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LEASE

by and among

COUNTY OF RUSK, A WISCONSIN MUNICIPAL CORPORATION,

as Landlord,

and

MCHS HOSPITALS, INC., A WISCONSIN NON-STOCK CORPORATION,

as Tenant

dated as of \_\_\_\_\_, \_\_\_\_

PROPERTY: 900 College Ave W, Ladysmith, WI 54848

**DATA SHEET**

**LANDLORD:** Rusk County, Wisconsin  
300 Miner Avenue East  
Ladysmith, WI 54848

w/ a copy to

Quarles & Brady LLP  
Attn: Maggie Utterback  
33 East Main Street, Ste 900  
Madison, WI 53703

**TENANT:** MCHS Hospitals, Inc.  
1000 North Oak Avenue  
Marshfield, Wisconsin 54449

w/ a copy to

Husch Blackwell LLP  
Attn: John F. Emanuel  
555 East Wells Street, Ste 1900  
Milwaukee, WI 53202

**TERM:** Five (5) years commencing May 1, 2018 (“Commencement Date”) and terminating at 11:59 p.m. on or before April 31, 2023, unless terminated or extended in accordance with Section 1.2(a)-(b) of this Lease.

**LEASE**

**YEAR:** A “Lease Year” shall mean a period of twelve (12) consecutive months commencing on the first day of the first calendar month after the Commencement Date (unless the Commencement Date is the first day of a calendar month, in which event the Lease Year commences on such date). The first Lease Year shall include as well any days between the Commencement Date and the first day of the first calendar month thereafter.

**RENTAL**

**PAYMENTS:** Four Hundred Thousand and No/100 Dollars (\$400,000.00) per year, payable in twelve monthly installments of Thirty-Three Thousand Three Hundred Thirty-Three and 33/100 Dollars (\$33,333.33) as set forth in Article 2.

LEASED

PREMISES:

The real property and improvements located at 900 College Ave W,  
Ladysmith, WI 54848.

## **LEASE**

**THIS LEASE** (“Lease”) is dated as of the Commencement Date, and is among the COUNTY OF RUSK, a Wisconsin body corporate existing pursuant to Chapter 59 of the Wisconsin Statutes (“Landlord”) and MCHS HOSPITALS, INC., a Wisconsin non-stock corporation (“Tenant”).

### **RECITALS:**

**WHEREAS**, the Landlord and Tenant are parties to that certain Asset Purchase Agreement dated \_\_\_\_\_, 2018 (the “Purchase Agreement”), whereby, among other provisions, the Landlord intends to sell and the Tenant intends to purchase all of the assets and properties of the Landlord other than its real estate; and

**WHEREAS**, the Landlord and Tenant are parties to that certain Operating Agreement dated \_\_\_\_\_, 2018 (the “Operating Agreement”), whereby, among other provisions, the Landlord and Tenant have set out the conditions under which the Tenant is to operate the Leased Premises and construct the New Facility (as defined below); and

**WHEREAS**, the Landlord is party to that certain Lease dated March 26, 2013 (the “SMI Lease”), by and between the Landlord and Senior Management Inc., a Minnesota corporation (“SMI”), as tenant, whereby the Landlord leases to SMI a portion of the building located at 900 College Avenue West, Ladysmith, WI (“SMI Space”); and

**WHEREAS**, the Landlord and SMI are parties to that certain Services Agreement, dated \_\_\_\_\_, 20\_\_ (the “SMI Services Agreement”), whereby, among other provisions, the Landlord and SMI have allocated the provision of services benefitting the SMI Space and the Leased Premises; and

**WHEREAS**, pursuant to the Purchase Agreement and the Operating Agreement, the Tenant agrees to operate the business of the Rusk County Memorial Hospital and Rusk Clinics currently located on the Leased Premises and formerly conducted by Landlord; and

**WHEREAS**, Landlord and Tenant intend to develop and construct a new hospital facility, medical office building, and ambulatory and acute care service facility within Rusk County, Wisconsin (“New Facility”); and

**WHEREAS**, Landlord has previously leased a portion of the Leased Premises, as more particularly identified and as defined below, to the parties identified on Schedule 1 attached hereto (the “Third Party Leases”); and

**WHEREAS**, the Landlord and Tenant are parties to those certain Assignments of Lease, pursuant to which the Third Party Leases are assigned to the Tenant; and

**WHEREAS**, the Landlord intends to lease to Tenant and Tenant intends to lease from Landlord the Leased Premises as defined below, subject to the Third Party Leases.

**NOW, THEREFORE**, in consideration of the covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged herein, the parties agree as follows:

## ARTICLE I

Section 1.1 Lease of Leased Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the following (collectively, the "Leased Premises"):

(a) The real property located at 900 College Ave W, Ladysmith, WI 54848, as more specifically described on Exhibit A (the "Land").

(b) All buildings, structures, Fixtures (as hereinafter defined) and other improvements of every kind now or hereafter located on the Land, including alleyways and connecting tunnels, sidewalks, utility pipes, conduits and lines, parking areas and roadways appurtenant to such buildings and structures, and any additions hereafter funded by Landlord (collectively, the "Leased Improvements").

(c) All easements, rights and appurtenances relating to the Land and the Leased Improvements (collectively, the "Related Rights").

