CO2020-036
RECEIVED
Aug 31 2020
STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

MAYNARD
COOPER GALE

Gaines B. Brake
DIRECT 205.254.1113
EMAIL gbrake@maynardcooper.com

August 31, 2020

Emily T. Marsal, Executive Director
State Health Planning and Development Agency
Via email: shpda.online@shpda.alabama.gov

Re: Change of Ownership Application CO2020-036
Vision Correction Center, LLC

Dear Ms. Marsal:

This is in response to the agency's letter of August 28, 2020, requesting additional information prior to final review of Change of Ownership application CO2020-036. The letter requested clarification of the current authority and the effective date of the transaction.

The current authority is Vision Correction Center, LLC. The transaction will transfer 100% of the membership interests in Vision Correction Center, LLC, which will continue in existence and remain the authority after the transaction.

The July 31, 2020 effective date in the application cover letter was incorrect. The effective date of the transaction is September 30, 2020.

Please let me know if you need any additional information.

Sincerely,

Gaines B. Brake

GBB

July [9], 2020
ECP ASC Holdings, LLC
15933 Clayton Rd
Suite 210
Ballwin, MO 63011

State Health Planning & Development Agency
ATTN: Kristin Norman, Health Planner I
P.O. Box 303025
Montgomery, Alabama 36130

RE: Vision Correction Center, LLC Change of Ownership Application

Dear Ms. Norman,

This letter is to serve as notice that Vision Correction Center, LLC (the "Company") will be undergoing a change of ownership. Effective on or about July 31, 2020, 100% ownership of all interests in the Company will be transferred from Earnest Van Johnson, MD, and Timothy Van Johnson, MD, to ECP ASC Holdings, LLC ("ECP"), a Missouri limited liability company located at 15933 Clayton Road, Suite 210, Ballwin, Missouri, 63011. The Company currently holds the following certificates and licenses:

1. Vested Certificate of Need

2. Ambulatory Surgical Center license, Certificate #22411 (1406 McFarland Blvd., North, Suite 2B, Tuscaloosa, AL 35406).

Section 12(d) of the Change of Ownership License Application To Operate an Ambulatory Surgical Treatment Facility Form requires a list of the health care facilities operated in Alabama (or outside of Alabama) by ECP. ECP is a holding company; thus, while it owns the equity in a number of healthcare facilities, it does not operate facilities in Alabama or any other state. For this reason, there are no health care facilities to list in response to this question, and the answer to Section 12(d) is "No."

The Company will not be undergoing a change in tax identification number. Please let us know if you need any additional information to update your records and our certificates and licenses.

Sincerely,

Kathleen Shea

Kathleen Shea

RECEIVED
Aug 17 2020
STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

NOTICE OF CHANGE OF OWNERSHIP/CONTROL

The following notification of intent is provided pursuant to all applicable provisions of ALA. CODE § 22-21-270 (1975 as amended) and ALA. ADMIN. CODE r. 410-1-7-.04. This notice must be filed at least twenty (20) days prior to the transaction.

◉ Change in Direct Ownership or Control (of a vested Facility; ALA. CODE §§ 22-20-271(d), (e))
○ Change in Certificate of Need Holder (ALA. CODE § 22-20-271(f))
○ Change in Facility Management (Facility Operator)
Any transaction other than those above-described requires an application for a Certificate of Need.

Part I: Facility Information

SHPDA ID Number: 125-U6304
(This can be found at www.shpda.alabama.gov, Health Care Data, ID Codes)

Name of Facility/Provider: Vision Correction Center
(ADPH Licensure Name)

Physical Address: 1406 McFarland Blvd., North Suite 2B
Tuscaloosa, AL 35406

County of Location: TUSCALOOSA

Number of Beds/ESRD Stations: 5

CON Authorized Service Area (Home Health and Hospice Providers Only). Attach additional pages if necessary.

Part II: Current Authority

(Note: If this transaction will result in a change in direct ownership or control, as defined under ALA. CODE § 22-20-271(e), please attach organizational charts outlining current and proposed structures.)

Owner (Entity Name) of Facility named in Part I: Vision Correction Center, LLC

Mailing Address: 1406 McFarland Blvd., North Suite 2B
Tuscaloosa, AL 35406

Operator (Entity Name): Vision Correction Center, LLC

Part III: Acquiring Entity Information

Name of Entity: ECP ASC Holdings, LLC

Mailing Address: 15933 Clayton Rd Suite 210
Ballwin, MO 63011

Operator (Entity Name): ECP ASC Holdings, LLC

Proposed Date of Transaction is on or after: 09/30/2020

Part IV: Terms of Purchase

Monetary Value of Purchase: Fair Market Value

Type of Beds: $

Number of Beds/ESRD Stations: Four pre-operative, one post-operative.

5

Financial Scope: to Include Preliminary Estimate of the Cost Broken Down by Equipment, Construction, and Yearly Operating Cost:

Projected Equipment Cost: $ 0.00

Projected Construction Cost: $ 0.00

Projected Yearly Operating Cost: $ 2,809,196.00

Projected Total Cost: $ 2,809,196.00

On an Attached Sheet Please Address the Following:

1.) The services to be offered by the proposal (the applicant will state whether he has previously offered the service, whether the service is an extension of a presently offered service, or whether the service is a new service).

2.) Whether the proposal will include the addition of any new beds.

3.) Whether the proposal will involve the conversion of beds.

4.) Whether the assets and stock (if any) will be acquired.

Part V: Certification of Information

Current Authority Signature(s):

The information contained in this notification is true and correct to the best of my knowledge and belief.

Owner(s): E Van Johnson Tim Johnson

Operator(s): E. Van Johnson Tim Johnson

Title/Date: 8/17/2020 8/17/2020

SWORN to and subscribed before me, this 17th day of August, 2020.

(Seal) AMY S. CLARKE
Notary Public
Alabama State at Large

Amy S Clarke
Notary Public

My Commission Expires: 3/12/2022

Acquiring Authority Signature(s):

I agree to be responsible for reporting of all services provided during the current annual reporting period, as specified in ALA. ADMIN. CODE r. 410-1-3-.12. The information contained in this notification is true and correct to the best of my knowledge and belief.

Purchaser(s): _____ _____

Operator(s): _____ _____

Title/Date: Chief Financial Officer _____ _____
July 8, 2020

SWORN to and subscribed before me, this _____ day of _____, _____.

(Seal)

_____
Notary Public

My Commission Expires: _____

Author: Alva M. Lambert
Statutory Authority: § 22-21-271(c), Code of Alabama, 1975
History: New Rule

SWORN to and subscribed before me, this _____ day of _____, _____.

(Seal) _____
Notary Public

My Commission Expires: _____

Acquiring Authority Signature(s):

I agree to be responsible for reporting of all services provided during the current annual reporting period, as specified in ALA. ADMIN. CODE r. 410-1-3-.12. The information contained in this notification is true and correct to the best of my knowledge and belief.

Purchaser(s): Kathleen Allen

Operator(s): _____

Title/Date: Chief Financial Officer
July 8, 2020

SWORN to and subscribed before me, this 8th day of July, 2020.

(Seal) Lauren Dickerson
Notary Public

My Commission Expires: 1/22/2024

LAUREN DICKERSON
Notary Public, Notary Seal
State of Missouri
St. Charles County
Commission # 20209812
My Commission Expires 01-22-2024

County of: St. Louis
State: MO

Author: Alva M. Lambert
Statutory Authority: § 22-21-271(c), Code of Alabama, 1975
History: New Rule

Supplemental Information Required by Certificate of Need Notice of Change of Ownership/Control

Please see the below supplemental information requested under Part IV of the attached Change of Ownership/Control:

1.) The services to be offered by the proposal (the applicant will state whether he has previously offered the service, whether the service is an extension of a presently offered service, or whether the service is a new service).

- Answer: The facility currently provides ophthalmic surgical services and will continue to offer such services post-transaction.

2.) Whether the proposal will include the addition of any new beds.

- Answer: The proposed transaction will not result in the addition of any new beds.

3.) Whether the proposal will involve the conversion of beds.

- Answer: The proposed transaction will not result in the conversion of beds.

4.) Whether the assets and stock (if any) will be acquired.

- Answer: One hundred percent of the equity of Vision Correction Center will be acquired by ECP ASC Holdings, LLC.

CO2020-036

John H. Merrill
Secretary of State

P.O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, John H. Merrill, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

the entity records on file in this office disclose that Vision Correction Center, LLC was formed in Tuscaloosa County, Alabama on May 3, 2002. The Alabama Entity Identification number for this entity is 681-879. I further certify that the records do not disclose that said entity has been dissolved, cancelled or terminated.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the city of Montgomery, on this day.

06/22/2020

Date

J. H. Merrill

John H. Merrill **Secretary of State**

20200622000033400

John H. Merrill
Secretary of State

P. O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, John H. Merrill, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

as appears on file and of record in this office, the pages hereto attached, contain a true, accurate, and literal copy of the Registered Agent Change filed on behalf of Vision Correction Center, LLC, as received and filed in the Office of the Secretary of State on 05/14/2019.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the city of Montgomery, on this day.

06/22/2020

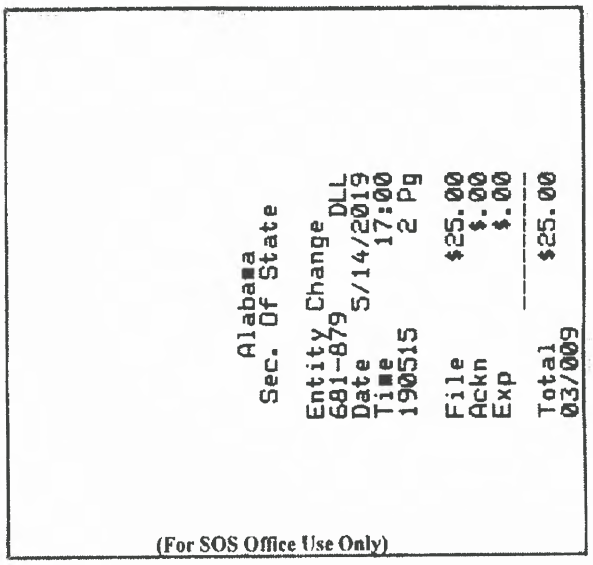
Date

J. H. Merrill

John H. Merrill Secretary of State

20200622000020974

STATE OF ALABAMA
CHANGE OF REGISTERED AGENT
OR REGISTERED OFFICE BY ENTITY



PURPOSE: To change an entity's registered office, its registered agent, or both, by delivering to the Secretary of State for filing a statement of change in accordance with 10A-1-5.32. Use a separate form for each separate Entity Identification (ID) number.

INSTRUCTIONS TO OBTAIN INFORMATION TO COMPLETE THIS FORM: You may obtain the Entity ID Number on our website at www.sos.alabama.gov Click on Business Services (below the picture) then Click on Business Entity Search, click on Entity Name, type the registered name of the entity in the appropriate box, and enter. The six (6) digit number containing a dash to the left of the name is the entity ID number (item 1 below). If you click on that number, you can view the Business Entity Details page to determine that you have located the correct entity. This verification step is strongly recommended – refunds will not be made if you use the wrong number.

Mail two copies of this filing and the $25.00* fee to the Secretary of State, Business Services Division, PO Box 5616, Montgomery, Alabama, 36103-5616. You may pay by check, money order, or credit card. You may email your filing to miscellaneous.filings@sos.alabama.gov if you are paying with a credit card. Your change will not be indexed if the credit card does not authorize and will be removed if the check is dishonored ($30 fee).

Item 3 is the information pertaining to the current registered agent and office location currently on file with the Secretary of State. Complete this for verification purposes. You may change the name of the agent, the street address of the registered office, and the mailing address of the registered office, or any one of the three (items 4, 5, and 6).

This form must be typed or laser printed.

1. Alabama Entity ID Number (Format: 000-000): 681 - 879 **The change will not be processed without this number.**
2. The name of the entity as registered with the Secretary of State of Alabama:

   Vision Correction Center, LLC
3. The name of the Registered Agent currently registered for this entity with the Secretary of State of

   Alabama: William C. Ashford

   Street (**No PO Boxes**) address of the Registered Office: 1418 McFarland Blvd North Ste 100

   Tuscaloosa, Alabama 35406 Mailing address of Registered Office (if

   different from street address):

RECEIVED DATE
MAY 14 2019
SECRETARY OF STATE
OF ALABAMA

CHANGE OF REGISTERED AGENT OR REGISTERED OFFICE BY ENTITY

4. Change the name of the Registered Agent (must be located in Alabama) for this entity to:

E. Van Johnson

The new registered agent must sign the consent to appointment on page two prior to filing.

5. Change the street (**No PO Boxes**) address in Alabama of the Registered Office to: 535 Jack Warner Pkwy

Suite B-1, Tuscaloosa, Alabama 35405

6. Change the mailing address of the Registered Office (if different from street address) to:

535 Jack Warner Pkwy, Suite B-1, Tuscaloosa, Alabama 35405

7. The entity certifies that the street address of the registered office and the street address of the registered agent's business are the same and located in Alabama.

I, the undersigned, certify that any change specified in this document is authorized by the entity.

5 / 14 / 2019
Date

E. Van Johnson, Member
Typed Name and Title of Signature for Entity Below

E Van Johnson
Signature of Person Authorized to Sign per 10A-1-4.01, *Alabama Code*

I, the undersigned, consent to appointment as registered agent for Vision Correction Center, LLC

(entity name in blank).

5 / 14 / 2019
Date

E. Van Johnson
Typed Name of Agent (Individual or Entity)

E Van Johnson
Signature of /for Registered Agent

Typed Name **and** Title of Signature for Entity

Expedited processing is requested and the fee is included. Please email the copy of the filed change to the following

Email:

John H. Merrill
Secretary of State

P. O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, John H. Merrill, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

as appears on file and of record in this office, the pages hereto attached, contain a true, accurate, and literal copy of the Nature of Business Change filed on behalf of Vision Correction Center, LLC, as received and filed in the Office of the Secretary of State on 06/07/2002.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the city of Montgomery, on this day.

06/22/2020

Date

J. H. Merrill

John H. Merrill Secretary of State

20200622000020974

681-879

S

FIRST AMENDMENT TO ARTICLES OF ORGANIZATION OF VISION CORRECTION CENTER, LLC

2002 1864
Filed in the Above
INCORPORATION Book & Page
05-07-2002 09:24:43 AM
W. Hardy McCollum - Probate Judge
Tuscaloosa County, Alabama

TO THE HONORABLE JUDGE OF PROBATE
OF TUSCALOOSA COUNTY, ALABAMA:

Pursuant to the provisions of Code of Alabama § 10-12-11 (1999), Vision Correction Center, LLC (the "Company") hereby adopts the following First Amendment to its Articles of Organization ("First Amendment"):

1. The name of the Company is:

Vision Correction Center, LLC

2. The original Articles of Organization of the Company were filed in the office of the Probate Judge of Tuscaloosa County on May 3, 2002 in Volume 2002 Page 1525.

3. Articles 4 and 5 of the original Articles of Organization of the Company contain erroneous statements.

4. The amendments so adopted are:

FIRST: That Article 4 of the original Articles of Organization of the Company be amended by deleting said Article 4 in its entirety and substituting in lieu thereof the following:

> 4. PURPOSES. The Company has been organized to own and operate an ambulatory surgical center, and to render services ancillary thereto, in accordance with the laws of the State of Alabama and the canons of professional ethics. The Company may also transact any other lawful business for which a limited liability company may be formed under the Act, but nothing contained herein shall be construed as authorizing the company to carry on the business of banking or insurance or to act as a trust company, securities broker, securities dealer or investment advisor.

SECOND: That Article 5 of the original Articles of Organization of the Company be amended by deleting said Article 5 in its entirety and substituting in lieu thereof the following:

> 5. INITIAL REGISTERED OFFICE AND AGENT. The location and mailing address of the initial registered office of the Company, and the name of its initial registered agent at such address are:
>
> William C. Ashford, M.D.
> 1418 McFarland Boulevard, North
> Suite 100
> Tuscaloosa, Alabama 35406

RECEIVED
JUN 18 2002
SECRETARY OF STATE

THIRD: Except as hereinabove amended, the Articles of Organization of the Company are continued in full force and effect.

5. The foregoing First Amendment to Articles of Organization of the Company was adopted by all of the members of the Company on May 24, 2002, pursuant to Code of Alabama § 10-12-11 (1999).

This the 24th day of May, 2002.

VISION CORRECTION CENTER, LLC

By: _____
William C. Ashford, M.D.
Its Authorized Member

Tuscaloosa County, Alabama
I certify this instrument was filed on
06-07-2002 09:24:43 AM
and recorded in INCORPORATION Book
2002 at pages 1864 - 1865
W. Hardy McCollum - Probate Judge

531500v1
037242-000001

John H. Merrill
Secretary of State

P. O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, John H. Merrill, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

as appears on file and of record in this office, the pages hereto attached, contain a true, accurate, and literal copy of the Articles of Formation filed on behalf of Vision Correction Center, LLC, as received and filed in the Office of the Secretary of State on 05/03/2002.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the city of Montgomery, on this day.

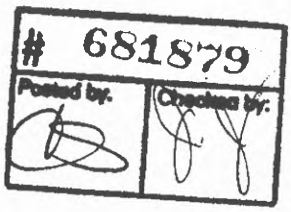
06/22/2020

Date

John H. Merrill

Secretary of State

20200622000020974



ARTICLES OF ORGANIZATION
OF
VISION CORRECTION CENTER, LLC

2002 1525
Filed in the Above
INCORPORATION Book & Page
05-03-2002 11:05:13 AM
W. Hardy McCollum - Probate Judge
Tuscaloosa County, Alabama

TO THE HONORABLE JUDGE OF PROBATE
OF TUSCALOOSA COUNTY, ALABAMA:

The undersigned, for the purpose of forming a limited liability company pursuant to the provisions of the Alabama Limited Liability Company Act (the "Act"), Code of Alabama, Section 10-12-1, et seq. (1999), does hereby certify as follows:

1. NAME. The name of the limited liability company (the "Company") is:

Vision Correction Center, LLC

2. OPERATING AGREEMENT. The business of the Company and the relationship of its members (the "Members") shall be subject to the terms and conditions of the Operating Agreement of Vision Correction Center, LLC dated as of the date hereof and as amended or restated from time to time (the "Operating Agreement") by and among the Members of the Company.

3. DURATION. The period of the Company's duration shall be perpetual, provided that the Company shall be dissolved and its affairs shall be wound up upon the occurrence of any event of dissolution specified in the Operating Agreement.

4. PURPOSES. The Company has been organized to engage in every phase and aspect of the practice of ophthalmology, and to render services ancillary thereto, in accordance with the laws of Alabama and the canons of professional ethics. The Company may also transact any other lawful business for which a limited liability company may be formed under the Act, but nothing contained herein shall be construed as authorizing the Company to carry on the business of banking or insurance or to act as a trust company, securities broker, securities dealer or investment advisor.

5. INITIAL REGISTERED OFFICE AND AGENT. The location and mailing address of the initial registered office of the Company, and the name of its initial registered agent at such address are:

Michael R. Ursic, M.D.
1418 McFarland Boulevard, North
Suite 100
Tuscaloosa, Alabama 35406

Tuscaloosa County, Alabama
I certify this instrument was filed on
05-03-2002 11:05:13 AM
and recorded in INCORPORATION Book
2002 at pages 1525 - 1527
W. Hardy McCollum - Probate Judge

RECEIVED

MAY 06 2002

SECRETARY
OF STATE

6. INITIAL MEMBERS. The names and mailing addresses of the initial Members of the Company are:

NAME	ADDRESS
William C. Ashford, M.D.	1418 McFarland Boulevard, No., Ste. 100 Tuscaloosa, Alabama 35406
Ernest V. Johnson, M.D.	1418 McFarland Boulevard, No., Ste. 100 Tuscaloosa, Alabama 35406
A. George Kudirka, M.D.	1418 McFarland Boulevard, No., Ste. 100 Tuscaloosa, Alabama 35406
Michael R. Ursic, M.D.	1418 McFarland Boulevard, No., Ste. 100 Tuscaloosa, Alabama 35406

7. ADDITIONAL MEMBERS. Additional Members shall be admitted to the Company only in accordance with the provisions of the Operating Agreement.

8. CESSATION OF MEMBERSHIP. The cessation of membership of all Members will result in the dissolution of the Company unless the holders of all the financial rights in the Company agree in writing, within ninety (90) days after the cessation of membership of the last Member, to continue the legal existence and business of the Company and to appoint one or more new Members.

9. MANAGEMENT OF THE COMPANY. The Company shall be managed by its members.

10. INDEMNIFICATION. The Company may indemnify its Members, officers, agents and employees to the maximum extent permitted by law.

11. ORGANIZER. The name and mailing address of the person who is to serve as Organizer of the Company are:

Gary S. Schiff
420 North 20th Street, Suite 1600
Birmingham, Alabama 35203

12. AMENDMENT. The Company reserves the right to amend, alter, change or repeal any provision contained in these Articles of Organization in the manner now or hereafter provided by law, and all rights conferred herein upon holders of membership interests are granted subject to this reservation; provided, however, that no such amendment, alteration, change or repeal shall be effective without approval of the Members pursuant to the terms of the Operating Agreement in effect on the date of any such amendment.

IN WITNESS WHEREOF, the undersigned Organizer of the Company, has executed these Articles of Organization on this the 1st day of May, 2002.

Gary S. Schiff

Gary S. Schiff

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037242-000001

FILED IN OFFICE
JUN - 7 2002
SECRETARY OF STATE

#681-879
S

STATE OF ALABAMA
CHANGE OF REGISTERED AGENT/REGISTERED OFFICE

INSTRUCTIONS (PLEASE TYPE)

CHECK THE APPROPRIATE CORPORATION TYPE. COMPLETE THE CHANGE YOU WANT REFLECTED IN THE ALABAMA SECRETARY OF STATE RECORDS. MAIL FORM WITH THE $5 FEE TO: ALABAMA SECRETARY OF STATE, ATTN: CORPORATIONS DIVISION, PO BOX 5616, MONTGOMERY, AL 36103-5616. IF YOU WOULD LIKE AN ACKNOWLEDGEMENT OF THIS FILING, PLEASE SUBMIT IN DUPLICATE WITH A SELF-ADDRESSED STAMPED ENVELOPE. IF YOU HAVE ANY QUESTIONS ABOUT THIS FORM, CONTACT THE CORPORATIONS DIVISION AT (334) 242-5324.

- ☒ DOMESTIC LIMITED LIABILITY COMPANY
- ☐ DOMESTIC LIMITED PARTNERSHIP
- ☐ DOMESTIC LIMITED LIABILITY PARTNERSHIP
- ☐ FOREIGN LIMITED LIABILITY COMPANY
- ☐ FOREIGN LIMITED PARTNERSHIP
- ☐ FOREIGN LIMITED LIABILITY PARTNERSHIP

1. The name of the entity.

Vision Correction Center, LLC

2. The State or County where formed **Jefferson County, Alabama**

2. The date formed . **May 3, 2002**

3. Registered agent name change:

Old: Michael R. Ursic, M.D. New: William C. Ashford, M.D.

Registered office address change (No PO Box numbers):

Old: (No Change) New:

May 24, 2002
Date

Signature

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JUN 06 2002
SECRETARY OF STATE

William C. Ashford, M.D.
Type name

Authorized Member
Office title

531506v1
037242-000001

AGREEMENT

This agreement entered into this 19th day of December 2008, by and between DCH Regional Medical Center (hereinafter called the "Hospital"), and Vision Correction Center, LLC (Hereinafter called the "Surgery Center").

NOW, THEREFORE, IT IS AGREED:

This agreement is made to provide for the transfer of patients from the Surgery Center to the Hospital when such transfer is deemed medically appropriate by the Medical Director of the Surgery Center (a medical doctor- board certified).

When such a transfer is required, the Surgery Center will send with the patient a copy of all pertinent medical and other information necessary to assure continuity of patient care.

Transfers not classified as emergencies will have to meet the usual condition for admission to the Hospital. Transfers classified as emergencies will be admitted to the appropriate service of the Hospital. Nothing in this paragraph or in this agreement in its entirety commits the Hospital or physicians who have privileges at the Hospital to give priority of admission to patients to be transferred pursuant to this agreement. Admissions shall be in accordance with the general admission policies of the Hospital. All services performed by the Hospital will be billed direct to the patient by the Hospital. At Hospital's option, delinquent or no-pay accounts may be subsequently balanced billed to the Surgery Center.

This agreement shall be effective Jan 1, 2009. This agreement shall be automatically terminated if the Surgery Center shall at any time not retain its licensure from the Alabama State Board of Health. Nothing in this agreement shall be construed as limiting the rights of either party of affiliate or contract with any other hospital or institution on either a limited or general basis while this agreement is in effect.

Neither party shall use the name of the other party in any promotional or advertising material without the prior Written approval of the other party.

This agreement shall remain in effect unless terminated by either party with sixty (60) days written notice.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures as of the day, month and year first above written.

DCH Regional Medical Center — 12/31/2008 Date

Vision Correction Center — 12/31/2008 Date

AGREEMENT

This agreement entered into this 6th day of October 2009, by the Callahan Eye Foundation Hospital (hereinafter called the "Hospital"), and Vision Correction Center, LLC (hereinafter called the "Surgery Center").

NOW, THERFORE IT IS AGREED:

This agreement is made to provide for the transfer of patients from the Surgery Center to the Hospital when such transfer is deemed medically appropriate by the Medical Director of the Surgery Center (a medical doctor – board certified).

When such a transfer is required, the Surgery Center will send with the patient a copy of all pertinent medical records and other information necessary to assure continuity of patient care.

Transfers not classified as emergencies will have to meet the usual condition for admission to the Hospital. Transfers classified as emergencies will be admitted to the appropriate service of the Hospital. Nothing in this paragraph or in this agreement in its entirety commits the Hospital or physicians who have privileges at the Hospital to give priority of admission to patients to be transferred pursuant to this agreement. Admissions shall be in accordance with the general admission policies of the Hospital. All services performed by the Hospital will be billed directly to the patient by the Hospital. At the Hospital's option, delinquent or no-pay accounts may subsequently balance-billed to the Surgery Center.

This agreement shall be automatically terminated if the Surgery Center shall at any time not retain its licensure from the Alabama State Board of Health. Nothing in this agreement shall be construed as limiting the rights of either party of affiliate or contract with any other hospital or institution on either a limited or general basis while this agreement is in effect.

Neither party shall use the name of the other party in any promotional or advertising material without the prior written approval of the other party.

This agreement shall be effective October 6th, 2009 and shall remain in effect unless terminated by either party with sixty (60) days written notice.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures as of the day, month and year first written above.

John Mann MD

Callahan Eye Foundation Hospital

10-6-9

Date

Vision Correction Center

10-06-09

Date

AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

OF

VISION CORRECTION CENTER, LLC

Effective July 17, 2019

THE INTERESTS REPRESENTED BY THIS LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933 OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH INTERESTS MAY NOT BE OFFERED, SOLD, ASSIGNED, PLEDGED, OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT (A) AN EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR EXEMPTION THEREFROM, AND (B) COMPLIANCE WITH THE OTHER REQUIREMENTS APPLICABLE TO THE RESTRICTIONS ON TRANSFERABILITY SET FORTH HEREIN.

TABLE OF CONTENTS

EXHIBITS AND SCHEDULES

AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
VISION CORRECTION CENTER, LLC

THIS LIMITED LIABILITY COMPANY AGREEMENT ("Agreement") of Vision Correction Center, LLC, is made and entered into effective as of July 17, 2019, by and among Vision Correction Center, LLC, an Alabama limited liability company (the "Company"), the Persons executing this Agreement as Members, and any Person who hereafter becomes a Member of the Company or otherwise becomes bound by this Agreement, pursuant to, and in accordance with, the applicable provisions of this Agreement and the LLC Law as defined below.

RECITALS

WHEREAS, the Company was formed on May 3, 2002 (the "Formation Date") by the filing of Articles of Organization with the Office of the Judge of Probate of Tuscaloosa County, Alabama (as amended, the "Articles of Organization"); and

WHEREAS, the Company and its members entered into an Operating Agreement on May 1, 2002, as amended (the "Prior Agreement"); and

WHEREAS, the Company and the Members wish to amend and restate the Prior Agreement; and

WHEREAS, this Agreement replaces and supersedes the Prior Agreement and any and all other agreements, whether written or oral, between the Company and the Members, made at any time prior to the date hereof.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:]

ARTICLE I
DEFINITIONS

Section 1.1. **Definitions**. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in this Section 1.1:

"**AAA**" has the meaning specified in Section 13.14.

"**Additional Capital Contribution**" has the meaning specified in Section 3.2.

"**Adjusted Capital Account Deficit**" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(a) crediting to such Capital Account any amount that such Member is obligated to restore or is deemed to be obligated to restore pursuant to §§ 1.704-1(b)(2)(ii)(c), 1.704-2(g)(1) and 1.704-2(i) of the Regulations; and

(b) debiting to such Capital Account the items described in § 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Regulations.

"**Affiliate**" means, when used with reference to a specified Person, any Person that directly or indirectly controls or is controlled by or is under common control with the specified Person. Control shall be presumed to exist if (a) any Person is an officer of, partner in, or trustee of, or serves in a similar capacity with respect to, a specified Person or of which a specified Person is an officer, partner, or trustee, or with respect to which a specified Person serves in a similar capacity, and (b) any Person, directly or indirectly, is the beneficial owner of more than fifty percent (50%) of any class of voting security of or interest in the specified Person or of which the specified Person is directly or indirectly the owner of more than fifty percent (50%) of any class of voting security or any interest therein.

"**Agreement**" means this Amended and Restated Limited Liability Company Agreement of Vision Correction Center, LLC, as executed, and as it may be amended, modified, supplemented or restated from time to time, as provided herein.

"**Applicable Law**" means all applicable provisions of (a) constitutions, treaties, statutes, laws (including the common law), rules, regulations, decrees, ordinances, codes, proclamations, declarations or orders of any Governmental Authority; (b) any consents or approvals of any Governmental Authority; and (c) any orders, decisions, advisory or interpretative opinions, injunctions, judgments, awards, decrees of, or agreements with, any Governmental Authority.

"**Bankruptcy**" means, with respect to a Member, the occurrence of any of the following: (a) the filing of an application by such Member for, or a consent to, the appointment of a trustee of such Member's assets; (b) the filing by such Member of a voluntary petition in bankruptcy or the filing of a pleading in any court of record admitting in writing such Member's inability to pay its debts as they come due; (c) the making by such Member of a general assignment for the benefit of such Member's creditors; (d) the filing by such Member of an answer admitting the material allegations of, or such Member's consenting to, or defaulting in answering a bankruptcy petition filed against such Member in any bankruptcy proceeding; or (e) the expiration of sixty (60) days following the entry of an order, judgment or decree by any court of competent jurisdiction adjudicating such Member a bankrupt or appointing a trustee of such Member's assets.

"**Book Depreciation**" means, with respect to any Company asset for each Fiscal Year, the Company's depreciation, amortization, or other cost recovery deductions determined for federal income tax purposes, except that if the Asset Book Value of an asset differs from its adjusted tax basis at the beginning of such Fiscal Year, Book Depreciation shall be an amount which bears the same ratio to such beginning Asset Book Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; *provided*, *however*, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero and the Asset Book Value of the asset is positive, Book Depreciation shall be determined with reference to such beginning Asset Book Value using any permitted method selected by a Supermajority in accordance with § 1.704-1(b)(2)(iv)(g)(3) of the Regulations.

"**Asset Book Value**" means, with respect to any Company asset, the adjusted basis of such asset for federal income tax purposes, except as follows:

(a) the initial Asset Book Value of any Company asset contributed by a Member to the Company shall be the gross Fair Market Value of such Company asset as of the date of such contribution;

(b) immediately prior to the distribution by the Company of any Company asset to a Member, the Asset Book Value of such asset shall be adjusted to its gross Fair Market Value as of the date of such distribution;

(c) the Asset Book Value of all Company assets shall be adjusted to equal their respective gross Fair Market Values, as reasonably determined by a Supermajority, as of the following times:

(i) the acquisition of an additional Membership Interest in the Company by a new or existing Member in consideration for more than a *de minimis* amount;

(ii) the distribution by the Company to a Member of more than a *de minimis* amount of property (other than cash) as consideration for all or a part of such Member's Membership Interest in the Company; and

(iii) the liquidation of the Company within the meaning of § 1.704-1(b)(2)(ii)(g) of the Regulations;

provided, that adjustments pursuant to clauses (i) and (ii) above need not be made if the Board of Managers reasonably determines that such adjustment is not necessary or appropriate to reflect the relative economic interests of the Members and that the absence of such adjustment does not adversely and disproportionately affect any Member;

(d) the Asset Book Value of each Company asset shall be increased or decreased, as the case may be, to reflect any adjustments to the adjusted tax basis of such Company asset pursuant to Code §§ 734(b) or 743(b), but only to the extent that such adjustments are taken into account in determining Capital Account balances pursuant to § 1.704-1(b)(2)(iv)(m) of the Regulations; *provided*, *however*, that Asset Book Values shall not be adjusted pursuant to this paragraph (d) to the extent that an adjustment pursuant to paragraph (c) above is made in conjunction with a transaction that would otherwise result in an adjustment pursuant to this paragraph (d); and

(e) if the Asset Book Value of a Company asset has been determined pursuant to paragraph (a) or adjusted pursuant to paragraphs (c) or (d) above, such Asset Book Value shall thereafter be adjusted to reflect the Book Depreciation taken into account with respect to such Company asset for purposes of computing Net Income and Net Losses.

"**Business**" has the meaning specified in Section 2.5.

"**Business Day**" means a day other than a Saturday, Sunday or other day on which commercial banks in the City of New York, New York are authorized or required to close.

"**Board of Managers**" has the meaning set forth in Section 7.1 of this Agreement.

"**Capital Account**" has the meaning specified in Section 3.3.

"**Capital Contribution**" means, for any Member, the total amount of cash and cash equivalents and the Asset Book Value of any property contributed to the Company by such Member. The term "Capital Contribution" shall include an Initial Capital Contribution and any Additional Capital Contributions.

"**Center**" means the ambulatory surgery center operated by the Company and located at 1406 McFarland Blvd N, Suite 2-B, Tuscaloosa, Alabama 35406.

"**Certificate of Formation**" or "**Certificate**" means the Articles of Organization of the Company, filed in accordance with the LLC Law, as provided in Section 2.1(a) hereof, as the same may be amended or restated from time to time in accordance with the terms of this Agreement and Applicable Law.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Company**" has the meaning specified in the Preamble.

"**Company Interest Rate**" has the meaning specified in Section 6.2(c).

"**Company Minimum Gain**" means "*partnership minimum gain*" as defined in § 1.704-2(b)(2) of the Regulations, substituting the term "*Company*" for the term "*partnership*" as the context requires.

