminated. Moreover, the Lakewood Hospital Association together with the sole member of the Lakewood Hospital Association (i.e. the Cleveland Clinic Foundation) has assented to the referral and diversion of patients to other hospital facilities undermining the financial viability of Lakewood Hospital. Further, the Lakewood Hospital Association, and the Cleveland Clinic Foundation has provided notification in writing and by other means to patients, Lakewood Hospital employees and the greater Lakewood community that Lakewood Hospital will be closing. The above named taxpayers assert that City of Lakewood officials, including the Mayor and Council, have failed and continue to fail to fulfill their duties to ensure compliance with the 2nd Amended Charter of the City of Lakewood, the Codified Ordinances of the City of Lakewood and Ordinance No. 51-96 and the 1996 Amended and Restated Lease and Definitive Agreement.

These abuses of the corporate power of Lakewood and failure in the performance of duties are compounded by the fact that the Mayor and the two Council members who serve as Ex Officio Members of the Lakewood Hospital Association voted in favor of the January 14, 2015, Letter of Intent, rather than seeking recusal from the vote. That vote was in direct conflict with the exercise of their duties as public officials. As such, it is an abuse of the corporate powers of Lakewood for these three public officials to continue to participate in the consideration of those matters advanced in the Letter of Intent. It is further an abuse of the corporate powers of Lakewood for the Mayor to participate in consideration of this matter as the items outlined in the Letter of Intent benefit the Lakewood Hospital Foundation, Inc., to which the wife of the Mayor has a fiduciary responsibility as a member of the Board of Trustees. Similarly, it is an abuse of the corporate powers of Lakewood for Councilman Ryan Nowlin to participate in consideration of this matter as the items outlined in the Letter of Intent benefit the Lakewood Hospital Association, to which his

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law partner has a fiduciary responsibility as a member of the Board of Trustees. (The above named taxpayers would also like confirmation as whether or not the law office of which Councilman Nowlin is a partner is providing legal counsel to the Lakewood Hospital Foundation, Inc.)

My clients request that you, as Law Director for the City of Lakewood, bring an action in the name of the City of Lakewood to defend the Charter and Ordinances of Lakewood and to protect Lakewood Hospital and the economic interest of our community. If you fail to bring such action and include the necessary parties (including but not limited to the City of Lakewood, its officials, the Lakewood Hospital Association, the Cleveland Clinic Foundation and the Lakewood Hospital Foundation, Inc., my clients intend to enforce a right of action on behalf of and for the benefit of the public by pursuing a taxpayer claim under Article VII, Section 1 (G) of the 2nd Amended Charter of Lakewood and R.C. 733.59 for the relief outlined above. In the event, that you, as Law Director, fail to bring such an action by the end of business on Friday, May 1, 2015, a taxpayer claim will be commenced by the undersigned on behalf of the above listed clients.

The actions (including misfeasance and nonfeasance) of Lakewood City Officials and of the Lakewood Hospital Association, together with the Cleveland Clinic Foundation, the sole member of the Lakewood Hospital Association, are causing immediate and irreparable harm to the continued viability of Lakewood Hospital. These actions negatively impact the health and welfare of the citizens of Lakewood and require immediate attention.

Thank you for your consideration.

Sincerely,

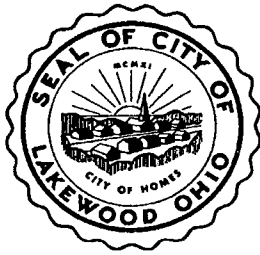
s/ Christopher M. DeVito

Christopher M. DeVito, Esq.