(d) All equipment, machinery, fixtures, leasehold improvements and other items, including all components thereof, now and hereafter located in, at or on, used in connection with, and permanently affixed to or incorporated into the Leased Improvements, including, as present on the Commencement Date, all furnaces, boilers, heaters, electrical equipment, heating, plumbing, lighting, ventilating, refrigerating, incineration, air and water pollution control, waste disposal, air-cooling and air-conditioning systems, apparatus, sprinkler systems, fire and theft protection equipment, and built-in oxygen and vacuum systems, all of which, to the greatest extent permitted by law, are hereby deemed to constitute real estate, together with all replacements, modifications, alteration and additions thereto (collectively, the "Fixtures").

Section 1.2 Term. The Term of this Lease shall be as set forth on the Data Sheet, unless terminated or extended in accordance with the following:

(a) Termination. In the event construction of the New Facility is substantially completed on before the expiration of the then current Term, Landlord shall have the right, but not the obligation, to terminate this Lease, upon giving written notice to Tenant of such election to terminate ("Early Termination Notice"). In the event Landlord delivers an Early Termination Notice to Tenant, this Lease shall terminate on the date which is six (6) months from the date of the Early Termination Notice, unless the parties mutually agree otherwise.

(b) Extension. In the event construction of the New Facility is not completed before the expiration of the Term, and provided that no event of default under this Lease, the Purchase Agreement, or Operating Agreement, or event which, with notice or lapse of time or both, would constitute an event of default therein, has occurred and is continuing, then Tenant shall have the right to renew this Lease for two (2) successive three-year renewal terms (each, an "Extended Term"), upon giving written notice to Landlord of such renewal not less than six (6) months prior to the expiration of the then current Term. During each such Extended Term, all of the terms and conditions of this Lease shall continue in full force and effect.

## ARTICLE II

Section 2.1 Rental Payments. Tenant shall pay to Landlord, without offset or deduction, Base Rent as described in Section 2.2. Payments of Base Rent shall be made to Landlord as follows: Rusk County, 300 Miner Avenue East, Ladysmith, Wisconsin 54848, or at such other place as Landlord may from time to time designate in writing

Section 2.2 Base Rent. For the period from the Commencement Date through the expiration of the Lease Term, Tenant shall pay to Landlord "Base Rent" monthly, in advance on or before the first day of each calendar month, the sum of Thirty-Three Thousand Three Hundred Thirty-Three and 33/100 Dollars (\$33,333.33). No Base Rent shall be charged on any alteration paid for by Tenant that expands the floor space. Commencing January 1, 2019, the annual Base Rent shall be increased each May 1 during the Term of this Lease by an amount equal to the annual Base Rent for the immediately preceding year multiplied by the lesser of (i) the CPI Percentage Increase or (ii) 1.5%. The "CPI Percentage Increase" is equal to the percentage increase in the CPI for the five-year period immediately preceding the applicable Adjustment Date, determined by comparing the CPI published for the first month of such five-year period to the CPI published for the last month of such five-year period. "CPI" means the Consumer Price Index, All Urban Consumers, All Items, 1982-84 equals 100. If the CPI is discontinued, the index published by the U.S. Department of Labor that in Landlord's reasonable judgment most closely approximates the CPI shall be substituted for the CPI.

In the event the Commencement Date shall occur other than on the first day of a month, then the first payment of Base Rent shall be prorated based on the number of days in such month.

Section 2.3 Additional Charges. In addition to the Base Rent, Tenant shall also pay and discharge, as and when due and payable, all other amounts, liabilities, obligations, undertakings and Impositions (as hereinafter defined) Tenant is required to pay or perform as set forth in this Lease during the Term (the "Additional Charges"). If the expiration or earlier termination of the Term is a day other than the last day of a Lease Year, then Tenant's share of the Additional Charges for such Lease Year shall be computed and paid on a pro rata basis accord the actual number of days in such Lease Year.

The term "Rent" shall include Base Rent and any Additional Charges.

Section 2.4 Net Lease. This Lease is and is intended to be what is commonly referred to as a net lease. The Rent reserved herein shall be absolutely net to Landlord, so that this Lease shall yield to Landlord the full amount of the installments of Base Rent throughout the Term, and all Additional Charges shall be paid and discharged solely by Tenant throughout the Term. Any existing leases and contracts affecting the Leased Premises (including without limitation the Third Party Leases) are subleases and/or subcontracts and are obligations and rights of the Tenant, as successor in interest to Landlord, and not Landlord.

## ARTICLE III

Section 3.1 Impositions. Subject to Section 9.1 relating to permitted contests, Tenant shall pay or cause to be paid during the Term of the Lease, all ad valorem real and

personal property taxes or assessments, any payments in lieu of taxes (PILOT) and such other taxes or assessments imposed by governmental authorities or required pursuant to any recorded or unrecorded agreements affecting the Leased Improvements (which agreements are in effect at the commencement of this Lease or are subsequently entered into by Tenant) against the Lease Premises (“Impositions”) before any fine, penalty or cost may be added for nonpayment. Tenant shall make such payments directly to the taxing authorities where feasible, and promptly furnish to Landlord copies of official receipts or other satisfactory proof evidencing such payments. For assessments only the current installment of an assessment with installments over the longest period of time per month is included as an Imposition.

(a) Any refund due from any taxing authority in respect of any Imposition paid by Tenant shall be paid over to or retained by Tenant if no Event of Default shall have occurred hereunder and be continuing. Any other refund shall be paid over to or retained by Landlord.

(b) Tenant may, upon notice to Landlord, at Tenant’s option and Tenant’s sole cost and expense, protest, appeal, or institute such other proceedings as Tenant may deem appropriate to effect a reduction of real estate or personal property assessments and Landlord, at Tenant’s expense as aforesaid, shall reasonably cooperate with Tenant in such protest, appeal, or other action but at no cost or expense to Landlord. Billings for reimbursement by Tenant to Landlord of personal property or real property taxes shall be accompanied by copies of a bill therefor and payments thereof which identify the personal property or real property with respect to which such payments are made.