"**Confidential Information**" has the meaning specified in Section 13.3(a).

"**Confirmation of Dissociation**" has the meaning specified in Section 4.8.

"**Contributing Member**" has the meaning specified in Section 3.2(c).

"**Covered Person**" has the meaning specified in Section 8.1(a).

"**Default Amount**" has the meaning specified in Section 3.2(c).

"**Default Loan**" has the meaning specified in Section 3.2(c).

"**Default Rate**" has the meaning specified in Section 3.2(c).

"**Disqualification**" means a Member (i) who becomes legally disqualified (temporarily or permanently) from being licensed as a physician in the State of Alabama or becomes legally disqualified (temporarily or permanently) from providing medical services in the State of Alabama; including, but not limited to, a Member who is physically or mentally incapacitated for more than a total of six (6) months (whether continuous or not) in any twelve (12) month period; or (ii) who voluntarily retires from the practice of medicine; or (iii) who relocates his or her medical practice more than fifty (50) miles from the Center; or (v) who fails to satisfy the requirements of a Member as set forth in Section 4.11 of this Agreement; or (vi) who fails to maintain active medical staff privileges at the Center.

"**Dissociation Notice**" has the meaning specified in Section 4.8.

"**Distribution**" means a transfer of money or other property from the Company in accordance with the terms of this Agreement to another Person on account of a Transferable Interest. When used as a verb, the term "Distribute" shall have a correlative meaning.

"Earnings" means earnings of the Company, before interest, taxes, depreciation and amortization, as calculated by the Company's accountants in accordance with the cash method of accounting consistent with past practices.

"**Electronic Transmission**" means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

"**Fair Market Value**" of any asset as of any date means the purchase price that a willing buyer having all relevant knowledge would pay a willing seller for such asset in an arm's length transaction, as determined jointly by the Members.

"**Fiscal Year**" means the calendar year, unless the Company is required to have a taxable year other than the calendar year, in which case Fiscal Year shall be the period that conforms to its taxable year.

"**GAAP**" means United States generally accepted accounting principles in effect from time to time.

"**Governmental Authority**" means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of law), or any arbitrator, court or tribunal of competent jurisdiction.

"**Initial Capital Contribution**" means the initial Capital Contribution of a Member, as described in Section 3.1 of this Agreement.

"**Injunctive Relief**" has the meaning specified in Section 13.14.

"**Judgment Transferee**" means a judgment creditor of a Judgment Transferor, who has served the Company with a charging order pursuant to which a court has charged the Judgment Transferor's Transferable Interest with payment of the unsatisfied amount of the judgment, as provided in § 10A-5A-5.03 of the LLC Law. A Judgment Transferee is not, and shall not have any of the rights or benefits of, a Member or a Permitted Transferee by virtue of such Person's status as a Judgment Transferee. A Judgment Transferee shall only have a right to receive, to the extent of the terms of the charging order, the Distribution or Distributions to which the Judgment Transferor would otherwise have been entitled in respect of the Transferable Interest (if any) that is the subject of the charging order served on the Company.

"**Judgment Transferor**" means a Member or Permitted Transferee who is a judgment debtor and whose Transferable Interest has been charged with payment of the unsatisfied amount of the judgment pursuant to a charging order that has been served on the Company, as provided in § 10A-5A-5.03 of the LLC Law. A Judgment Transferor shall retain the rights, and remain subject to all duties and obligations, of a Member or Permitted Transferee, as the case may be.

"**Liquidator**" has the meaning specified in Section 12.3(a).

"**LLC Law**" means the *Alabama Limited Liability Company Law of 2014*, Chapter 5A of Title 10A of the Code of Alabama 1975, § 10A-5A-1.01, *et seq.*, and any successor statute, as it may be amended from time to time. Additionally, unless the context clearly indicates otherwise, the term "LLC Law" shall be deemed to refer to Chapter 1 of the *Alabama Business and Nonprofit Entity* Code, Alabama Code 1975, § 10A-1-1.01, *et seq.*, except to the extent that any provision thereof: (a) is not applicable to Alabama limited liability companies; or (b) is inconsistent with, or otherwise provided for by, a provision of Chapter 5A of the LLC Law.

"**Losses**" has the meaning specified in Section 8.3(a).

"**Majority**" means a Member or group of Members holding more than fifty percent (50%) of the Membership Interests held by all Members.

"**Manager**" or "**Managers**" means the Person or Persons designated in ARTICLE VII as the Board of Managers or who may become a member of the Board of Managers pursuant to ARTICLE VII of this Agreement. A "Manager" means any one of the Persons on the Board of Managers. A Manager need not be a Member of the Company.

"**Member**" means each Person who, at the time of reference thereto, has been admitted as a Member in accordance with the terms of this Agreement. A Person shall remain a Member until such time as such Person is dissociated as a Member pursuant to the terms of this Agreement. The Members shall

constitute the "*members*" (as that term is used in the LLC Law) of the Company. The term "Member" does not include a mere Transferee.

"**Member Nonrecourse Debt**" means "*partner nonrecourse debt*" as defined in § 1.704-2(b)(4) of the Regulations, substituting the term "*Company*" for the term "*partnership*" and the term "*Member*" for the term "*partner*" as the context requires.

"**Member Nonrecourse Debt Minimum Gain**" means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if the Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with § 1.704-2(i)(3) of the Regulations.

"**Member Nonrecourse Deduction**" means "*partner nonrecourse deduction*" as defined in § 1.704-2(i) of the Regulations, substituting the term "*Member*" for the term "*partner*" as the context requires.

"**Membership Interest**" means a member's entire interest in the Company including such member's rights, privileges, obligations and burdens granted or imposed by this Agreement or the LLC Law, including such member's Transferable Interest and right to participate in the direction and oversight of the activities and affairs of the Company as provided in this Agreement.

"**Net Income**" and "**Net Loss**" mean, for each Fiscal Year or other period specified in this Agreement, an amount equal to the Company's taxable income or taxable loss, or particular items thereof, determined in accordance with Code § 703(a) (where, for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code § 703(a)(1) shall be included in taxable income or taxable loss), but with the following adjustments:

(a) any income realized by the Company that is exempt from federal income taxation, as described in Code § 705(a)(1)(B), shall be added to such taxable income or taxable loss, notwithstanding that such income is not includable in gross income;

(b) any expenditures of the Company described in Code § 705(a)(2)(B), including any items treated under § 1.704-1(b)(2)(iv)(i) of the Regulations as items described in Code § 705(a)(2)(B), shall be subtracted from such taxable income or taxable loss, notwithstanding that such expenditures are not deductible for federal income tax purposes;

(c) any gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Asset Book Value of the property so disposed, notwithstanding that the adjusted tax basis of such property differs from its Asset Book Value;

(d) any items of depreciation, amortization and other cost recovery deductions with respect to Company property having a Asset Book Value that differs from its adjusted tax basis shall be computed by reference to the property's Asset Book Value (as adjusted for Book Depreciation) in accordance with § 1.704-1(b)(2)(iv)(g) of the Regulations;

(e) if the Asset Book Value of any Company property is adjusted as provided in the definition of Asset Book Value, then the amount of such adjustment shall be treated as an item of gain or loss and included in the computation of such taxable income or taxable loss; and

(f) to the extent an adjustment to the adjusted tax basis of any Company property pursuant to Code §§ 732(d), 734(b) or 743(b) is required, pursuant to § 1.704 1(b)(2)(iv)(m) of the

Regulations, to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis).

"**Non-Contributing Member**" has the meaning specified in Section 3.2(c).

"**Non-Managing Member**" means at any time a Member that is not a Manager or Permanent Manager.

"**Nonrecourse Deductions**" has the meaning specified in § 1.704-2(b) of the Regulations.

"**Nonrecourse Liability**" has the meaning specified in § 1.704-2(b)(3) of the Regulations.

"**Notice**" has the meaning specified in Section 13.4.

"**Officers**" has the meaning specified in Section 7.7.

"**Partnership Representative**" for taxable years beginning after December 31, 2017 (or any earlier year, if the Manager so elects in accordance with IRS procedures) (i) the Manager will be designated as the "Partnership Representative" as that term is defined under Section 6223(a) of the Code.

"**Permanent Managers**" shall be E. Van Johnson, M.D. and Timothy Van Johnson, M.D. The Permanent Managers shall individually be referred to as a Permanent Manager.

"**Permitted Transfer**" means a Transfer of all or part of a Membership Interest or Transferable Interest, carried out in accordance with ARTICLE IX.

"**Permitted Transferee**" means a recipient of all or part of a Membership Interest or Transferable Interest, pursuant to a Permitted Transfer.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

"**Purchase Price**" has the meaning specified in Section 9.2.

"**Purchasing Member**" has the meaning specified in Section 9.3.

"**Regulations**" means the final or temporary regulations issued by the United States Department of Treasury pursuant to its authority under the Code, and any successor regulations.

"**Regulatory Allocations**" has the meaning specified in Section 5.2(e).

"**Related Party Agreement**" means any agreement, arrangement or understanding between the Company and any Member or any Affiliate of a Member or any officer or employee of the Company, as such agreement may be amended, modified, supplemented or restated in accordance with the terms of this Agreement.

"**Representative**" means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

"**Securities Act**" means the Securities Act of 1933, as amended, or any successor federal statute, and the rules and regulations thereunder, which shall be in effect at the time.

"**Seller**" has the meaning specified in Section 9.3.

"**Subsidiary**" means, with respect to any Person, any other Person of which a majority of the outstanding shares or other equity interests having the power to vote for directors or comparable managers are owned, directly or indirectly, by the first Person.

"**Supermajority**" means the affirmative vote, consent, or approval of a Member or group of Members holding more than two-thirds (2/3) of the Membership Interests held by all Members entitled to vote on the matter.

"**Partnership Representative**" has the meaning specified in Section 10.2. There shall be only one Partnership Representative at all times.

"**Taxing Authority**" has the meaning specified in Section 6.2(b).

"**Transfer**" means an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, or transfer by operation of law.

"**Transferable Interest**" means a Member's right to receive a Distribution from the Company, as provided in this Agreement.

"**Transferee**" means a Person to whom all or part of a Membership Interest or Transferable Interest has been Transferred in accordance and in compliance with the terms of this Agreement (to the extent of such Transferable Interest), whether or not the Transferor is a Member.

"**Transferor**" means a Member or Permitted Transferee who has made a Transfer of all or part of such Member's or Permitted Transferee's Membership Interest or Transferable Interest (as applicable) in accordance and in compliance with the terms of this Agreement.

"**Violating Transfer**" has the meaning specified in Section 9.2.

"**Withholding Advances**" has the meaning specified in Section 6.2(b).

"**Wrongful Dissociation**" has the meaning specified in Section 4.8.

Section 1.2. Interpretation. For purposes of this Agreement: (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. The definitions given for any defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Schedules and Exhibits mean the Articles and Sections of, and Schedules and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Exhibits and Schedules referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

ARTICLE II
ORGANIZATION

Section 2.1. Formation.

(a) The Company was formed on May 3, 2002, pursuant to the provisions of the LLC Law, by the filing of the Articles of Organization in the Office of the Judge of Probate of Tuscaloosa County, Alabama.

(b) This Agreement shall constitute the "*limited liability company agreement*" (as that term is used in the LLC Law) of the Company. The rights, powers, duties, obligations, and liabilities of the Members shall be determined pursuant to the LLC Law and this Agreement. To the extent that the rights, powers, duties, obligations, and liabilities of any Member are different by reason of any provision of this Agreement than they would be under the LLC Law in the absence of such provision, this Agreement shall, to the extent permitted by the LLC Law, control.

Section 2.2. Name. The name of the Company is Vision Correction Center, LLC or such other legally-valid name as may be designated by the Board of Managers from time to time. The Board of Managers shall give prompt notice to each of the Members of any change to the name of the Company.

Section 2.3. Principal Office. The principal office of the Company is located at 1406 McFarland Blvd N, Suite 2-B, Tuscaloosa, Alabama 35406. The Board of Managers may change the principal office of the Company (which need not be located within the State of Alabama) from time to time. The Board of Managers shall give prompt notice to each of the Members of any change to the principal office of the Company.

Section 2.4. Registered Office; Registered Agent.

(a) The registered office of the Company shall be the office of the initial registered agent named in the Certificate of Formation or such other office (which need not be a place of business of the Company) as the Board of Managers may designate from time to time in the manner provided by the LLC Law and Applicable Law.

(b) The registered agent for service of process on the Company in the State of Alabama shall be the initial registered agent named in the Certificate of Formation or such other Person or Persons as the Board of Managers may designate from time to time in the manner provided by the LLC Law and Applicable Law.

Section 2.5. Purpose; Powers.

(a) **Purpose**. The Company was formed for the purposes of operating an ambulatory surgery center (the "Business"), and any and all activities advisable, necessary or incidental thereto.

(b) The Company shall have all the powers necessary or convenient to carry out the purposes for which it is formed, including the powers granted by the LLC Law.

Section 2.6. Term. The term of the Company commenced upon its formation, as provided in Section 2.1(a) above, and shall continue in perpetuity until the Company is dissolved in accordance with the provisions of this Agreement.

ARTICLE III
CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS

Section 3.1. Initial Capital Contributions.

(a) Each Member has made a Capital Contribution and is deemed to own the Membership Interest in the amount set forth opposite such Member's name on Schedule A attached hereto, as the same may be amended from time to time in accordance with this Agreement. The Board of Managers shall update Schedule A upon the issuance or Transfer of all or any portion of a Membership Interest in accordance and in compliance with the terms of this Agreement. The Board of Managers shall provide the Members with an updated Schedule A (that shall contain the date of such revision) promptly after the issuance or Transfer has become final and effective.

(b) No interest shall accrue on any Capital Contribution and no Member shall have the right to withdraw or be repaid any Capital Contribution except as provided in this Agreement.

Section 3.2. Additional Capital Contributions.

(a) Except as otherwise set forth in this Agreement, no Member shall be required to make any Capital Contributions to the Company.

(b) In addition to the Initial Capital Contributions of the Members, the Members shall make additional Capital Contributions, in cash, in proportion to their respective Membership Interests, as determined by a Supermajority from time to time to be reasonably necessary to pay any operating, capital or other expenses relating to the Business (such additional Capital Contributions, the "Additional Capital Contributions"). Upon the Supermajority vote approving such Additional Capital Contributions, the Board of Managers shall deliver to the Members a written notice of the Company's need for Additional Capital Contributions, which notice shall specify in reasonable detail (i) the purpose for such Additional Capital Contributions, (ii) the aggregate amount of such Additional Capital Contributions, (iii) each Member's share of such aggregate amount of Additional Capital Contributions based upon each such Member's Membership Interest, and (iv) the date (which date shall not be less than ten (10) Business Days from the date that such notice is given) on which such Additional Capital Contributions shall be required to be made by the Members.

(c) If any Member shall fail to timely make, or notifies the Board of Managers that it shall not make, all or any portion of any Additional Capital Contribution which such Member is obligated to make under Section 3.2(a), then such Member shall be deemed to be a "Non-Contributing Member." The non-defaulting Members (each, a "Contributing Member") shall be entitled, but not obligated, to loan to the Non-Contributing Member, by contributing to the Company on its behalf, all or any part of the amount (the "Default Amount") that the Non-Contributing Member failed to contribute to the Company (each such loan, a "Default Loan"), *provided*, that such Contributing Member shall have contributed to the Company its pro rata share of the applicable Additional Capital Contribution. Each Default Loan shall bear interest (compounded monthly on the first day of each calendar month) on the unpaid principal amount thereof from time to time remaining from the date advanced until repaid, at the *lesser of* (i) Eighteen Percent (18%) per annum or (ii) the maximum rate permitted at law (the "Default Rate"). Each Default Loan shall be recourse solely to the Non-Contributing Member's Membership Interest. Default Loans shall be repaid out of the Distributions that would otherwise be made to the Non-Contributing Member under ARTICLE VI or ARTICLE XIII, as more fully provided for in Section 3.2(d). So long as a Default Loan is outstanding, the Non-Contributing Member shall have the right to repay the Default Loan (and interest then due and owing) in whole or in part. Upon the repayment in full of all Default Loans (but not upon their conversion as provided in Section 3.2(c)) made in respect of a Non-Contributing Member (and so long as the Non-

Contributing Member is not otherwise a Non-Contributing Member), such Non-Contributing Member shall cease to be a Non-Contributing Member.

(d) Notwithstanding any other provisions of this Agreement, any amount that otherwise would be paid or distributed to a Non-Contributing Member pursuant to ARTICLE VI shall not be paid to the Non-Contributing Member but shall be deemed paid and applied on behalf of such Non-Contributing Member (i) first, to accrued and unpaid interest on all Default Loans (in the order of their original maturity date), (ii) second to the principal amount of such Default Loans (in the order of their original maturity date) and (iii) third, to any Additional Capital Contribution of such Non-Contributing Member that has not been paid and is not deemed to have been paid.

(e) Notwithstanding the foregoing, if a Non-Contributing Member fails to make its Additional Capital Contribution in accordance with Section 3.2(a), the Contributing Member may:

(i) institute proceedings against the Non-Contributing Member to obtain payment of its portion of the Additional Capital Contributions, together with interest thereon at the Default Rate from the date that such Additional Capital Contribution was due until the date that such Additional Capital Contribution is made, at the cost and expense of the Non-Contributing Member; or

(ii) purchase the Membership Interest of the Non-Contributing Member at a price and subject to the procedures described in Section 9.2 of this Agreement.

(f) If a Member is characterized as a Non-Contributing Member, then, so long as the Member remains a Non-Contributing Member, it shall forfeit and no longer be entitled to any consent or voting rights granted in this Agreement.

Section 3.3. Maintenance of Capital Accounts. The Company shall establish and maintain for each Member a separate capital account ("Capital Account") on its books and records in accordance with this Section 3.3. Each Capital Account shall be established and maintained in accordance with the following provisions:

(a) Each Member's Capital Account shall be *increased by*:

(i) the amount of such Member's Capital Contributions of cash, whether representing such Member's initial Capital Contribution or an Additional Capital Contribution;

(ii) the agreed upon net Fair Market Value of such Member's Capital Contributions of property (other than cash), whether representing such Member's initial Capital Contribution or an Additional Capital Contribution;

(iii) the cumulative amount of the Company's Net Income and other items of income or gain allocated to such Member pursuant to ARTICLE V; and

(iv) any liabilities of the Company that are assumed by such Member or secured by any property Distributed to such Member.

(b) Each Member's Capital Account shall be *decreased by*:

(i) the cash amount or Asset Book Value of any property distributed to such Member pursuant to ARTICLE VI and Section 12.3(c);

(ii) the cumulative amount of the Company's Net Loss and other items of loss or deduction allocated to such Member pursuant to ARTICLE V; and

(iii) the amount of any liabilities of such Member assumed by the Company or that are secured by any property contributed by such Member to the Company (determined as of the date of contribution).

Section 3.4. Succession Upon Transfer. In the event of a Permitted Transfer by a Member of all or part of such Member's Membership Interest, the Permitted Transferee of such Permitted Transfer shall succeed to the Capital Account of the Member making such Permitted Transfer, with respect, and to the extent it relates, to the portion of the Membership Interest so Transferred. Upon completion of such Permitted Transfer, as provided in this Agreement and subject to Section 5.4, such Permitted Transferee shall receive allocations and Distributions pursuant to ARTICLE V, ARTICLE VI and ARTICLE XII in respect, and to the extent, of the Membership Interest so Transferred.

Section 3.5. Negative Capital Accounts. In the event that any Member shall have a deficit balance in its Capital Account, such Member shall have no obligation, during the term of the Company or upon dissolution or liquidation thereof, to restore such negative balance or make any Capital Contributions to the Company by reason thereof, except as may be required by Applicable Law or in respect of any negative balance resulting from a withdrawal of capital or dissolution in contravention of this Agreement.

Section 3.6. No Withdrawals from Capital Accounts. No Member or Permitted Transferee shall be entitled to withdraw from or obtain a return of any portion of such Member's or Permitted Transferee's Capital Account or to receive any Distributions from the Company, except as otherwise provided in this Agreement. No Member, or Permitted Transferee, or any Manager shall receive any interest, salary or drawing with respect to any Capital Contributions or a Capital Account, except as otherwise provided in this Agreement. The Capital Accounts are maintained for the sole purpose of allocating items of income, gain, loss and deduction among the Members and shall have no effect on the amount of any Distributions to the Members, in liquidation or otherwise.

Section 3.7. Treatment of Loans. Except as otherwise provided above in Section 3.2(d), loans or advances made by a Member or Permitted Transferee to the Company shall not be considered a Capital Contribution and shall not affect the maintenance of such Member's or Permitted Transferee's, as the case may be, Capital Account, except as may be expressly provided in this Agreement.

Section 3.8. Modifications. The foregoing provisions of this ARTICLE III and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with § 1.704-1(b) of the Regulations and shall be interpreted and applied in a manner consistent with such Regulations. If the Board of Managers determines that it is prudent to modify the manner in which the Capital Accounts, or any increases or decreases to the Capital Accounts, are computed in order to comply with the Code and Regulations, the Board of Managers may authorize such modifications. In such an event, the Board of Managers shall provide prompt notice to the Members.

ARTICLE IV
MEMBERS

Section 4.1. Admission of New Members.

(a) New Members may be admitted from time to time (i) in connection with the issuance of Membership Interests by the Company, and (ii) in connection with a Transfer of Membership

Interests, subject to compliance with the provisions of ARTICLE IX, and in either case, following compliance with the provisions of Section 4.1(b).

(b) In order for any Person not already a Member of the Company to be admitted as a Member, whether pursuant to an issuance or Transfer of Membership Interests, such Person shall have executed and delivered to the Company a written assignment of interest in a form acceptable to the Company, and the Company shall have accepted and executed such assignment of interest. Upon the amendment by the Board of Managers of Schedule A attached hereto and the satisfaction of any other applicable conditions, including but not limited to, the receipt by the Company of payment for the issuance of Membership Interests, or the receipt by the Transferring Member(s) of payment of the Transfer of Membership Interests, such Person shall be admitted as a Member and deemed listed as such on the books and records of the Company. The Board of Managers shall also adjust the Capital Accounts of the Members as necessary in accordance with Section 3.3.

(c) Each Person, upon becoming a Member shall personally guarantee any indebtedness of the Company, in the same manner as the other Members.

Section 4.2. No Personal Liability. Except as otherwise provided in the LLC Law, by Applicable Law or expressly in this Agreement, no Member will be obligated personally for any debt, obligation or liability of the Company or other Members, whether arising in contract, tort or otherwise, solely by reason of being a Member.

Section 4.3. Meetings of Members.

(a) Meetings of the Members may be called by (i) the Board of Managers or (ii) a Majority.

(b) Written notice stating the place, date and time of a called meeting shall be delivered not fewer than five (5) days and not more than thirty (30) days before the date of the meeting to each Member, by or at the direction of the Board of Managers or the Member(s) calling the meeting, as the case may be. The Members may hold meetings at the Company's principal office or at such other place as the Board of Managers or the Member(s) calling the meeting may designate in the notice for such meeting.

(c) Any Member may participate in a meeting of the Members by means of conference telephone or other communications equipment by means of which all Persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

(d) On any matter that is to be voted on by Members, a Member may vote in person or by proxy, and such proxy may be granted in writing, by means of Electronic Transmission or as otherwise permitted by Applicable Law. Every proxy shall be revocable in the discretion of the Member executing it unless otherwise provided in such proxy; *provided, however*, that such right to revocation shall not invalidate or otherwise affect actions taken under such proxy prior to such revocation.

(e) Attendance of a Member at any meeting shall constitute a waiver of notice of such meeting, except where a Member attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 4.4. Quorum. A quorum of any meeting of the Members shall require the presence of a Majority. Subject to Section 4.5 no action at any meeting may be taken by the Members unless the appropriate quorum is present. Subject to Section 4.5, no action may be taken by the Members at any

meeting at which a quorum is present without the affirmative vote of Members holding the requisite amount of Membership Interests with respect to the action to be taken.

Section 4.5. **Action without a Meeting**. Notwithstanding the provisions of Section 4.4, any matter, action or decision that is to be voted on, consented to or approved by Members may be taken without a meeting, without prior notice and without a vote if consented to, in writing or by Electronic Transmission, by a Member or Members holding not less than the requisite Membership Interests with respect to such matter, action or decision. A record shall be maintained by the Board of Managers of each such action taken by written consent of a Member or Members. Prompt notice of any such action taken by written consent shall be delivered to any Member not otherwise participating therein.

Section 4.6. **Power of Members**. Subject to the rights and powers granted to the Board of Managers in Article VII hereof, the Members shall have the power to exercise any and all rights or powers granted to Members pursuant to the express terms of this Agreement and LLC Law. Except as otherwise specifically provided by this Agreement or required by the LLC Law, no Member, in its capacity as a Member, shall have the power to act for or on behalf of, or to bind, the Company.

Section 4.7. **Death**. The death of any Member shall not cause the dissolution of the Company. In such event, the Company and its business shall be continued by the remaining Member or Members.

Section 4.8. **Dissociation**.

(a) No Power to Dissociate. Except as otherwise provided herein, a Member shall not have the ability to withdraw or dissociate as a Member prior to the dissolution and winding-up of the Company and any such withdrawal or dissociation or attempted withdrawal or dissociation by a Member prior to the dissolution or winding-up of the Company shall be null and void. A Member shall not cease to be a Member as a result of the Bankruptcy of such Member or as a result of any other events specified in § 10A-5A-6.02(g) of the LLC Law.

(b) Manners of Dissociating; Effect. A Person shall be dissociated as a Member from the Company (and such dissociation shall not be considered a Wrongful Dissociation), upon:

(i) the Transfer of the Member's entire remaining Membership Interest to another Member or the Company, in a manner permitted by, and in accordance with, the terms of this Agreement;

(ii) a Permitted Transfer of the Member's entire remaining Membership Interests to a Permitted Transferee upon such Permitted Transferee being admitted as a Member in accordance with the terms of this Agreement; or

(iii) the written consent of a Supermajority (excluding the Member seeking to dissociate) following a request from the Member to dissociate as a Member from the Company; such written consent may be made subject to the prior fulfillment of certain conditions or obligations by the dissociating Member.

(c) Effect of Dissociation. A Person's dissociation as a Member from the Company (whether or not wrongful): (i) shall not, of itself, discharge the Person from a duty, debt, obligation, or liability owed or owing to the Company or another Member that the Person incurred while a Member (prior to dissociating); (ii) shall extinguish any rights to participate in the direction and oversight of the activities and affairs of the Company (to the extent of any such rights); and (iii) shall not, of itself, entitle the Person

to receive any Distributions (including a return of a Capital Account) to which that Member would not have been entitled had such Member not dissociated.

(d) Wrongful Dissociation.

(i) If a Person withdraws or attempts to dissociate as a Member from the Company in a manner not explicitly authorized by this Agreement or in a manner otherwise in breach of the terms of this Agreement, then such dissociation or attempted dissociation shall be considered a "Wrongful Dissociation" and such Person shall be considered as "Wrongfully Dissociating" from the Company.

(ii) A Person Wrongfully Dissociating as a Member from the Company shall: (A) cease to hold any interest in the Company other than a Transferable Interest; (B) be liable to the Company and other Members, as the case may be, for any costs or damages caused by such Person's Wrongful Dissociation; and (C) if such Person is also a Manager, then such Person shall cease to be a Manager of the Company. Any liability under the foregoing clause (B) shall be in addition to any other debts, obligations, or liabilities that such Member owes to the Company or other Members, as the case may be (including any obligations to make a Capital Contribution).

(e) Effective Date of Dissociation. The Person shall cease being a Member of the Company as of the date of the event causing such Person's withdrawal (or as of the date a Supermajority consents to such withdrawal), as provided in this Section 4.8.

Section 4.9. No Interest in Company Property. No real or personal property of the Company shall be deemed to be owned by any Member individually, but shall be owned by, and title shall be vested solely in, the Company. Without limiting the foregoing, each Member hereby irrevocably waives during the term of the Company any right that such Member may have to maintain any action for partition with respect to the property of the Company.

Section 4.10. Medical Malpractice Insurance. Each Member that is a physician and that has staff privileges at the Center shall maintain at all times medical malpractice insurance complying with the Medical Staff Bylaws of the Center.

Section 4.11. Requirements of a Member. The Members agree that it is the intent of the Members to require each Member to comply with the anti-kickback law safe harbor for investments in ambulatory surgery centers, 42 C.F.R. § 1001.952(r), as amended, or the provisions of OIG Advisory Opinion No. 03-2. In order for a Member to acquire and retain his or her Units in the Company, such Member must at all times satisfy the following requirements and on an annual basis must certify that he or she continues to satisfy the following requirements (and provide appropriate documentation of compliance as may be requested by the Board of Managers to support such certification):

(a) 8.12.1 be either (1) a surgeon who for each calendar year of the Company (or for the 12-month period preceding the date of determination) (A) receives at least 1/3 of all his or her medical practice income from all sources from his or her performance of outpatient surgical procedures or surgical procedures which require a hospital operating room setting, and (B) once the physician becomes a Member of the Company, performs at least 1/3 of his or her procedures requiring an ambulatory surgical center or hospital surgical setting at the Center, or (2) is not in a position to make or influence referrals to the Center, nor is an employee of the Center;

(b) 8.12.2 must be and remain in a position to perform surgical procedures on a regular basis at the Center;

(c) 8.12.3 must fully inform all patients that are referred to the Center of the Member's Membership Interest in the Company;

(d) 8.12.4 must not borrow any funds from the Company, any Manager or any other Member that is to be used by the Member to obtain Units from the Company;

(e) 8.12.5 must treat patients receiving medical benefits or assistance under any Federal health care program in a nondiscriminatory manner;

(f) 8.12.6 must maintain the proper professional liabililty insurance as described in Section 8.1; and

(g) 8.12.7 is not excluded from participation in the Medicare, Medicaid or any other Federal health care program.

(h) Failure of a Member to satisfy any of the requirements set forth in subparagraphs (a)through (g) above may result in the expulsion of such Member from the Company because of a Disqualification in the discretion of the Board of Managers. If a Member does not provide the information requested in this Section 4.11, then after notice from the Board of Managers, such Member shall have sixty (60) days to provide such information. If such Member does not provide such satisfactory information within such sixty (60) day period, then such Member shall be in breach of this Section 4.11 and this breach shall result in the Disqualification of the Member. The form of such verification shall be established by the Board of Managers. Upon Disqualification, Section 9.5 shall apply.

Section 4.12. Non-Competition.

(a) No Member or Affiliate shall be a consultant to, or have any direct or indirect ownership interest in, or manage, lease, develop or otherwise have any financial interest in, or receive compensation in the form of a facility fee or as a medical director from any business or entity competing with the Company within twenty-five (25) miles of the Center until two (2) years after such Member ceases to be a Member of the Company.

(b) It is expressly understood and agreed that, although the Members and the Company consider the restrictions contained in Section 4.12 to be reasonable for the purposes set forth herein, if a final judicial determination is made by a court of competent jurisdiction that the time or territory or any other restriction contained in this Section 4.12 of this Agreement is unreasonable or otherwise unenforceable restriction against a Member of former Member, this Section 4.12 shall not be rendered void, but shall be deemed amended as to such restriction as such court may judicially determine or indicate to be reasonable, or, if such court does not so determine or indicate, to the maximum extent that any pertinent statute or judicial decision may indicate to be a reasonable restriction under the circumstances.

(c) Recognizing that irreparable damage will result to Company and the other Members in the event of the breach or threatened breach of any of the foregoing covenants and assurances by a Member or former Member contained in this Section 4.12 of this Agreement, and that Company's remedies at law for any such breach or threatened breach will be inadequate, Company and its successors and assigns, in addition to such other remedies that may be available to the Company, shall be entitled to, and the Members agree not to oppose the Company's request for, an injunction, including a mandatory injunction, to be issued by any court of competent jurisdiction ordering compliance with this Section 8.2 or enjoining and restraining the Member or former Member, and each and every person, firm or company acting in concert or participation with Member or former Member from the continuation of such breach and, in addition thereto, the Member or former Member shall pay to the Company all ascertainable damages,

including costs and reasonable attorneys' fees sustained by the Company by reason of the breach or threatened breach of said covenants and assurances. The covenants and obligations set forth in this Section 4.12 this Agreement are in addition to and not in lieu of or exclusive of any other obligations and duties of the Members to the Company, whether express or implied in fact or in law.

ARTICLE V
ALLOCATIONS

Section 5.1. **Allocation of Net Income and Net Loss**. For each Fiscal Year (or portion thereof), except as otherwise provided in this Agreement, Net Income and Net Loss (and, to the extent necessary, individual items of income, gain, loss or deduction) of the Company shall be allocated among the Members in a manner such that, after giving effect to the special allocations set forth in Section 5.2, the Capital Account balance of each Member, immediately after making such allocations, is, as nearly as possible, equal to (a) the Distributions that would be made to such Member pursuant to Section 12.3(c) if the Company were dissolved, its affairs wound up and its assets sold for cash equal to their Asset Book Value, all Company liabilities were satisfied (limited with respect to each Nonrecourse Liability to the Asset Book Value of the assets securing such liability), and the net assets of the Company were distributed, in accordance with Section 12.3(c), to the Members immediately after making such allocations, *minus* (b) such Member's share of Company Minimum Gain and Member Nonrecourse Debt Minimum Gain, computed immediately prior to the hypothetical sale of assets. Subject to the foregoing provisions of this Section 5.1, it is intended by the Members that Net Income would generally be allocated in a manner consistent with the Net Income attributable to the waterfall Distributions in Section 6.1.

Section 5.2. **Regulatory and Special Allocations**. Notwithstanding the provisions of Section 5.1 hereof:

(a) If there is a net decrease in Company Minimum Gain (determined according to § 1.704-2(d)(1) of the Regulations) during any Fiscal Year, each Member shall be specially allocated Net Income for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with § 1.704-2(g) of the Regulations. The items to be so allocated shall be determined in accordance with §§ 1.704-2(f)(6) and 1.704-2(j)(2) of the Regulations. This Section 5.2 is intended to comply with the "*minimum gain chargeback*" requirement in § 1.704-2(f) of the Regulations and shall be interpreted consistently therewith.

(b) Member Nonrecourse Deductions shall be allocated in the manner required by § 1.704-2(i) of the Regulations. Except as otherwise provided in § 1.704-2(i)(4) of the Regulations, if there is a net decrease in Member Nonrecourse Debt Minimum Gain during any Fiscal Year, each Member that has a share of such Member Nonrecourse Debt Minimum Gain shall be specially allocated Net Income for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to that Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain. Items to be allocated pursuant to this paragraph shall be determined in accordance with §§ 1.704-2(i)(4) and 1.704-2(j)(2) of the Regulations. This Section 5.2(b) is intended to comply with the "minimum gain chargeback" requirements in § 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

(c) Nonrecourse Deductions shall be allocated to the Members in accordance with their Membership Interests.