CC. Via Email **ONLY**:

Mayor Michael P. Summers
Ward 4 Councilperson Mary Louise Madigan, President of Council
Councilperson at Large Thomas Bullock
Councilperson at Large Ryan Nowlin
Councilperson at Large Cindy Marx
Ward 1 Councilperson David W. Anderson
Ward 2 Councilperson Sam O'Leary
Ward 3 Councilperson Shaun Juris

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**LAW DEPARTMENT
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law@lakewoodoh.net

KEVIN M. BUTLER
DIRECTOR OF LAW

PAMELA L. ROESSNER
CHIEF PROSECUTOR

JENNIFER L. MLADEK
CHIEF ASSISTANT
LAW DIRECTOR

MANDY J. GWIRTZ
ASSISTANT PROSECUTOR/
ASSISTANT LAW DIRECTOR

May 1, 2015

By e-mail and regular mail

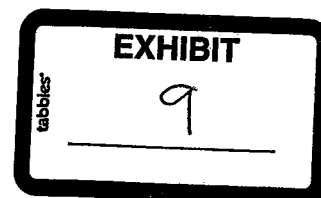
Christopher M. DeVito, Esq.
Morganstern, McAdams & DeVito Co., L.P.A.
623 West St. Clair Ave.
Cleveland, Ohio 44113
chrismdevito@gmail.com

Re: Litigation Demand

Dear Mr. DeVito:

I am writing to respond to your correspondence of April 14, 2015 in which you demand that I initiate litigation on behalf of the city of Lakewood to ensure the continued operation of Lakewood Hospital. I have read this correspondence, and the inflammatory and accusatory language you use suggests you do not appreciate that the city is attempting to identify the best course of action for Lakewood's residents and to determine what the future holds for Lakewood Hospital. While you are anxious to involve the city of Lakewood in a lawsuit (which could cost hundreds of thousands or even millions of taxpayer dollars), you fail to identify any causes of action or specific factual support for the claims that could potentially support such litigation. This failure is significant, particularly in light of the current status of the city's consideration of the proposal before it. At this point in time, the city has done nothing more than enter into non-binding discussions with the Lakewood Hospital Association and Cleveland Clinic to explore options for future health services benefiting Lakewood residents. No one has drawn a line in the sand, and no one has suggested that litigation is imminent or even necessary.

After careful review and analysis of your demand for litigation, I have determined that your correspondence is based on a number of misleading and conclusory allegations. Specifically, you identify a number of alleged conflicts of interest on the part of certain Lakewood public officials, and you fail to identify any causes of action or the alleged facts upon which those claims would



be based. Because of these and other deficiencies, I respectfully decline to bring your proposed lawsuit at this time. I will address some of the concerns you raise below.

A. No Conflicts of Interest Exist.

Your letter contrives a number of purported conflicts of interest that stem from Mayor Summers' and Councilmembers Mary Louise Madigan and Thomas Bullock's service as ex-officio members of the Lakewood Hospital Association's board of trustees. As you may know, this arrangement is nothing new (it has been in place since 1986, when your client, Mr. Graham, himself served on city council), and these individuals serve on the LHA board to ensure that the city's interests are represented and considered at LHA board meetings. This long-standing relationship has been examined and sanctioned by the Ohio Ethics Commission.

As historical background, Lakewood Hospital requested guidance from the OEC in 1986 as to whether conflict of interests existed under the Ohio ethics laws that would prevent the mayor and council members from serving as ex-officio members of the LHA board. The OEC provided an advisory opinion to Lakewood Hospital, making it clear that such service was permitted.¹ With this understanding, our elected officials have protected our residents' best interests through their service on the LHA board. Please review the decision; it should resolve any of your concerns about a prohibited conflict of interest arising from our Lakewood officials' service on the board.

Nor does the service of certain colleagues or family members of the Mayor and Councilman Ryan Nowlin as *unpaid, volunteer* trustees on the board of the LHA and Lakewood Hospital Foundation create any conflict of interest. As you may know, Wendy Summers' service on the LHF board predates Mayor Summers' election as mayor of Lakewood. Moreover, as stated above, she does not derive any compensation or personal gain from her service on the board. Similarly, the fact that Councilman Nowlin's colleagues serve on the LHA board and on the board of LHF creates no conflict of interest. Neither individual is paid for service on the boards, and Councilman Nowlin's firm is not representing either LHA or LHF in connection with the future plan for Lakewood Hospital currently under consideration by Council.