(c) Landlord shall give prompt notice to Tenant of all Impositions payable by Tenant hereunder of which Landlord has knowledge.

(d) Impositions imposed in respect of the tax-fiscal period during which the Term commences and terminates shall be adjusted and prorated between Landlord and Tenant, whether or not such Imposition is imposed before or after such termination or commencement.

Section 3.2 Utilities. Tenant shall pay, as they become due and payable and before they become delinquent, all charges for electricity, heat, air conditioning, water, gas, fuel, snow removal, telephone, sewage usage or rental, garbage disposal, refuse removal and any other utility service furnished to the Leased Premises (the “Utilities”) during the Term. In no event will Landlord be liable for any interruption or failure in the supply of any of the Utilities, regardless of the cause.

Section 3.3 Insurance. In accordance with ARTICLE VII, Tenant shall pay or cause to be paid all premiums for the insurance coverage required to be maintained by Landlord.

#### ARTICLE IV

Section 4.1 Condition of the Leased Premises. Tenant acknowledges receipt and delivery of possession of the Leased Premises and that Tenant has examined and otherwise has knowledge of the condition of the Leased Premises prior to the execution and delivery of this Lease and has found the same to be in good order and repair, to Tenant’s knowledge free from

Hazardous Substances (as hereinafter defined) not in compliance with any laws or regulations, and satisfactory for its purposes hereunder. Regardless, however, of any examination or inspection by Tenant, and whether or not any patent or latent defect or condition was revealed or discovered thereby, Tenant is leasing the Leased Premises "AS IS" in its present condition. Tenant waives any claim or action against Landlord with respect to the condition of the Leased Premises including any defects or adverse conditions not discovered or otherwise known by Tenant as of the date hereof.

Section 4.2 Use; Nonsolicitation. Tenant shall continuously occupy and use the Leased Premises during the Term only for the operation of the business being conducted at the Leased Premises at the execution hereof and as contemplated by the Operating Agreement. Such use may not be changed without the prior written consent of Landlord.

(a) Tenant shall not commit or suffer to be committed any waste on the Leased Premises or cause or permit any nuisance to exist thereon or with respect hereto. Tenant shall neither suffer nor permit the Leased Premises to be used in such a manner as to make possible a claim of adverse use or possession, or an implied dedication of the Leased Premises.

(b) Tenant shall not store, use, discharge or dispose of any hazardous or toxic substances, pollutants, contaminants or any other substances regulated by any state or federal statute (collectively "Hazardous Substances") on the Leased Premises other than in the ordinary course of Tenant's business and then in compliance with all applicable laws, rules and regulations. If Landlord reasonably believes that Tenant is storing, using, discharging or disposing of any Hazardous Substances on the Leased Premises in violation of the foregoing, Landlord may require Tenant, at Tenant's expense, to conduct such tests or inspections as may be necessary to reasonably satisfy Landlord that the terms of this provision have not been violated. Tenant shall be solely responsible for the costs of removing or cleaning any Hazardous Substances found on the Leased Premises and caused by Tenant.

## ARTICLE V

Section 5.1 Compliance with Law. Subject to Section 9.1 regarding permitted contests, Tenant, at its expense, shall obey, observe and promptly comply with all recorded and unrecorded agreements (which are effective at the commencement of the Lease or are subsequently entered into by Tenant), rules, regulations, ordinances and laws which shall be applicable, now or at any time during the Term, to the Leased Premises and Tenant's operations thereon and shall promptly comply with all orders, rules, rulings and directives of the any governmental authority or agency having jurisdiction over the Leased Premises, including, without limitation, existing and outstanding orders and requirements.

## ARTICLE VI

Section 6.1 Maintenance and Repair.

(a) Tenant shall make all structural repairs and replacements to the Leased Premises, including but not limited to, structural repairs and replacement of the roof. Tenant shall make all repairs and replacements to the Leased Premises (including structural



repairs and replacements required due to the negligence of Tenant, its employees or agents) as the need to make such repairs and replacements arises, and shall maintain the Leased Premises in good order and repair, and in a safe and sanitary condition.

(b) Tenant agrees that it is managing all aspects of the operation and the Leased Premises, at no cost to Landlord. In the event Tenant ceases to provide such management for the Leased Premises, then Tenant shall either (i) engage professional third party management for the Leased Premises, at Tenant's sole cost, or (ii) elect to have Landlord provide such management services and reimburse Landlord's reasonable costs for providing such services. Tenant shall maintain the Leased Premises in a manner consistent with that maintained by comparable medical facilities in comparable medical markets in the State of Wisconsin.

(c) If Tenant refuses or neglects to commence any required repairs or replacements within ten (10) days after receipt of written demand by Landlord, or does not adequately complete the same within a reasonable time thereafter, Landlord may, but shall not be obligated to, make such repairs or replacements without incurring liability to Tenant for any loss or damage that may accrue to Tenant or Tenant's business by reason thereof. If Landlord makes such repairs or replacements, Tenant shall pay to Landlord as additional rent the costs of such repairs or replacements plus an amount equal to ten percent (10%) of such costs.

#### Section 6.2 Assumption of Services Agreement.

(a) Tenant agrees to assume and perform at no cost to Landlord, all Landlord obligations under the SMI Lease and Services Agreement ("SMI Obligations").