(d) In the event any Member unexpectedly receives any adjustments, allocations or Distributions described in § 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations, Net Income shall be specially allocated to such Member in an amount and manner sufficient to eliminate the Adjusted Capital

Account Deficit created by such adjustments, allocations or Distributions as quickly as possible. This Section 5.2(d) is intended to comply with the qualified income offset requirement in § 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

(e) The allocations set forth in paragraphs (a), (b), (c) and (d) above (the "Regulatory Allocations") are intended to comply with certain requirements of the Regulations under Code § 704. Notwithstanding any other provisions of this ARTICLE V (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating Net Income and Net Losses among Members so that, to the extent possible, the net amount of such allocations of Net Income and Net Losses and other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to such Member if the Regulatory Allocations had not occurred.

Section 5.3. Tax Allocations.

(a) Subject to Section 5.3(b), Section 5.3(c) and Section 5.3(d), all income, gains, losses and deductions of the Company shall be allocated, for federal, state and local income tax purposes, among the Members in accordance with the allocation of such income, gains, losses and deductions pursuant to Section 5.1 and Section 5.2, except that if any such allocation for tax purposes is not permitted by the Code or other Applicable Law, the Company's subsequent income, gains, losses and deductions shall be allocated among the Members for tax purposes, to the extent permitted by the Code and other Applicable Law, so as to reflect as nearly as possible the allocation set forth in Section 5.1 and Section 5.2.

(b) Items of Company taxable income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall be allocated among the Members in accordance with Code § 704(c) and the traditional method with curative allocations of § 1.704-3(c) of the Regulations, so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Asset Book Value.

(c) If the Asset Book Value of any Company asset is adjusted pursuant to § 1.704-1(b)(2)(iv)(f) of the Regulations (as provided in clause (c) of the definition of "*Asset Book Value*" set forth in Section 1.1 hereof), subsequent allocations of items of taxable income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Asset Book Value in the same manner as under Code § 704(c).

(d) Allocations of tax credit, tax credit recapture and any items related thereto shall be allocated to the Members according to their interests in such items as determined by the Board of Managers taking into account the principles of § 1.704-1(b)(4)(ii) of the Regulations.

(e) Allocations pursuant to this Section 5.3 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Income, Net Losses, Distributions or other items pursuant to any provisions of this Agreement.

Section 5.4. Allocations in Respect of Transferred Membership Interests. In the event of a Transfer of Membership Interests during any Fiscal Year made in compliance with the provisions of ARTICLE IX, Net Income, Net Losses and other items of income, gain, loss and deduction of the Company attributable to such Membership Interests for such Fiscal Year shall be determined using the interim closing of the books method.

ARTICLE VI
DISTRIBUTIONS

Section 6.1. Distributions of Cash Flow and Capital Proceeds.

(a) Any available cash of the Company, after allowance for all reasonable costs and expenses incurred by the Company and for such reasonable reserves as determined by the Board of Managers, shall be distributed to the Members, on at least a quarterly basis, in accordance with their respective Membership Interests.

(b) If a Member has (i) an unpaid Additional Capital Contribution that is overdue and/or (ii) an outstanding Default Loan due to another Member, any amount that otherwise would be distributed to such Member pursuant to Section 6.1(a) or ARTICLE XIII (up to the amount of such Additional Capital Contribution or outstanding Default Loan, together with interest accrued thereon) shall not be paid to such Member but shall be deemed distributed to such Member and applied on behalf of such Member pursuant to Section 3.2(d).

(c) Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make any distribution to Members if such distribution would violate § 10A-5A-4.06 of the LLC Law or other Applicable Law.

(d) A Member who receives a distribution in violation of the LLC Law or other Applicable Law shall be liable to the Company for the amount of the distribution.

Section 6.2. Tax Withholding; Withholding Advances.

(a) Tax Withholding. If requested by the Board of Managers, each Member shall, if able to do so, deliver to the Board of Managers:

(i) an affidavit in form satisfactory to the Board of Managers that the applicable Member (or its members, as the case may be) is not subject to withholding under the provisions of any federal, state, local, foreign or other Applicable Law;

(ii) any certificate that the Board of Managers may reasonably request with respect to any such laws; and/or

(iii) any other form or instrument reasonably requested by the Board of Managers relating to any Member's status under such law.

If a Member fails or is unable to deliver to the Board of Managers the affidavit described in Section 6.2(a)(i), the Board of Managers may withhold amounts from such Member in accordance with Section 6.2(b).

(b) Withholding Advances. The Company is hereby authorized at all times to make payments ("Withholding Advances") with respect to each Member in amounts required to discharge any obligation of the Company (as determined by the Partnership Representative based on the advice of legal or tax counsel to the Company) to withhold or make payments to any federal, state, local or foreign taxing authority (a "Taxing Authority") with respect to any distribution or allocation by the Company of income or gain to such Member and to withhold the same from Distributions to such Member. Any funds withheld from a distribution by reason of this Section 6.2(b) shall nonetheless be deemed distributed to the Member in question for all purposes under this Agreement.

(c) Repayment of Withholding Advances. Any Withholding Advance made by the Company to a Taxing Authority on behalf of a Member and not simultaneously withheld from a distribution to that Member shall, with interest thereon accruing from the date of payment at a rate equal to the prime rate published in the *Wall Street Journal* on the date of payment plus three percent (3.0%) per annum (the "Company Interest Rate"):

(i) be promptly repaid to the Company by the Member on whose behalf the Withholding Advance was made (which repayment by the Member shall not constitute a Capital Contribution, but shall credit the Member's Capital Account if the Board of Managers shall have initially charged the amount of the Withholding Advance to the Capital Account); or

(ii) with the consent of the Board of Managers, be repaid by reducing the amount of the next succeeding distribution or Distributions to be made to such Member (which reduction amount shall be deemed to have been distributed to the Member, but which shall not further reduce the Member's Capital Account if the Board of Managers shall have initially charged the amount of the Withholding Advance to the Capital Account).

Interest shall cease to accrue from the time the Member on whose behalf the Withholding Advance was made repays such Withholding Advance (and all accrued interest) by either method of repayment described above.

(d) Indemnification. Each Member hereby agrees to indemnify and hold harmless the Company and the other Members from and against any liability with respect to taxes, interest or penalties that may be asserted by reason of the Company's failure to deduct and withhold tax on amounts distributable or allocable to such Member. The provisions of this Section 6.2(d) and the obligations of a Member pursuant to Section 6.2(c) shall survive the termination, dissolution, liquidation and winding up of the Company and the withdrawal of such Member from the Company or Transfer of its Membership Interests. The Company may pursue and enforce all rights and remedies it may have against each Member under this Section 6.2, including bringing a lawsuit to collect repayment with interest of any Withholding Advances.

(e) Overwithholding. Neither the Company nor the Board of Managers shall be liable for any excess taxes withheld in respect of any distribution or allocation of income or gain to a Member. In the event of an overwithholding, a Member's sole recourse shall be to apply for a refund from the appropriate Taxing Authority.

Section 6.3. Distributions in Kind.

(a) The Board of Managers is hereby authorized, as it may reasonably determine, to make Distributions to the Members in the form of securities or other property held by the Company. In any non-cash distribution, the securities or property so distributed will be distributed among the Members in the same proportion and priority as cash equal to the Fair Market Value of such securities or property would be distributed among the Members pursuant to Section 6.1.

(b) Any distribution of securities shall be subject to such conditions and restrictions as the Board of Managers determines are required or advisable to ensure compliance with Applicable Law. In furtherance of the foregoing, the Board of Managers may require that the Members execute and deliver such documents as the Board of Managers may deem necessary or appropriate to ensure compliance with all federal and state securities laws that apply to such distribution and any further Transfer of the distributed securities, and may appropriately legend the certificates that represent such securities to reflect any restriction on Transfer with respect to such laws.

ARTICLE VII
MANAGEMENT

Section 7.1. **Management of the Company**. The activities and affairs of the Company shall be under the direction, and subject to the oversight of the Board of Managers. Initially, the Board of Managers shall consist of the Permanent Managers (E. Van Johnson, M.D. and Timothy Van Johnson, M.D.). The number of Managers shall be set from time to time upon the approval of a Supermajority, provided that the Board of Managers shall always include the Permanent Managers. A Manager may or may not be a Member of the Company and may or may not be a natural person.

Section 7.2. **Term of Office**. Each Permanent Manager shall serve until the Permanent Manager is no longer an owner of Membership Interests or elects to resign. A Manager (other than a Permanent Manager) may be removed or replaced (a) at any time, with or without cause, by a Supermajority; or (b) by a Majority upon either (i) a Bankruptcy of the Manager or (ii) a breach of any covenant, duty or obligation under this Agreement by the Manager that remains uncured for fifteen (15) days after written notice of such breach was delivered to the Manager. A Manager may resign at any time by delivering a written resignation to the Members. In the event that the Manager is also a Member, the removal or resignation of such Manager shall not affect the rights or status of such Person as a Member.

Section 7.3. **Actions of the Board of Managers**. The activities and affairs of the Company shall be under the direction, and subject to the oversight of the Board of Managers. Subject to the provisions of Section 7.6, the Board of Managers shall have full and complete discretion to manage and control the Business and the activities and affairs of the Company, to make all decisions affecting the business and affairs of the Company and to take all such actions as it deems necessary or appropriate to accomplish the purposes of the Company set forth in this Agreement. The actions of the Board of Managers taken in accordance with the provisions of this Agreement shall bind the Company. No other Member of the Company shall have any authority or right to act on behalf of or bind the Company, unless otherwise provided herein or unless specifically authorized by the Board of Managers pursuant to a resolution expressly authorizing such action which resolution is duly adopted by the Board of Managers.

Section 7.4. **Meetings Not Required**. The Board of Managers need not hold formal meetings. Any action required by law to be taken at any meeting of the Board of Managers, or any action which may be taken by the Board of Managers, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken is signed by such number of Managers to approve or authorize the action taken or stated in the consent. Such consents shall have the same force and effect as a vote of the Managers at a meeting duly held. Such consents shall be filed with the records to be maintained by the Company as set forth in ARTICLE XI.

Section 7.5. **Quorum and Voting.** If a meeting of the Board of Managers is called, notice of the meeting shall be provided to each member of the Board of Managers, and a quorum of the Board of Managers shall consist of at least a majority of the Managers. If a quorum is present when a vote is taken, the affirmative vote of a majority of the Managers present at the meeting shall be the act of the Board.

Section 7.6. **Actions Requiring Approval of Members**. Without the written approval of a Supermajority, the Company shall not, and shall not enter into any commitment to:

(a) Amend, modify or waive the Certificate of Formation or this Agreement; *provided* that the Board of Managers may, without the consent of any Member, amend Schedule A to this Agreement following any new issuance, redemption, repurchase or Transfer of Membership Interests in accordance with this Agreement;

(b) Convert Property of the Company to a Manager's own use or possess or assign any rights in specific Property of the Company for other than a purpose of the Company;

(c) Remove any Member who Transfers all of such Member's Transferable Interest other than a Transfer for security purposes.

Section 7.7. Officers. The Board of Managers may appoint individuals as officers of the Company (the "Officers") as it deems necessary or desirable to carry on the Business, and the activities and affairs of the Company, and the Board of Managers may delegate to such Officers such power and authority as the Board of Managers deems advisable. No Officer need be a Member of the Company. Any individual may hold two or more offices of the Company. Each Officer shall hold office until his successor is designated by the Board of Managers or until his earlier death, resignation or removal. Any Officer may resign at any time upon written notice to the Board of Managers. Any Officer may be removed by the Board of Managers with or without cause at any time. A vacancy in any office occurring because of death, resignation, removal or otherwise, may, but need not, be filled by the Board of Managers.

Section 7.8. Action of Members Without Meeting. Any matter that is to be voted on, consented to or approved by Members may be taken without a meeting, without prior notice and without a vote if consented to, in writing or by Electronic Transmission, by a Member or Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members entitled to vote thereon were present and voted. A record shall be maintained by the Board of Managers of each such action taken by written consent of a Member or Members.

Section 7.9. Informational Rights. In addition to the information required to be provided pursuant to ARTICLE X, the Board of Managers shall keep the other Members reasonably informed on a timely basis of any material fact, information, litigation, employee relations or other matter that could reasonably be expected to have a material impact on the operations or financial position of the Company, including, but not limited to, any modification of any loan or other financing to the Company. The Board of Managers shall provide all material information relating to the Company or the management or operation of the Company as any Member may reasonable request from time to time.

Section 7.10. Other Activities; Business Opportunities.

(a) **Good Faith and Fair Dealing**. Nothing in this Agreement shall be construed to permit violation by the Members of the implied contractual covenant of good faith and fair dealing.

(b) **Compensation and Reimbursement of Managers**. No Manager shall be compensated for his, her, or its services as Manager. The Company shall reimburse the Managers for all ordinary, necessary and direct expenses incurred by the Managers on behalf of the Company in carrying out the Company's business activities, including, without limitation, salaries of officers and employees of the Managers who are carrying out the Company's business activities. All reimbursements for expenses shall be reasonable.

ARTICLE VIII
EXCULPATION AND INDEMNIFICATION

Section 8.1. Exculpation of Covered Persons.

(a) Covered Persons. As used herein, the term "Covered Person" shall mean (i) each Member; (ii) each officer, director, stockholder, partner, member, Affiliate, employee, agent or

representative of each Member, and each of their Affiliates; (iii) each Manager; and (iv) each Officer, employee, agent or representative of the Company.

(b) Standard of Care. No Covered Person shall be liable to the Company or any other Covered Person for any loss, damage or claim incurred by reason of any action taken or omitted to be taken by such Covered Person in good faith reliance on the provisions of this Agreement, so long as such action or omission does not constitute fraud, gross negligence, willful misconduct or a material breach of this Agreement by such Covered Person or is not made in knowing violation of the provisions of this Agreement.

(c) Good Faith Reliance. A Covered Person shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements (including financial statements and information, opinions, reports or statements as to the value or amount of the assets, liabilities, Net Income or Net Losses of the Company or any facts pertinent to the existence and amount of assets from which Distributions might properly be paid) of the following Persons or groups: (i) another Member; (ii) one or more Officers or employees of the Company; (iii) any attorney, accountant, appraiser or other expert or professional employed or engaged by or on behalf of the Company; or (iv) any other Person selected in good faith by or on behalf of the Company, in each case as to matters that such relying Person reasonably believes to be within such other Person's professional or expert competence. The preceding sentence shall in no way limit any Person's right to rely on information to the extent provided in § 10A-5A-4.11 of the LLC Law.

Section 8.2. Liabilities and Duties of Covered Persons.

(a) Limitation of Liability. This Agreement is not intended to, and does not, create or impose any fiduciary duty on any Covered Person. Furthermore, each of the Members and the Company hereby waives any and all fiduciary duties that, absent such waiver, may be implied by Applicable Law, and in doing so, acknowledges and agrees that the duties and obligation of each Covered Person to each other and to the Company are only as expressly set forth in this Agreement. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Covered Person otherwise existing at law or in equity, are agreed by the Members to replace such other duties and liabilities of such Covered Person.

(b) Duties. Whenever in this Agreement a Covered Person is permitted or required to make a decision (including a decision that is in such Covered Person's discretion or under a grant of similar authority or latitude), the Covered Person shall be entitled to consider only such interests and factors as such Covered Person desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of or factors affecting the Company or any other Person. Whenever in this Agreement a Covered Person is permitted or required to make a decision in such Covered Person's good faith, the Covered Person shall act under such express standard and shall not be subject to any other or different standard imposed by this Agreement or any other Applicable Law.

Section 8.3. Indemnification.

(a) Indemnification. To the fullest extent permitted by the LLC Law, as the same now exists or may hereafter be amended, substituted or replaced (but, in the case of any such amendment, substitution or replacement, only to the extent that such amendment, substitution or replacement permits the Company to provide broader indemnification rights than the LLC Law permitted the Company to provide prior to such amendment, substitution or replacement), the Company shall indemnify, hold harmless, defend, pay and reimburse any Covered Person against any and all losses, claims, damages, judgments, fines or liabilities, including reasonable legal fees or other expenses incurred in investigating or defending against such losses, claims, damages, judgments, fines or liabilities, and any amounts expended

in settlement of any claims (collectively, "Losses") to which such Covered Person may become subject by reason of:

(i) any act or omission or alleged act or omission performed or omitted to be performed on behalf of the Company, any Member or any direct or indirect Subsidiary of the foregoing in connection with the Business of the Company; or

(ii) such Covered Person being or acting in connection with the Business of the Company as a member, stockholder, Affiliate, manager, director, officer, employee or agent of the Company, any Member, or any of their respective Affiliates, or that such Covered Person is or was serving at the request of the Company as a member, manager, director, officer, employee or agent of any Person including the Company;

(iii) *provided*, that (x) such Covered Person acted in good faith and in a manner believed by such Covered Person to be in, or not opposed to, the best interests of the Company and, with respect to any criminal proceeding, had no reasonable cause to believe his conduct was unlawful, and (y) such Covered Person's conduct did not constitute fraud, gross negligence, willful misconduct or a material breach of this Agreement by such Covered Person or a knowing violation of the provisions of this Agreement. In connection with the foregoing, the termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the Covered Person did not act in good faith or, with respect to any criminal proceeding, had reasonable cause to believe that such Covered Person's conduct was unlawful, or that the Covered Person's conduct constituted fraud, gross negligence, willful misconduct or a knowing violation or material breach of this Agreement.

(b) Control of Defense. Upon a Covered Person's discovery of any claim, lawsuit or other proceeding relating to any Losses for which such Covered Person may be indemnified pursuant to this Section 8.3, the Covered Person shall give prompt written notice to the Company of such claim, lawsuit or proceeding, *provided*, that the failure of the Covered Person to provide such notice shall not relieve the Company of any indemnification obligation under this Section 8.3, unless the Company shall have been materially prejudiced thereby. Subject to the approval of the disinterested Members, the Company shall be entitled to participate in or assume the defense of any such claim, lawsuit or proceeding at its own expense. After notice from the Company to the Covered Person of its election to assume the defense of any such claim, lawsuit or proceeding, the Company shall not be liable to the Covered Person under this Agreement or otherwise for any legal or other expenses subsequently incurred by the Covered Person in connection with investigating, preparing to defend or defending any such claim, lawsuit or other proceeding. If the Company does not elect (or fails to elect) to assume the defense of any such claim, lawsuit or proceeding, the Covered Person shall have the right to assume the defense of such claim, lawsuit or proceeding as it deems appropriate, but it shall not settle any such claim, lawsuit or proceeding without the consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed).

(c) Reimbursement. The Company shall promptly reimburse (and/or advance to the extent reasonably required) each Covered Person for reasonable legal or other expenses (as incurred) of such Covered Person in connection with investigating, preparing to defend or defending any claim, lawsuit or other proceeding relating to any Losses for which such Covered Person may be indemnified pursuant to this Section 8.3; *provided*, that if it is finally judicially determined that such Covered Person is not entitled to the indemnification provided by this Section 8.3, then such Covered Person shall promptly reimburse the Company for any reimbursed or advanced expenses.

(d) Entitlement to Indemnity. The indemnification provided by this Section 8.3 shall not be deemed exclusive of any other rights to indemnification to which those seeking indemnification may

be entitled under any agreement or otherwise. The provisions of this Section 8.3 shall continue to afford protection to each Covered Person regardless of whether such Covered Person remains in the position or capacity pursuant to which such Covered Person became entitled to indemnification under this Section 8.3 and shall inure to the benefit of the executors, administrators, legatees and distributees of such Covered Person.

(e) Insurance. To the extent available on commercially reasonable terms, the Company may purchase, at its expense, insurance to cover Losses covered by the foregoing indemnification provisions and to otherwise cover Losses for any breach or alleged breach by any Covered Person of such Covered Person's duties in such amount and with such deductibles as the Board of Managers may reasonably determine; *provided*, that the failure to obtain such insurance shall not affect the right to indemnification of any Covered Person under the indemnification provisions contained herein, including the right to be reimbursed or advanced expenses or otherwise indemnified for Losses hereunder. If any Covered Person recovers any amounts in respect of any Losses from any insurance coverage, then such Covered Person shall, to the extent that such recovery is duplicative, reimburse the Company for any amounts previously paid to such Covered Person by the Company in respect of such Losses.

(f) Funding of Indemnification Obligation. Notwithstanding anything contained herein to the contrary, any indemnity by the Company relating to the matters covered in this Section 8.3 shall be provided out of and to the extent of Company assets only, and no Member (unless such Member otherwise agrees in writing) shall have personal liability on account thereof or shall be required to make additional Capital Contributions to help satisfy such indemnity by the Company.

(g) Savings Clause. If this Section 8.3 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Covered Person pursuant to this Section 8.3 to the fullest extent permitted by any applicable portion of this Section 8.3 that shall not have been invalidated and to the fullest extent permitted by Applicable Law.

(h) Amendment. The provisions of this Section 8.3 shall be a contract between the Company, on the one hand, and each Covered Person who served in such capacity at any time while this Section 8.3 is in effect, on the other hand, pursuant to which the Company and each such Covered Person intend to be legally bound. No amendment, modification or repeal of this Section 8.3 that adversely affects the rights of a Covered Person to indemnification for Losses incurred or relating to a state of facts existing prior to such amendment, modification or repeal shall apply in such a way as to eliminate or reduce such Covered Person's entitlement to indemnification for such Losses without the Covered Person's prior written consent.

Section 8.4. Survival. The provisions of this Section 7.1 VIII shall survive the dissolution, liquidation, winding up and termination of the Company.

ARTICLE IX
TRANSFER

Section 9.1. Restrictions on Transfer.

(a) Except as otherwise provided in this ARTICLE IX, no Member shall Transfer all or any portion of its Membership Interest in the Company without the written consent of a Supermajority (which consent may be granted or withheld in the sole discretion of the other Members). No Transfer of Membership Interests to a Person not already a Member of the Company shall be deemed completed until

the prospective Transferee is admitted as a Member of the Company in accordance with Section 4.1(b) hereof.

(b) Notwithstanding any other provision of this Agreement, each Member agrees that it will not Transfer all or any portion of its Membership Interest in the Company, and the Company agrees that it shall not issue any Membership Interests:

(i) except as permitted under the Securities Act and other applicable federal or state securities or blue sky laws, and then, with respect to a Transfer of Membership Interests, only upon delivery to the Company of an opinion of counsel in form and substance satisfactory to the Company to the effect that such Transfer may be effected without registration under the Securities Act;

(ii) if such Transfer or issuance would cause the Company to be considered a "publicly traded partnership" under Section 7704(b) of the Code within the meaning of § 1.7704-1(h)(1)(ii) of the Regulations, including the look-through rule set forth therein at § 1.7704-1(h)(3);

(iii) if such Transfer or issuance would affect the Company's existence or qualification as a limited liability company under the LLC Law;

(iv) if such Transfer or issuance would cause the Company to lose its status as a partnership for federal income tax purposes, if applicable;

(v) if such Transfer or issuance would cause a termination of the Company for federal income tax purposes;

(vi) if such Transfer or issuance would cause the Company to be required to register as an investment company under the Investment Company Act of 1940, as amended; or

(vii) if such Transfer or issuance would cause the assets of the Company to be deemed "Plan Assets" as defined under the Employee Retirement Income Security Act of 1974 or its accompanying regulations or result in any "prohibited transaction" thereunder involving the Company.

(c) Any Transfer or attempted Transfer of any Membership Interest in violation of this Agreement shall be null and void, no such Transfer shall be recorded on the Company's books and the purported Transferee in any such Transfer shall not be treated (and the purported Transferor shall continue be treated) as the owner of such Membership Interest for all purposes of this Agreement.

(d) For the avoidance of doubt, any Transfer of a Membership Interest permitted by this Agreement shall be deemed a sale, transfer, assignment or other disposal of such Membership Interest in its entirety as intended by the parties to such Transfer, and shall not be deemed a sale, transfer, assignment or other disposal of any less than all of the rights and benefits described in the definition of the term Membership Interest, unless otherwise explicitly agreed to by the parties to such Transfer.

Section 9.2. Buy-Sell. In the event of a Transfer or attempted Transfer by a Member (the "Selling Member") in violation of this Agreement (a "Violating Transfer"), the Company shall have the option, but not the obligation, to purchase the Membership Interest of the Selling Member pursuant to the provisions of this Section 9.2.

(a) The Company shall only exercise the option to purchase the Membership Interest of the Selling Member if such exercise is approved by a Supermajority. Upon becoming aware of a Violating Transfer and for a period of one hundred eighty days (180) thereafter the Company may give

notice to the Selling Member that the Company desires to acquire some or all of the Membership Interest of the Selling Member.

(b) The purchase price for such Selling Member or his personal representatives, heirs or assigns at Closing (defined below). Membership Interest shall be the "Purchase Price", as determined in Section 9.7, and shall be paid as follows:

(i) By delivery of a promissory note executed by the Company without interest due and payable upon the tenth (10^{th}) anniversary of the Closing. The Company may, at its election, prepay all or part of the promissory note without penalty.

(ii) At Closing, the Company shall use commercially reasonable efforts to cause the Selling Member to be released of all indebtedness owed by the Company, and in all events shall indemnify and hold the Selling Member harmless from same. At Closing, the Selling Member or his personal representatives, heirs, successors, or assigns, as the case may be, shall execute and deliver to the Company an assignment of all of the Selling Member's Membership Interest, free and clear of all liens, encumbrances, and restrictions, together with representations and warranties in favor of the Company as to title and authority to transfer said Membership Interests.

Section 9.3. Lifetime Sale.

(a) Right of First Refusal. If at any time a Member (such Member referred to herein for convenience as the "Offeror") shall desire to dispose of all or any part of his Membership Interest in the Company and the Offeror has a bona fide offer to do so, the Offeror shall have no right to dispose of such Membership Interest without first giving notice to the Company of his/her desire to dispose of such Membership Interest. Such notice shall contain the name and address of the proposed Transferee and the price and the terms of payment for the Membership Interest, and shall constitute an offer by the Offeror to sell all of the Offeror's Membership Interest to the Company at the price and on the terms stated in the notice. The Company may exercise its rights under this Section 9.3(a) by delivering written notice of the acceptance within thirty (30) days of its receipt of the Offeror's notice of intent to dispose. If the offer is not accepted in full by the Company within thirty (30) days after it is received, a like offer shall be made in writing to the remaining Members of the Company, who shall have the right to purchase all, but not less than all, of the remaining Membership Interest offered for sale. Each remaining Member may exercise his rights under this Section 9.3(a) by delivering written notice of acceptance within thirty (30) days of his receipt of the Offeror's notice of intent to dispose. Should the Company and the remaining Members decline to purchase any portion of the Offeror's Membership Interest, such portion may be disposed of to that person named in the Offeror's notice as the prospective transferee, but only in accordance with those terms and conditions specified in the Offeror's notice. If such disposition to the person named in the Offeror's notice is not closed within ninety (90) days after the Company and remaining Members decline to purchase any portion of the Offeror's Membership Interest, the right of the Offeror to dispose of his Membership Interest to such other party shall lapse and any further attempt to dispose of the Membership Interest shall again be subject to the terms and conditions of this (a).

(b) Sale By Judicial Proceeding. If a Member is ordered or directed to dispose of all or any part of the Membership Interest which he owns or hereafter acquires in the Company, or is divested of such Membership Interest pursuant to a judicial proceeding (the "Divested Member"), the Company shall purchase such Membership Interest at the price set forth in Section 9.7 of this Agreement and upon the terms and conditions set forth in Section 9.8 and Section 9.10 of this Agreement. Notwithstanding the purchase price of the Membership Interest determined in this Agreement, if the court presiding over the judicial proceeding has the authority to and does determine a different price for the Membership Interest, the judicially determined price shall be the price for such Membership Interest.

Section 9.4. **Sale Upon Death**. Upon the death of a Member ("the Deceased Member"), the Company shall purchase from the personal representatives of the estate of the Deceased Member all of the Membership Interest in the Company owned by the Deceased Member at the time of his death. The purchase price of the Membership Interest shall be as set forth in Section 9.7 of this Agreement and the terms and conditions of purchase shall be as set forth in Section 9.8 and Section 9.10 of this Agreement. The Deceased Member hereby agrees that, upon his death, his estate shall sell all of the Membership Interest owned by it in the Company, pursuant to the provisions of this Agreement.

Section 9.5. **Sale Upon Disqualification**.

(a) In the event of a Member's Disqualification (the "Disqualified Member"), the Company shall have the right, privilege and option of purchasing from the Disqualified Member all or any part of the Membership Interest in the Company owned by the Disqualified Member. Should the Company desire to exercise such option, it shall give notice in writing to the Disqualified Member within 60 days following the date of Disqualification of the Disqualified Member. If the option to purchase is exercised by the Company, the purchase price of the Membership Interest shall be as set forth in Section 9.7 of this Agreement and the terms and conditions of purchase shall be as set forth in Section 9.8 and Section 9.10 of this Agreement.

(b) If the Company does not exercise the option as to all of the Membership Interest owned by the Disqualified Member, the remaining Members shall have the option to purchase within sixty (60) days of the expiration of the Company's option to purchase, all of the remaining Disqualified Member's Membership Interest, at the same price and upon the same terms and conditions as the Company. If the option granted to the remaining Members is not exercised with respect to all of the remaining Membership Interest within this sixty (60) day option period, then the preceding option of the Company shall be null and void, and the Disqualified Member may sell all, but not less than all, of such Membership Interest to any other person or persons within 30 days thereafter. If the Membership Interest is not sold within this 30-day period, the limitations of this Agreement shall continue to apply to the Disqualified Member's Membership Interest and at any time thereafter the Company may exercise its option to purchase or allow the Members to exercise their option to purchase the Disqualified Member's Membership Interest pursuant to this Section 9.5 by delivery of written notice to the Disqualified Member.

Section 9.6. **More Than One Remaining Member**. If there is more than one remaining Member to whom an offer is made under any of the provisions of this ARTICLE IX, each of the remaining Members shall have the right to purchase a proportionate share of the Membership Interest of the selling Member determined according to each of the remaining Member's relative rights to Distributions within the meaning of Section 6.1. Should any remaining Member not desire to purchase his proportionate share of the seller Member's Membership Interest, then each remaining Member who intends to purchase his proportionate share of such interest (the "Purchasing Member" or "Purchasing Members") may purchase his proportionate share of the unsold selling Member's Membership Interest. After each Purchasing Member purchases his proportionate share of such interest, if any of the selling Member's Membership Interest remains unpurchased, the Purchasing Members shall again have the right to purchase a proportionate share of the Membership Interest of the selling Member's Membership Interest which remains, until all of the selling Member's Membership Interest is sold.

Section 9.7. **Purchase Price**.

(a) For purposes of this Agreement, Selling Member, Divested Member, and the estate of a Deceased Member shall hereinafter collectively be referred to as "Seller", and the Company and/or the Purchasing Members shall be referred to as the "Purchaser".

(b) Except as otherwise provided in this Agreement, the "Purchase Price" of the Membership Interest shall be an amount equal to six (6) times the Earnings of the Company for the calendar year immediately preceding the Applicable Date.

(c) "Applicable Date" shall mean, as the case may be:

(i) the date an offer to sell a Membership Interest is made to the Company or remaining Members pursuant to Section 9.3; or

(ii) the date of death of a Deceased Member; or

(iii) The date of Disqualification of a Member.

Section 9.8. Closing.

(a) The closing of a transaction of purchase and sale pursuant to this Agreement (hereinafter referred to as the "Closing") shall take place in the offices of the law firm regularly employed by the Company at 10:00 a.m. as follows: (i) no later than the sixtieth (60th) day from the date an offer to sell is accepted or an option to purchase is exercised by the Company or the Members or one hundred twenty (120) days after the Applicable Date, whichever event is the last to occur, as the case may be; or (ii) if the purchase is pursuant to Section 9.2, on or about the sixtieth (60th) day following the final determination of the Purchase Price, but not later than one hundred twenty (120) days after the option to purchase is exercised; or (iii) at such other time and place as mutually agreed upon by the parties (hereinafter referred to as the "Closing Date").

(b) At the Closing, the Seller or Seller's personal representative shall execute and deliver to the Purchaser of the Membership Interest the instruments necessary to give to the purchasers title to the Membership Interest, and shall do and perform all other acts and shall execute any other documents as are reasonably necessary to consummate the purchase and sale and to transfer to such purchaser good title to the Membership Interest.

(c) The Purchaser shall deliver to the Seller a cashier's or certified check for the portion of the Purchase Price of the Membership Interest to be paid at the Closing.

Section 9.9. Vesting. Notwithstanding the foregoing, a Seller shall not be entitled to receive the entire purchase price as determined under Section 9.7, unless such Seller has been a Member of the Company for at least ten (10) years.

(a) If a purchase/sale of a Membership Interest occurs prior to the last day of the tenth (10th) year following the date of the Seller's initial purchase of a Membership Interest in the Company, the purchase price for such Membership Interest shall be the purchase price as otherwise determined under Section 9.7, multiplied by the vesting percentage set forth in Section 9.9(b) below.

(b) The vesting percentage shall be calculated based on the following schedule:

Anniversary Year of Membership Interest Purchase	Vesting Percentage
1	10%
2	20%

3	30%
4	40%
5	50%
6	60%
7	70%
8	80%
9	90%
10	100%

(c) This Section 9.9 shall not apply to E. Van Johnson, M.D., Timothy Van Johnson, M.D. or Thomas M. Davis, Jr., M.D.

Section 9.10. Payment of Purchase Price.

(a) Except as otherwise provided in this Agreement, the purchase price of any Membership Interest sold or purchased pursuant to this Agreement shall be payable in sixty (60) equal consecutive monthly payments of principal and interest, with the first of said payments being due on the first day of the month immediately following the Closing Date and the remaining payments being due and payable on the first day of each month thereafter until paid in full.

(b) If at the Closing only a portion of the Purchase Price is paid, the purchaser or purchasers shall execute and deliver to the Seller, or the personal representative of Seller, a negotiable promissory note for the unpaid balance of the Purchase Price due from the purchaser or purchasers, payable with interest at the minimum interest rate required to avoid imputation of interest under Section 483 and Section 1274 of the Internal Revenue Code of 1986, as amended, as of the Closing Date from the Closing Date until paid in full. The note or notes shall provide for the acceleration of the due date of any unpaid note or notes in the event of default in the payment of any installment due on any note, or interest due thereon, and shall also give the maker thereof the option of prepayment, in whole or in part, at any time, without penalty.

ARTICLE X
ACCOUNTING; TAX MATTERS

Section 10.1. Income Tax Status. It is the intent of this Company and the Members that this Company shall be treated as a partnership for U.S., federal, state and local income tax purposes. Neither the Company nor any Member shall make an election for the Company to be classified as other than a partnership pursuant to Section 301.7701-3 of the Regulations.