Finally, it bears repeating that City Council is merely reviewing and considering a non-binding proposal (which was not signed onto by the city) in relation to the future of Lakewood Hospital. Because there have been no official actions taken by our elected officers with respect to this proposal, your suggestion of a lawsuit to redress any action is entirely without merit.

We have sought additional guidance from the OEC in these matters, and will await its analysis of these issues. Regardless, it makes little sense to prepare a lawsuit based upon any issues stemming from the mayor's and councilmembers' obligatory service on the LHA board, Mrs. Summers' unpaid, volunteer service on the LHF board or Councilman Nowlin's colleagues' unpaid, volunteer service on both the LHA and LHF boards.

¹ I have enclosed a copy of the September 3, 1986 advisory opinion.

B. There is no Basis to Initiate Legal Action Preventing the City from Considering Options for the Future of Lakewood Hospital.

The city is still trying to determine what the future holds for Lakewood Hospital. Rather than file a lawsuit that has a questionable chance of success (at best), the city has chosen to work with the Cleveland Clinic and the LHA collaboratively to explore all potential options for Lakewood Hospital. The Mayor and City Council are currently conducting due diligence on the option of replacing Lakewood Hospital with a comprehensive family health center administered by the Cleveland Clinic, along with the formation of a community wellness foundation that would be intended to serve the health and wellness of Lakewood's residents for years to come.

You have intimated that you were made to believe this proposal was already approved by the city, which comes as quite a surprise to me. This letter should disabuse you of that notion. It is not yet clear whether the proposal will be approved (a decision that will be made by the elected public officials of Lakewood through a deliberative legislative process), but we can certainly agree that a lawsuit such as the one you have suggested will radically alter the city's current negotiating stance with the Cleveland Clinic and LHA and its ability to perform the due diligence it has recently undertaken. I see no reason to intervene in this exercise of the democratic process, and I will not take any action that would prevent our officials from discharging their obligations as the elected stewards of our city.

C. Conclusion.

I see no good-faith basis for bringing an action seeking to enjoin Lakewood's public officials from engaging in the legislative process, performing due diligence and participating in discussions of the best options for the providing health care options to the city's residents. Should you decide to bring such an action, I would advise you that, pursuant to Ohio Revised Code § 733.61, you would need to actually prevail on your claims in order to even be considered for a discretionary award of attorneys' fees. Given the frivolous nature of the action contemplated, such an award seems highly unlikely.

I have done my best to try to explain why I must decline your litigation demand. I hope that my comments have persuaded you that the course of action you have proposed is founded on misconceptions and not suited for our current negotiating position. Thank you for your correspondence.

Very truly yours,

A handwritten signature in cursive script that reads "Kevin M. Butler".

Kevin M. Butler



OHIO ETHICS COMMISSION

THE ATLAS BUILDING
8 EAST LONG STREET, SUITE 210
COLUMBUS, OHIO 43215
(614) 466-7090

September 3, 1986

Fred M. DeGrandis, Esquire
Vice President/General Counsel
Lakewood Hospital
14519 Detroit Avenue
Lakewood, Ohio 44107

Dear Mr. DeGrandis:

In your letter dated June 16, 1986, you asked whether the Ohio Ethics Law and related statutes would prohibit a city council and mayor from approving an ordinance authorizing the lease of a city hospital to a non-sectarian, non-profit charitable corporation, if the lease provides that the mayor, two members of city council selected by the council, and other city officials would serve on the hospital board of trustees. In addition, you asked whether such city officials would be prohibited from serving on the board of trustees following authorization.