### ARTICLE VII

Section 7.1 Insurance; Waiver of Liability. Tenant shall keep in effect, at its sole expense, a comprehensive general liability policy or policies satisfactory to Landlord covering Tenant's operations in the Leased Premises and providing coverage for bodily injury, death and property damage with a combined single limit of at least [**Three Million Dollars (\$3,000,000) or Five Million No/100 Dollars (\$5,000,000.00)**] in the annual aggregate. All liability type policies must name Landlord as an "additional insured." All property, loss of rental and business interruption type policies shall name Landlord as "loss payee." A certificate of insurance shall be delivered to Landlord upon request. In the event Landlord reasonably deems such coverage inadequate, Tenant shall, upon the prior written request of Landlord, increase such insurance to amounts reasonably requested by Landlord. The policies shall insure against the following risks: Loss or damage by fire, vandalism and malicious mischief, extended coverage perils commonly known as special form perils, sinkhole and windstorm in an amount not less than the insurable value on a replacement cost basis; and

(a) Ordinance and Law Insurance with amounts not less than [**Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000) for coverage A., One Million and No/100 Dollars (\$1,000,000) for coverage B, and One Million and No/100 Dollars (\$1,000,000) for coverage C**].

(b) Tenant, at Tenant's expense, shall keep the buildings and improvements now or hereafter located on the Leased Premises insured against loss by fire or

other casualty in an amount determined by Landlord. Tenant shall be responsible for insuring any property of any third party stored by Tenant on the Leased Premises, Tenant's personal property and Tenant's Trade Fixtures located on the Leased Premises.

Section 7.2 Policy Requirements. Tenant shall pay all premiums for the insurance. In the event of the failure of Tenant either to effect such insurance in the names herein called for or to pay the premiums therefore, or to deliver such certificates thereof to Landlord, at the times required, Landlord shall be entitled, but shall have no obligation, to effect such insurance and pay the premiums therefor, in which event the cost thereof shall be repayable to Landlord upon demand therefore. Each insurer shall agree, by endorsement on the policy or policies issued by it, or by independent instrument furnished to Landlord, that it will give to Landlord at least twenty (20) days' written notice before the policy or policies in question shall be altered, allowed to expire or cancelled. Each policy shall have a deductible or deductibles, if any, which are no greater than those normally maintained for similar facilities in the State of Wisconsin.

(a) All policies required hereunder shall be written by companies licensed to do business in the State of Wisconsin and acceptable to Landlord. All policies maintained by Tenant shall name Landlord as an additional named insured and a copy of such policies, or certificates thereof, shall be delivered to Landlord on or before the Commencement Date.

Section 7.3 Landlord Liability. Anything in this Lease to the contrary notwithstanding, Landlord shall not be liable to Tenant or anyone claiming under Tenant for any loss or damage to property or injury to or death of persons occurring on the Leased Premises or the adjoining properties, parking areas, sidewalks, streets, alleys or passageways, or in any manner growing out of or in connection with Tenant's use and occupancy of the Leased Premises or the condition thereof or of adjoining parking areas, streets, sidewalks, alleys or passageways regardless of the cause, including, without limitation, if such loss or damage to property or injury to or death of persons is caused by the negligence or fault of Landlord or its agents, employees, assignees or invitees. Tenant hereby waives all right of recovery against Landlord, its agents, employees, assignees and invitees for any such loss, damage, injury or death and agrees to cause its insurance policy to contain a waiver of subrogation clause reflecting the provisions of this Section 7.3.

Section 7.4 Indemnity. Tenant agrees to protect and save Landlord harmless and indemnified against and from any penalty, damage or charge imposed for any violation of any laws or ordinances, whether occasioned by Tenant or those holding under Tenant. Tenant further agrees to protect, indemnify and save Landlord harmless from and against (i) any and all claims, and against any and all loss, damage, expense, liabilities, demands and causes of action, and any reasonable expenses (including attorneys' fees) incidental to the defense thereof by Landlord, arising out of any failure of Tenant in any respect to comply with and perform all of the requirements and provisions of this Lease, including, without limitation, Tenant's obligations under ARTICLE VI, and (ii) any and all loss, damage, expense, liabilities, demands and causes of action, and any reasonable expenses (including attorneys' fees) incidental to the defense thereof by Landlord resulting from injury or death of persons or damage to any property, including without limitation the person and property of Tenant, its agents, employees and

invitees, occurring on the Leased Premises or on the adjoining sidewalks, parking areas, streets, alleys or ways, or in any manner directly or indirectly growing out of or in connection with the use and occupancy of the Leased Premises. It is expressly understood and agreed that the foregoing indemnification applies to any loss, damage, expense or liability is attributable to acts or omissions, including negligent acts or omissions, of Landlord, its agents and employees.

Section 7.5 No Extension of Statutory Immunity. Nothing in this Lease shall constitute an extension of any governmental defense or immunity under Wis. Stat. § 893.80(4) from Landlord to Tenant.