Section 10.2. Partnership Representative.

(i) Appointment. For taxable years beginning after December 31, 2017 (or any earlier year, if the Partnership Representative so elects in accordance with IRS procedures) (i) Timothy Van Johnson, M.D. is designated, and will be specifically authorized to act as, the "Partnership

Representative", as that term is defined under Section 6223(a) of the Code, and (ii) the Partnership Representative will apply the provisions of subchapter C of Chapter 63 of the Code, as amended by the 2015 Act (or any successor rules thereto) with respect to any audit, imputed underpayment, other adjustment, or any such decision or action by the Internal Revenue Service with respect to the Company or the Members for such taxable years, in the manner determined by the Partnership Representative in his sole discretion. For the avoidance of doubt, the Partnership Representative may (A) elect to apply the rules in subchapter C of Chapter 63 of the Code, as amended by the 2015 Act, for taxable years prior to January 1, 2018, or (B) elect to apply Section 6221(b) (if applicable) or Section 6226 of the Code or elect to file an administrative adjustment pursuant to Section 6227 of the Code, in each case as amended by the 2015 Act and in the manner determined by the Partnership Representative. If Timothy Van Johnson, M.D. shall cease to be a Permanent Manager of the Company, the Members shall appoint a Manager by the affirmative vote of a Majority to be the Partnership Representative. Each Member does hereby agree to indemnify and hold harmless the Company and the Partnership Representative from and against any liability (including, but not limited to, any tax payment and legal and accounting fees incurred) with respect to the decisions of the Partnership Representative resulting in such Member being allocated a share (as reasonably determined by the Partnership Representative) of any tax deficiency paid or payable by the Company with respect to an audited or reviewed taxable year for which such Member was a Member in the Company (for the avoidance of doubt, including any applicable interest and penalties). The obligation set forth in this Section 10.2 will survive such Member's ceasing to be a Member in the Company and/or the termination, dissolution, liquidation and winding up of the Company.

(ii) Cooperation. Each Member will provide such cooperation and assistance, including completion and execution of any and all filing forms or other statements and provision of information about the Member, as is requested by the Partnership Representative or Partnership Representative, as applicable, to enable the Company to satisfy any applicable tax reporting, payment or compliance requirements, to make any tax election or to qualify for an exception from or a reduced rate of tax or other tax benefit or be relieved of liability for any tax regardless of whether such requirement, tax benefit or tax liability existed on the date such Member was admitted to the Company. If a Member fails to provide any such forms, statements, or other information requested by the Partnership Representative or Partnership Representative, as applicable, such Member will be required to indemnify the Company for the share of any tax deficiency paid or payable by the Company that is due to such failure (as reasonably determined by the Manager). The obligations set forth in this Section 10.2 will survive such Member's ceasing to be a Member in the Company and/or the termination, dissolution, liquidation and winding up of the Company. Each Member understands the Partnership Representative has the ability and right to allocate any imputed underpayment of tax or other tax penalty liability to any Member, regardless of whether that Member is a Member at the time of the audit or as of the year that is under audit, provided such allocation shall be in accordance with the Membership Interest owned by the Member either at the time of the audit or as of the year that is under audit, as applicable.

(b) Tax Examinations and Audits. The Partnership Representative is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by Taxing Authorities, including resulting administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. The Partnership Representative shall promptly notify the Members if any tax return of the Company is audited or if any adjustments are proposed by any Taxing Authority, and shall take such action as is necessary to cause each other Member to become a notice partner within the meaning of Section 6231(a)(8) of the Code. Without the consent of the other Members, the Partnership Representative shall not extend the statute of limitations, file a request for administrative adjustment, file suit relating to any Company tax refund or deficiency or enter into any settlement agreement relating to items of income, gain, loss or deduction of the Company with any Taxing Authority.

(c) Income Tax Elections. The Partnership Representative will make an election under Section 754 of the Code, if requested in writing by another Member. Except as otherwise provided herein, all determinations as to tax elections and accounting principles shall be made solely by the Partnership Representative; *provided*, that any determination that would benefit the Partnership Representative to the detriment of another Member shall require the consent of the other Member.

(d) Tax Returns and Tax Deficiencies. Each Member agrees that such Member shall not treat any Company item inconsistently on such Member's federal, state, foreign or other income tax return with the treatment of the item on the Company's return.

(e) Resignation. The Partnership Representative may resign at any time if there is another Person to act as the Partnership Representative.

Section 10.3. Tax Returns. At the expense of the Company, the Board of Managers (or any Officer designated by the Board of Managers pursuant to Section 7.7) shall endeavor to cause the preparation and timely filing (including extensions) of all tax returns required to be filed by the Company pursuant to the Code as well as all other required tax returns in each jurisdiction in which the Company own property or do business. As soon as reasonably possible after the end of each Fiscal Year, the Board of Managers or designated Officer will cause to be delivered to each Person who was a Member at any time during such Fiscal Year, Schedule K-1 (Form 1065) and such other information with respect to the Company as may be necessary for the preparation of such Person's federal, state and local income tax returns for such Fiscal Year.

Section 10.4. Company Funds. All funds of the Company shall be deposited in its name, or in such name as may be designated by the Board of Managers, in such checking, savings or other accounts, or held in its name in the form of such other investments as shall be designated by the Board of Managers. The funds of the Company shall not be commingled with the funds of any other Person. All withdrawals of such deposits or liquidations of such investments by the Company shall be made exclusively upon the signature or signatures of such Officer or Officers as the Board of Managers may designate.

ARTICLE XI
RECORDS TO BE MAINTAINED; RIGHT TO INFORMATION

Section 11.1. Records to be Maintained. The Board of Managers shall maintain the following records:

(a) a current list of the full name and last known business or residence street address of each Member, including a list of the value of all Capital Contributions made by each such Member;

(b) a copy of the filed Certificate of Formation and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any documents have been executed;

(c) copies of the Company's federal, state, and local income tax returns and reports, if any, for the three (3) most recent years;

(d) copies of this Agreement, including any amendments hereto; and

(e) copies of any financial statements of the Company for the three (3) most recent years.

Section 11.2. **Member Rights to Information**. The Board of Managers shall provide Members (or an agent, attorney, or legal representative of a Member), reasonable access to the books and records of the Company pursuant to this Agreement and the LLC Law. The records set forth in Section 11.1 above, and any other books and records of the Company, wherever situated, may be inspected and copied by a Member (or an agent, attorney or legal representative of a Member), for any proper purpose, by providing at least ten (10) day's advance Notice to the Board of Managers (such Notice to include a description of the records requested and the purpose(s) for which such records are being requested). The Company may impose a reasonable charge, limited to the costs of labor and material, for copies of any books or records furnished. Furthermore, the Board of Managers shall be entitled to require the Member (and/or the agent, attorney or legal representative of the Member, as the case may be) to execute a confidentiality agreement as a condition precedent to receiving, inspecting or copying any books or records of the Company. Notwithstanding the foregoing, under no circumstances shall a Member's right to the books and records of the Company under this Section 11.2 extend to information that the Company is required, by law or agreement with a third party, to keep confidential.

Section 11.3. **Former Member Rights to Information**. The right to the books and records (and information) of the Company, as described in Section 11.2 above, shall extend to a Person who is a former (now dissociated) Member of the Company (or an agent, attorney or legal representative of such Person) but only to the extent that (a) the information sought pertains to a period during which such Person was a Member, (b) was material to such Person's rights and duties under this Agreement or the LLC Law when such Person was a Member, and (c) such Person seeks the information in good faith and for a proper purpose. Additionally, such Person (or the agent, attorney or legal representative of such Person) must provide at least thirty (30) day's advance written Notice to the Company, which notice shall describe the information sought, the periods with respect to which the information is sought and the purpose(s) therefor. Furthermore, in the event the request meets each of the foregoing conditions, the Board of Managers shall be entitled to require any such former Member (and/or the agent, attorney or legal representative of such Person, as the case may be) to execute a confidentiality agreement as a condition precedent to receiving, inspecting or copying any such books or records of the Company. Notwithstanding the foregoing, under no circumstances shall a right to the books and records of the Company under this Section 11.3 extend to information that the Company is required, by law or agreement with a third party, to keep confidential.

Section 11.4. **Other Persons**. Except as otherwise explicitly provided in Section 11.2 and Section 11.3 above, no Person (including a mere holder of a Transferable Interest) shall be entitled to or have any right to receive, access, inspect, or copy any books, records or other information about, held, or maintained by, the Company.

Section 11.5. **Reports to Members**. Subject to ARTICLE X above, the Board of Managers shall provide reports to the Members at such time and in such manner as the Board of Managers may determine reasonable but the Board of Managers shall provide all Members with those information returns required by the Code, Applicable Law, or otherwise properly required by any Taxing Authority.

ARTICLE XII
DISSOLUTION AND LIQUIDATION

Section 12.1. **Events of Dissolution**. The Company shall be dissolved and its affairs wound up only upon the occurrence of any of the following events:

(a) the determination of all the Members to dissolve the Company;

(b) the sale, exchange, involuntary conversion, or other disposition or Transfer of all or substantially all the assets of the Company; or

(c) the entry of a decree of judicial dissolution under the LLC Law; *provided, however*, that, notwithstanding anything contained herein to the contrary, no Member shall make an application for the dissolution of the Company without the approval of a Supermajority.

Section 12.2. Effectiveness of Dissolution. Dissolution of the Company shall be effective on the day on which the event described in Section 12.1 occurs, but the Company shall not terminate until the winding up of the Company has been completed, the assets of the Company have been distributed as provided in Section 12.3 and the Certificate of Formation shall have been cancelled as provided in Section 12.4.

Section 12.3. Liquidation. If the Company is dissolved pursuant to Section 12.1, the Company shall be liquidated and its business and affairs wound up in accordance with the LLC Law and the following provisions:

(a) Liquidator. The Board of Managers or the Manager designated by the Board of Managers shall act as liquidator to wind up the Company (the "Liquidator"), unless the Company is being dissolved pursuant to Section 12.1(c). The Liquidator shall have full power and authority to sell, assign, and encumber any or all of the Company's assets and to wind up and liquidate the affairs of the Company in an orderly and business-like manner.

(b) Accounting. As promptly as possible after dissolution and again after final liquidation, the Liquidator shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable.

(c) Distribution of Proceeds. The Liquidator shall liquidate the assets of the Company and distribute the proceeds of such liquidation in the following order of priority, unless otherwise required by mandatory provisions of Applicable Law:

(i) *first*, to the payment of all of the Company's debts and liabilities to its creditors (including Members, if applicable) and the expenses of liquidation (including sales commissions incident to any sales of assets of the Company);

(ii) *second*, to the establishment of and additions to reserves that are determined by the Board of Managers to be reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company; and

(iii) *third*, to the Members in accordance with the positive balances in their respective Capital Accounts, as determined after taking into account all Capital Account adjustments for the taxable year of the Company during which the liquidation of the Company occurs.

(d) Discretion of Liquidator. Notwithstanding the provisions of Section 12.3(c) that require the liquidation of the assets of the Company, but subject to the order of priorities set forth in Section 12.3(c), if upon dissolution of the Company the Liquidator reasonably determines that an immediate sale of part or all of the Company's assets would be impractical or could cause undue loss to the Members, the Liquidator may defer the liquidation of any assets except those necessary to satisfy Company liabilities and reserves, and may distribute to the Members, in lieu of cash, as tenants in common and in accordance with the provisions of Section 12.3(c), undivided interests in such Company assets as the Liquidator deems unsuitable for liquidation. Any such distribution in kind shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to

any agreements governing the operating of such assets or properties at such time. For purposes of any such distribution, any property to be distributed will be valued at its Fair Market Value.

Section 12.4. **Cancellation of Certificate**. Upon completion of the distribution of the assets of the Company as provided in Section 12.3(c) hereof, the Company shall be terminated and the Liquidator shall cause the cancellation of the Certificate of Formation in the State of Alabama and of all qualifications and registrations of the Company as a foreign limited liability company in jurisdictions other than the State of Alabama and shall take such other actions as may be necessary to terminate the Company. The Liquidator shall file a statement of dissolution.

Section 12.5. **Survival of Rights, Duties and Obligations**. Dissolution, liquidation, winding up or termination of the Company for any reason shall not release any party from any Loss that at the time of such dissolution, liquidation, winding up or termination already had accrued to any other party or thereafter may accrue in respect of any act or omission prior to such dissolution, liquidation, winding up or termination. For the avoidance of doubt, none of the foregoing shall replace, diminish or otherwise adversely affect any Member's right to indemnification pursuant to Section 8.3.

Section 12.6. **Provision for Known and Unknown Claims**. The Liquidator may, pursuant to a determination of a Supermajority, dispose of known and unknown claims against the Company by following the respective procedures outlined at §§ 10A-5A-7.04 and 10A-5A-7.05 of the LLC Law.

Section 12.7. **Recourse for Claims**. Each Member shall look solely to the assets of the Company for all Distributions with respect to the Company, such Member's Capital Account, and such Member's share of Net Income, Net Loss and other items of income, gain, loss and deduction, and shall have no recourse therefor (upon dissolution or otherwise) against the Liquidator or any other Member.

ARTICLE XIII
MISCELLANEOUS

Section 13.1. **Expenses**. Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with the preparation and execution of this Agreement, or any amendment or waiver hereof, and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

Section 13.2. **Further Assurances**. In connection with this Agreement and the transactions contemplated hereby, the Company and each Member hereby agrees, at the request of the Company or any other Member, to execute and deliver such additional documents, instruments, conveyances and assurances and to take such further actions as may be required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

Section 13.3. **Confidentiality.**

(a) Each Member acknowledges that during the term of this Agreement, it will have access to and become acquainted with trade secrets, proprietary information and confidential information belonging to the Company and its Affiliates that are not generally known to the public, including, but not limited to, information concerning business plans, financial statements and other information provided pursuant to this Agreement, operating practices and methods, expansion plans, strategic plans, marketing plans, contracts, customer lists or other business documents that the Company treats as confidential, in any format whatsoever (including oral, written, electronic or any other form or medium) (collectively, "Confidential Information"). In addition, each Member acknowledges that: (i) the Company has invested, and continues to invest, substantial time, expense and specialized knowledge in developing its Confidential

Information; (ii) the Confidential Information provides the Company with a competitive advantage over others in the marketplace; and (iii) the Company would be irreparably harmed if the Confidential Information were disclosed to competitors or made available to the public. Without limiting the applicability of any other agreement to which any Member is subject, no Member shall, directly or indirectly, disclose or use (other than solely for the purposes of such Member monitoring and analyzing its investment in the Company) at any time, including, without limitation, use for personal, commercial or proprietary advantage or profit, either during its association with the Company or thereafter, any Confidential Information of which such Member is or becomes aware. Each Member in possession of Confidential Information shall take all appropriate steps to safeguard such information and to protect it against disclosure, misuse, espionage, loss and theft.

(b) Nothing contained in Section 13.3(a) shall prevent any Member from disclosing Confidential Information: (i) upon the order of any court of competent jurisdiction or administrative agency; (ii) upon the request or demand of any regulatory agency or authority having jurisdiction over such Member; (iii) to the extent compelled by legal process or required or requested pursuant to subpoena, interrogatories or other discovery requests; (iv) to the extent necessary in connection with the exercise of any remedy hereunder; (v) to the other Members who are not restricted with respect to such Confidential Information; (vi) to such Member's Representatives who, in the reasonable judgment of such Member, need to know such Confidential Information and agree to be bound by the provisions of this Section 13.3 as a Member; or (vii) to any potential Permitted Transferee in connection with a proposed Transfer of Membership Interests from such Member, as long as such Transferee agrees to be bound by the provisions of this Section 13.3 as if a Member; *provided*, that in the case of clause (i), (ii) or (iii), such Member shall notify the Company and other Members of the proposed disclosure as far in advance of such disclosure as practicable (but in no event shall any Member make any such disclosure before notifying the Company and other Members) and use reasonable efforts to ensure that any Confidential Information so disclosed is accorded confidential treatment satisfactory to the Company, when and if available. Notwithstanding the foregoing, a Member will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that: (a) is made (i) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document that is filed under seal in a lawsuit or other legal proceeding. If a Member files a lawsuit for retaliation based on the reporting of a suspected violation of law, such Member may disclose a trade secret to his or her attorney and use the trade secret information in the court proceeding, so long as any document containing the trade secret is filed under seal and the Member does not disclose the trade secret except pursuant to court order.

(c) The restrictions of Section 13.3(a) shall not apply to Confidential Information that: (i) is or becomes generally available to the public other than as a result of a disclosure by a Member in violation of this Agreement; (ii) is or has been independently developed or conceived by such Member without use of Confidential Information; or (iii) becomes available to such Member or any of its Representatives on a non-confidential basis from a source other than the Company, the other Members or any of their respective Representatives, *provided*, that such source is not known by the receiving Member to be bound by a confidentiality agreement regarding the Company.

(d) The obligations of each Member under this Section 13.3 shall survive (i) the termination, dissolution, liquidation and winding up of the Company, (ii) the withdrawal of such Member from the Company, and (iii) such Member's Transfer of its Membership Interests.

Section 13.4. **Notices**. All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-

mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third (3rd) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such Notice must be sent to the respective parties at the addresses set forth on Schedule A hereto (as to Members), the principal office of the Company (as to the Company or the Board of Managers), or at such other address for a party as shall be specified in a Notice given in accordance with this Section 13.4.

Section 13.5. Headings. The headings in this Agreement are inserted for convenience or reference only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision of this Agreement.

Section 13.6. Severability. If any term or provision of this Agreement is held to be invalid, illegal or unenforceable under Applicable Law in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Except as provided in Section 8.3(g), upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 13.7. Entire Agreement. This Agreement, together with the Certificate of Formation and all related Exhibits and Schedules, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

Section 13.8. Successors and Assigns. Subject to the restrictions on Transfers set forth herein, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

Section 13.9. No Third-Party Beneficiaries. Except as provided in Section 7.1, which shall be for the benefit of and enforceable by Covered Persons as described therein, this Agreement is for the sole benefit of the parties hereto (and their respective heirs, executors, administrators, successors and assigns) and nothing herein, express or implied, is intended to or shall confer upon any other Person, including any creditor of the Company, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 13.10. Amendment. No provision of this Agreement may be amended or modified except by an instrument in writing and executed by a unanimous consent of the Members and the Board of Managers of the Company. Any such written amendment or modification will be binding upon the Company and each Member. Notwithstanding the foregoing, amendments to Schedule A following any properly authorized new issuance, redemption, repurchase or Transfer of Membership Interests in accordance with this Agreement may be made by the Board of Managers without the consent of or execution by Members of the Company.

Section 13.11. Waiver. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. Unless otherwise provided for in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver

thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. For the avoidance of doubt, nothing contained in this Section 13.11 shall diminish any of the explicit and implicit waivers described in this Agreement, including in Section 13.14(a) hereof.

Section 13.12. Governing Law. All issues and questions concerning the application, construction, validity, interpretation and enforcement of this Agreement shall be governed by and construed in accordance with the internal laws of the State of Alabama, without giving effect to any choice or conflict of law provision or rule (whether of the State of Alabama or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Alabama.

Section 13.13. Submission to Jurisdiction. The parties hereby agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby, whether in contract, tort or otherwise, shall be brought in the United States District Court for the Northern District of Alabama or in the circuit court of Tuscaloosa County, Alabama, so long as one of such courts shall have subject-matter jurisdiction over such suit, action or proceeding, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of Alabama. Each of the parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding that is brought in any such court has been brought in an inconvenient form. Service of process, summons, notice or other document by registered mail to the address set forth in Section 13.4 shall be effective service of process for any suit, action or other proceeding brought in any such court.

Section 13.14. Resolution of Disputes.

(a) **Waiver of Trial by Jury**. The parties to this Agreement desire to avoid the additional time and expense related to a jury trial of any disputes arising hereunder, if the arbitration provisions in this Section 13.14 are declared by a court of law to be unenforceable for any reason. Therefore, it is mutually agreed by and between the parties hereto, and for their successors and assigns, that they shall and hereby do waive trial by jury of any claim, counterclaim, or third-party claim, including any and all claims of injury or damages, brought by either party against the other arising out of or in any way connected with this Agreement and the relationship which arises herefrom. The parties acknowledge and agree that this waiver is knowingly, freely, and voluntarily given, is desired by all parties, and is in the best interests of all parties.

(b) **Arbitration**. Except as specifically set forth herein, the parties to this Agreement agree to resolve any and all disputes related in any manner whatsoever to this Agreement including, but not limited to, any claims against the company, its officers, shareholders, employees, or agents by binding arbitration. Disputes related to employment include, but are not limited to, claims or charges based upon federal or state statutes, including, but not limited to, age discrimination in employment, Title VII of the Civil Rights Act of 1964, as amended, and any other civil rights statute, the Americans with Disabilities Act, Family and Medical Leave Act, Fair Labor Standards Act or other wage statutes, the Warn Act, claims based upon tort or contract laws or any other federal or state law affecting employment in any manner whatsoever. The parties agree that arbitration pursuant to this Agreement will be in accordance with the applicable rules of the American Arbitration Association ("AAA"), and those rules will govern the allocation of the costs of arbitration. The parties agree that each party will be responsible for their own attorneys' fees and expenses associated with the arbitration. However, in the event that a claim is brought pursuant to any law or statute which provides for the allocation of attorneys' fees and/or expenses, the

arbitrator shall have the power to allocate attorneys' fees and expenses pursuant to the applicable law or statutes. The parties agree that the arbitrator is required to follow all substantive law applicable to any dispute, including, without limitation, the applicable statute of limitations and that the arbitrator must respect any applicable attorney-client privilege, attorney work-product privilege, and any other applicable privilege. The parties further agree that the arbitrator is required to issue a written decision setting forth the decision and the reasons for that decision. Judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. Except as set forth herein, the parties agree that the arbitrator's decision cannot be appealed. The arbitrator's decision is subject to judicial review only on the grounds set forth in Title 9, Section 10 of the United States code, as well as on the ground that the decision, findings, or rationale of the decision is manifestly inconsistent with the terms of this Agreement or the Federal Arbitration Act. The parties agree that no arbitration of any dispute as required hereunder shall include class action claims. Each party agrees that he/she will not serve as a class representative or participate as a class member in an arbitration proceeding but rather will pursue all individual claims through arbitration as outlined herein. The parties expressly agree that this Section 13.14 is made pursuant to a transaction involving interstate commerce and should be governed by the Federal Arbitration Act. If any part, term or provision of this Section 13.14 is held to be illegal, void or unenforceable, or to be in conflict with any law, the validity of the remaining provisions or portions of Section 13.14 shall not be affected, and the rights of the parties shall be construed and enforced as if Section 13.14 did not contain the particular part, term or provision held invalid.

(c) **Exceptions**. The sole exception to this Section 13.14 involves suits brought on behalf of any party to this Agreement seeking a temporary restraining order, preliminary injunction and/or permanent injunction ("Injunctive Relief") based upon violation of the provisions of this Agreement by any party to this Agreement in the event that without such injunctive relief there would be immediate and irreparable injury, loss or damage. However, in the event that the party or parties are successful in obtaining Injunctive Relief as defined herein, the other party or parties shall be liable for payment of the attorneys' fees, costs, and expenses incurred by the successful party in connection with obtaining injunctive relief.

(d) **Rules**. The parties hereto agree to follow all of the rules and policies outlined herein.

(e) **Governing Act**. The Federal Arbitration Act shall govern the enforceability of any and all of the arbitration provisions of this Agreement.

Section 13.15. Equitable Remedies. Each party hereto acknowledges that a breach or threatened breach by such party of any of its obligations under this Agreement would give rise to irreparable harm to the other parties, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by such party of any such obligations, each of the other parties hereto shall, in addition to any and all other rights and remedies that may be available to them in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

Section 13.16. Attorneys' Fees. Except as provided for in Section 13.14 , in the event that any party hereto institutes any legal suit, action or proceeding against another party in respect of a matter arising out of or relating to this Agreement, the prevailing party in the suit, action or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by such party in conducting the suit, action or proceeding, including reasonable attorneys' fees and expenses and court costs.

Section 13.17. Remedies Cumulative. The rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise, except to the extent expressly provided in Section 8.2 to the contrary.

Section 13.18. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of Electronic Transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

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

COMPANY:

VISION CORRECTION CENTER, LLC

By:_____
E. Van Johnson, M.D.
Its Permanent Manager

By:_____
Timothy Van Johnson, M.D.
Its Permanent Manager

MEMBERS:

_____
E. Van Johnson, M.D.

_____
Timothy Van Johnson, M.D.

SCHEDULE A

MEMBER SCHEDULE

Dated: July 17, 2019

Member Name and Address	Date Admitted as a Member	Membership Interest
E. Van Johnson, M.D. 535 Jack Warner Parkway, Suite B-1 Tuscaloosa, Alabama 35405	5/1/2002	50%
Timothy Van Johnson, M.D. 535 Jack Warner Parkway, Suite B-1 Tuscaloosa, Alabama 35405	5/1/2017	50%
	TOTALS:	**100%**

A&B Draft 8-15-20

CO2020-036

PURCHASE AGREEMENT

by and among

[BUYER],

[SELLER]

and

THE OWNERS NAMED HEREIN

Dated as of _____, 2020

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PURCHASE AGREEMENT (ASC)

THIS PURCHASE AGREEMENT (this "Agreement") is made and entered into as of _____, 2020, by and among [BUYER], a [_____] ("Buyer") and E. Van Johnson, M.D. and Timothy V. Johnson, M.D. (together, the "Owners" or each, an "Owner"). Buyer and the Owners may each be referred to as a "Party" and collectively as the "Parties."

PREAMBLE

WHEREAS, Vision Correction Center, LLC, an Alabama limited liability company (the "Company"), is engaged in the business of providing ophthalmic ambulatory surgery services (the "Business") and operates an ambulatory surgery center at 1406 McFarland Boulevard North, Suite 2-B, Tuscaloosa, Alabama 35406 (the "Company Location");

WHEREAS, the Owners collectively own all of the issued and outstanding equity interests (the "Interests") of the Company;

WHEREAS, [_____][1]; and

WHEREAS, immediately following the closing of the transactions contemplated by this Agreement, the Owners are also entering into those certain [_____][2] (the "Other Purchase Agreements").

NOW, THEREFORE, in consideration of the premises and of the covenants made herein and of the mutual benefits to be derived herefrom, the Parties hereto, intending to be legally bound, agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Definitions. The following words and terms as used in this Agreement shall have the following meanings:

"AAPP Payments" shall mean (i) those advanced payments received from the Medicare Accelerated and Advance Payments Program for providers and suppliers during the COVID-19 emergency, issued pursuant to the Company's application(s) to the applicable Medicare Administrative Contractor(s) and potentially subject to recoupment and/or repayment and (ii) all interest accrued thereon. AAPP Payments shall include all amounts that are recouped or offset by a Program or third party payor after the Effective Time.

"Accounts Receivable" means all accounts and notes receivable of the Company (including any accounts receivable of any ophthalmologist, optometrist or other Eyecare Provider to the extent related to services performed on behalf of the Company or otherwise in connection with the operation of the Business) and all rights to payment, whether billed or unbilled, recorded or unrecorded, accrued and existing, whether or not written off, as of the Effective Time.

"Action" means any claim, action, audit, suit, proceeding, arbitral action, governmental inquiry, criminal prosecution or other investigation.

[1] NTD: To be updated once structure finalized.
[2] NTD: To be updated once structure finalized.

"Adjusted Closing Net Working Capital" means (a) the Closing Net Working Capital minus (b) the aggregate amount of any Accounts Receivable included in the calculation of Closing Net Working Capital that are not collected by the Company (or Buyer or its Affiliates) during the one hundred eighty (180) day period beginning as of the Effective Time.

"Affiliate" means, with reference to a specified Person, (a) any Person that directly or indirectly through one or more intermediaries controls or is controlled by or is under common control with the specified Person, (b) any Person who is an officer, manager or director of the specified Person or who owns or controls 5% or more of any class of equity securities (including any equity securities issuable upon the exercise of any option or convertible security) of such specified Person or any of its Affiliates, (c) any Person of which the Company (or other specified Person) shall, directly or indirectly, beneficially own at least fifty percent (50%) of such Person's outstanding equity securities, or (d) in the case of a specified Person who is an individual, any immediate family member, uncle, aunt, nephew, niece or first cousin of such Person. For purposes of this definition, "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"Aged Accounts Payable" means all accounts payable and trade payables of the Company to the extent aged more than thirty (30) days past their due date.

"Aggregate Rollover Amount" means $[_____].[3]

"Business Day" means a day other than a Saturday, Sunday or day on which commercial banks in the State of Missouri are required or authorized to be closed for business.

"Capital Leases Value" means the sum of all remaining lease payments due on leases for which the Company is the lessee and which would qualify as capital leases under GAAP (or if such leases are paid off at Closing, such payoff amount).

"Closing Cash Amount" means the total amount of cash and cash equivalents that would be reflected on a consolidated balance sheet of the Company prepared in accordance with GAAP as of immediately prior to the Effective Time, which will be calculated net of the amount of any outstanding but uncleared checks (including checks in transit, drafts and wire transfers) and any bank overdrafts. If the Company distributes any cash or cash equivalents to any Owner between the Effective Time and the time of the Closing, such amount shall be deducted from the calculation of the Closing Cash Amount.

"Closing Indebtedness" means the aggregate amount of all Indebtedness of the Company immediately prior to the Closing.

"Closing Net Working Capital" means the Net Working Capital of the Company as of the Effective Time, subject to reconciliation as set forth in Section 2.5. Closing Net Working Capital shall include an accrual for all payroll, bonuses, benefit and paid time off obligations with respect to all of the Business Employees (including each Owner, an Owner's Affiliate or any Eyecare Provider who receives payroll, bonuses, benefits and paid time off from the Company) and regardless of whether or not the Company has historically accrued for such obligations and whether or not they are included in the Example Net Working Capital Statement). For the purposes of calculating any accruals for bonuses or other contingent payments to employees, the parties shall assume that the employees of the Company were to achieve such bonus targets as are reasonably able to be projected as of the Closing Date and shall

[3] NTD: To be $2.4 million (15%) allocated among the 3 business lines in a tax efficient manner.

pro rate such bonus period and include in Closing Net Working Capital amounts for the pro rated period prior to the Closing Date.

"Closing Transaction Expenses" means, in each case solely to the extent not paid prior to the Closing, and whether or not invoiced, (a) all out-of-pocket expenses (including, without limitation, all fees and expenses of outside counsel, investment bankers, banks, other financial institutions, accountants, experts and consultants) incurred by the Company or any Owner or on its behalf in connection with or related to the preparation, negotiation, execution and performance of this Agreement, the Contemplated Transactions and all other matters contemplated by this Agreement, (b) any bonuses, compensation or other amounts payable by the Company or the Owners to any Person, including employees or contractors of the Company, as a result of or in connection with the transactions contemplated by this Agreement, including under any deferred compensation arrangement, severance plan or arrangement, bonus plan, transaction bonus, change of control bonus, equity equivalent right agreement or similar arrangement (including any "double trigger" change of control or severance arrangements), (c) the employer portion of any payroll Taxes that are incurred in connection with the payments under the foregoing clause (b) and (d) the premium and any other costs with respect to the purchase of the Tail Insurance.

"Code" means the Internal Revenue Code of 1986, as amended.

"Competing Entity" means any Person that engages in the activities of the Business or in a business which is competitive with or substantially similar to the Business, including without limitation by providing ophthalmology, optometry, optical retail and other vision services or operating an ambulatory surgery center.

"Contemplated Transactions" means the [_____][4], and the execution, delivery and performance of and compliance with this Agreement and all other Contracts, documents and instruments to be executed and delivered pursuant to this Agreement.

"Contract" means any contract, indenture, note, bond, instrument, lease, mortgage, license, binding commitment or other agreement or arrangement, whether written or oral.

"Credit Balances" means patient or payor credit balances of the Company with respect to services provided prior to the Effective Time.

"Environmental Condition" means any event, circumstance or conditions related in any manner whatsoever to: (a) the current or past presence or spill, emission, discharge, disposal, release or threatened release of any Hazardous Substance, into the environment; (b) the on-site or off-site treatment, storage, disposal or other handling of any Hazardous Substance originating on or from any real property; (c) the placement of structures or materials into waters of the United States; (d) the presence of any Hazardous Substances in any building, structure or workplace or on any portion of any real property; or (e) any violation of Environmental Laws.

"Environmental Laws" shall mean all foreign, federal, state and local laws, regulations, ordinances, decrees and orders relating to the environment, health and safety, including, without limitation, regulation of Hazardous Substances or any other material or substance which constitutes a material health, safety or environmental hazard to any Person or property, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and the Resource Conservation and Recovery Act of 1980, as amended.

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[4] NTD: To be updated once structure finalized.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means any Person who, together with the Company, would be treated as a single employer under Code Section 414 or ERISA Section 4001(b).

"Example Net Working Capital Statement" means the sample statement of Net Working Capital attached hereto as Exhibit A.

"Excess PTO Amount" means an amount equal to 100% of the cash value of all accrued paid time off for each Business Employee that is in excess of 80 hours per employee as of the Closing Date.

"Eyecare Provider" means any ophthalmologist, optometrist, physician or other eyecare or healthcare provider employed or otherwise engaged by the Company.

"Fundamental Representations" means the representations and warranties set forth in Section 4.1 (Organization), 4.2 (Authorization), 4.3 (No Violations), 4.4 (Capitalization), 4.14 (Taxes), 4.16 (Employee Benefits), 4.20 (Brokers, Finders and Investment Bankers), 4.22 (Title to Assets), 4.25 (Sufficiency of Assets), 4.31 (COVID-19 Matters) and Article 5.

"GAAP" means generally accepted accounting principles of the United States of America consistently applied.

"Governmental Authority" means any government, any governmental or quasi-governmental entity, department, commission, board, bureau, agency or instrumentality, and any court, tribunal or judicial body, in each case whether federal, state, county, provincial, local or foreign.

"Governmental Order" means any statute, rule, regulation, order, judgment, injunction, decree, subpoena, legal process, stipulation or determination issued, promulgated or entered by or with any Governmental Authority of competent jurisdiction.

"Hazardous Substances" means any solid, liquid or gaseous material, alone or in combination, mixture or solution, which is defined, listed or identified as hazardous (whether a substance, material or waste), "toxic," "pollutant" or "contaminant" pursuant to Environmental Laws, including, without limitation, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon, mold, petroleum or petroleum products and any other material or substance limited, controlled or regulated under any applicable Environmental Laws.