You stated, by way of history, that a city owns a hospital and operates it through a board of trustees consisting of the mayor, a city council member who chairs the hospital committee, the city health director, and fifteen other members appointed by the mayor. You stated further that a city charter amendment was sought by the city and approved by the voters in 1985, permitting the conversion of the hospital to a non-profit corporation. You indicated that the current board of trustees has presented to city council a proposed lease with a non-sectarian, non-profit charitable corporation governed by a board of trustees consisting of the mayor, two members of city council selected by council, three representatives of community organizations, the immediate past president of the hospital medical staff, and thirteen members of the current board of trustees. You indicated further that the proposed ordinance authorizing the lease specifically acknowledges the participation of the city, through the current board of trustees and city council, in the organization of the corporation. It also provides that the mayor, city council members, and current trustees are designated to serve on the board of trustees of the corporation and are instructed to represent the interests of the city until the expiration of their terms as city officials or employees. Finally, you stated that the board of trustees are precluded from receiving any compensation for their services, and that the lease is for the term of thirty years, renewable at the option of the corporation for an additional thirty years. You asked whether the Ohio Ethics Law and related statutes would prohibit the transaction.

Division (A) of Section 2921.42 of the Revised Code provides the following, in pertinent part:

- (A) No public official shall knowingly do any of the following:
 - (1) Authorize, or employ the authority or influence of his office to secure authorization of any public contract in which he, a member of his family, or any of his business associates has an interest;

EXHIBIT

tabbies

. . .

- (4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which he is connected.

A city mayor or a member of city council is a "public official" as defined in Division (A) of Section 2921.42 of the Revised Code, since he is an elected officer of a political subdivision of the state (See: Ohio Ethics Commission Advisory Opinions No. 85-002 and 85-008). Similarly, a member of the board of trustees of a municipal hospital is a "public official," since he is appointed to an office of the city. A lease of a city hospital to a non-sectarian, non-profit charitable corporation is a "public contract," since it is a contract for the purchase or acquisition of the management and operation of the hospital by the corporation. Thus, a city official is prohibited from voting, authorizing, or otherwise using the authority or influence of his office to secure approval of a public contract with a non-profit corporation in which he serves as a board member. In addition, a city official is prohibited from serving as a board member of a non-profit corporation under contract with the city (See: Ohio Ethics Commission Advisory Opinion No. 81-008).

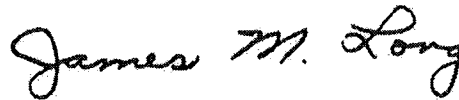
However, these provisions do not apply under circumstances in which a governmental entity participates in or creates a non-profit corporation and designates public officials to serve on its governing body. In Advisory Opinions No. 83-010 and 84-001 (copies enclosed), the Commission held that a city official or employee is not prohibited from serving on the board of a non-profit corporation, provided that he is serving in his official capacity as designated by city council and that no other conflict of interest exists. Specifically, the Commission stated that the following criteria must be satisfied: (1) the governmental entity must create or be a participant in the non-profit corporation; (2) any public official or employee connected with the jurisdiction, including a council member, may be designated to serve on the board of the non-profit corporation, but the elected legislative authority or the appointed governing body must formally designate the office or position to represent the governmental entity; (3) the public official or employee must be formally instructed to represent the governmental entity and its interests; and (4) there must be no other conflict of interest on the part of the designated representative. For example, he must not use his official position to benefit himself personally (See: Division (D) of Section 102.03 of the Revised Code).

Under the facts presented, the voters have approved a city charter amendment permitting the conversion of the city hospital to a non-sectarian, non-profit charitable corporation, and the current board of trustees, city council, and mayor have participated in the creation of the corporation. Also, the ordinance designates the city officials to serve on the board of trustees of the corporation and formally instructs them to serve the interests of the city. Finally, the organization prohibits compensation for board members, which helps to avoid a major, potential conflict of interest. Thus, the city is adhering to the criteria established in Advisory Opinions No. 83-010 and 84-001, and the city council and mayor would not be prohibited from authorizing the ordinance and organization as proposed. In addition, the city officials would not be prohibited from serving on the board of trustees of the hospital in their official capacities.

Fred M. DeGrandis, Esquire
September 3, 1986
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This opinion represents the views of the Commission at its meeting on September 3, 1986. It is based on the facts presented and is limited to questions arising under Chapter 102. and Section 2921.42 of the Revised Code. If you have any questions, or wish to request a formal advisory opinion from the Commission, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "James M. Long".

James M. Long
Assistant Executive Director

JML:sm

Enclosures