## **ARTICLE VIII**

Section 8.1 Additions, Changes, Alterations and Demolition. Tenant shall not construct or demolish improvements upon the Leased Premises, make additions to, or structural changes or alterations in and upon, any or all of such improvements, or install underground or aboveground storage tanks on the Leased Premises, without the prior written consent of Landlord. Any permitted work shall be performed in a good and workmanlike manner at the sole expense of Tenant. Tenant shall not permit, create, incur or impose or cause or suffer others to permit, create, incur or impose any lien or other obligation against the Leased Premises, Tenant's interest in the Leased Premises, or Landlord by reason of any work upon the Leased Premises, and Tenant agrees to hold Landlord harmless of and from any and all claims or demands by any contractor, subcontractor, materialman, laborer or any other third person against the Leased Premises, Tenant's interest in the Leased Premises, or Landlord relating to or arising because of any work thereon. In no event shall Tenant be considered the agent of Landlord in connection with any such work. Any improvements or additions upon the Leased Premises at the expiration of this Lease shall be deemed a part of the Leased Premises, and shall be surrendered to Landlord in good condition and repair, reasonable wear and tear excepted. The provisions of this paragraph shall not apply to such items as are ordinarily designated as trade fixtures, temporary partitions or similar installations which may, from time to time, be installed in the Leased Premises under the provisions of Section 10.1 hereof.

## **ARTICLE IX**

Section 9.1 Permitted Contests. Tenant, upon prior written notice to Landlord, on its own, at Tenant's expense, may contest, by appropriate legal proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any licensure or certification decision, Imposition, legal requirement or lien; subject however, to the further requirement that Tenant shall still be obligated to make payments of Base Rent hereunder. If any such contest is finally resolved against Tenant, Tenant shall promptly pay the amount required to be paid, together with all interest and penalties accrued thereon. Landlord, at Tenant's expense, shall execute and deliver to Tenant such authorizations and other documents as may reasonably be required in any such contest. The provision of this Section 9.1 shall not be construed to permit Tenant to contest the payment for Rent or any other amount payable by Tenant to Landlord hereunder.

## **ARTICLE X**

Section 10.1 Trade Fixtures. Tenant may during the Term install such fixtures, equipment and appliances as may be reasonably necessary for the conduct of its business upon the Leased Premises (“Trade Fixtures”). Tenant agrees that it will not create, incur or impose or suffer or cause others to create, incur or impose any lien or obligation against the Leased Premises, Tenant’s interest in the Leased Premises, or Landlord by reason of the installation herein authorized. Tenant agrees to hold Landlord harmless of and from any and all claims and demands of third persons in any manner relating to or arising out of such installation.

(a) Subject to the provisions of subparagraph (b) hereof, the Trade Fixtures may be affixed to the Leased Premises and Tenant may remove the same at will, and shall remove the same at the termination of this Lease if so requested by Landlord. All damages incurred to the Leased Premises as a result of any affixation or removal hereunder shall be promptly repaired by and at the sole cost and expense of Tenant. Any Trade Fixtures not removed as herein permitted or required shall, at the option of Landlord, be deemed abandoned by Tenant, to be disposed of by Landlord in accordance with this Lease.

(b) If at any time hereafter Tenant is in default under any of the conditions and provisions of this Lease, Landlord shall have a lien on the Trade Fixtures, and Tenant shall not sell, encumber or remove the same until the default shall have been cured.

## **ARTICLE XI**

Section 11.1 Entry By Landlord. Landlord and its representatives shall have the right, at all reasonable times and with reasonable advance notice to Tenant, to enter upon the Leased Premises for the purposes of examining and inspecting the same, showing the Leased Premises to prospective tenants or purchasers, or making any repairs to the Leased Premises; said entry, however, shall not unreasonably interfere with the business of Tenant. This section shall not be construed as imposing any obligation upon Landlord to inspect the Leased Premises.

Section 11.2 Warranty of Quiet Possession. Tenant, upon paying rent at the time and manner aforesaid, and performing and keeping all of the covenants and conditions of this Lease by it to be kept and performed, shall quietly have, hold and enjoy the Leased Premises during the Term.

Section 11.3 Damage or Destruction of Leased Premises. In the event the Leased Premises should be damaged or destroyed as a result of fire or other casualty in an amount of less than fifty percent (50%) of its replacement value, Tenant shall promptly commence to build or replace the same in as good condition as prior to such casualty and shall diligently pursue the same to completion. In the event the Leased Premises should be damaged or destroyed as a result of fire or other casualty in an amount of fifty percent (50%) or more of its replacement value or otherwise rendered unfit for occupancy, Landlord may, at Landlord’s sole option, expressed to Tenant in writing within thirty (30) days of such occurrence, (i) commence to build or replace the same as aforesaid, or (ii) terminate this Lease, effective on the date of such casualty. Rent shall abate proportionately to the loss of use by Tenant during the period of repair or rebuilding. In no event will Landlord be required to spend on any restoration of the Leased Premises any amount in excess of the insurance proceeds actually received by Landlord in regard to such damage or destruction. Landlord shall not be responsible for repairing or restoring any

of Tenant's fixtures, equipment or other property, and Tenant shall repair or restore the same at its expense.

## **ARTICLE XII**

Section 12.1 Assignment and Subletting. Tenant shall not assign this Lease, whether voluntarily or by operation of law, or sublet or license the use of any portion of the Leased Premises without the prior written consent of Landlord, which shall not be unreasonably withheld or delayed. Any consent by Landlord to an assignment or subletting by Tenant shall not be deemed consent to any further assignment or subletting by Tenant, its subtenant or assignee. Any assignee of Tenant shall expressly assume Tenant's liabilities and obligations under this Lease. No assignment, subleasing or licensing shall release Tenant from any of its obligations hereunder. Tenant shall not mortgage or otherwise encumber its leasehold interest hereunder without the prior written consent of Landlord. Notwithstanding anything to the contrary in this section, Tenant may, without Landlord's consent, but upon thirty (30) days prior written notice to Landlord, assign this Lease or sublease all or part of the Leased Premises to any party that directly or indirectly: (a) wholly owns or controls Tenant, (b) is wholly owned or controlled by Tenant, or (c) is under common ownership or control with Tenant; provided however, that such assignment shall not release Tenant from any of its obligations hereunder.