"HIPAA" means the Administrative Simplification provisions of title II, subtitle F, of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) and all regulations promulgated thereunder, including the Privacy Standards (45 C.F.R. Parts 160 and 164, Subparts A and E), the Electronic Transactions Standards (45 C.F.R. Parts 160 and 162), and the Security Standards (45 C.F.R. Parts 160 and 164, Subparts A and C), the Enforcement Rule (45 C.F.R. Part 160, Subparts C-E), and the Breach Notification Rule (45 C.F.R. Part 164, Subpart D), as amended by the HITECH Act, the final HIPAA/HITECH Omnibus Rules published by the U.S. Department of Health and Human Services on January 25, 2013, and as otherwise may be amended from time to time.

"HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, Title XIII of division A and Title IV of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), as amended.

"Indebtedness" means with respect to a Party: (a) all indebtedness of such Party for borrowed

money, (b) all obligations of such Party for the deferred purchase price of property or assets, including without limitation all earn-out payments due under any Contracts relating to the acquisition of any other Person by such Party or any Contracts contemplated thereby, (c) all obligations of such Party evidenced by notes (including promissory notes issued in consideration for the purchase of equity interests or assets of any business), bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all indebtedness secured by a purchase money mortgage or other lien to secure all or part of the purchase price of property subject to such mortgage or lien, (f) any Liability in respect of banker's acceptances, letters of credit, surety bonds or similar arrangements, (g) any obligations under capital leases, including the Capital Leases Value, (h) any interest rate protection, swap agreement or collar agreement, (i) all obligations relating to deferred compensation, defined benefit pension, termination indemnity, gratuity or other unfunded or underfunded benefit plans or arrangements, and in each case the employer portion of any payroll, social security, unemployment or similar Taxes relating thereto, (j) all Post-Closing Benefit Plan Contributions; (k) the Aged Accounts Payable, to the extent not paid in full on or prior to the Closing; (l) the Excess PTO Amount, to the extent not paid in full to the applicable employees on or prior to the Closing or accrued as a reduction in the net calculation of the Closing Cash Amount; (m) the Credit Balances, to the extent not paid in full on or prior to the Closing; (n) the obligation to make distributions or "dividends" to equity owners which have been declared or accrued, (o) AAPP Payments that have not been repaid or recouped as of the Effective Time, (p) all indebtedness of any other Person (including indebtedness referred to in clauses (a) through (p) above) which is directly or indirectly guaranteed by or which such Party has agreed (contingently or otherwise) to purchase or otherwise acquire or in respect of which it has otherwise assured a creditor against loss, which in each instance shall include all accrued interest thereon and applicable prepayment premiums and any other fees, costs or expenses payable in connection therewith, including breakage costs.

"Information Privacy or Security Laws" means HIPAA and all other Laws concerning the privacy or security of Personal Information, including state data breach notification Laws, state health privacy and information security Laws, the FTC Act, the regulations set forth in 16 C.F.R. Part 681 and state consumer protection Laws.

"Knowledge of the Buyer" means (whether or not capitalized) those facts and circumstances known by Kelly McCrann or Kathleen Shea and the knowledge that each such Person would reasonably be expected to obtain upon making due inquiry of those employees of Buyer with principal day-to-day operational responsibility with respect to the particular subject matter in question.

"Knowledge of the Owners" means (whether or not capitalized) those facts and circumstances known by any of the Owners, Dan Hogue, Kelly Marino, Kim Moorehead, Dorothy Powell [NOTE TO RUSSELL: Practice admins and bookkeepers for the ASC and Practice] and [_____] and the knowledge each such Persons would reasonably be expected to obtain upon making due inquiry of those employees of the Company with principal day-to-day operational responsibility with respect to the particular subject matter in question.

"Law" shall mean any law, statute, ordinance, regulation, rule, notice requirement, court decision, agency guideline, principle of law and order of any Governmental Authority, including environmental, healthcare, energy, motor vehicle safety, public utility, zoning, building and health codes, occupational safety and health, and laws respecting employment practices, employee documentation, terms and conditions of employment and wages and hours.

"Liability" means any indebtedness, obligation or other liability (whether absolute, accrued,

matured, contingent, known or unknown, fixed or otherwise, determined or determinable or whether due or to become due), including without limitation, any fine, penalty, expense, judgment, award or settlement respecting any judicial administrative or arbitration proceeding, damage, loss, claim or demand.

"Lien" means any charge, claim, community or other marital property interest, condition, equitable interest, lien, option, pledge, security interest, mortgage, right of way, easement, encroachment, servitude, right of first option, right of first refusal or similar restriction, including any restriction on use, voting (in the case of any security or equity interest), transfer, receipt of income or exercise of any other attribute of ownership.

"Material Adverse Effect" means, with respect to any Person, any event, fact, circumstance, condition, development, change in, effect or occurrence that, individually or in the aggregate with any other event, fact, circumstance, condition, development, change in, effect or occurrence, has had or could reasonably be expected to have a materially adverse effect on (a) the business, assets, operation, condition (financial or otherwise), or results of operations of the business of such Person or (b) the ability of the Person or the equity holders of the Person to perform its or their obligations under this Agreement, its organizational and constituent documents and agreements or to consummate the Contemplated Transactions; provided, that with respect to clause (a) only, none of the following shall be deemed to constitute a Material Adverse Effect: any adverse change or effect arising from or relating to (i) the economy in general, (ii) the economic, business, financial or regulatory environment generally affecting the industries in which the Person operates, (iii) an act of terrorism or an outbreak or escalation of hostilities or war (whether declared or not declared) or any natural disasters or any national or international calamity or crisis, or (iv) changes to the applicable principles of accounting applicable to such Person (i.e. income tax basis of accounting principles in the case of the Company or GAAP in the case of Buyer), except to the extent any of the events in subsections (i) through (iv) above have a material and disproportionate adverse effect on the Person as compared to other participants in the industries in which the Person operates.

"Net Working Capital" means (i) the aggregate value of Accounts Receivable, inventory, prepaid expenses, and other current assets of the Company (excluding cash) minus (ii) the aggregate value of the accounts and trade payables (other than Aged Accounts Payable), accrued expenses and other current Liabilities of the Company (including accrued compensation and benefits, including paid time off and other leave) calculated in accordance with GAAP, in each case using only the line items set forth in the Example Net Working Capital Statement. In no event shall any Indebtedness, Taxes or Closing Transaction Expenses be included in the calculation of Net Working Capital (notwithstanding anything in the Example Net Working Capital Statement to the contrary).

"Net Working Capital Adjustment Amount," which may be positive or negative, shall mean the Adjusted Closing Net Working Capital, as finally determined in accordance with Section 2.5, minus the Target Net Working Capital.

"Permitted Liens" means (a) liens for mechanics' and materialmen's liens and workmen's, repairmen's, warehousemen's, carriers' liens arising in the ordinary course of business, the obligations of which are not delinquent, or (b) Liens for Taxes (including assessments and similar charges) that are not yet due.

"Person" means an individual, firm, partnership, limited liability company, association, unincorporated organization, trust, corporation, or any other entity or organization including, without limitation, a government or political subdivision or any department, agency or instrumentality thereof.

"Personal Information" means any information with respect to which there is a reasonable basis

to believe that the information can be used to identify an individual, including "individually identifiable health information" as defined in 45 C.F.R. § 160.103, demographic information, and Social Security numbers.

"Post-Closing Benefit Plan Contributions" means any contributions required to be made to the Company's current 401(k) plan, profit sharing plan, or cash balance pension plan after the Effective Time during the post-Closing termination and wind-down period for each plan. For the avoidance of doubt, Post-Closing Benefit Plan Contributions shall include all payments required under the Company's cash balance pension plan, whether such contributions are required for services provided prior to or after the Effective Time. Post-Closing Benefit Plan Contributions shall include amounts accrued (or that would be accrued under an accrual method of accounting) under the Company's profit sharing plan that would be paid following the end of the current plan year in the ordinary course of business but for the transactions contemplated by this Agreement and the termination of such profit sharing plan, and the Owners shall cooperate with Buyer to enable Buyer either to pay such accrued amounts to the employees of the Company or to reduce the Purchase Price such that Buyer may pay such accrued amounts to the employees of the Company. Post-Closing Benefit Plan Contributions shall include any payroll taxes or withholdings related thereto.

"Proprietary Rights" means all of the following proprietary rights that, now or hereafter, may be secured throughout the world: (a) patents, patent rights, patent applications, patent disclosures and inventions and improvements thereto (whether or not patentable and whether or not reduced to practice), and any reissues, continuations, continuations-in-part, revisions, extensions, renewals or reexaminations thereof; (b) internet domain names, trademarks, service marks, trade dress, logos, trade names and entity names together with all goodwill associated therewith; (c) copyrights (registered or unregistered) and copyrightable works and registrations, applications for registration and renewals thereof; (d) mask works and all registrations, applications and renewals thereof; (e) trade secrets and confidential business information; (f) computer software, data, data bases, systems and related documentation; (g) other proprietary rights; (h) all copies and tangible embodiments of the foregoing (in whatever form or medium); and (i) licenses granting any rights with respect to any of the foregoing. A Party's "Proprietary Rights" means all Proprietary Rights in which such Party has or asserts an ownership interest.

"Restricted Territory" shall mean the territory within a twenty-five (25) mile radius around the Company Location and each other location where the Company provides ophthalmology and other vision services during the thirty (30) day period immediately following the Closing.

"Rollover Units" shall mean [_____] Class B common units of ECP Parent received by the Company pursuant to the Contribution Agreement.

"Straddle Period" shall mean any taxable period that begins prior to, and ends after, the Closing Date.

"Target Net Working Capital" means $[_____].[5]

"Tax" or "Taxes" means any federal, state, county, provincial, local or foreign income, gross receipts, sales, use, ad valorem, employment, severance, transfer, gains, profits, excise, franchise, property, capital stock, premium, minimum and alternative minimum or other taxes, fees, levies, duties, assessments or charges of any kind or nature whatsoever imposed by any Governmental Authority, including under escheat or unclaimed property Laws (whether payable directly or by withholding and including any tax Liability incurred or borne as a transferee or successor, by contract or otherwise),

[5] NTD: Buyer to provide target.

together with any interest, penalty (civil or criminal), or additional amounts imposed by, any Governmental Authority with respect thereto.

"Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"Transfer Taxes" means sales, use, transfer, real property transfer, recording, documentary, stamp, registration, stock or equity transfer, and other similar taxes.

1.2 Terms Defined Elsewhere. The following is a list of additional terms used in this Agreement and a reference to the Section hereof in which such term is defined:

Term	Section
Agreement	Introduction
Allocation Schedule	7.3(a)
Applicable Time Limit	8.4(b)
Assignment Agreement	3.2(b)
Base Purchase Price	2.2(a)
Basket	8.3(a)
Benefit Plans	4.16(a)
Business	Preamble
Business Employees	4.15(a)
Business Insurance Policies	4.21
Buyer	Introduction
Buyer Indemnified Parties	8.1
Cap	8.3(b)
Cash Purchase Price	2.2(a)
Clarkson	Preamble
Closing	3.1
Closing Date	3.1
COBRA	4.16(i)
Company	Preamble
Company Documents	4.2
Company Location	Preamble
Confidential Information	7.1(b)
Determination Date	2.5(c)
Disputed Line Items	2.5(b)
EEOC	4.17
Effective Time	3.1
Escrow Agreement	2.4(a)
Escrow Amount	2.4(a)
Escrow Funds	2.4(a)
Estimated Cash Purchase Price	2.3
Estimated Net Working Capital	2.3
False Claims Act	4.9(a)
Federal Anti-Kickback Statute	4.9(a)
Financial Statements	4.5(a)
Indemnitee	8.5
Indemnitor	8.5
Initial Calculation	2.5(a)

Term	Section
Interests	Preamble
Interim Balance Sheet	4.5(a)
Interim Balance Sheet Date	4.5(a)
Leased Real Property	4.18(a)
Losses	8.1
Material Contracts	4.13
NLRB	4.17
Notice of Disagreement	2.5(b)
OIG	4.9(d)
Other Purchase Agreement	Preamble
Owner or Owners	Introduction
Owner Documents	5.1
Owner Indemnified Parties	8.2
Owners' Representative	9.13(a)
Party or Parties	Introduction
Permits	4.9(b)
Program Agreements	4.11(a)
Programs	4.11(a)
Purchase Price Adjustment Amount	2.5(d)
Real Property Leases	4.18(a)
Restricted Party or Restricted Parties	7.1(a)
Settlement Firm	2.5(c)
Tail Insurance	3.2(g)
Target Cash Amount	2.6
Tax Indemnity	7.3(b)

1.3 Interpretation. The following provisions shall govern the interpretation of this Agreement:

(a) Headings or captions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

(b) Words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

(c) Reference to any Person includes such Person's successors and assigns, if applicable, but only if such successors and assigns are permitted by this Agreement.

(d) With respect to the determination of any period of time, "from" means "from and including" and "to" means "to and including."

(e) The word "including" (in its various forms) means including without limitation.

ARTICLE 2
CONTRIBUTION, PURCHASE AND SALE

2.1 Purchase and Sale of Purchased Interests; Contribution of the Interests. Subject to the terms and conditions of this Agreement, on the Closing Date, the Parties shall consummate the following

actions in the following sequence: [_____][6].

2.2 Purchase Price.

(a) On the terms and subject to the conditions set forth in this Agreement, the aggregate consideration for the Purchased Interests shall be an amount equal to (i) [_____] Dollars ($[_____])[7] (the "Base Purchase Price"), *plus* (ii) the Closing Cash Amount, *minus* (iii) the Closing Indebtedness, *minus* (iv) the Closing Transaction Expenses, *plus* or *minus* (as applicable) (v) the Net Working Capital Adjustment Amount (defined in Section 2.5) *minus* (vi) the Aggregate Rollover Amount (as calculated pursuant to clauses (i) through (vi), the "Cash Purchase Price").

(b) The aggregate consideration for the Owners' contribution, assignment, conveyance and delivery of the Contributed Interests shall be the issuance by ECP Parent of the Rollover Units in accordance with the Contribution Agreement.

2.3 Estimated Cash Purchase Price. The Company and the Owners have prepared and delivered to Buyer a good faith estimate of each of the (i) Closing Cash Amount, (ii) Closing Indebtedness, (iii) Closing Transaction Expenses, (iv) Adjusted Closing Net Working Capital (including each component item thereof as set forth on the Example Net Working Capital Statement) (the "Estimated Net Working Capital") and (v) resulting calculation of the Cash Purchase Price based thereon (the "Estimated Cash Purchase Price"), together with such schedules and data with respect to the determination of such amounts. If the Target Net Working Capital exceeds the Estimated Net Working Capital, the Estimated Cash Purchase Price shall be decreased by the amount of such excess by decreasing the amount to be paid by Buyer to the Owners at Closing. If the Estimated Net Working Capital exceeds the Target Net Working Capital, then the Estimated Net Working Capital shall be deemed to equal the Target Net Working Capital for the purposes of calculating the Estimated Purchase Price – that is, the Estimated Cash Purchase Price shall *not* be increased by the amount of such excess; however, the actual Adjusted Closing Net Working Capital shall be used for the purposes of the post-Closing reconciliation in Section 2.5 below.[8]

2.4 Payment of Estimated Cash Purchase Price. At the Closing, Buyer shall make the following payments and take the following actions:Buyer shall deposit [_____] Dollars ($[_____])[9] (the "Escrow Amount") into an escrow account (such amount, together with any accrued interest, the "Escrow Funds") to be held in escrow pursuant to the terms of the Escrow Agreement to be entered into as of the date hereof by and among Buyer, the Owners' Representative and Carrollton Bank, as escrow agent (the "Escrow Agreement");

(b) Buyer shall, in accordance with the payoff letters delivered by the Company, repay, or cause to be repaid, on behalf of the Company, to those holders of Closing Indebtedness delivering a payoff letter, all amounts necessary to discharge the Closing Indebtedness set forth in such payoff letters, by wire transfer of immediately available funds to the account(s) designated by the holders of such Closing Indebtedness;

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[6] NTD: To be updated once structure finalized.

[7] NTD: To be $16 million total, to be allocated across the documents for the 3 business lines.

[8] NTD: Due to the manner in which most physician practices record their financial information, in ECP's experience the estimated net working capital statement is almost always overstated, which in the past has resulted in ECP paying too much purchase price at closing and having to recoup it from the doctors after the closing. To mitigate that issue, this calculation caps the estimated NWC at the target NWC. If there is extra NWC in the business, ECP will pay it out post-closing as part of the reconciliation.

[9] NTD: To equal 10% of the base purchase price.

(c) Buyer shall pay the Closing Transaction Expenses on behalf of the Owners and the Company in accordance with the Owners' instructions; and

(d) Buyer shall pay to the Owners on a pro rata basis an amount equal to (i) the Estimated Cash Purchase Price minus (ii) the Escrow Amount by wire transfer of immediately available funds to an account or accounts designated in writing by the Owners.

2.5 Post-Closing Purchase Price Adjustment.

(a) Within one hundred eighty (180) days after the Closing Date, Buyer shall cause to be prepared and delivered to the Owners' Representative its good faith calculation of the (i) Closing Cash Amount, (ii) Closing Indebtedness, (iii) Closing Transaction Expenses, (iv) Adjusted Closing Net Working Capital (including each component item thereof as set forth in the Estimated Net Working Capital) and (v) the resulting calculation of the Cash Purchase Price based thereon (the "Initial Calculation"), together with such schedules and data, in reasonable detail, with respect to the determination of the such amounts as may be appropriate to support such Initial Calculation. Following the Closing, for purposes of determining such amounts pursuant to this Section 2.5, each of Buyer and the Owners' Representative shall provide to the other Party and to such other Party's advisors (including its attorneys and accountants), in a manner not unreasonably disruptive to its business, reasonable access to its records and working papers (including all schedules and calculations) and to its employees and agents used in the preparation of the Initial Calculation, in each case to the extent reasonably necessary to enable it to perform its obligations or exercise its rights under this Section 2.5.

(b) If the Owners' Representative disagrees in whole or in part with the Initial Calculation, then within thirty (30) days after their receipt of the Initial Calculation, the Owners' Representative shall notify Buyer of such disagreement in writing (the "Notice of Disagreement"), setting forth in reasonable detail the particulars of any such disagreement. Any such Notice of Disagreement shall include a copy of the Initial Calculation marked to indicate those specific line items that are in dispute (the "Disputed Line Items") and shall be accompanied by the Owners' Representative's calculation of each of the Disputed Line Items and the Cash Purchase Price and components thereof, it being understood that all items that are not Disputed Line Items shall be final, binding and conclusive for all purposes hereunder. In the event that the Owners' Representative does not otherwise provide a Notice of Disagreement within such 30-day period, the Owners' Representative shall be deemed to have accepted in full the Initial Calculation as prepared by Buyer, which shall be final, binding and conclusive for all purposes hereunder, and in such case the Parties agree to make the payment required under Section 2.5(e) as a result of the final determination of the Cash Purchase Price hereunder.

(c) In the event any Notice of Disagreement is timely provided, Buyer and the Owners' Representative shall use commercially reasonable efforts for a period of fifteen (15) days (or such longer period as they may mutually agree in writing) to resolve any such Disputed Line Items. During such 15-day period, Buyer and the Owners' Representative shall have reasonable and customary access to the working papers, schedules and calculations of the other used in the preparation of the Initial Calculation and the Notice of Disagreement and the determination of the Cash Purchase Price and Disputed Line Items. If, at the end of the 15-day period described in this Section 2.5 (or such longer period as they may mutually agree), Buyer and the Owners' Representative are unable to resolve such Disputed Line Items, then such independent certified public accounting firm of recognized national or regional standing as may be mutually selected by Buyer and the Owners' Representative (the "Settlement Firm") shall resolve any remaining Disputed Line Items as provided below. Buyer and the Owners' Representative will enter into reasonable and customary arrangements for the services to be rendered by the Settlement Firm under this Section 2.5. The Settlement Firm shall determine, as promptly as practicable, whether the Initial Calculation was prepared in accordance with the standards set forth in this

Section 2.5 and whether and to what extent (if any) the Cash Purchase Price or components thereof require adjustment, limiting its review, however, only to the Disputed Line Items so submitted to it. Buyer and the Owners' Representative shall instruct the Settlement Firm not to assign a value to any Disputed Line Item greater than the greatest value for such item assigned to it by the Owners' Representative, on the one hand, or Buyer, on the other hand, or less than the smallest value for such item assigned to it by the Owners' Representative, on the one hand, or Buyer, on the other hand. Buyer and the Owners' Representative shall each furnish to the Settlement Firm such work papers and other documents and information relating to the calculations of the Cash Purchase Price and components thereof and shall answer questions as such Settlement Firm may reasonably request. The determination of the Settlement Firm shall be final, conclusive and binding on the Parties. Each of Buyer, on one hand, and the Owners' Representative, on the other hand, shall bear the percentage of the fees and expenses of the Settlement Firm equal to the proportion of the dollar value of the disputed amounts of the Disputed Line Items determined in favor of the other Party. For purposes of illustration only, if the value of the Disputed Line Items is one hundred Dollars ($100) and if the final written determination of the Settlement Firm states that eighty Dollars ($80) of the Disputed Line Items are resolved in Buyer's favor and twenty Dollars ($20) of the Disputed Line Items are resolved in the Owners' favor, Buyer would bear twenty percent (20%) of the Settlement Firm's costs and expenses, on the one hand, and the Owners would jointly and severally bear eighty percent (80%) of such costs and expenses, on the other hand. The date on which the Cash Purchase Price is finally determined in accordance with this Section 2.5 is hereinafter referred to as the "Determination Date."

(d) The "Purchase Price Adjustment Amount," which may be positive or negative, shall mean the (i) Cash Purchase Price, as finally determined in accordance with this Section 2.5, minus (ii) the Estimated Cash Purchase Price.

(e) If the Purchase Price Adjustment Amount is a positive amount, then within three (3) Business Days following the Determination Date, Buyer shall deliver to the Owners on a pro rata basis by wire transfer of immediately available funds to an account or accounts designated in writing by the Owners, an amount equal to the Purchase Price Adjustment Amount. If the Purchase Price Adjustment Amount is a negative amount, then within three (3) Business Days following the Determination Date, the Owners shall deliver by wire transfer of immediately available funds to an account or accounts designated in writing by Buyer, an amount equal to the Purchase Price Adjustment Amount. Buyer shall have the right in its sole discretion, but not the obligation, to set off any such amounts against the Escrow Funds pursuant to the terms of the Escrow Agreement. The Owners obligations under this Section 2.5(e) shall be joint and several.

2.6 Target Cash Amount; Certain Liabilities.

(a) The Company shall cause the Closing Cash Amount to not be less than $[_____][10]) (the "Target Cash Amount").

(b) The Company shall cause the Excess PTO Amount to be paid to the applicable employees on or prior to the Closing; provided, however, that to the extent the Parties agree that any such amount shall be paid through payroll following the Closing, such amount shall increase the actual Closing Indebtedness and therefore reduce the Cash Purchase Price accordingly. The Company shall provide, in connection with its delivery of the Estimated Net Working Capital, an estimate of any Excess PTO Amount that it expects will remain unpaid as of the Closing Date, and the Target Cash Amount shall be increased by the amount of such estimate.

[10] NTD: Buyer to provide target closing cash amount.

(c) The Company shall use its reasonable best efforts to cause the Aged Accounts Payable to be paid to the applicable payee on or prior to the Closing; provided, however, that to the extent any such amounts are not paid prior to the Closing, such amount shall increase the actual Closing Indebtedness and therefore decrease the Cash Purchase Price accordingly. The Company shall provide, in connection with its delivery of the Estimated Net Working Capital, an estimate of any Aged Accounts Payable that it expects will remain as of the Closing Date, and the Target Cash Amount shall be increased by the amount of such estimate.

(d) The Company shall use its reasonable best efforts to cause the Credit Balances to be paid to the applicable payee on or prior to the Closing; provided, however, that to the extent any such amounts are not paid prior to the Closing, such amount shall increase the actual Closing Indebtedness and therefore decrease the Cash Purchase Price accordingly. The Company shall provide, in connection with its delivery of the Estimated Net Working Capital, an estimate of any Credit Balances that it expects will remain as of the Closing Date, and the Target Cash Amount shall be increased by the amount of such estimate.

ARTICLE 3
THE CLOSING

3.1 Time and Place. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Alston & Bird LLP, 1201 West Peachtree Street, Atlanta, Georgia (or by facsimile, electronic mail or overnight courier delivery as the Parties may agree) on the date hereof (the "Closing Date"). For tax and accounting purposes, the Closing shall be effective as of 12:01 a.m. Central Time on the Closing Date (the "Effective Time"). Except as otherwise provided in this Agreement, all proceedings to be taken and all documents to be executed at the Closing shall be deemed to have been taken, delivered and executed simultaneously, and no proceeding shall be deemed taken nor documents deemed executed or delivered until all have been taken, delivered and executed.

3.2 Closing Deliveries of the Owners. At the Closing, the Owners, as applicable, shall execute and deliver, or cause to be delivered, to Buyer the following:

(a) Escrow Agreement. The Escrow Agreement, executed by the Owners' Representative.

(b) Certificates; Equity Assignment Agreement. Certificates representing the Interests (if any), duly endorsed by the Owners for transfer to Buyer and an equity assignment agreement transferring the Interests from the Owners to Buyer in a form acceptable to Buyer (the "Assignment Agreement").

(c) [Owner Employment Agreements. An employment agreement with the Company, executed by the applicable Owner (the "Owner Employment Agreements").]

(d) Closing Certificates. A certificate executed by the Secretary, member or manager of the Company, as applicable, in a form reasonably acceptable to Buyer, certifying copies of the Company's organizational documents and attaching all requisite resolutions or actions of the board of directors and shareholders of the Company approving the execution and delivery of this Agreement, the Owner Documents and the Company Documents and the consummation of the Contemplated Transactions.

(e) Certificates of Existence. Certificate of existence of the Company issued by the Secretary of State of Alabama.

(f) [Real Estate Leases. Real estate lease agreements for the locations set forth on Schedule 3.2(f) (the "Real Estate Leases").

(g) [Lease Assignments. Real estate lease assignment agreements for the locations set forth on Schedule 3.2(g) (the "Lease Assignments").]

(h) Lien Releases. Copies of payoff letters, releases, UCC-3 termination statements and Lien discharges and any other documents reasonably requested by Buyer reflecting the satisfaction in full of any Liens filed against the Company or the Owners (other than the Permitted Liens), each in a form reasonably acceptable to Buyer.

(i) Release. A termination and release agreement executed by the Owners and the Company, in a form reasonably acceptable to Buyer.

(j) Tail Coverage. Fully-paid extended reporting endorsements (tail endorsements) with respect to each insurance policy of the Company that provides coverage on a "claims made" basis,[11] in each case providing a six (6)-year extended reporting period after the Closing and providing coverage for insured acts and omissions that may have occurred prior to the Closing (the "Tail Insurance").

(k) Required Consents. Copies of all consents, authorizations, orders and approvals of (or filings or registrations with) the third parties that are listed on Schedule 3.2(h), in a form reasonably acceptable to Buyer.[12]

(l) Tax Certificate. Certificate from the Owners issued in compliance with Section 1445 of the Code and the Treasury Regulations thereunder.

(m) Resignations. Resignations of the managers, directors, officers and other governing persons of the Company from such positions.[13]

(n) Contribution Agreement. The Contribution Agreement, executed by each Owner.

(o) Joinder Agreement. A Joinder Agreement to that certain Amended and Restated Limited Liability Company Agreement of ECP Parent, dated February 18, 2020, and as may be amended from time to time, in a form acceptable to Buyer, executed by each Owner (the "Joinder").

(p) Termination of Certain Benefit Plans. Resolutions of the Company and the Owners, if required, terminating the Company's 401(k) Plan and any other defined benefit or defined contribution benefit plans of the Company.[14]

3.3 Closing Deliveries of Buyer. At the Closing, Buyer shall execute and deliver, or cause to be delivered, to the Owners or the Company, as applicable, the following:

(a) Purchase Price. The Estimated Cash Purchase Price and the issuance of the Rollover Units pursuant to the Contribution Agreement.

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[11] NTD: Professional liability, D&O/E&O, Employee Practices Liability (EPL), fiduciary, and cyber policies are often on a "claims made" basis.

[12] NTD: Among other things, to include consent of ASC landlord, if required pursuant to the lease.

[13] NTD: To be determined.

[14] NTD: Other closing conditions subject to diligence.

(b) Escrow Agreement. The Escrow Agreement, executed by Buyer.

(c) Assignment Agreement. The Assignment Agreement executed by Buyer.

(d) Owner Employment Agreements. The Owner Employment Agreements, executed by [_____].

(e) Contribution Agreement. The Contribution Agreement, executed by ECP Parent, Buyer and the other parties thereto.

(f) Joinder. The Joinder, executed by ECP Parent.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF THE OWNERS REGARDING THE COMPANY

The Owners jointly and severally represent and warrant to Buyer the following:

4.1 Organization.

(a) The Company is a limited liability company duly organized, validly existing and in good standing under the laws of Alabama and has all requisite power and authority to own, lease and operate its properties and to carry on the Business as now being conducted. The Company is duly qualified to transact business, and is in good standing as a foreign entity, in each jurisdiction where the character of its activities require such qualification, each of which jurisdictions are set forth on Schedule 4.1(a) hereof. The Owners have caused the Company heretofore to make available to Buyer accurate and complete copies of the Company's articles of organization, articles of incorporation, operating agreement, bylaws, and other organizational documents (as applicable) as currently in effect, and have caused the Company to make available to Buyer copies of the Company's minute books and equity records, and such books and records, in each case as and to the extent they exist, are accurate and complete.

(b) Schedule 4.1(b) sets forth an accurate list of each office or practice location operated by the Company in the conduct of the Business, including any satellite offices (the "Company Locations").

(c) Schedule 4.1(c) sets forth an accurate list of (i) any Person that has merged with or into the Company since its inception, (ii) any Person the equity of which has been acquired by the Company since its inception, (iii) any Person all or substantially all of whose assets have been acquired by the Company since its inception, and (iv) any prior names of the Company.

4.2 Authorization. The Company has full power and authority to execute and deliver this Agreement and each agreement, document or instrument required to be delivered by it hereby or in connection herewith (the "Company Documents") and to perform its obligations hereunder and thereunder and to consummate the Contemplated Transactions provided for herein. The execution and delivery of this Agreement and the Company Documents and the performance by the Company of its obligations hereunder and thereunder and the consummation of the Contemplated Transactions have been duly and validly authorized by all necessary action on the part of the Company. This Agreement and each agreement, document or instrument required to be delivered by the Company hereby or in connection herewith have been duly and validly executed and delivered by the Company and constitutes the legal, valid and binding agreement of the Company, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency and other similar Laws affecting the enforceability of creditor's rights generally, general equitable principles and the discretion of the courts in granting equitable

remedies.

4.3 No Violations.

(a) Except as set forth in Schedule 4.3(a) hereto, and assuming the accuracy of the representations and warranties of the Buyer in Section 6.3, in the execution, delivery and performance of this Agreement and the Company Documents, the consummation of the Contemplated Transactions and the fulfillment of and compliance with the terms and conditions of this Agreement and the Company Documents do not and will not violate or conflict with, cause a material breach of or material default under, result in the loss of any benefit under, or permit the acceleration of any obligation under, (i) the articles of organization, articles of incorporation, operating agreement, bylaws, and other organizational document of the Company (as applicable), (ii) any Contract or Permit to which the Company is a party or by which the Company (or any of its properties or assets) is subject or bound, (iii) any Governmental Order to which the Company is a party or by which the Company, or any of its properties or assets are bound, or (iv) any applicable Law.

(b) Except as set forth on Schedule 4.3(b), no consent, approval, order or authorization of, or registration, declaration, notice or filing with, any (i) Governmental Authority, (ii) party to a Contract, or (iii) other Person is required in connection with the execution, delivery or performance of this Agreement and the Company Documents by the Company or the consummation of the Contemplated Transactions.

4.4 Capitalization. Set forth on Schedule 4.4 hereto is a list of the authorized and issued and outstanding equity interests and other securities of the Company (including the Interests) and the owner thereof. All such equity interests and other securities of the Company have been duly authorized and validly issued, are fully paid and nonassessable and are owned as set forth on Schedule 4.4. The Company's securities (including the Interests) have been issued in compliance with all applicable federal and state securities laws and all preemptive rights and any Contracts to which the Company is a party, and no Person has any rescission rights with respect to any securities of the Company. Except as set forth on Schedule 4.4 hereto, there are no outstanding securities, options, warrants, calls, rights, convertible or exchangeable securities or contracts or obligations of any kind (contingent or otherwise) to which the Company is a party or by which it is bound obligating the Company, directly or indirectly, to issue, deliver or sell, or cause to be issued, delivered or sold, additional equity securities or other securities of the Company or obligating the Company to issue, grant, extend or enter into any such security, option, warrant, call, right, contract or obligation. There are no outstanding obligations of the Company (contingent or otherwise) to repurchase, redeem or otherwise acquire, directly or indirectly, any equity securities (or options or warrants to acquire any such equity securities) of the Company. The Company does not have any authorized or outstanding bonds, debentures, notes or other indebtedness the holders of which have the right to vote (or that is convertible into, exchangeable for or evidencing the right to subscribe for or acquire securities having the right to vote) with the equity holders of the Company on any matter. There are no proxies and no voting agreements or voting trusts or other voting arrangements with respect to the equity interests of the Company (including the Interests) or other equity or voting interests in the Company. The Company has adequately maintained equity record books and minute books, complete copies of which, as and to the extent they exist, have been provided to Buyer. The Company has no direct or indirect subsidiaries.

4.5 Financial Statements.

(a) Attached hereto as Schedule 4.5(a) are true and complete copies of (i) the unaudited balance sheets of the Company for the fiscal years ended December 31, 2018 and December 31, 2019 and the related statements of operations and cash flows of the Company for each twelve-month

period then ended and (ii) the unaudited balance sheets of the Company as of [May 31], 2020 (the "Interim Balance Sheet" and such date, the "Interim Balance Sheet Date") and the related statements of operations and cash flows of the Company for the five-month period then ended. All of the foregoing financial statements are collectively referred to as the "Financial Statements."

(b) Except as set forth on Schedule 4.5(b), the Financial Statements have been prepared from the Company's books and records, have been prepared in accordance with GAAP, applied on a consistent basis throughout the periods covered thereby, and fairly present in all material respects the financial condition and results of operations and cash flows of the Company as of the dates and for the periods presented therein, subject in the case of the unaudited financial statements to the absence of footnote disclosures and changes resulting from normal and recurring year-end adjustments (which will not be material, individually or in the aggregate). The reserves, if any, reflected on the Financial Statements are adequate, appropriate and reasonable for their purposes.

4.6 Indebtedness; No Undisclosed Liabilities.

(a) Except as set forth on Schedule 4.6(a), there is no Indebtedness of the Company.