## **ARTICLE XIII**

Section 13.1 Eminent Domain. If all of the Leased Premises are taken by the exercise of the power of eminent domain, or sold under the threat of eminent domain, this Lease shall terminate as of the date possession is taken by the condemnor. The entire compensation award shall belong to Landlord and Tenant shall have no interest therein, provided, however, that Tenant shall have the right to any proceeds specifically awarded for the taking of any of Tenant's personal property or for Tenant's moving expenses.

(a) If less than all of the Leased Premises is taken by the exercise of the power of eminent domain, or sold under the threat of eminent domain, Landlord shall have the right to terminate this Lease if in the sole judgment of Landlord the premises remaining are such that their continued use for the purpose for which the same were being used immediately prior to such taking is reasonably impractical or economically imprudent. Termination shall be effective on the date possession is taken by the condemnor. The option to terminate herein granted shall be exercised in writing by Landlord within ten (10) days after the date of the taking of possession by the condemnor. The entire compensation award shall belong to Landlord, provided, however, that Tenant shall have the right to any proceeds specifically awarded for the taking of any of Tenant's personal property or for Tenant's moving expenses. If this Lease is not terminated, Landlord shall, with reasonable diligence, restore any improvements upon the Leased Premises affected by the taking (other than improvements constructed by Tenant at Tenant's expense), but shall not be obligated to spend for such restoration any amount in excess of the amount awarded or paid to it by the condemnor for such purpose. During the period of restoration and thereafter rental shall abate proportionately to the reduction in space of the Leased Premises taken by partial condemnation and while not replaced by restoration.

## **ARTICLE XIV**

Section 14.1 Defaults and Remedies. The occurrence of any one or more of the following shall constitute a default by Tenant:

(a) Failure by Tenant to pay the rent or to make any other payment required to be made by Tenant hereunder when due and such failure continues for ten (10) business days following written notice from Landlord;

(b) The making by Tenant of an assignment for the benefit of its creditors;

(c) The operation or supervision of the business conducted in the Leased Premises by a creditors' committee, or by anyone other than Tenant;

(d) The levying of a writ of execution or attachment on or against the property of Tenant located on the Leased Premises;

(e) The doing or permitting to be done by Tenant of any act which results in the filing of a mechanic's lien or claim therefor against any part of the Leased Premises which is not promptly removed;

(f) If proceedings are instituted in a court of competent jurisdiction for an adjudication of Tenant as a bankrupt or insolvent, or for the appointment of a receiver of the property of Tenant, and said proceedings are not dismissed and any receiver, trustee or liquidator appointed therein discharged within thirty (30) days after the institution of said proceedings; and

(g) The failure of Tenant to perform any other of its covenants under this Lease or [the Purchase Agreement], which failure continues for thirty (30) days after written notice from Landlord; provided, however, that if the circumstances so warrant, said thirty (30) day period shall be extended for such additional time as may be reasonably required for Tenant to perform such other covenant or covenants, and provided, further, that Tenant promptly undertakes such performance and prosecutes the same to its conclusion with reasonable diligence.

Section 14.2 In the event of any default by Tenant hereunder, Tenant hereby authorizes and empowers Landlord to:

(a) Cancel and terminate this Lease and immediately reenter and take possession of the Leased Premises without the requirement of any previous notice of intention to reenter, and remove all persons and their property therefrom using such force and assistance in effecting and protecting such removal as Landlord may deem reasonably necessary to recover full and exclusive possession of the Leased Premises; or

(b) Reenter and take possession of the Leased Premises in the manner provided in subparagraph (1) above without such reentry constituting a cancellation or termination of this Lease or a forfeiture of any rental, Taxes or other monies to be paid hereunder or of the covenants, agreements and conditions to be kept and performed by Tenant for and during the remainder of the term hereof.

Section 14.3 In the event Landlord reenters and takes possession of the Leased Premises as set forth in Section 14.2(b) above:

(a) Landlord shall have the right but not the obligation to divide or subdivide the Leased Premises in any manner it may reasonably determine and to lease or let the same or portions thereof for such periods of time, at such rentals, for such use and upon such terms, covenants and conditions as it may reasonably elect, applying the net rentals from such letting first to the payment of its expenses incurred in dispossessing Tenant, the costs and expenses of making such improvements in the Leased Premises as may be reasonably necessary to enable it to relet the same, and to the payment of any brokerage commissions or other necessary expenses incurred in connection with such reletting. The balance, if any, shall be applied by Landlord, from time to time, but in any event no less than once each month, on account of the payments due or payable by Tenant hereunder.

(b) Landlord may, from time to time, bring such actions or proceedings for the recovery of any deficits remaining unpaid or to enforce any other covenant or condition herein contained as it may deem advisable without being obligated to await the end of the term hereof for a final determination of Tenant's account. Landlord specifically shall have the right to recover in one action all rent provided for herein, whether due or to become due.

(c) Any balance remaining after full payment and liquidation of all payments due Landlord as aforesaid shall be paid to Tenant at the end of the term hereof, with the right reserved to Landlord at any time to give notice in writing to Tenant of its election to cancel and terminate this Lease and all of Tenant's rights and obligations hereunder, and, upon the giving of such notice and the simultaneous payment by Landlord to Tenant of any credit balances in Tenant's favor that may at the time be owing to it shall constitute a final and effective cancellation and termination hereof and the obligations hereunder on the part of either party to the other.

Nothing contained in this ARTICLE XIV shall exclude any other right or remedy allowed by law to Landlord, nor shall the invalidity or unenforceability of any one right or remedy affect or impair the validity or enforceability of any other right or remedy.

Section 14.4 Abandonment of Tenant's Property. If Tenant fails to remove any property belonging to it within ten (10) days after the termination of this Lease, the same shall be deemed abandoned by Tenant and shall, at Landlord's option, become the property of Landlord, or may be removed from the Leased Premises by Landlord at the expense of Tenant.

Section 14.5 Enforcement Costs. Tenant shall pay all costs, attorneys' fees and expenses that may reasonably be incurred by Landlord in enforcing the provisions of this Lease.

Section 14.6 Holding Over by Tenant. If Tenant holds over or remains in possession or occupancy of the Leased Premises after the expiration of this Lease with Landlord's written consent, such holding over or continued possession or occupancy shall create only a tenancy from month to month at the last monthly rental and upon the same terms and conditions herein contained (other than the length of term), which may at any time be terminated by either Landlord or Tenant giving to the other thirty (30) days' written notice. If Tenant holds

over or remains in possession or occupancy of the Leased Premises after the expiration of this Lease without Landlord's written consent, (i) Tenant shall (a) pay Landlord Base Rent equal to one hundred fifty percent (150%) of the Base Rent payable hereunder and (b) timely pay all Additional Charges imposed upon Tenant hereunder, in each case prorated on a per diem basis for each day Tenant remains in possession of the Leased Premises after the expiration or earlier termination of this Lease, together with all damages sustained by Landlord on account of such holding over, and (ii) Landlord shall have the right at any time after expiration of the Term or earlier termination of this Lease, reenter and possess the Leased Premises and remove all property and persons therefrom and shall have such other remedies for holdover as may be available to Landlord under the laws of the State of Wisconsin. In no event shall any holding over by Tenant create any tenancy other than on a month-to-month basis.

Section 14.7 Surrender at Termination. At the termination of this Lease, Tenant shall quietly and peaceably surrender possession of the Leased Premises to Landlord, in good order, condition and repair and broom-clean and free of any and all liens and claims, including, but not limited to, claims by Tenant or any party holding under Tenant. No surrender to Landlord of this Lease or of the Leased Premises or any part thereof or of any interest therein, shall be valid or effective unless agreed to and accepted in writing by Landlord and no act by Landlord or any representative or agent of Landlord, other than such a written acceptance by Landlord, shall constitute an acceptance of any such surrender.

Section 14.8 Payments to be Additional Rent. All payments to be made by Tenant hereunder, whether or not designated as Rent, shall be deemed Rent, so that in default of payment when due, Landlord shall be entitled to all of the remedies available at law or equity, or under this Lease, for the nonpayment of Rent.

Section 14.9 Landlord's Right to Cure; Interest. In the event of a default by Tenant, Landlord, at its option, may perform any obligation of Tenant under this Lease. Tenant shall pay to Landlord the cost of performing such obligation within five (5) days of receipt of a statement therefor. Any amounts so owing, all rent and any other payments to be made hereunder by Tenant to Landlord shall bear interest to be paid by Tenant from and after the due date thereof to the date of payment at the rate of one percent (1.0%) per month.

## ARTICLE XV

Section 15.1 Subordination; Attornment. At Landlord's option, this Lease shall be subordinated to any existing mortgages covering the Leased Premises, any extension or renewal thereof, or to any new mortgages which may be placed thereon from time to time; provided, however, anything to the contrary contained herein notwithstanding, every such mortgagee and assignee thereof shall recognize the validity of this Lease in the event of a foreclosure of Landlord's interest as long as Tenant shall not be in default under any of the terms of this Lease. Tenant shall execute at its cost whatever instruments may be required to effect such subordination; provided, however, no such instrument may alter the material terms, covenants and conditions contained in this Lease.

(a) In the event any proceedings are brought for the foreclosure of the Leased Premises, or in the event of exercise of the power of sale under any mortgage made by



Landlord covering the Leased Premises, Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as Landlord under this Lease.

(b) In the event any mortgagee shall elect to have this Lease have priority to the lien of its mortgage, then, upon notice to Tenant thereof, this Lease shall thereupon be deemed prior to the lien of any such mortgage. The provisions of this paragraph shall include deeds of trust and similar security instruments.

#### **ARTICLE XVI**

Section 16.1 Notices. Any notice required or permitted under this Lease may be personally served or given and shall be deemed sufficiently given or served if sent by registered or certified mail, with postage prepaid thereon, to the respective addresses set forth on the Data Sheet. Either party may by like notice at any time, and from time to time, designate a different address to which notices shall be sent. Notices given in accordance with these provisions shall be deemed received when mailed. Any payment required under this Lease shall be deemed made on the date mailed if sent by ordinary mail, with postage prepaid thereon, to the address of the recipient set forth above, provided, however, if payment is by check it shall be deemed made on the date mailed only if such check is paid by the bank upon which it is drawn upon presentation for payment.

#### **ARTICLE XVII**

Section 17.1 No Waiver. No waiver of any default of Tenant hereunder shall be implied from any omission by Landlord to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers of any breach of any covenant, term or condition of this Lease by Landlord shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to or for any subsequent similar act by Tenant. The invalidity or unenforceability of any provision hereof shall not affect or impair any other provisions. The laws of the state in which the Leased Premises are situated shall govern the validity, performance and enforcement of this Lease. The headings of the several articles contained herein are for convenience only and do not define, limit or construe the contents of such articles. The term "Tenant" as used herein shall mean Tenant as defined on the Data Sheet and all other permitted assignees and transferees of Tenant's interest in this Lease. Time is of the essence as to all provisions of this Lease.