(b) Other than as disclosed on Schedule 4.6(b), there are no Liabilities of the Company, other than (i) Liabilities disclosed in the Financial Statements, (ii) Liabilities incurred in the ordinary course of business consistent with past practice since the Interim Balance Sheet Date or (iii) Liabilities that have not been and are not reasonably expected to be, individually or in the aggregate, material (none of which result from, arise out of, relate to, are in the nature of, or were caused by any breach of contract, breach of warranty, tort, infringement or violation of Law, or which, individually or in the aggregate has had or could reasonably be expected to be material).

4.7 Absence of Certain Changes. Except as set forth in Schedule 4.7, since December 31, 2019, the Company has operated only in the usual and ordinary course consistent with past practice, and without limiting the generality of the foregoing there has not occurred any event, circumstance or condition that has had or that could reasonably be expected to have a Material Adverse Effect and the Company has not (nor has committed or agreed to, whether by written Contract or otherwise):

(a) permitted or allowed any of its assets or properties, whether tangible or intangible, to be mortgaged, pledged or made subject to any Lien, other than Permitted Liens;

(b) suffered any material adverse change in its business relationship with any of its material customers, referral sources or suppliers;

(c) entered into any employment Contract or collective bargaining agreement, written or oral, or modified the terms of any existing employment Contract or collective bargaining agreement;

(d) increased the compensation payable by the Company to its equity holders, managers, directors, officers, Eyecare Providers or, except in the ordinary course of business consistent with past practice, other employees, independent contractors or agents, or increased or instituted any bonus, insurance, pension, profit-sharing or other employee benefit plan or arrangements made to, for or with the employees, managers, directors, officers, independent contractors or agents of the Business;

(e) made any loan to, or entered into any other transaction or Contract with, any of its equity holders, managers, directors, officers, employees and consultants;

(f) delayed or postponed the payment of any accounts payable or commissions or any other Liability or agreed or negotiated with any Person to extend the payment date of any accounts payable or commissions or any other Liability or accelerated the collection of (or discounted) any accounts or notes receivable or made any material changes to the customary methods of operations with such Person;

(g) waived, compromised or settled any claims or rights, cancelled any third party indebtedness owed to the Company, or made any material write off;

(h) sold, transferred or otherwise disposed of any properties or assets (real, personal or mixed, tangible or intangible), except in transactions in the ordinary course of business and consistent with past practice, such as the sale of inventory and the use of supplies;

(i) issued, sold or transferred any of its equity interests or other equity securities, securities convertible into its equity interests or other equity securities or warrants, options or other rights to acquire its equity interests or other equity securities, or any bonds or debt securities;

(j) declared or made any other bonus or distributions (whether in cash, equity interests or property) in respect of any of its equity interests;

(k) experienced any loss, damage or destruction of or to any of its assets not covered by insurance and already replaced, in excess of $10,000 in the aggregate;

(l) made any capital expenditures or commitments therefor, in excess of $10,000 in the aggregate;

(m) made any significant changes or improvements to any owned or leased real property;

(n) acquired or agreed to acquire, by merging or consolidating with, or by purchasing the equity interests or a substantial portion of the assets of, or by any other manner, any business or any other Person, or acquired or agreed to acquire any capital asset or group of related capital assets with a fair market value in excess of $100,000;

(o) made any material change to its accounting methods, principles or practices or to the Financial Statements or to the working capital policies applicable to the Company;

(p) made any material tax election or changed an existing election or settled or compromised any Liability with respect to taxes of the Company; or

(q) or entered into any Contract or otherwise agreed to take any of the foregoing actions.

4.8 Legal Proceedings. Except as set forth in Schedule 4.8, there are no Actions pending or, to the Owners' Knowledge, threatened by or against the Company or related to the Business and, to the Owners' Knowledge, there is no reasonable basis for any such Action. Except as set forth on Schedule 4.8, the Company is not subject to or bound by any Governmental Order or any settlement agreement.

4.9 Compliance with Law.

(a) The Company operates and has operated the Business in material compliance with all applicable Laws, including Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll (the Medicare statute), including specifically, the Ethics in Patient Referrals Act, as amended, or "Stark Law," 42 U.S.C. § 1395nn; Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396w-5 (the Medicaid statute); the Federal Health Care Program Anti-Kickback Statute (the "Federal Anti-Kickback Statute"), 42 U.S.C. § 1320a-7b(b); the False Claims Act, as amended (the "False Claims Act"), 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58; the Civil Monetary Penalties Law, 42 U.S.C. §§ 1320a-7a and 1320a-7b; the Exclusion Laws, 42 U.S.C. § 1320a 7; HIPAA; any similar state and local Laws that address the subject matter of the foregoing; any state Law relating to the corporate practice of the learned or licensed healthcare professions; any state Law concerning the splitting of healthcare professional fees or kickbacks; any state Law concerning healthcare professional self-referrals; kickbacks or false claims; any state healthcare professional licensure Laws, qualifications or requirements for the practice of medicine or other learned healthcare profession; any applicable state requirements for business entities that provide medical services or practice medicine or related learned healthcare profession; workers compensation; any applicable state and federal controlled substance and drug diversion Laws, including, the Federal Controlled Substances Act (21 U.S.C. § 801, et seq.) and the regulations promulgated thereunder; and all applicable implementing regulations, rules, ordinances and Governmental Orders related to any of the foregoing. Neither the Company nor the Owners has received any written or, to the Owners' Knowledge, oral notice with respect to the Business from any Governmental Authority indicating or alleging any violation of or Liability arising under any Laws. To the Owners' Knowledge, no event has occurred, and no condition exists, that would reasonably be expected to (with or without notice or lapse of time) constitute or result directly or indirectly in a material violation by the Company of, or a failure on the part of the Company to comply in all material respects with, any Law. Without limiting the foregoing, all programs, procedures, relationships or arrangements between the Company and any healthcare professionals, healthcare institutions, or other third parties, including any optometrist lease arrangements, continuing education offerings or optometrist outreach programs, comply in all material respects with the Federal Anti-Kickback Statute and analogous state anti-kickback laws.

(b) The Company has all authorizations, accreditations, orders, permits and other licenses or approvals of and from all Governmental Authorities ("Permits") necessary to carry on the Business as it is now being conducted, to own or hold under lease the properties and assets its owns or holds under lease and to perform all of its obligations under the Contracts to which the Company is a party. Schedule 4.9(b) sets forth all Permits held or obtained by the Company and the expiration date for each. Except as set forth on Schedule 4.9(b), no suspension, cancellation, revocation or termination of any such Permit is pending or, to the Owners' Knowledge, threatened other than the expirations of Permits requiring renewal in the ordinary course of business, and, to the Owners' Knowledge, there is no basis therefor. Except as set forth on Schedule 4.9(b), the Company is in material compliance with the terms of all Permits to which the Business is subject, and the Company has not received any written or, to the Owners' Knowledge, oral claim or notice that the Company is not in such compliance. The Company is not required to have any certificates of need or similar authorizations in order to operate the Business.

(c) Each employee and independent contractor of the Company has all Permits required for such employee or independent contractor to perform such employee's or independent contractor's designated functions and duties in connection with conducting the Business, and there exist no waivers or exemptions relating thereto. There is no default under, nor to the Owners' Knowledge does there exist any grounds for revocation, termination, suspension or limitation of, any such Permits.

(d) The Company is not a party to a corporate integrity agreement, deferred prosecution agreement or similar agreement with the Office of Inspector General of the Department of Health and Human Services ("OIG") or any other enforcement or prosecutorial entity. The Company has

no ongoing reporting obligations pursuant to any settlement agreement entered into with any Governmental Authority. The Company has not been the subject of any government payor program investigation conducted by any federal or state enforcement agency and has not been a defendant in any qui tam/False Claims Act litigation. The Company has not been served with or received any search warrant, subpoena, civil investigative demand or contact letter by or from any federal or state enforcement agency. The Company has not been assessed any civil monetary penalties or fines from any enforcement agencies. Except as set forth on Schedule 4.9(d), the Company has not received any written or, to the Owners' Knowledge, oral complaints or notices from any Governmental Authorities that would indicate that the Company has violated any law or regulation. The Company has in effect a compliance program and a true and correct copies of said compliance program documents have been provided to Buyer. Buyer has been provided with a description and copies of each audit and investigation conducted by the Company pursuant to its compliance programs. Except as set forth on Schedule 4.9(d), no physician or referring physician (or immediate family member thereof) as those terms are defined in 42 U.S.C. Section 1395nn and the regulations promulgated thereunder has a "financial relationship" as defined therein or other similar relationship with the Company, whether as (i) an investment, ownership or compensation arrangement, (ii) vendor, supplier, landlord/tenant, or lessor/lessee, or (iii) lender, creditor, or guarantor.

(e) Neither the Company nor any officer, director, manager, employee of or independent contractor of the Company (i) has been convicted of, charged with or, to the Knowledge of the Owners, investigated for, or has engaged in conduct that would constitute, an offense related to Medicare or any other Program or been convicted of, charged with or, to the Knowledge of Owners, investigated for, or engaged in conduct that would constitute a violation of any Law related to fraud, breach of fiduciary duty, theft, embezzlement, kickbacks, bribes, other financial misconduct, obstruction of an investigation or controlled substance, (ii) has been excluded, debarred, suspended or is otherwise ineligible from participating in any Program, subject to sanction pursuant to 42 U.S.C. § 1320a-7a or § 1320a-8, or been convicted of a crime described at 42 U.S.C. § 1320a-7b, or (iii) has been subject to any disciplinary action under any state rules of professional conduct, nor are any such exclusions, sanctions or charges pending or, to the Knowledge of the Owners, threatened.

(f) The Company has timely filed all material reports, data, and other information required to be filed with Governmental Authorities regarding the Business, and such reports, data, and other information is correct and complete in all material respects.

(g) The Company has searched the Office of Inspector General's List of Excluded Individuals/Entities and the General Services Administration's System for Award Management to confirm, to the extent practicable, that its employees, independent contractors and other Persons providing any service on the Company's behalf under any contract are not currently excluded, debarred or otherwise ineligible to participate in any Program.

(h) To the extent the Company is a Medicare-enrolled supplier of durable medical equipment, prosthetics, orthotics and supplies as defined in 42 C.F.R. § 414.202, the Company is and has been in compliance in all material respects with all supplier standards described in 42 C.F.R. § 424.57(c), including but not limited to meeting the surety bond requirements specified in 42 C.F.R. § 424.57(d).

(i) The Company is in compliance in all material respects with all applicable Laws concerning arrangements, financial or otherwise, that the Company has with another Person that relate to the co-management of a patient's care. The Company has not referred a patient or agreed to co-manage a patient's care in exchange for any improper benefit or in an instance where such referral or co-management arrangement would place the patient's health at risk. Each patient's record contains appropriate written documentation evidencing the patient's affirmative choice to receive co-managed care

prior to the time such care was rendered. All fees billed in relation to such co-managed relationship represent a fair market value for the services rendered by each co-manager.

4.10 Information Privacy and Security Compliance.

(a) The Company (i) is, and for the past five (5) years has been, (i) in compliance in all material respects with the applicable provisions of HIPAA, including, without limitation, the performance of any required enterprise-wide security risk analysis in accordance with HIPAA; (ii) in compliance in all material respects with all other applicable Information Privacy or Security Laws and all rules and regulations promulgated thereunder; and (iii) in compliance in all material respects with the Company's privacy policies. The Company has undertaken surveys, audits, inventories, reviews, analyses and/or assessments required by HIPAA.

(b) The Company has provided to Buyer accurate and complete copies of the compliance policies and/or procedures and privacy notices of the Company relating to Information Privacy or Security Laws. All of the Company's workforce (as such term is defined in 45 C.F.R. § 160.103) with access to Personal Information have received or are scheduled to receive in accordance with the timeframes required by HIPAA and the Company's privacy policies, training with respect to compliance with Information Privacy or Security Laws.

(c) The Company has entered into business associate agreements with third parties acting as business associates (as defined in 45 C.F.R. § 160.103) of the Company to the extent required by HIPAA. To the Owners' Knowledge, the Company (i) is not under investigation by any Governmental Authority for a violation of any Information Privacy or Security Law; (ii) has not received any written notice from the United States Department of Health and Human Services Office for Civil Rights, Justice Department, FTC, or the Attorney General of any state or territory of the United States relating to any such violations; and (iii) except as provided on Schedule 4.10(c), has not acted in any manner, and there has not been any incident, that would trigger a notification or reporting requirement under any HIPAA business associate agreement or any Information Privacy or Security Law, including a breach with respect to any unsecured protected health information maintained by or on behalf of the Company.

(d) Except as set forth on Schedule 4.10(d), (i) no breach has occurred with respect to any unsecured protected health information (as such term is defined in 45 C.F.R. § 164.402) maintained by or for the Company, and (ii) no information security or privacy breach event has occurred that would require notification under any other applicable Information Privacy or Security Laws.

4.11 Medicare, Medicaid and Other Third-Party Payors and Accreditation.

(a) The Company participates in the Medicare, Medicaid, and CHAMPUS/TRICARE programs (collectively, the "Programs"), has current and valid provider/supplier contracts and/or provider numbers with the Programs and is in compliance in all material respects with the conditions of participation and accreditation requirements of such Programs. Copies of the Company's existing Medicare and Medicaid contracts or other documentation evidencing such participation (collectively, the "Program Agreements") have been made available to Buyer and are listed in Schedule 4.11(a). All billing practices of the Company with respect to all third party payors, including the Programs and private insurance companies, have been in compliance in all material respects with all applicable Laws, regulations and policies of such third party payors and the Programs. The Company has not billed or received any payment or reimbursement in excess of amounts allowed by Law. Neither the Company nor any of its officers, directors, managers or managing employees are excluded or suspended from participation in the Programs, nor, to the Owners' Knowledge, is any such exclusion or suspension threatened. The Company has not received any written notice from or on behalf of any of the Programs,

fiscal intermediaries, recovery or program integrity contractors or any other third party payor Programs of any pending or threatened investigations or surveys, and the Company has no reason to believe that any such investigations or surveys are pending, threatened, or imminent.

(b) No written or, to the Owners' Knowledge, oral notice of any offsets against future reimbursements under or pursuant to the Programs or any third party payor program has been received by the Company, nor, to the Owners' Knowledge, is there any reasonable basis therefor. All repayment obligations have been made as required by applicable Law. There are no pending appeals, adjustments, challenges, audits, litigation, notices of intent to recoup past or present reimbursements with respect to the Programs or any third party payor program. The Company has not received written or, to the Owners' Knowledge, oral notice of any pending, threatened or possible decertification or other loss of participation in any of the Programs.

(c) True, accurate and complete lists and copies of all of the Company's existing third party payor Contract(s) have been provided to Buyer by the Company. Company is, and will be at the time of Closing, in compliance with all of the material terms of such Contracts.

(d) The payors listed on Schedule 4.13(j) require Eyecare Providers to enter into a written contract governing the credentialing for and other arrangements in respect of the submission and payment of claims for reimbursement from such payor. Each Eyecare Provider has entered into such a contract with each of those payors. The Company maintains true and correct copies of each contract, to the extent such contracts exist in writing, between (i) any Eyecare Provider and each payor and (ii) the Company and each payor, and each such contract is consistent in all material respects with the forms of such contract delivered by Company to the Buyer or its representatives prior to the date hereof.

(e) Schedule 4.11(e) sets forth a list of any third party payor Contracts pursuant to which Company receives payments, but an Affiliate of the Company rather than the Company is the party thereto, including circumstances where the Company bills under the provider agreement of any Eyecare Provider rather than the Company provider agreement.

4.12 Environmental Matters.

(a) The Company is and has been in compliance with all applicable Environmental Laws in all material respects. The Company holds all material Permits and has made all filings that are required of the Company pursuant to Environmental Laws for the lawful conduct of the Company's business, is not subject to any proceeding before any Governmental Authority relating to any such Permits, and has not received any written notice from any Governmental Authority that such Permits may be modified, revoked, suspended or cancelled.

(b) There is no pending or, to the Owners' Knowledge, threatened claim, lawsuit, proceeding, or unresolved written notice of violation or Liability, or request for information, relating to a matter that could reasonably be expected to result in a claim, under any Environmental Law, against the Company. The Company is not subject to any Governmental Order pursuant to any Environmental Law.

(c) With respect to real property that is currently or, to the Owners' Knowledge, was formerly owned, leased or operated by the Company, there have been no releases, spills, disposal, discharges or leaks of Hazardous Substances by the Company or, to the Owners' Knowledge, any other Person on, at, in or underneath any of such property that has not been reported to the Governmental Authority with jurisdiction over the property and/or Hazardous Substances and properly addressed under Environmental Law. To the Owners' Knowledge, there are no Environmental Conditions existing at, underneath, or migrating to or from any real property formerly owned, leased or operated by the

Company, nor are there any Environmental Conditions resulting from, or which could reasonably be expected to result from, the operation of the Business.

(d) The Owners have provided to Buyer true and correct copies of all material environmental site assessment reports and other material documents, if any, relating to the environmental condition or status of any currently or previously owned or leased real property of the Company that are within the possession and control of the Company.

4.13 Material Contracts. Schedule 4.13 sets forth a correct and complete list of the following Contracts to which the Company is a party or to which an Affiliate of the Company is a party if it has a material impact on the Business (the "Material Contracts"):

(a) all Contracts evidencing or otherwise relating to obligations for Indebtedness of the Company;

(b) all Contracts to which the Company is a party or by which the Company or its properties or assets may be bound (i) involving an annual commitment or annual payment by any party thereto of more than $10,000 individually or (ii) which have a fixed term extending more than twelve months from the date hereof and which involve cumulative payments in excess of $25,000 for the remainder of the term or which are otherwise material to the operation of the Business;

(c) all Contracts imposing a noncompetition obligation on the Company or other restriction on the business activities of the Company or use of information in the Business;

(d) all Contracts imposing minimum purchase requirements, sole source requirements or exclusive dealing obligations;

(e) all leases of real or personal property;

(f) employment, collective bargaining, severance, stay bonuses, retention, consulting, change of control, equity equivalent right, and similar Contracts;

(g) Contracts under which the Company is obligated to indemnify or hold harmless any other Person other than in the ordinary course of business;

(h) Contracts between the Company and any equity holder, director, manager, officer or employee or other Affiliate of the Company;

(i) all partnership, joint venture or limited liability company Contracts or other Contracts involving a sharing of profits, losses, costs or Liabilities by the Company with any third Person;

(j) all Contracts with any Governmental Authority, Program or third party payor;

(k) all Contracts entered into by the Company providing for the acquisition by the Company (including by merger, consolidation, acquisition of equity interests or assets or any other business combination) of any corporation, partnership, other business organization or division thereof or any material amount of assets of such other party;

(l) all co-management agreements (i.e., agreements that require or expect ophthalmic surgeons to transfer post-op care to any optometrist);

(m) all service agreements, management service agreements or other agreements between a professional entity or eye care practice and the Company, pursuant to which the Company provides certain business and administrative services to such professional entity or eye care practice;

(n) all settlement agreements pursuant to which the Company is entitled to, or obligated to make, future payments; or

(o) to the extent not covered above, any other Contract material to the Company.

Correct and complete copies of all written Material Contracts (or an accurate summary of the key terms of all oral Material Contracts that are not terminable by either party thereto (i) on thirty (30_ days' or less prior written notice or (ii) without penalty or damages), including all written amendments (or a complete and accurate written summary of all oral amendments) thereto, have been made available to Buyer. The Material Contracts are in full force and effect and are valid and enforceable in accordance with their respective terms with respect to the Company and, to the Owners' Knowledge, are valid and enforceable in accordance with their respective terms with respect to any other party thereto, subject to applicable bankruptcy, insolvency and other similar Laws affecting the enforceability of creditor's rights generally, general equitable principles and the discretion of the courts in granting equitable remedies. Since the Interim Balance Sheet Date, except as reflected in Schedule 4.13, there have been no amendments, assignments, modifications or supplemental arrangements to or with respect of any Material Contract. There is no event which has occurred or existing condition which constitutes or which, with notice or the passage of time will constitute a breach, default or event of default by the Company or will cause the acceleration of any obligation of the Company, give rise to any right of termination or cancellation by any party other than the Company or cause the creation of any Lien on any of the assets of the Company, nor do the Owners have Knowledge of, and the Company has not received written or, to the Owners' Knowledge, oral notice of, or made a claim with respect to, any breach or default by any other party thereto. The Company has not received any written or, to the Owners' Knowledge, oral notice that another party to a Material Contract intends to terminate or not renew any Material Contract. For purposes of clarity, non-renewal of a Material Contract is not by itself evidence and shall create no presumption that any such notice, written or oral, was received. There are no renegotiations of, or attempts to renegotiate or outstanding rights to renegotiate, any terms or provisions of any Material Contract (prior to the expiration of the stated term thereof) and no Person has made a demand for such renegotiations. Except as indicated on Schedule 4.13, no consent or approval of any Person is required with respect to any Material Contract with respect to or in connection with the consummation of the Contemplated Transactions.

4.14 Taxes.

(a) The Company has timely filed all Tax Returns required to be filed (determined with regard to extensions) on or before the date hereof. All Tax Returns filed by the Company are complete and correct in all material respects, and such Tax Returns correctly reflected the material facts regarding the income, business, assets, operations, activities, status and other matters of the Company and any other information required to be shown thereon.

(b) The Company has timely paid all Taxes owed (whether or not shown, or required to be shown, on Tax Returns) on or before the date hereof. The Company has withheld and timely paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, equity holder or other third party. All Taxes that have not yet become due and payable on or at the Closing Date have been adequately reserved in the Financial Statements. All required estimated payments of Tax sufficient to avoid any underpayment penalties have been timely made by or on behalf of the Company. None of the Tax Returns filed by the Company

contain or were required to contain a disclosure statement under former Section 6661 of the Code or current Section 6662 of the Code (or any similar provision of applicable Law). There are no liens for Taxes upon any of the Company's assets, other than Permitted Liens for Taxes not yet due and payable and for which there are adequate reserves.

(c) None of the Tax Returns filed by the Company or Taxes paid or payable by the Company have been the subject of an audit, action, suit, proceeding, claim, examination, deficiency or assessment by any Governmental Authority, and no such audit, action, suit, proceeding, claim, examination, deficiency or assessment is currently pending or, to the Owners' Knowledge, threatened.

(d) The Company is not currently the beneficiary of any extension of time within which to file any Tax Return, and the Company has not waived any statute of limitation with respect to any Tax or agreed to any extension of time with respect to a tax assessment or deficiency.

(e) The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (i) change in method of accounting for a taxable period ending on or prior to the Closing Date, (ii) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of applicable Law) executed on or prior to the Closing Date, (iii) installment sale or open transaction disposition transaction made on or prior to the Closing Date, (iv) prepaid amount received on or prior to the Closing Date, or (v) an election under Section 108(i) of the Code.

(f) None of the Interests are subject to a "substantial risk of forfeiture" within the meaning of Section 83 of the Code. No portion of the Base Purchase Price is subject to the tax withholding provisions of Section 3406 of the Code, or of Subchapter A of Chapter 3 of the Code or of any other provision of Law.

(g) The unpaid Taxes of the Company did not, as of the date of this Agreement, exceed the reserve for actual Taxes (as opposed to any reserve for deferred Taxes established to reflect timing differences between book and tax income) as shown on the Interim Balance Sheet, if any, and will not exceed such reserve as adjusted for the passage of time through the Closing Date in accordance with the reasonable past custom and practice of the Company in filing Tax Returns.

(h) Schedule 4.14(h) hereto contains a list of all jurisdictions (whether foreign or domestic) to which any Tax is properly payable by the Company. No claim has ever been made by a Governmental Authority in a jurisdiction where the Company does not file Tax Returns that the Company is or may be subject to Tax in that jurisdiction. The Company does not have, and has never had, a permanent establishment or other taxable presence in any foreign country, as determined pursuant to applicable foreign law and any applicable Tax treaty or convention between the United States and such foreign country.

(i) Owners have delivered to Buyer correct and complete copies of all Tax Returns, and any corresponding examination reports and statements of deficiencies assessed against or agreed to by the Company, for all periods beginning on or after January 1, 2014.

(j) The Company is not a party to nor has it ever had any Liability with respect to any agreement, contract, arrangement or plan that has resulted or could result, separately or in the aggregate, in the payment of (i) any "excess parachute payment" within the meaning of Section 280G of the Code (or any corresponding provision of applicable Law) and (ii) any amount that will not be fully deductible as a result of Section 162(m) of the Code (or any corresponding provision of applicable Law).

(k) The Company has never been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code.

(l) The Company is not a party to or bound by any tax allocation or sharing agreement.

(m) The Company (A) has not been a member of an affiliated or consolidated group filing a consolidated federal income Tax Return and/or (B) has no Liability for the Taxes of any Person (other than the Company) under Treasury Regulations Section 1.1502-6 (or any similar provision of applicable Law), as a transferee or successor, by contract, or otherwise.

(n) The Company has not distributed equity interests of another Person, and has not had its equity interests distributed by another Person, in a transaction that was purported or intended to be governed in whole or in part by Section 355 of the Code or Section 361 of the Code.

(o) The Company is not and has not been a party to any "reportable transaction," as defined in Section 6707A(c)(1) of the Code and Treasury Regulation Section 1.6011-4(b).

(p) Company (A) is not a "controlled foreign corporation" as defined in Section 957 of the Code and (B) is not a "passive foreign investment company" within the meaning of Section 1297 of the Code.

(q) The Company has been taxed as an S-corporation for tax purposes since [_____].

(r) The Company has not received any private letter ruling from the Internal Revenue Service (or any comparable ruling from any other Governmental Authority).

(s) The Company has not, in the past ten (10) years, (i) acquired assets from another corporation in a transaction in which the tax basis for the acquired assets was determined, in whole or in part, by reference to the tax basis of the acquired assets (or any other property) in the hands of the transferor; or (ii) acquired the stock of any corporation that is a qualified subchapter S subsidiary.

4.15 Employees.

(a) Schedule 4.15(a) contains a correct and complete list of all of the employees of the Company (collectively, the "Business Employees"), including the name, hire date, location of employment, current title, salary or hourly wage, and exempt or non-exempt status of each such person as of the date of this Agreement, and whether or not such person is on a leave of absence. Except as set forth on Schedule 4.15(a), no increase in the salary, bonus, benefits or other compensation (other than normal periodic increases in base compensation applied on a basis consistent with that of prior years) of any Business Employee has been made or promised with respect to the period following the Closing Date. Other than as set forth in Schedule 4.15(a), Company has not entered into any Contract with respect to severance payments nor does Company have any policy with respect to the payment of severance. To the Owners' Knowledge, no Business Employee or independent contractor material to the Business intends (or has announced an intention) to terminate employment with the Company. The Company has properly classified individuals providing services to the Company as independent contractors or employees and as exempt or non-exempt from the application of state and federal wage and hour Laws for all purposes, as the case may be, and have properly reported all compensation paid to such service providers for all

purposes. All current Business Employees are employees "at-will," unless otherwise specified on Schedule 4.15(a).

(b) No allegations of sexual harassment have been made, nor have any Actions with respect to sexual harassment been pending or, to the Owner's Knowledge, threatened, against the Owner or any officer, manager or employee of the Company. During the last ten (10) years, the Owner has not, and to the Owner's Knowledge no officer, manager or employee of the Company has, taken any action or made any statement that may give rise to an allegation of, or form the basis of an Action with respect to, sexual harassment of any person. Neither the Owner nor the Company is party to a settlement agreement with a current or former officer, employee or independent contractor involving allegations of sexual harassment.

4.16 Employee Benefits.

(a) Schedule 4.16(a) sets forth a true and complete list of (i) each "employee benefit plan" as defined in Section 3(3) of ERISA, and (ii) each bonus or other incentive compensation, equity option, equity purchase, or other equity-related award, deferred compensation, severance pay, change in control, retention, salary continuation, sick leave, vacation pay, leave of absence, paid time off, loan, educational assistance, legal assistance, and other material fringe benefit plan, program, agreement or arrangement, in each case which is maintained or contributed to by the Company or any ERISA Affiliate for the benefit of any current or former employee, officer, manager or director of the Company (and any eligible dependent and beneficiary thereof) or under which the Company or its ERISA Affiliates have any obligation or Liability, contingent or otherwise (collectively, the "Benefit Plans"). With respect to each Benefit Plan, true, correct and complete copies of the following documents (if applicable), have been provided to Buyer or its counsel: (i) the most recent plan document constituting the Benefit Plan and all amendments thereto, and any related trust documents (including a description of any unwritten Benefit Plan), (ii) the most recent summary plan description and all related summaries of material modifications, (iii) the Form 5500 and attached schedules filed with the Internal Revenue Service for the past three (3) fiscal years, (iv) for any Benefit Plan intended to be qualified under Section 401 of the Code, the most recent determination letter or opinion letter upon which the Benefit Plan is entitled to rely issued by the Internal Revenue Service, and (v) copies of any applicable non-discrimination testing data and results for the past three (3) plan years.

(b) Except as set forth on Schedule 4.16(b), the Company has performed and complied in all material respects with all of its obligations under or with respect to the Benefit Plans, and each Benefit Plan complies and has been administered and operated in compliance in all material respects in accordance with its terms and with all applicable Laws, including but not limited to the Code and ERISA.

(c) Each Benefit Plan that is intended to meet the requirements of a "qualified plan" under Code §401(a) has received a determination from the Internal Revenue Service that such Benefit Plan is so qualified or may rely on the opinion letter issued to the sponsor of a pre-approved master, prototype, or volume submitter plan, and nothing has occurred since the date of such determination that can reasonably be expected to adversely affect the qualified status of any such Benefit Plan.

(d) Except as set forth on Schedule 4.16(d), there have been no prohibited transactions with respect to any Benefit Plan or any Benefit Plan maintained by the Company or an ERISA Affiliate. Except as would not reasonably be expected to result in a material liability to the Company, no fiduciary has any Liability for breach of fiduciary duty or any other failure to act or comply in connection with the administration or investment of the assets of any such Benefit Plan. No action, suit, proceeding, hearing, or investigation with respect to the administration or the investment of the

assets of any Benefit Plan (other than routine claims for benefits) is pending or, to the Owners' Knowledge, threatened.

(e) All required material reports and descriptions (including Form 5500 annual reports, summary annual reports, and summary plan descriptions) have been timely filed and/or distributed in accordance with the applicable requirements of ERISA and the Code with respect to each Employee Benefit Plan. The requirements of COBRA have been met in all material respects with respect to each Benefit Plan and each Benefit Plan maintained by an ERISA Affiliate that is an employee welfare Benefit Plan subject to COBRA.

(f) None of the Benefit Plans is a "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA, and neither the Company nor any of its ERISA Affiliates have maintained, been required to contribute to or been required to pay any amount with respect to a "multiemployer plan" at any time within the six (6) years preceding the Closing Date. None of the Benefit Plans is subject to Title IV of ERISA or to the funding requirements of Section 412 of the Code or Section 302 of ERISA, and neither the Company nor any of its ERISA Affiliates have, within the six (6) years preceding the Closing Date, had any obligation to or Liability for (contingent or otherwise) with respect to any such Benefit Plan. Neither the Company nor any ERISA Affiliate has, within the six (6) years preceding the Closing Date, maintained, been required to contribute to or been required to pay any amount with respect to a multiple employer welfare benefit arrangement (as defined in Section 3(40)(A) of ERISA).

(g) Each Benefit Plan which is a nonqualified deferred compensation plan within the meaning of Section 409A of the Code has been administered, operated and maintained in all respects according to the requirements of Section 409A of the Code, and the Company has not been required to withhold or pay any Taxes as a result of a failure to comply with Section 409A of the Code. The Company has no obligation to make a "gross-up" or similar payment in respect of any Taxes that may become payable under Section 409A of the Code.

(h) Except as set forth on Schedule 4.16(h), all material contributions and premiums (including all employer contributions and employee salary reduction contributions) due with respect to any Benefit Plan have been made within the time periods prescribed by applicable Law or by the terms of such Benefit Plan or any agreement relating thereto to the respective Benefit Plan, and all material contributions, Liabilities or expenses of any Benefit Plan (including workers' compensation) for any period ending on or before the Closing Date which are not yet due will have been paid or accrued on the relevant balance sheet on or prior to the Closing Date.

(i) Except for health care continuation requirements under Section 4980B of the Code and Part 6 of Subtitle I of ERISA ("COBRA") or applicable state law, the Company does not have any obligations for post-termination health or life benefits (whether or not insured) to any current or former employee, officer, manager or director after his or her termination of employment or service with the Company. All group health plans of the Company have been operated in compliance in all material respects with the applicable requirements of COBRA.

(j) The consummation of the transactions contemplated by this Agreement will not accelerate the time of the payment or vesting of, or increase the amount of, or result in the forfeiture of compensation or benefits under, any Benefit Plan.

(k) Except as set forth on Schedule 4.16(k), the Company will not have any obligation under any deferred compensation arrangement, severance plan or arrangement, bonus plan, transaction bonus, change of control bonus or similar arrangement payable as a result of the consummation of the transactions described in this Agreement.

4.17 Labor Relations. Except as set forth on Schedule 4.17, the Company is in compliance in all material respects with all applicable Laws and Governmental Orders respecting employment and employment practices, terms and conditions of employment, wages and hours, and is not engaged in any unfair labor or unlawful employment practice. Except as set forth on Schedule 4.17, there is no: (a) discrimination charge pending before the Equal Employment Opportunity Commission (the "EEOC") or any EEOC recognized state "referral agency" or, to the Owners' Knowledge, threatened, against or involving the Company; (b) unfair labor practice charge or complaint against the Company pending before the National Labor Relations Board (the "NLRB") or, to the Owners' Knowledge, threatened, against or involving the Company; (c) labor strike, dispute, slowdown or stoppage actually pending or, to the Owners' Knowledge, threatened against or involving the Company, and no NLRB representation question exists respecting any of its Business Employees; (d) grievance or arbitration proceeding pending and no written claim therefor exists; or (e) collective bargaining agreement that is binding on the Company. Within the five (5) years preceding the Closing Date, the Company has not implemented any "plant closing" or "mass layoff" of employees that would reasonably be expected to require notification under the WARN Act or any similar state or local Law, no such "plant closing" or "mass layoff" will be implemented before the Closing Date without advance notification to and approval of Buyer, and there has been no "employment loss" as defined by the WARN Act within the ninety (90) days prior to the Closing Date.

4.18 Real Properties and Related Matters.

(a) The Company does not own any real property. Schedule 4.18(a) sets forth a correct and complete list of all of the real property leased (the "Leased Real Property") by the Company as of the date of this Agreement, and Schedule 4.18(a) also identifies each lease agreement to which each Leased Real Property is subject and to which the Company is a party, including each amendment thereto (collectively, the "Real Property Leases").

(b) All of the rental and other payments payable under each Real Property Lease by the Company are current. The Company has not received any notice of default under such Real Property Lease either from the landlord or by the tenant thereunder and, to the Owners' Knowledge, no event has occurred which, with the lapse of time or the giving of notice or both, would constitute a default thereunder.