#### **ARTICLE XVIII**

Section 18.1 Successors and Assigns. Except as otherwise herein provided, this Lease shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors and assigns.

Section 18.2 Limitation of Liability. Landlord's liability hereunder is limited to Landlord's interest in the Leased Premises.

Section 18.3 Headings. All title and headings to sections, subsections, paragraphs or other divisions of this Lease are only for the convenience of the parties and shall not be construed to have any effect or meaning with respect to the other contents of such sections, subsections, paragraphs or other divisions, such other content being controlling as to the agreement among the parties hereto.

Section 18.4 Counterparts. This Lease may be executed in any number of counterparts, each of which shall be a valid and binding original, but all of which together shall constitute one and same instrument.

Section 18.5 No Partnership. This Lease does not create a joint venture or partnership relationship between the parties hereto.

Section 18.6 Memorandum. In lieu of recording this Lease, upon the execution of this Lease, Landlord and Tenant shall execute a memorandum of lease for purposes of recording this Lease.

Section 18.7 Confidentiality. Tenant hereby agrees and acknowledges that Landlord is a public entity and is subject to open records requests from time to time. Notwithstanding the foregoing, Landlord shall use commercially reasonable efforts to maintain the confidentiality of Tenant information, except as required by law. Landlord may disclose such information to its lawyers, accountants or other services providers, provided that Landlord informs such service providers of the confidential nature of the information.

Section 18.8 Brokers. Landlord and Tenant represent and warrant to the other that there are no claims for brokerage commissions or finders fees in connection with the execution of this Lease, and each party agrees to indemnify the other against, and hold it harmless from, all liabilities arising from any such claim, including, without limitation, reasonable attorneys' fees, made by any broker, agent or finder with whom the indemnifying party has dealt.

Section 18.9 Estoppel Certificates. At any time and from time to time Tenant shall, within twenty (20) days after written request therefor from Landlord, deliver to Landlord a statement in writing certifying that this Lease is in full force and effect, setting forth all modifications or amendments which exist with respect thereto, the dates to which Rent and any additional payments due hereunder have been paid, the balance of any security deposit held by the other party, all known breaches by the other party of the terms, covenants and conditions hereof, and any other information reasonably requested by Landlord.

(a) Any statement delivered to Landlord as required by this section may be relied upon by any purchaser, mortgagee or assignee of all or any part of Landlord's interest.

(b) The failure of Tenant to furnish the statement required hereby within the said twenty (20) day period shall be deemed to be an acknowledgment by Tenant that this Lease is in full force and effect, without modification or amendment, that the Rent and additional charges have been paid in full to and including the respective due dates therefor immediately preceding the date of such request, that no Rent has been paid in advance of the due

date therefor as set forth herein, that no security deposit is held by Landlord, and that Landlord has performed all of the terms, covenants and agreements required of it hereunder.

Section 18.10 Severability. If any term or provision of this Lease or any application thereof shall be held invalid or unenforceable, the remainder of this Lease and any other application of such term or provision shall not be affected thereby.

Section 18.11 Licenses. Tenant covenants and agrees that it shall maintain at all times all required licenses, permits, certifications and similar governmental requirements that are necessary in order for Tenant to maintain its current legal status and ability to offer medical care.

Section 18.12 No Waiver of Defenses or Immunities. Nothing in this Lease shall constitute a waiver or amendment of any defense or immunity, which the County of Rusk and its officers, agents, or employees may have under Wis. Stat. § 893.80(4), or related statutes.

Section 18.13 Governing Law. This Lease (and any Agreement formed pursuant to the terms hereof) shall be governed by, and construed and enforced in accordance with, the internal laws of the State of Wisconsin (without regard of principles or conflicts of law) and any applicable laws of the United States of America.

Section 18.14 Submission of Lease. The submission of this Lease for examination does not constitute a reservation of or option for the Leased Premises, and this Lease shall become effective as a lease only upon execution, delivery and receipt thereof by Landlord and Tenant.

Section 18.15 Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the full Rent due or the full amount of any other payments to be made by the Tenant hereunder shall be deemed to be other than on account of the earliest stipulated unpaid installment thereof, nor shall any endorsement or statement on any check or letter accompanying any check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover an amount due hereunder or pursue any other remedy provided in this Lease.

## **ARTICLE XIX**

Section 19.1 Use Restriction. Simultaneously with execution and delivery of this Lease, the parties shall execute a memorandum hereof, or comparable instrument, in recordable form and otherwise in form and substance satisfactory to Tenant in Tenant's sole discretion, prohibiting use of the Leased Premises as hospital or ambulatory surgery center for a period of fifteen (15) years following the earlier to occur of (a) expiration or earlier termination of this Lease or (b) Tenant's permanently vacating the Leased Premises ("Use Restriction"); provided, however, that such use restriction shall only be effective so long as there exists no event of default under this Lease, the Purchase Agreement, or Operating Agreement, or event which, with notice or lapse of time or both, would constitute an event of default therein.

**IN WITNESS WHEREOF**, this Lease has been executed as of the day and year first above written.

**LANDLORD:**

COUNTY OF RUSK, WISCONSIN

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

Its: \_\_\_\_\_

**TENANT:**

MCHS HOSPITALS, INC.

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

Its: \_\_\_\_\_

**EXHIBIT A**

**DESCRIPTION OF LEASED PREMISES**