(c) No part of the Leased Real Property is currently subject to condemnation proceedings, and, to the Owners' Knowledge, no condemnation or taking is threatened or contemplated. There are no public improvements which may result in special assessments against or otherwise affect the Leased Real Property. To the Owners' Knowledge, the Company's use of the Leased Real Property is not in violation of any zoning, public health, building code or other similar laws applicable thereto or to the ownership, occupancy and/or operation thereof, nor, to the Owners' Knowledge, do any waivers or exemptions relating to the Company's use of the Leased Real Property with respect to any non-conforming use or other zoning or building code matters exist. To the Owners' Knowledge, there are no structural defects in any of the improvements situated on the Leased Real Property, including the heating, ventilation, air conditioning, electrical, plumbing, water, gas, storm drainage or sanitary sewer systems, except for ordinary wear and tear or routine maintenance and repairs which occur in the ordinary course of business.

4.19 Proprietary Rights.

(a) The Company is the sole and exclusive owner of all right, title and interest in all of the Proprietary Rights of the Company, free and clear of any Liens.

(b) Schedule 4.19(b) lists all registered Company Proprietary Rights and indicates for any such registered Company Proprietary Rights the applicable jurisdictions and registration numbers, and filing and registration dates. All documents and instruments necessary to establish, perfect and maintain the rights of the Company in any registered Company Proprietary Rights have been validly executed, delivered and filed in a timely manner with the appropriate Governmental Authority, and all necessary registration, maintenance and renewal fees have been paid.

(c) Schedule 4.19(c) lists (i) each Contract pursuant to which any Proprietary Rights are licensed to the Company by a third party (except for any commercially available software products non-exclusively licensed under "shrink-wrap" or "click-through" license agreements) and (ii) whether the licenses or rights granted to the Company in each such Contract are exclusive or non-exclusive. Each such agreement is a valid and binding agreement of the Company and is in full force and effect and enforceable in accordance with its terms against the other contracting party. The Company has not granted any third party right or license in or to any Company Proprietary Rights, or any sublicense to any third party's Proprietary Rights.

(d) Each employee and contractor of the Company who is or was involved in the creation or development of any Proprietary Rights for or on behalf of the Company has signed a valid and enforceable agreement containing an irrevocable assignment of all such Proprietary Rights to the Company.

(e) The Company has taken commercially reasonable steps to maintain the confidentiality of and otherwise protect and enforce its rights in all trade secrets included in the Company Proprietary Rights. The Company has taken all commercially reasonable steps necessary to protect, preserve, defend and enforce the Company Proprietary Rights.

(f) The Company Proprietary Rights and the Proprietary Rights licensed to the Company through Contracts listed on Schedule 4.19(c) are all the Proprietary Rights needed to conduct the Business as currently conducted.

(g) No third party has challenged or, to the Owners' Knowledge, threatened to challenge the scope, validity or enforceability of any Company Proprietary Right and, to the Owners' Knowledge, there is no reasonable basis for any such challenge. All Company Proprietary Rights are valid and enforceable.

(h) Neither the Company nor any Company Proprietary Right has ever infringed, misappropriated or otherwise violated or made unlawful use of any Proprietary Rights of any third party. No product or service distributed, sold, offered or provided by the Company infringes, misappropriates, violates or makes unlawful use of any Proprietary Right of any third party.

(i) No infringement, misappropriation or similar claim or legal proceeding is or ever has been pending or, to the Owners' Knowledge, threatened against the Company. To the Owners' Knowledge, no third party has infringed, misappropriated or otherwise violated, or is currently infringing, misappropriating or otherwise violating, any Company Proprietary Rights.

(j) The Company has obtained and possesses valid licenses to use all of the third party software programs present on the computers and other software-enabled electronic devices that it currently uses in connection with the Business.

(k) All of the Company computer and information systems (i) have been properly maintained in accordance with standards set by the manufacturers or otherwise in accordance with

standards prudent in the Company's industry, to ensure proper operation, monitoring and use, and (ii) are in a condition to effectively perform in all material respects the information technology operations necessary to conduct the Business. The Company has taken commercially reasonable measures to provide for the back-up and recovery of the electronic data and information necessary to the conduct of the Business without material disruption to, or material interruption in, the conduct of such Business.

(l) The Company has implemented an information security program designed to prevent unauthorized access to the Company's computer and information systems in accordance with standards prudent in the industry.

4.20 Brokers, Finders and Investment Bankers. Except as set forth on Schedule 4.20, none of the Company, Owners or any of the Company's officers, managers, directors or their respective Affiliates have employed or engaged any broker, finder or investment banker, or incurred any Liability for any investment banking fees, financial advisory fees, brokerage fees or finders' fees, in connection with the Contemplated Transactions.

4.21 Insurance. Schedule 4.21 sets forth a complete and accurate list and brief description (in each case specifying the insurer, the amount of coverage and the type of insurance, including whether each policy is on an "occurrence" or "claims made" basis and the expiration date thereof) of all insurance policies issued and currently in effect in favor of the Company, or pursuant to which the Company is named insured or otherwise a beneficiary in respect of the Business (the "Business Insurance Policies") and all claims pending under the Business Insurance Policies, all of which have been properly reported to the insurance carriers and there has been no reservation of rights that has been issued by any insurance carrier that may jeopardize coverage, except in each case as set forth on Schedule 4.21. All Business Insurance Policies listed in Schedule 4.21 are in full force and effect, all premiums due thereon have been paid and the Company has complied in all material respects with the provisions of such policies. The Company has not received any written or, to the Owners' Knowledge, oral notice of cancellation or non-renewal or proposed material increase in the premiums payable for coverage under any such Business Insurance Policy. For purposes of clarity, cancellation or non-renewal or material increase in the premiums payable for coverage under any such Business Insurance Policy is not by itself evidence and shall create no presumption that any such notice, written or oral, was received. There are no outstanding surety or performance bonds with respect to the Business.

4.22 Title to Assets. Except as set forth on Schedule 4.22, the Company owns and holds good and valid title to, or a valid and subsisting leasehold interest in or other valid and subsisting right to use, all assets of the Company, free and clear of all Liens other than the Permitted Liens. No Person other than the Company owns any assets, real, personal or mixed, whether tangible or intangible (including Proprietary Rights) that are used or held for use in the Business, except for personal property of Business Employees, patients or visitors. There are no outstanding rights (including any right of first refusal), options, or Contracts giving any Person any current or future right to require the Company to sell or transfer to such Person or to any third party any of the assets of the Company.

4.23 Condition of Properties. The assets of the Company include all material machinery, equipment and other tangible personal property (excluding, for the avoidance of doubt, Proprietary Rights) necessary for the conduct of the Business as currently conducted. All such personal property is (a) in reasonable operating condition and repair in all material respects (ordinary wear and tear and routine, ordinary course maintenance excepted), (b) is sufficient, together with any intangible assets of the Company, in the aggregate to conduct the Business as currently conducted by the Owners, (c) has no known material defects, (d) has been maintained in accordance with normal industry practice, and (e) has been and is properly certified, permitted and/or registered to the extent required by (and then in such case, in accordance with) the laws of the State of Alabama.

4.24 Transactions with Affiliates. Except as set forth in Schedule 4.24, none of the Owners or officers, managers or directors of the Company or any of their respective Affiliates (a) has any interest in any property, real or personal, tangible or intangible, used in or pertaining to the Business, or in any supplier or customer of the Company, (b) has any other Contract, arrangement or understanding with the Company, or (c) owes any Indebtedness to, or is owed any Indebtedness payable by, the Company.

4.25 Inventory. The inventory of the Company is, and will be on the Closing Date, at a normal and customary level based on the Company's past practices, is in quantity and quality useable or saleable in the ordinary course of business, and the amount of such inventory is sufficient to conduct the Business consistent with the past practices of the Company.

4.26 Accounts Receivable and Bad Debts. Schedule 4.27 attached hereto sets forth a complete and accurate list of all Accounts Receivable of the Company as of the Interim Balance Sheet Date which list sets forth the aging of such Accounts Receivable. Each account receivable listed on Schedule 4.27 arises from services actually performed, is a valid and enforceable claim, is not subject to any dispute, set-off or counterclaim and is genuine and subsisting.

4.27 Powers of Attorney. Except as set forth on Schedule 4.27, the Company has not entered into, granted or authorized, or become a party to, any power of attorney or proxy, whether limited or general, revocable or irrevocable.

4.28 Bank Accounts. Schedule 4.28 sets forth each of the bank accounts of the Company and the authorized signatories with respect to such accounts.

4.29 Business Relationships. Schedule 4.29 lists the 10 largest private payors and the 10 largest suppliers of the Company measured by and with disclosure in each case for dollar volume of cash collections or purchases during the fiscal years ended December 31, 2018 and December 31, 2019 and identifies the applicable Contract, if any, between the Company and such party.

4.30 COVID-19 Matters. The Company has not experienced any disruption in its supply chain networks, including its ability to receive medical supplies, equipment, and pharmaceuticals, as a result of the COVID-19 virus ("COVID-19"). The Company has not made, and does not currently plan to make, any changes to its supply chains or vendor services in response to COVID-19.

(b) No counterparty to any Contract to which the Company is a party has been unable to perform its obligations or defaulted under such Contract or, to the Owners' Knowledge, filed for bankruptcy or insolvency relief, or indicated an intention to do so. The Company has not received any notices seeking (i) to excuse a third party's non-performance, or delay a third party's performance, under existing Contracts due to interruptions caused by COVID-19 (through invocation of force majeure or similar provisions, or otherwise) or (ii) to modify any existing contractual relationships due to COVID-19. The Company has not issued any notices seeking (A) to excuse the Company's non-performance, or delay the Company's performance, under existing contracts due to interruptions caused by COVID-19 or (B) to modify any existing contractual relationships due to COVID-19.

(c) Schedule 4.30(c) sets forth all loans received by the Company under the Coronavirus Aid, Relief and Economic Security Act (as amended, the "CARES Act"), including any Small Business Association Loans (i.e., the Paycheck Protection Program) (the "PPP Loans"). The Company has provided Buyer with true and complete copies of all documents that it has received with respect to the PPP Loans. The Company is in full compliance with the terms of the PPP Loans, including the all applicable requirements governing the Company's application for PPP Loans and all related certifications, and all such related certifications were, and are currently, true and correct. The Company is

currently in compliance with all requirements for the PPP Loans to be forgiven in full, and expects that it will remain in compliance with all such requirements, and the Company does not have any reason to believe the PPP Loans will not be, or current intentions that would cause the PPP Loans not to be, forgiven in full. The Company has used, and expects to use, the proceeds of the PPP Loans only for permitted purposes under the applicable laws, regulations and guidance promulgated under the CARES Act or other rulemaking with respect to the PPP Loans.

(d) Except as set forth on Schedule 4.30(d), the Company has not applied for or received acceleration of Medicare payments under the Accelerated & Advanced Payment Program nor received any payment with respect thereto. The Company has complied in all material respects with all applicable laws, regulations and guidance promulgated with respect to the AAPP Payments that it has received or for which it has applied.

(e) Schedule 4.30(e) sets forth all grants received by the Company from the U.S. Department of Health and Human Services (HHS) under the CARES Act Provider Relief Fund (the "PRF Payments"). The Company has submitted all attestation documentation required with respect to receipt and retention of the PRF Payments, and has complied with all applicable laws, regulations and guidance promulgated with respect to the PRF Payments. Other than the PRF Payments already received, the Company has not applied for any additional payments from the CARES Act Provider Relief Fund.

(f) Other than the PPP Loans and the PRF Payments, the Company has not received any other loans, grants, or funding from any government programs or any other third person as a result of or in connection with COVID-19.

(g) The Company has complied with all Health Care Laws relating to COVID-19, including without limitation requirements applicable to provide telemedicine or telehealth services and reimbursement from private and governmental payors and patients therefor.

(h) The Company is not collecting, and has not collected, any health data (e.g., temperature readings, symptom information, etc.) from employees, patients, or other office visitors in connection with COVID-19. The Company has not implemented any other measures in response to COVID-19 that involve creating, collecting, tracking, maintaining or analyzing any data relating to employees or visitors.

(i) Each member of the Company Group has fully complied with the paid sick leave and emergency family leave requirements of the Families First Coronavirus Response Act ("FFCRA"), and to the extent a member of the Company Group has received any corresponding tax credit under the FFCRA for providing such paid leave, it has done so in full compliance with the FFCRA.

(j) The Company has not utilized the Employee Retention Tax Credit under the CARES Act to either offset tax deposits or receive an advance Tax refund.

(k) The Company has not deferred paying the employer portion of social security tax for any payroll period as a result of COVID-19.

(l) The Company has complied with all labor and employment laws in connection with COVID-19.

(m) The Company has complied with all Governmental Orders or guidelines or directives promulgated by Governmental Authorities with respect to COVID-19, including all Occupational Safety and Health Administration (OSHA) and Centers for Disease Control and Prevention

(CDC) guidelines and requirements, such as social distancing, cleaning, and other similar or related measures.

(n) Schedule 4.30(n) sets forth all changes to the Company's work force attributable to COVID-19, including (i) the date of any employee furloughs, layoffs or terminations, and whether such changes are intended to be temporary or permanent, (ii) the date and amounts of any employee salary or wage reductions, other changes in employee compensation and whether such changes are intended to temporary or permanent, (iii) if applicable, the date any such employees returned to work or are expected to return to work, (iv) any severance or other benefits offered to such employees), and (v) any changes to any employee benefit that the Company makes available to its employees. Except as provided on Schedule 4.30(n), none of the affected employees have elected to receive COBRA coverage.

(o) The Company has not amended its Benefit Plans in response to COVID-19. The Company's retirement plans have not experienced a partial plan termination as the result of any such employee reductions.

(p) The Company has not received any complaints, concerns or claims (i) from employees regarding leaves of absence, paid sick time, or similar matters related to COVID-19, (ii) about the Company's reporting, or failure to report, to employees, contractors, customers, vendors or the public, the presence of employees or contractors who have tested positive for, or exhibited symptoms of, COVID-19, or other potential means of exposure to COVID-19, or (iii) alleging the Company failed to provide a safe working environment, appropriate equipment or accommodation in relation to COVID-19.

(q) The Company has not made any claims on existing insurance policies, including business interruption insurance, as a result of COVID-19.

(r) The Company is not party to, and has not received notice of, any pending or anticipated litigation or a dispute that could lead to litigation (whether regarding contractual, labor and employment, benefits, or other matters) arising from COVID-19.No Other Representations or Warranties. Except for the representations and warranties contained in Articles 4 and 5 (as modified or supplemented by the Schedules) and except in the case of Fraud, neither the Owners nor any related Person makes any other express or implied representation or warranty with respect to the Company, the Owners or the Contemplated Transactions, and the Owners and any related Persons hereby disclaim any other representations or warranties, whether made by the Owners or any of the Owners' respective Affiliates, agents or representatives. Except for the representations and warranties contained in Articles 4 and 5 (as modified or supplemented by the Schedules) and except in the case of Fraud, the Owners hereby disclaim all Liability and responsibility for any representation, warranty, projection, forecast, statement or information made, communicated, or furnished (orally or in writing) to Buye, or its Affiliates or representatives (including any opinion, information, projection or advice that may have been or may be provided to Buyer by any officer, manager, employee, agent, consultant, or representative of the Company or the Owners or any of their respective Affiliates). Notwithstanding anything contained in this Agreement to the contrary, and except in the case of Fraud, neither the Owners nor the Company make any representations or warranties to Buyer regarding any projections or the future or probable profitability, success, business, opportunities, relationships and operations of the Company.

ARTICLE 5
REPRESENTATIONS OF THE OWNERS REGARDING THE OWNERS

Each Owner, severally (and not jointly and severally), and solely with respect to such Owner, hereby makes to Buyer the representations and warranties contained in this Article 5:

5.1 Authorization. Each Owner has full capacity and authority to execute and deliver this Agreement and each agreement, document or instrument required to be delivered by such Owner hereby or in connection herewith (the "Owner Documents") and to perform his obligations hereunder and thereunder and to consummate the Contemplated Transactions. This Agreement and the Owner Documents have been duly executed and delivered by the applicable Owner and constitute the valid and binding agreements thereof, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency and other similar Laws affecting the enforceability of creditor's rights generally, general equitable principles and the discretion of the courts in granting equitable remedies. There is no Action pending or, to the Owners' Knowledge, threatened that in any manner challenges or seeks to prevent, enjoin, alter or delay any of the Contemplated Transactions. To the Owners' Knowledge, there is no fact, event or circumstance that reasonably could be expected to give rise to any suit, Action or that in the aggregate would have a Material Adverse Effect on Buyer or the Company upon the consummation of the Contemplated Transactions. No Violations. Assuming the accuracy of the representations and warranties of Buyer in Section 6.3, the execution, delivery and performance of this Agreement and each Owner Document and the consummation of the Contemplated Transactions do not and will not violate or conflict with, constitute a material breach of or default under, result in the loss of any benefit under, or permit the acceleration of any obligation under, (a) any Contract to which any Owner is a party or by which he (or any of his properties or assets) is subject or bound, (b) any Governmental Order to which any Owner is a party or by which he or any of his properties or assets is bound, or (c) any Law applicable to any Owner or any of his assets or (d) the articles of organization, articles of incorporation, operating agreement, bylaws or other organizational document of the Company. No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Authority or any other Person is required in connection with any Owner's execution, delivery or performance of this Agreement and each agreement, document or instrument required to be delivered by such Owner hereby or in connection herewith.

5.3 Brokers, Finders and Investment Bankers. Except as set forth on Schedule 4.20, none of the Owners or their respective Affiliates have employed any broker, finder or investment banker or incurred any Liability for any investment banking fees, financial advisory fees, brokerage fees or finders' fees in connection with the Contemplated Transactions.

5.4 Title to Interests. The Owners are the sole record and beneficial owners of, and have good and valid title to, the Interests, free and clear of all Liens. Other than this Agreement, no Owner is a party to or bound by any agreement, option, warrant, right, contract, call or put that requires, or upon the passage of time or occurrence of any other event would require, the payment of money or transfer of any of such Interests to anyone other than Buyer.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES OF BUYER

Each of Buyer hereby represents and warrants to the Owners as follows:

6.1 Organization. Buyer is a [_____] and has all requisite limited liability company power and authority to own, lease and operate its properties and to carry on its business as now being conducted.

6.2 Authorization. Each of Buyer has full [limited liability company] power and authority to execute and deliver this Agreement and each agreement, document or instrument required to be delivered by it hereby or in connection herewith and to perform its obligations hereunder and thereunder and to consummate the Contemplated Transactions provided for herein. The execution and delivery of this Agreement and each agreement, document or instrument required to be delivered by it hereby or in connection herewith by Buyer and the performance by Buyer and of its obligations hereunder and thereunder and the consummation of the Contemplated Transactions have been duly and validly authorized by all necessary action on the part of Buyer. This Agreement and each agreement, document or instrument required to be delivered by Buyer hereby or in connection herewith have been duly and validly executed and delivered by Buyer and constitutes the legal, valid and binding agreement of Buyer enforceable against Buyer in accordance with its terms, subject to applicable bankruptcy, insolvency and other similar Laws affecting the enforceability of creditor's rights generally, general equitable principles and the discretion of the courts in granting equitable remedies.

6.3 No Violations. Assuming the accuracy of the Owners' representations and warranties in Sections 4.3 and 5.2, the execution, delivery and performance of this Agreement and each agreement, document or instrument required to be delivered by Buyer hereby or in connection herewith, and the consummation of the Contemplated Transactions, do not and will not violate or conflict with, constitute a breach of or default under, result in the loss of any benefit under, or permit the acceleration of any obligation under, (a) any Contract to which Buyer is a party or by which Buyer (or any of its properties or assets) is subject or bound, (b) any Governmental Order to which Buyer is a party or by which Buyer or any of its properties or assets is bound, or (c) any Law applicable to Buyer or any of its assets.

6.4 Brokers and Finders. No broker, finder or other financial consultant has acted on Buyer's behalf in connection with this Agreement or the Contemplated Transactions in such a way as to create any Liability of the Owners.

6.5 No Material Litigation. No Action exists or is pending or, to the Knowledge of Buyer, threatened that: (a) questions the validity of this Agreement or the Contemplated Transactions; or (b) individually or in the aggregate, could have a Material Adverse Effect on Buyer.

6.6 Compliance with Laws. To the Knowledge of Buyer, Buyer is, and has been, in compliance with all Laws (including without limitation those relating to Medicare, Medicaid and all other government programs as well as to billing and health care fraud (including the federal Anti-Kickback Law, 42 U.S.C. §1320a-7b and the Stark I and II Laws, 42 U.S.C. §1395nn, as amended)) that govern or apply to Buyer or the operations of Buyer and its business and the businesses of its Affiliates, as applicable, except where such failure to so comply would not reasonably be expected to have a Material Adverse Effect on Buyer's ability to perform the Contemplated Transactions or on the condition (financial or otherwise) of Buyer, or its business, properties and/or prospects.

ARTICLE 7
CERTAIN COVENANTS AND AGREEMENTS

7.1 Restrictive Covenants.

(a) As an inducement to Buyer to execute this Agreement and complete the transactions contemplated herein, and in order to protect legitimate business interests and otherwise preserve the goodwill associated with the Company and the Business, each Owner (each a "Restricted Party" and collectively, the "Restricted Parties") agrees that for a period of five (5) years from the Closing Date, without the prior written consent of Buyer, such Restricted Party will not except in service of Buyer directly or indirectly (including through any Affiliate), and will cause such Restricted Party's Affiliates

not to:

(i) Own, manage, operate, advise, assist or control, or participate in the ownership, management, operation or control of, or be connected with as an officer, employee, director, independent contractor, consultant, promoter, partner, manager, member, shareholder or otherwise or have any beneficial interest in, any Competing Entity which conducts its business within the Restricted Territory, whether acting alone or with others, or acting as an employee, agent or consultant of any other Person;

(ii) Provide ophthalmology, optometry, optical retail or other vision or eye-related services (including without limitation, the provision of eye care imaging, eye testing, inpatient or outpatient eye care or treatment, eye therapy or eye-care-related counseling services) in the Restricted Territory or operate or perform any of the foregoing services at an ambulatory surgery center in the Restricted Territory;

(iii) Solicit or divert, or attempt to solicit or divert, any business or any client, patient or active prospect related to the Business from Buyer or its Affiliates (including the Company), or assist any Person in doing so or attempting to do so;

(iv) Cause or seek to cause any Person to refrain from dealing or doing business with the Company or Buyer or its Affiliates, or assist any Person in doing so or attempting to do so; or

(v) Employ, solicit for employment, or advise or recommend to any Person that they employ or solicit for employment or retention as an employee, contractor, or consultant, any Business Employee.

(b) Each Restricted Party agrees that neither he nor his respective Affiliates will disclose to any Person, or use (other than in connection with and for the benefit of Buyer, the Company or their respective Affiliates and a Restricted Party's duties and obligations with respect to the Business), any Confidential Information for any purpose whatsoever or permit any Person to examine and/or make copies of any Confidential Information. In the event that any Restricted Party is legally compelled to disclose any Confidential Information pursuant to a Governmental Order, the disclosure shall be limited to only such Confidential Information which is required to be disclosed according to the legal advice from counsel after providing notice to, and an opportunity to obtain a protective or similar order by, Buyer or the Company, as the case may be. "Confidential Information" means all proprietary or business sensitive information of the Company or the Business, whether in oral, written, graphic, machine-readable or tangible form, and whether or not registered, and including all notes, plans, records, documents and other evidence thereof, including but not limited to all patents, patent applications, copyrights, trademarks, trade names, service marks, service names, "know-how," patient lists, details of client or consulting contracts, pricing policies, operational methods, marketing plans or strategies, product development techniques or plans, procurement and sales activities, promotion and pricing techniques, credit and financial data concerning customers, business acquisition plans or any portion or phase of any scientific or technical information, discoveries, computer software or programs used or developed in whole or in part by the Company (including source or object codes), processes, procedures, formulas or improvements, algorithms, computer processing systems and techniques, price lists, customer lists, procedures, improvements, concepts and ideas, business plans and proposals, technical plans and proposals, research and development, budgets and projections, technical memoranda, research reports, designs and specifications, new product and service developments, comparative analyses of competitive products, services and operating procedures, and other information, data and documents, regardless of whether any of such information, data or documents qualify as a "trade secret" under applicable federal or

state law; provided, however that Confidential Information shall not include any information which is in the public domain as of the Closing Date or which becomes public thereafter other than as a consequence of disclosure by any Owner in violation of this Agreement.

(c) Notwithstanding the foregoing, nothing contained in Section 7.1(a)(i)-(ii) shall restrict any Restricted Party from passively owning three percent (3%) or less of the outstanding securities of any publicly traded corporation.

(d) Each Restricted Party has carefully considered the nature and extent of the restrictions upon him and the rights and remedies conferred upon Buyer and its Affiliates (including the Company) under this Section 7.1 and hereby acknowledges and agrees that, in light of the benefits he will receive under the terms of this Agreement, the information to which he has been privy, and the nature of the Business, the same are reasonable in time and territory, are designed to prevent competition which would be unfair to Buyer, are fully required to protect the legitimate interests of Buyer and the Business as set forth below, and do not confer a benefit upon Buyer disproportionate to any detriment to any Restricted Party. Each Restricted Party acknowledges and agrees that the covenants set forth in this Section 7.1 are reasonable and necessary in all respects to protect the legitimate and valuable business interests of the Buyer and its Affiliates, including the Business post-Closing (and including without limitation valuable confidential information, substantial client lists and relationships, and the customer, patient, vendor and client goodwill associated with an ongoing eyecare practice, which represent a significant portion of the Business) and that the payment of the Base Purchase Price and the other obligations of Buyer hereunder are sufficient consideration for the covenants set forth in this Section 7.1. Each Restricted Party acknowledges and agrees that the covenants set forth in this Section 7.1 are an integral component of the transactions contemplated by this Agreement, that Buyer is entering into this Agreement in reliance upon the covenants set forth in this Section 7.1, and that Buyer would not enter into this Agreement without the covenants set forth in this Section 7.1. Each Restricted Party acknowledges and agrees that, in the event that a Restricted Party breaches any of the covenants set forth in this Section 7.1, Buyer and its Affiliates (including the Company) will be irreparably harmed and may not have an adequate remedy at law; and, therefore, in the event of such a breach or threatened breach, Buyer and its Affiliates (including the Company) shall be entitled to injunctive relief, in addition to (and not exclusive of) any other remedies (including monetary damages) to which Buyer and its Affiliates (including the Company) may be entitled under law. Each Restricted Party hereby represents, acknowledges and agrees that the limitations contained herein will not prohibit or unreasonably limit his or her ability to earn a living during the restricted period. Each Restricted Party further agrees that the time period set forth in Section 7.1(a) above shall be extended by a period of time equal to that period of time in which a Restricted Party is determined by a Governmental Authority to be in violation of Section 7.1 of this Agreement.

(e) If any covenant set forth in this Section 7.1 is deemed invalid or unenforceable for any reason, it is the Parties' intention that such covenant be equitably reformed or modified to the extent necessary (and only to such extent) to render it valid and enforceable in all respects. In the event that the time period and/or geographic scope referenced in Section 7.1(a) above is deemed unreasonable, overbroad, or otherwise invalid, it is the Parties' intention that the enforcing court shall reduce or modify the time period and/or geographic scope to the extent necessary (and only to such extent) to render such covenant reasonable, valid, and enforceable in all respects.

(f) Each Party shall bear its own expenses with respect to any dispute regarding the provisions of this Section 7.1, regardless of which Party is the prevailing party in any such dispute.

7.2 Announcements. The Owners and Buyer shall consult with each other with respect to the timing and content of all announcements regarding this Agreement or the Contemplated Transactions to

the financial community, Governmental Authorities, employees, customers or the general public and shall use reasonable efforts to agree upon the text of any such announcement prior to its release, and no Party shall make any such announcement without the other Party's express consent to the content thereof except as required by Law.

7.3 Tax Matters.

(a) Allocation of Purchase Price. Buyer and Owners hereby agree to allocate the Cash Purchase Price among the assets of the Company for all Tax Purposes, in accordance with Sections 704, 707, 721 and 1060 of the Code (the "Allocation Schedule"). Within ninety (90) days following the final determination of the Purchase Price Adjustment Amount pursuant to Section 2.5, Buyer shall propose the Allocation Schedule to the Owners for their consent, which shall not be unreasonably withheld. The Parties shall resolve any disputes regarding the Allocation Schedule by submission to the Settlement Firm using the procedures set forth in Section 2.5, *mutatis mutandis*. The parties further agree to comply with all filing, notice and reporting requirements described in Section 1060 of the Code and the applicable Treasury Regulations promulgated thereunder, including the timely preparation and filing of Form 8594 based on the Allocation Schedule. The Parties agree to adhere to, and not take any position for Tax purposes inconsistent with, the Allocation Schedule, as may be amended by mutual agreement of the Parties, before any Governmental Authority or in any judicial proceeding and for the purposes of any Tax Returns filed by them subsequent to the Closing, unless required by applicable Law.

(b) Tax Indemnification. The Owners shall be jointly and severally responsible for, and shall jointly and severally indemnify, defend and hold harmless Buyer from, all Liabilities for Taxes of the Company for taxable periods, or portions thereof, ending on or before the Closing Date or resulting from the Contemplated Transactions, including in any case any amount resulting from, arising out of, relating to, in the nature of, or caused by any Liability of the Company for any Person relating to any period prior to the Closing Date or Treasury Regulation 1.1502-6 (or any similar provision of state, local or non-U.S. law (the "Tax Indemnity").

(c) Filing Responsibility. The following provisions shall govern the allocation of responsibility and payment of Taxes as between Buyer and the Owners for certain tax matters following the Closing Date:

(i) The Owners shall prepare or cause to be prepared and file or cause to be filed all Tax Returns required to be filed by or that include the Company for all periods ending on or prior to the Closing Date (including those that are due after the Closing Date) and shall provide each such Tax Return to Buyer for review and comment at least twenty (20) days before the due date (including extensions) of such Tax Return. Such Tax Returns shall be prepared in a manner consistent with past practice, except as otherwise required by Law. No later than five (5) days before any such Tax Return is due, Buyer shall provide the Owners' Representative with any written comments on the Tax Return. If Buyer does not provide such written comments in a timely manner, Buyer shall be deemed not to have any comments on such Tax Return and the Owners may file such Tax Return. However, if Buyer provides timely written comments on any such Tax Return to the Owners' Representative, the Owners shall consider any revisions to such Tax Return as reasonably requested by Buyer prior to filing such Tax Return. In the event there is a disagreement as to whether any revision requested by Buyer should be included in any such Tax Return, the disagreement shall be submitted to the Settlement Firm. In the event the Settlement Firm determines that a reasonable basis (or higher level of authority) exists for the position of Buyer to include a requested revision in such Tax Return, such revision shall be included in such Tax Return. Notwithstanding the above, the Owners shall be entitled to file or cause to be filed any such Tax Return by its due date. In the event any such Tax Return is filed prior to the Settlement Firm's settlement of a disagreement, and the Tax Return does not reflect the Settlement Firm's determination that a more

likely than not basis (or higher level of authority) exists for the position of Buyer to include a requested revision in such Tax Return, the Owners shall cause such Tax Return to be amended to reflect such determination. The Owners shall pay or cause to be paid all Taxes shown on such Tax Returns to the extent such Taxes are in excess of the amount, if any, reserved for Taxes in the final determination of the Adjusted Closing Net Working Capital.

(ii) Buyer shall prepare or cause to be prepared and file or cause to be filed all Tax Returns required to be filed by or that include the Company for all Straddle Periods and shall provide each such Tax Return to the Owners' Representative for review and comment at least twenty (20) days before the date such Tax Return is filed. Such Tax Returns shall be prepared in a manner consistent with past practice, except as otherwise required by Law. No later than five (5) days before any such Tax Return is due, the Owners' Representative shall provide Buyer with any written comments on the Tax Return. If the Owners' Representative does not provide such written comments in a timely manner, the Owners' Representative shall be deemed not to have any comments on such Tax Return and Buyer may file such Tax Return. However, if the Owners' Representative provides timely written comments on any such Tax Return to Buyer, Buyer shall consider any revisions to such Tax Return as reasonably requested by the Owners' Representative prior to filing such Tax Return. In the event there is a disagreement as to whether any material revision requested by the Owners' Representative should be included in any such Tax Return, the disagreement shall be submitted to the Settlement Firm. In the event the Settlement Firm determines that a reasonable basis (or higher level of authority) exists for the position of the Owners' Representative to include a material requested revision in such Tax Return, such revision shall be included in such Tax Return. Notwithstanding the above, Buyer shall be entitled to file or cause to be filed any such Tax Return by its due date. In the event any such Tax Return is filed prior to the Settlement Firm's settlement of a disagreement, and the Tax Return does not reflect the Settlement Firm's determination that a more likely than not basis (or higher level of authority) exists for the position of Buyer to include a requested revision in such Tax Return, Buyer shall cause such Tax Return to be amended to reflect such determination. In the case of Taxes that are payable with respect to a Straddle Period, the portion of any such Tax that is allocable to the portion of such Straddle Period ending on the Closing Date shall be:

(1) in the case of Taxes that are either (A) based upon or related to income or receipts or (B) imposed in connection with any sale or other transfer or assignment of property (real or personal, tangible or intangible), deemed equal to the amount which could be payable if the taxable period ended on the Closing Date and the Parties shall elect to do so if permitted by applicable Law; and

(2) in the case of Taxes imposed on a periodic basis with respect to the assets of the Company, or otherwise measured by the level of any item, deemed to be the amount of such Taxes for the entire Straddle Period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding taxable period), multiplied by a fraction the numerator of which is the number of days in the Straddle Period ending on the Closing Date and the denominator of which is the number of days in the entire Straddle Period.

(d) Tax Contests. If any Governmental Authority issues to the Company (i) a notice of its intent to audit or conduct another proceeding with respect to Taxes or Tax Returns of the Company for any period ending on or prior to the Closing Date or Straddle Period or (ii) a notice of deficiency for Taxes for any period ending on or prior to the Closing Date or Straddle Period, Buyer shall notify the Owners' Representative of the receipt of such communication from the Governmental Authority within ten (10) days of receipt. The Company shall control any audit or other proceeding in respect of any Taxes or Tax Returns of the Company (a "Tax Contest"); provided, however, (x) the Owners' Representative, at

the Owners' sole cost and expense, shall have the right to control any Tax Contest (including the settlement or resolution thereof) to the extent it relates solely to a period ending on or prior to the Closing Date; (y) the Owners' Representative, at Owners' sole cost and expense, shall have the right to participate in any Tax Contest to the extent it relates to a period ending on or prior to the Closing Date or Straddle Period; and (z) neither Buyer nor the Owners' Representative shall, and Buyer shall not allow the Company to, settle, resolve, or abandon a Tax Contest (whether or not the Owners' Representative controls or participates in such Tax Contest) for a period ending on or prior to the Closing Date or Straddle Period without the prior written consent of the Owners' Representative or Buyer, as applicable (which shall not be unreasonably withheld, conditioned or delayed).

(e) Tax Refunds. All refunds of Taxes of the Company for any period ending on or prior to the Closing Date (or portion of a Straddle Period ending on the Closing Date, as determined in accordance with the same principles provided for in Section 7.3(c)(ii)(1) (whether in the form of cash received or a credit or other offset against Taxes otherwise payable) shall be the sole benefit of the Owners to the extent not included in the computation of Net Working Capital. To the extent that Buyer or the Company receives a refund that is for the benefit of the Owners, Buyer shall pay to the Owners the amount of such refund (and interest received from the Governmental Authority with respect to such refund). The amount due to the Owners shall be payable to the Owners' Representative ten (10) days after receipt of the refund from the applicable Governmental Authority (or, if the refund is in the form of direct credit, ten (10) days after the due date of the Tax Return realizing such credit or offset).

(f) Additional Tax Covenants. With respect to certain Tax matters, the Owners and Buyer agree to treat all income earned with respect to the Escrow Funds as income of the Buyer provided that Buyer shall be entitled to distributions from the Escrow Funds to cover any resulting Taxes related to the income earned by Buyer from the Escrow Funds (net of any interest deductions available to Buyer upon the payment of the Escrow Funds).

(g) Cooperation in Filing Tax Returns. Buyer and the Owners shall, and each shall cause its Affiliates to, provide to the other such cooperation and information, as and to the extent reasonably requested, in connection with the filing of any Tax Return, determining Liability for Taxes, or in conducting any audit, litigation or other proceeding with respect to Taxes. Such cooperation and information shall include providing copies of all relevant portions of relevant Tax Returns, together with relevant accompanying schedules and relevant work papers. Each party will retain all Tax Returns, schedules, work papers, and all material records and other documents relating to tax matters of the Company for the taxable period first ending after the Closing Date and for all prior taxable periods until the expiration of the applicable statute of limitations (and, to the extent notice is provided with respect thereto, any extensions thereof) for the taxable periods to which the Tax Returns and other documents relate. Thereafter, the party holding such Tax Returns or other documents may dispose of them. Each party shall make its employees reasonably available on a mutually convenient basis at its cost to provide explanation of any documents or information so provided.

(h) Transfer Taxes. The Owners shall pay or cause to be paid Transfer Taxes arising out of or in connection with the transactions effected pursuant to this Agreement. The Owners shall file all necessary documentation and Tax Returns with respect to such Transfer Taxes.

7.4 Further Assurances. From time to time after the date of this Agreement, without further consideration, the Owners, on the one hand, and Buyer, on the other hand, at their own respective expense, will execute and deliver such additional instruments and other documents and will take such further actions as may be reasonably necessary or appropriate to effectuate, carry out and comply with the terms of this Agreement and the Contemplated Transactions.

7.5 Filings and Notifications; Cooperation. To the extent any consent, approval, filing, notice or authorization is required to effectuate the Contemplated Transactions, the Owners (in consultation with Buyer) will use all reasonable efforts to cooperate with Buyer to obtain the same and take such other actions with respect to such matters as reasonably requested with respect thereto. If such any such consent, approval, filing, notice or authorization is not obtained or made, or if an attempted assignment thereof would be ineffective so that Buyer would not in fact receive all rights thereunder, then the assignment thereof shall be delayed and conditioned upon the receipt of such consent, approval, filing, notice or authorization, and the Owners will cooperate in a mutually agreeable arrangement pursuant to which Buyer would obtain the benefits and assume the obligations thereunder in accordance with this Agreement, including sub-contracting, sublicensing or subleasing to Buyer, or under which the Owners would enforce for the benefit of Buyer, any and all rights of the Company and the Owners against a third party thereto. The Owners shall continue to cooperate and use all reasonable best efforts to obtain such consent and to provide Buyer with all such rights.

7.6 Name Rights. The Owners agree that following the Closing Date, Buyer and the Company will have the sole right to use the name "Vision Correction Center" and all reasonable derivations thereof in connection with the Business.

7.7 COVID-19 Provider Relief Fund Reporting Requirements. [The Owners and the Company agree to (i) comply with the Terms & Conditions of the PRF Payments (as defined in Section 4.30(e) above); (ii) provide Buyer upon request with documentation evidencing that the Company is eligible for all PRF Payments it has received and retained, including that its COVID-19-related lost revenue and/or increased expenses, excluding expenses and losses that have been reimbursed from other sources or that other sources are obligated to reimburse, are or are anticipated to be equal to or in excess of the PRF Payments received and retained by the Company; and, (iii) provide Buyer upon request, but no less often than quarterly for the next four calendar quarters, with an accounting of how PRF Payments (or other payments received under similar federal programs) have been used that is sufficient, in Buyer's sole discretion, to fulfill the PRF Payment quarterly reporting obligations, including the total amount of funds received, a detailed list of all projects or activities for which the funds were expended or obligated, the name and description of the project or activity, the estimated number of jobs created or retained by the project or activity, and detailed information on any level of sub-contracts or subgrants awarded by the Company or its subcontractors or subgrantees. The Owners further agree to cooperate with Buyer as reasonably requested to complete and submit any attestations or certifications required on the part of Buyer as the successor-in-interest to the Company's healthcare operations. The parties acknowledge (A) that Buyer is not receiving any portion of the PRF Payments, (B) that Buyer has not advised Owners and the Company with respect to the PRF Payments or requested that Owners and the Company apply for, receive or attest to any PRF Payments, and (C) that the PRF Payments are solely for the benefit of Owners and the Company and the operation of its business prior to the Closing. Owners and the Company agree (x) to refund any or all of the PRF Payments to the extent required by Law (including if required due to the acquisition of the Acquired Assets by Buyer) and (y) to pay all penalties and interest imposed by any Governmental Authority with respect thereto.]

7.8 COVID-19 PPP Loans. [The Owners and Company agree to (i) comply with the Terms & Conditions of the PPP Loans (as defined in Section 4.30(c) above); (ii) provide Buyer upon request with documentation evidencing that the Company was eligible for all PPP Loans it has received and retained, together with copies of all loan and other related documents and any communications, correspondence or records with any Governmental Authority or lender with respect thereto, and (iii) provide Buyer upon request with an accounting of how PPP Loans have been used that is sufficient, in Buyer's sole discretion, to satisfy the conditions for the borrowing and forgiveness of the PPP Loans. The Owners further agree to cooperate with Buyer as reasonably requested to complete and submit any attestations or certifications required on the part of Buyer with respect to the PPP Loans as the successor-in-interest to the Company's

healthcare operations. The parties acknowledge (A) that Buyer is not receiving any portion of the proceeds from the PPP Loans, (B) that Buyer has not advised Owners and the Company with respect to the PPP Loans or requested that Owner and the Company apply for, receive, attest to or request forgiveness of any PPP Loans, (C) that the proceeds from the PPP Loans are solely for the benefit of Owners and the Company and the operation of its business prior to the Closing and (D) that Buyer has no obligation to enter into any arrangements with Owners or the Company or otherwise take any action in order for Owners and the Company to obtain forgiveness of the PPP Loans. Owners and the Company shall have sole discretion over whether to request forgiveness of the PPP Loans and shall have sole responsibility with respect thereto. Owners and Company agree (x) to refund or repay any or all of the PPP Loans to the extent required by Law (including if required due to the acquisition of the Acquired Assets by Buyer (including if the PPP Loans are not eligible for forgiveness as a result of the transactions contemplated hereunder)) and (y) to pay all penalties and interest imposed by any Governmental Authority with respect thereto.]

7.9 [Employee Covenants.

(a) Following the Effective Time, Buyer shall maintain or cause to be maintained employee benefit plans and compensation opportunities for the benefit of employees who are full time employees of Company on the Closing Date ("Covered Employees") that provide employee benefits and compensation opportunities which, in the aggregate, are substantially comparable to the employee benefits and compensation opportunities that are made available on a uniform and non-discriminatory basis to similarly situated employees of Buyer, as applicable; provided, however, that in no event shall any Covered Employee be eligible to participate in any closed or frozen plan of Buyer or its subsidiaries. Buyer shall give the Covered Employees full credit for their prior service with Company (to the extent such service was conducted under a comparable Benefit Plan for the same purpose immediately prior to the Closing Date) for purposes of eligibility and vesting under any employee benefit plan maintained by Buyer and in which Covered Employees may be eligible to participate.

(b) Prior to the Effective Time, Company shall take all actions requested by Buyer that may be necessary or appropriate to (i) cause one or more Benefits Plans to terminate as of the Effective Time, or as of the date immediately preceding the Effective Time, (ii) cause benefit accruals under any Benefit Plan to cease as of the Effective Time, or as of the date immediately preceding the Effective Time, or (iii) cause the continuation on and after the Effective Time of any contract, arrangement or insurance policy relating to any Benefit Plan for such period as may be requested by Buyer. All resolutions, notices, or other documents issued, adopted or executed in connection with the implementation of this Section 7.7(b) shall be subject to Buyer's reasonable prior review and approval, which shall not be unreasonably withheld, conditioned or delayed.

(c) Nothing in this Section 7.7 shall be construed to limit the right of Buyer or any of its subsidiaries to amend or terminate any employee benefit plan, to the extent such amendment or termination is permitted by the terms of the applicable plan, nor shall anything in this Section 7.7 be construed to require Buyer or any of its subsidiaries to retain the employment of any particular Covered Employee for any fixed period of time following the Closing Date, and, the continued retention (or termination) by Buyer or any of its subsidiaries of any Covered Employee subsequent to the Effective Time shall be subject in all events to Buyer's or its applicable subsidiary's normal and customary employment procedures and practices, including customary background screening and evaluation procedures, and satisfactory employment performance. Nothing in this Agreement shall be deemed to require duplicate benefits to be paid or provided to or with respect to any employee under any Benefit Plan or any benefit or compensation plan, program, policy, agreement, contract, or arrangement for the same period of service. The provisions of this Section 7.7 are solely for the benefit of the parties to this Agreement, and no other Person (including any Covered Employee or any beneficiary or dependent

thereof) shall be regarded for any purpose as a third-party beneficiary of this Section 7.7, and no provision of this Section 7.7 shall create such rights in any such Persons.]

ARTICLE 8
INDEMNIFICATION

8.1 Indemnification by the Owners. From and after the Closing, the Owners shall jointly and severally indemnify, defend and hold harmless Buyer and its officers, directors, employees, shareholders, partners, managers, members, agents, representatives and the successors and assigns and Affiliates of each (collectively, the "Buyer Indemnified Parties") from and against and in respect of and reimburse and pay Buyer Indemnified Parties as incurred with respect to, any and all claims, demands, or suits (by any Person), damages, Liabilities (excluding consequential, incidental, special and punitive damages except to the extent such damages are awarded in respect of a third-party claim; provided, that the Buyer Indemnified Parties shall be entitled multiple damages, lost profits and diminution of value solely with respect to breaches of representations of the Owners in Section 4.5 (Financial Statements) hereof), obligations, payments, penalties, fines, costs and expenses (including, the costs and expenses of any and all actions, suits, proceedings, assessments, judgments, settlements, compromises, fines and interest relating thereto, including reasonable and actual attorneys' fees and disbursements and costs of investigation in connection therewith) (collectively, "Losses") assessed, suffered, incurred or sustained by or against any Buyer Indemnified Party by reason of, arising out of, relating to, or in connection with the following:

(i) any inaccuracy in or breach of any representation or warranty of the Owners set forth in Article 4 or 5 of this Agreement;

(ii) any breach by the Company or any Owner of any covenant of such Person hereunder or under the Company Documents, Owner Documents or any other document to be executed by any of them in connection herewith;

(iii) any Liabilities of the Company to the extent incurred, accruing, arising or relating to periods (or portions thereof) prior to the Effective Time and not included in the calculation of Closing Net Working Capital, including without limitation (A) Liabilities to government reimbursement programs or private payor programs for overpayments and other financial obligations arising from adjustments or reductions in reimbursement to the extent attributable to events, transactions, circumstances, or conditions occurring or existing prior to the Effective Time, (B) professional liability, employee liability and other general liability claims arising as a result of actions or omissions prior to the Effective Time, (C) claims or Liabilities arising with respect to Benefit Plans prior to the Effective Time or arising in connection with the termination of the Company's 401(k) plan or any other Benefit Plan, and (D) Credit Balances;

(iv) the submission of any claims prior to the Effective Time for reimbursement for services in violation of any applicable laws governing, or the terms of, any of the Programs, the Program Agreements or agreements governing third party payor programs;

(v) any Closing Indebtedness or Closing Transaction Expenses, to the extent not included in the determination of the Cash Purchase Price pursuant to Section 2.2;

(vi) the Tax Indemnity;

(vii) any claim or proceeding made or initiated by any Person (other than Buyer or its Affiliates) that the Base Purchase Price was not properly allocated to the Owners and any party entitled to payment under any equity or equity equivalent rights agreement in connection with Buyer's reliance on any action taken (or omitted) by the Owners; and

(viii) the matters set forth on Schedule 8.1(viii).[15]

8.2 Indemnification by Buyer. From and after the Closing, Buyer shall indemnify, defend and hold harmless the Owners and their respective agents and representatives and the successors and assigns and Affiliates of each (collectively, the "Owner Indemnified Parties") from and against and in respect of and reimburse and pay the Owner Indemnified Parties as incurred with respect to, any and all Losses assessed, suffered, incurred or sustained by or against any Owner Indemnified Party by reason of, arising out of, relating to, or in connection with (i) any inaccuracy in or breach of any representation or warranty by Buyer set forth herein, and (ii) any breach by Buyer of any covenant of Buyer hereunder or under any other document to be executed by Buyer in connection herewith.

8.3 Limitations on Indemnification by the Owners.

(a) The Buyer Indemnified Parties shall not be entitled to recover Losses pursuant to Section 8.1(i) (other than with respect to breaches of the Fundamental Representations) from the Owners until the total amount which the Buyer Indemnified Parties would be entitled to recover under Section 8.1(i) of this Agreement and [Section 8.1(i) of the Other Purchase Agreements] with respect to any and all sat which time the Buyer Indemnified Parties shall then be entitled to recover all Losses only to the extent such Losses exceed the Basket pursuant to Section 8.1(i) of this Agreement and [Section 8.1(i) of the Other Purchase Agreements].

(b) In no event shall the Buyer Indemnified Parties be entitled to recover Losses pursuant to Section 8.1(i) (other than with respect to breaches of the Fundamental Representations) from the Owners to the extent that Losses incurred pursuant to Section 8.1(i) of this Agreement and [Section 8.1(i) of the Other Purchase Agreements], in the aggregate, exceed [_____] Dollars ($[_____]) (the "Cap").

(c) No party or Person shall have any claim for indemnification hereunder with respect to any Tax liabilities arising by reason of any reduction or disallowance of deductions from taxable income in one taxable year, to the extent such reduction or disallowance results in a corresponding increase in allowable deductions from income in another taxable year, or the shifting of items of income from one taxable year to another; provided that the party or Person who then recognizes the income also receives the economic benefit of such income.

(d) Notwithstanding anything herein to the contrary, the Owners shall not be required to indemnify any Buyer Indemnified Party pursuant to this Article 8 for any: (i) Taxes arising from any act, omission or transaction, that is initiated by Buyer or any of its Affiliates with respect to the Company occurring on the Closing Date but after Closing, (ii) Taxes of the Company for any post-Closing Tax period and (iii) Taxes that would not have arisen but for any breach by the Buyer or any of its Affiliates of any of their covenants or agreements set forth in this Agreement.

(e) The limitations in Sections 8.3(a) and 8.3(b) (i.e., the Basket and Cap) shall not

[15] NTD: Other potential specific indemnities / holdbacks subject to Buyer's due diligence (e.g. compliance) and matters relating to the Company.

apply to any claims by the Buyer Indemnified Parties arising pursuant to Section 8.1(ii)-(viii) or claims arising pursuant to Section 8.1(i) with respect to breaches of the Fundamental Representations, or claims by the Buyer Indemnified Parties based upon fraud (with the intent to deceive as an element thereof) or intentional misrepresentation (together, "Fraud") by any Owners.

8.4 Survival.

(a) The representations and warranties of the Parties set forth in this Agreement shall survive the Closing and continue in full force and effect thereafter for a period of eighteen (18) months after the Closing Date, at which time such representations and warranties shall expire and terminate, except that (i) the representations and warranties of the Owners set forth in Sections 4.9 (Compliance with Laws), 4.12 (Environmental Matters), and the representations and warranties of Buyer in Section 6.6 (Compliance with Laws) shall survive the Closing and continue in full force and effect thereafter for a period of three (3) years after the Closing Date, at which time such representations and warranties shall expires and terminate (ii) the representations and warranties of the Owners set forth in Sections 4.14 (Taxes), 4.16 (Employee Benefits) and the Tax Indemnity shall survive the Closing and continue in full force and effect thereafter until the date that is thirty (30) days following the expiration of the statute of limitations applicable thereto, at which time such representations and warranties shall expire and terminate, and (iii) the representations and warranties of the Owners in Section 4.1 (Organization), 4.2 (Authorization), 4.3 (No Violations), 4.4 (Capitalization), 4.20 (Brokers, Finders and Investment Bankers), 4.22 (Title to Assets), 4.25 (Sufficiency of Assets), 4.30 (COVID-19 Matters) and Article 5 and the representations and warranties of Buyer in Sections 6.1 (Organization), 6.2 (Authorization), 6.3 (No Violations) and 6.4 (Brokers and Finders) shall survive the Closing and continue in full force and effect indefinitely. The covenants of the Parties set forth in this Agreement shall survive the Closing and continue in full force and effect thereafter in accordance with their respective terms.

(b) The representations, warranties and covenants (other than the covenants in Section 7.1) made herein shall survive, and claims may be made with respect thereto, until the date specified for a claim in Section 8.4(a) (subject to extension as described below, the "Applicable Time Limit"). The Owners will have no indemnification Liability pursuant to Section 8.1(i) and Buyer will have no indemnification liability under Section 8.2(i), unless, on or before the Applicable Time Limit, Buyer notifies the Owners of a claim or potential claim. Upon the giving of such notice, the indemnity with respect thereto shall survive the time at which it would otherwise terminate pursuant to this Agreement (regardless of when the Losses in respect thereof may actually be incurred or known), and Buyer shall have the right to commence legal proceedings subsequent to the survival date to seek enforcement of its rights under this Article 8.

8.5 Notice of Claim; Procedure for Indemnification – Third Party Claims. If, after the Closing Date, either a Buyer Indemnified Party or Owner Indemnified Party, as the case may be (the "Indemnitee"), receives written notice of any third-party claim or alleged third-party claim asserting the existence of any matter of a nature as to which the Indemnitee is entitled to be indemnified under this Agreement, the Indemnitee shall promptly notify the applicable Owners or Buyer, as the case may be (the "Indemnitor"), in writing with respect thereto, but the failure to notify the Indemnitor will not relieve the Indemnitor of any Liability that it may have to an Indemnitee, except to the extent that (and only to the extent that) such failure is demonstrated by the Indemnitor to have actually caused the Losses for which it is obligated to pay hereunder to be greater than such Losses that would have been payable had the Indemnitee given the prompt notice required hereby. The Indemnitor will have the right to defend against any such claim provided that (a) the Indemnitor, within ten (10) Business Days after the giving of such notice by Indemnitee, notifies Indemnitee in writing that (i) Indemnitor disputes such claim and gives reasons therefor, and (ii) Indemnitor will, at its own cost and expense, defend the same, and (b) such defense is instituted and continuously maintained in good faith by Indemnitor; provided, further, that

(A) if the Indemnitor is a Owner, then such Owner shall provide written evidence reasonably satisfactory to Buyer demonstrating that Owner has a sufficient amount of financial resources to vigorously defend such matter and (B) Owner's counsel must be reasonably satisfactory to Buyer. Indemnitee may, if it so elects and at its sole cost and expense, designate its own counsel to participate with the counsel selected by Indemnitor in the conduct of such defense. In any event, Indemnitor will keep Indemnitee fully advised as to the status of such defense. The Indemnitor shall not, except with the consent of the Indemnitee, enter into any settlement or consent to entry of any judgment that (i) imposes any injunctive relief or other equitable relief against, or alleges that a criminal act was committed by, the Indemnitee or imposes any monetary damages as to which the Indemnitee will not be indemnified in full hereunder, or (ii) does not include as a term thereof the giving by the Person(s) asserting such claim to all Indemnitees of a release from all Liability with respect to such claim. Notwithstanding the foregoing, the Indemnitor shall not have the right to assume control of such defense if the third-party claim that the Indemnitor seeks to assume control (i) seeks non-monetary relief, (ii) involves criminal or quasi-criminal allegations or regulatory matters, (iii) involves a claim that, if adversely determined, would be reasonably expected, in the good faith judgment of the Indemnitee, to establish a precedent, custom or practice materially adverse to the continuing business interests or prospects of the Indemnitee or the Business, or (iv) seeks Losses for any claim in excess of 150% of the Cap. If the Indemnitor is controlling the defense of any third-party claim in accordance with this Section 8.5, the Indemnitee, at its sole cost and expense, shall have the right to participate in the defense of such third-party claim with counsel selected by it, subject to the Indemnitor's right to control the defense thereof, and the fees and disbursements of such counsel shall be at the expense of the Indemnitee; provided that if (i) there are legal defenses available to an Indemnitee that are materially different from or additional to those available to the Indemnitor; or (ii) under applicable standards of professional conduct, a non-waivable conflict of interest exists between the Indemnitor and the Indemnitee in respect of such third-party claim, then the Indemnitor shall be responsible for the fees and expenses of counsel to the Indemnitee to the extent such fees and expenses relate to such distinct legal defenses or conflict.

8.6 Notice of Claim; Procedure For Indemnification – Other Claims. A claim for indemnification for any matter not involving a third-party claim may be asserted by notice to the Indemnitor. If within fifteen (15) Business Days after receipt of notice of a claim for indemnification, the Indemnitor has not given the Indemnitee written notice of any good faith objection in reasonable detail to indemnifying Indemnitee in connection with such claim, then it shall be presumed that the Indemnitor has not agreed to indemnify the Indemnitee with respect to such claim.

8.7 Survival of Representations, Warranties and Covenants.ll representations, warranties, covenants and obligations in this Agreement and any other certificate delivered pursuant to this Agreement will survive the Closing and the consummation of the Contemplated Transactions.

8.8 Knowledge. The right of any Buyer Indemnified Party to indemnification, reimbursement, or other remedy based on any representations, warranties, covenants and obligations of the Owners or their respective Affiliates will not be affected by any investigation conducted by Buyer or its representatives with respect to, or any knowledge or knowledge after the date hereof acquired (or capable of being acquired) by Buyer or its representatives about, the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or obligation; provided, that this Section 8.8 or otherwise is not intended to result, nor shall it have the effect of resulting, in any representation or warranty which is qualified by "Knowledge of the Owners" or to the "Owners' Knowledge" or to the knowledge of a Party to this Agreement to not be so qualified.

8.9 Materiality. For the purposes of determining a Buyer Indemnified Party's right to indemnification pursuant to this Article 8 (including whether a representation, warranty or covenant has been breached or the amount of Losses related to any such breach), no effect shall be given to any

materiality, Material Adverse Effect or similar qualification in any representation, warranty or covenant, except with respect to those qualifications set forth in Section 4.13.

8.10 Mitigation. Each Indemnitee shall use commercially reasonable efforts to mitigate any Loss for which such Indemnitee seeks indemnification under this Agreement.Payment of Claims; Treatment of Payments. Any and all payments required pursuant to Section 8.1(i) of this Agreement following a Final Determination shall be made first from the Escrow Funds in accordance with the terms of the Escrow Agreement. All other payments required pursuant to this Article 8 (other than Section 8.1(i)) following a Final Determination shall be made from the Owners or, at Buyer's option and sole discretion, from the Escrow Funds. Except as required by applicable Law, all payments made by the Owners (whether from the Escrow Funds or otherwise) to or for the benefit of Buyer or a Buyer Indemnified Party shall be treated as adjustments to the proceeds payable hereunder for Tax purposes, and such agreed upon treatment shall govern for purposes of this Agreement.Alternative Arrangements. The amount of any Losses subject to indemnification under this Article 8 shall be calculated net of any proceeds actually received by the Indemnitee under or pursuant to any insurance policy or program pursuant to which or under which such Indemnitee or such Indemnitee's Affiliate is a party or has rights (collectively, "Alternative Arrangements") on account of such Losses, in each case net of costs incurred in connection with any such recovery and any increase in premiums, as applicable. No Indemnitee shall be obligated to institute litigation or take any action that would reasonably be expected to adversely impact, affect or impair any claim that may be made by an Indemnitee pursuant to this Article 8. In any case where an Indemnitee recovers, under Alternative Arrangements, any amount in respect of a matter for which such Indemnitee was indemnified pursuant to this Article 8 and actually received payment under such indemnity, such Indemnitee shall promptly pay such amount to the applicable Indemnitor (net of all costs of recovery including increased premiums, but in no event in excess of the amount received by an Indemnitee from the applicable Indemnitor received in connection therewith).Exclusive Remedy. From and after the Closing, the remedies provided for in this Article 8 shall be the sole and exclusive remedies and shall preclude assertion by any Indemnitee of any other rights or the seeking of any and all other remedies against the Indemnitor for claims based on or relating to the matters covered by this Article 8 other than for (i) actions for specific performance or other equitable remedies; or (ii) Losses arising out of, incidental to or relating to Fraud by an Indemnitor or its Affiliates.

ARTICLE 9
MISCELLANEOUS PROVISIONS

9.1 Notices. Unless otherwise provided herein, any notice, approval, request, instruction, other document or communication to be given hereunder by any Party to the other Parties must be in writing and will be deemed given (a) if by transmission by electronic mail or hand delivery, when delivered (provided that if such communications are related to any indemnification claims under Article 8, then such notice shall be concurrently sent by mail in accordance with sub-clause (b) or (c) below); (b) if mailed via the official governmental mail system, five (5) Business Days after mailing, provided said notice is sent first class, postage pre-paid, via certified or registered mail, with a return receipt requested; or (c) if mailed by an internationally recognized overnight express mail service, two (2) Business Days after deposit therewith prepaid. All notices will be addressed to the Parties at the respective addresses as follows:

To the Owners: Dr. E. Van Johnson

_____

_____

E-mail: _____

Dr. Timothy V. Johnson

_____

_____

E-mail: _____

with a copy (which shall not constitute notice) to:

Maynard Cooper & Gale, P.C.
1901 Sixth Avenue North
Regions Harbert Plaza, Suite 2400
Birmingham, Alabama 35203
Attn: Steven L. McPheeters
E-mail: smcpheeters@maynardcooper.com

To Buyer:

[BUYER]
15933 Clayton Road, Suite 210
Ballwin, Missouri 63011
Attn: Mark Barron
E-mail: markbarron@eyecare-partners.com

with a copy (which shall not constitute notice) to:

Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309
Attn: Russell A. Hilton
Email: russell.hilton@alston.com

or to such other representative or at such other address of a Party as such Party hereto may furnish to the other Parties in writing in accordance with this Section 9.1.

9.2 Exhibits and Schedules to this Agreement. All Exhibits and Schedules hereto, or documents expressly incorporated into this Agreement, are hereby incorporated into this Agreement and are hereby made a part hereof as if set out in full in this Agreement.

9.3 Assignment; Successors in Interest. No assignment or transfer by Buyer or the Owners of their respective rights and obligations hereunder shall be made except with the prior written consent of the other Party hereto, except that without the consent of the Owners, Buyer may (i) collaterally assign its rights hereunder to its lender or its Affiliate's lender or lenders or (ii) assign its rights and obligations hereunder to any of its Affiliates, or (iii) assign its rights and obligations hereunder in connection with any sale of all or substantially all of the assets of Buyer or its parent company, or a transfer of voting control of Buyer or its parent company, including by way of merger. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their permitted successors and assigns, and any reference to a Party hereto shall also be a reference to a permitted successor or assign.

9.4 Controlling Law; Integration. This Agreement shall be governed by and construed and enforced in accordance with the internal laws of the State of Delaware without reference to Delaware's choice of law rules. This Agreement supersedes all negotiations, agreements and understandings among the Parties with respect to the subject matter hereof. This Agreement, and all other agreements and instruments required to be executed by the Parties in connection herewith, constitute the entire agreement among the Parties hereto with respect to the subject matter hereof.

9.5 Amendment; Waiver. This Agreement may not be amended, restated, modified, supplemented or waived except by written agreement of Buyer and the Owners. No failure or delay by any Party hereto in exercising any right, power or privilege hereunder (and no course of dealing between or among any of the Parties) shall operate as a waiver of any such right, power or privilege. No waiver of any default on any one occasion shall constitute a waiver of any subsequent or other default. No single or partial exercise of any such right, power or privilege shall preclude the further or full exercise thereof.

9.6 Severability. Any provision set forth in this Agreement that is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by Law, the Parties hereto waive any provision of Law that renders any such provision prohibited or unenforceable in any respect.

9.7 Counterparts. This Agreement may be executed in two (2) or more counterparts (and the same may be delivered by means of facsimile or PDF file), each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement or the terms hereof to produce or account for more than one of such counterparts.

9.8 No Third-Party Beneficiary. Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any Person other than the Parties hereto, and their successors or permitted assigns, any rights, remedies, obligations or Liabilities under or by reason of this Agreement or result in such Person being deemed a third-party beneficiary of this Agreement.

9.9 JURISDICTION AND FORUM; WAIVER OF JURY TRIAL.

(a) THE PARTIES HERETO AGREE THAT THE EXCLUSIVE FORUM AND VENUE FOR ANY DISPUTES BETWEEN ANY OF THE PARTIES HERETO ARISING OUT OF THIS AGREEMENT SHALL BE ANY STATE OR FEDERAL COURT IN THE STATE OF MISSOURI. THE FOREGOING SHALL NOT LIMIT THE RIGHTS OF ANY PARTY HERETO TO OBTAIN EXECUTION OF JUDGMENT IN ANY OTHER JURISDICTION. THE PARTIES HERETO FURTHER AGREE, TO THE EXTENT PERMITTED BY LAW, THAT FINAL AND UNAPPEALABLE JUDGMENT AGAINST ANY OF THEM IN ANY ACTION OR PROCEEDING CONTEMPLATED ABOVE SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTION WITHIN OR OUTSIDE THE UNITED STATES BY SUIT ON THE JUDGMENT, A CERTIFIED OR EXEMPLIFIED COPY OF WHICH SHALL BE CONCLUSIVE EVIDENCE OF THE FACT AND AMOUNT OF SUCH JUDGMENT.

(b) EACH OF THE PARTIES HERETO HEREBY EXPRESSLY WAIVES ANY AND ALL OBJECTIONS IT MAY HAVE TO VENUE, INCLUDING, WITHOUT LIMITATION, THE INCONVENIENCE OF SUCH FORUM, IN ANY OF SUCH COURTS. IN ADDITION, EACH OF THE PARTIES CONSENTS TO THE SERVICE OF PROCESS BY PERSONAL SERVICE OR ANY MANNER IN WHICH NOTICES MAY BE DELIVERED HEREUNDER IN ACCORDANCE WITH SECTION 9.1 OF THIS AGREEMENT.

(c) EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE AGREEMENTS DELIVERED IN CONNECTION HEREWITH

OR THE CONTEMPLATED TRANSACTIONS.

9.10 Interpretation. As all Parties have participated in the drafting of this Agreement, any ambiguity shall not be construed against any party as the drafter.

9.11 Specific Performance and Other Remedies. The Parties acknowledge that the performance of their respective obligations under this Agreement and to consummate the transactions contemplated herein are special, unique and of extraordinary character, and that, in the event that a Party breaches, threatens to breach or fails or refuses to perform any of its obligations under this Agreement, irreparable injury to the other Party and its Affiliates may result. Each Party agrees, therefore, that in the event that it breaches, threatens to breach or fails or refuses to perform any of its obligations under this Agreement, the other Party shall be entitled to, in addition to any remedies at Law under this Agreement for damages or other equitable relief, specific performance of such covenant or agreement hereunder, including injunctive relief without the necessity of posting a bond.

9.12 Expenses. Except as otherwise expressly provided in this Agreement, each of Buyer, on the one hand, and the Owners (for themselves and the Company), on the other hand, shall pay their respective costs and expenses incurred in connection with this Agreement and the Contemplated Transactions, including fees and expenses of their own respective financial advisors, accountants and counsel.

9.13 Owners' Representative.

(a) Each Owner hereby irrevocably appoints [_____], M.D. to act as representative and attorney-in-fact of such Owner (the "Owners' Representative"), in all matters provided for such Owner to act in this Agreement and the Escrow Agreement, and any certificate or instrument by the Owners' Representative in its capacity as such on behalf of such Owner shall be deemed to be binding and enforceable against each such Owner. The Owners' Representative shall be fully authorized to take any action (or to determine to take no action) with respect to all claims, and all other notices and communications relating to indemnification in the manner set forth in this Agreement as the Owners' Representative then serving hereunder may deem appropriate, including, without limitation, the institution or defense of litigation on behalf of any such Owner and the settlement or compromise of any dispute or controversy.

(b) The Owners' Representative shall not be liable to any Owner in its capacity as the Owners' Representative for any error of judgment, or any act done or step taken or omitted by it in good faith or for any mistake in fact or law, or for anything which it may do or refrain from doing in connection with this Agreement, except for its own bad faith. The Owners' Representative may seek the advice of legal counsel in the event of any dispute or question as to the construction of any of the provisions of this Agreement or its duties hereunder, and it shall incur no Liability in its capacity as the Owners' Representative to any Owner and shall be fully protected and indemnified by the Owners with respect to any action taken, omitted or suffered by it in good faith in accordance with the opinion of such counsel. Any expenses incurred by the Owners' Representative in connection with the performance of his duties under this Agreement shall not be the personal obligation of the Owners' Representative but shall be payable by the Owners based on a pro rata basis. The Owners' Representative may from time to time submit invoices to the Owners covering such expenses and, upon the request of any Owner, shall provide such Owner with an accounting of all expenses paid.

* * * * *

IN WITNESS WHEREOF, the Parties hereto have caused this Purchase Agreement to be duly executed as of the date first above written.

BUYER:

[BUYER]

By:_____
Name: Kathleen Shea
Title: Chief Financial Officer

OWNERS:

_____
E. VAN JOHNSON, M.D.

_____
TIMOTHY V. JOHNSON, M.D.

SELLER:

[SELLER]

By:_____
Name:
Title:

Exhibit A

Example Net Working Capital Statement

[To be attached.]