TUCKER ARENSBERG, P.C.

CELEBRATING A CENTURY OF SERVICE

SDMS DocID 2020449

ORIGINAL (Red)

August 10, 2001

Via Federal Express

Brian Nishitani, Esquire
Assistant Regional Counsel
United States Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Re: AHERF, et al., Bankruptcy No. 98-25773-MBM (WDPA)
CERCLA §104(e) Request re Lower Darby Creek Superfund Site
Clearview Landfill, Folcroft Landfill and Folcroft Landfill Annex
Our File No. 016229-024850

Dear Mr. Nishitani:

We write in response to Mr. Larry S. Miller's July 17, 2001 request under CERCLA §104(e) for information about Clearview Landfill, Folcroft Landfill and Folcroft Landfill Annex, portions of the Lower Darby Creek Superfund Site. Mr. Miller's request was addressed to Graduate Hospital LLC.

Tucker Arensberg, P.C., is counsel to Tenet HealthSystem Graduate, LLC ("Tenet-Graduate") in connection with the AHERF bankruptcy proceeding referenced above. Tenet-Graduate acquired the assets that now comprise the Graduate Hospital on November 10, 1998, pursuant to a bankruptcy sale free and clear of liens, claims and encumbrances.

Tenet-Graduate acquired those assets pursuant to a Sale Order entered by the Bankruptcy Court for the Western District of Pennsylvania on October 1, 1998, whereby the Bankruptcy Court, *inter alia*, approved the sale to Tenet HealthSystem Philadelphia, Inc. and its affiliates, including Tenet–Graduate (collectively herein, "Tenet"), pursuant to 11 U.S.C. §363, free and clear of liens, claims, encumbrances and interests, and approved in its entirety that certain Asset Purchase Agreement by and among Diversified Health Group and Debtors Allegheny Health Education and Research Foundation (AHERF), Allegheny University Hospitals, Centennial, Allegheny University Medical Practices, and Allegheny University of the Health Sciences as Sellers, and Tenet, as Buyer. Enclosed for your review are copies of the Sale Order and Asset Purchase Agreement.

As you can see, the Sale Order provides that the assets were sold to Tenet "free and clear" of all "liens, claims, interests and encumbrances," "obligations," and "contractual commitments," whether "matured or unmatured, liquidated or unliquidated, whether known or unknown." (Sale Order, ¶¶3, 5.) The Sale Order also provides that "[w]ith the exception of any liabilities specifically assumed under the Asset Purchase Agreement, all persons and entities holding Liens or Claims of any kind and nature against any of the Debtors or with respect to the Assets are hereby barred and enjoined from asserting such Liens and Claims against the Assets or Tenet, its successors, designees (including Restructured University) or assigns, or their respective affiliates, shareholders, members, officers,

1500 ONE PPG PLACE PITTSBURGH, PENNSYLVANIA 15222 412-566-1212 FAX 412-594-5619

Pittsburgh Airport Area • Harrisburg

E-mail tapc@tuckerlaw.com
www.tuckerlaw.com

directors or trustees." (Sale Order, ¶8.) The only liabilities assumed by Tenet were Assumed Contracts, consisting of certain executory contracts and unexpired leases.

Mr. Miller's §104(e) Request pertains to disposals between 1958 and 1976. Because any such disposals occurred long before the November 10, 1998, Closing Date, liability for the disposals is an excluded liability under the terms of the court-approved Sale Order and so may not be asserted against Tenet. Nevertheless, Tenet would be happy to supply any information responsive to the §104(e) Request that may be available at this late date. Given the age of the information requested, it will be time-consuming to locate and produce whatever information remains.

Accordingly, we respectfully request an extension of time until September 10, 2001, to obtain and furnish the requested information. Thank you.

Very truly yours,

Bradley S. Tupi

/bst
Enclosures: Sale Order and Asset Purchase Agreement

cc: Beverly Weiss Manne, Esquire
Ms. Carlyn Winter Prisk
Eleanor Lynn, Esquire
Karen Rothberg, Esquire
Jeff Thompson, Esquire
Mark Freedlander, Esquire
Michael Forman, Esquire
Marc Cornblatt, Esquire

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re: ALLEGHENY HEALTH, EDUCATION AND RESEARCH FOUNDATION, ALLEGHENY UNIVERSITY OF THE HEALTH SCIENCES, ALLEGHENY UNIVERSITY MEDICAL PRACTICES, ALLEGHENY HOSPITALS, CENTENNIAL and ALLEGHENY UNIVERSITY HOSPITALS-EAST, Debtors. vs. NO RESPONDENT.	Case No. 98-25773 through 98-25777 inclusive Chapter 11 Consolidated for Administration at 98-25773 MBM

COPY

ORDER UNDER 11 U.S.C. §§ 105, 363, AND 365 APPROVING (i) ASSET PURCHASE AGREEMENT WITH TENET HEALTHSYSTEM PHILADELPHIA, INC. AND TENET HEALTHCARE CORPORATION, (ii) SALE FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES, (iii) ADMINISTRATIVE SERVICES AGREEMENT AND INDEMNITY ESCROW AGREEMENT AND (iv) ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES

This matter having come on for hearing (the "Sale Hearing") on the 29th day of September, 1998, upon the joint motion, filed August 7, 1998, of Allegheny Health, Education and Research Foundation ("AHERF"), Allegheny University of the Health Sciences (the "University"), Allegheny University Medical Practices ("AUMP"), Allegheny Hospitals, Centennial ("AUH Centennial"), and Allegheny University Hospitals - East ("AUH East," and together with AHERF, the University, AUMP, and AUH Centennial, the "Debtors"), debtors and debtors-in-possession, for an order under 11 U.S.C. Sections 105, 363 and 365 authorizing, *inter alia*, the sale of certain of the Debtors' assets free and clear of all liens, claims, interests, and encumbrances and the assumption

and assignment of certain contracts (the "Sale Motion") to Vanguard Health Systems, Inc. ("Vanguard"); and

The Court having entered an order, dated August 14, 1998, scheduling the Sale Hearing with respect to the sale of the assets, prescribing the form and manner of notice thereof and approving bidding procedures related to the sale and the assumption and assignment of executory contracts and unexpired leases (the "Sale Procedures Order"); and

The Court having reviewed the pleadings, considered the bids submitted, afforded all parties a reasonable opportunity to bid and heard such representations of counsel, arguments, evidence and objections as were appropriate under the circumstances,

NOW, THEREFORE, based upon all of the evidence, including evidence proffered or adduced at the Sale Hearing, memoranda, objections and representations and argument of counsel in connection with the Sale Hearing, and upon the entire record of the Sale Hearing and of the Debtors' chapter 11 cases, and after due deliberation thereon, and good cause appearing therefor,

IT IS HEREBY FOUND, CONCLUDED AND DETERMINED THAT:

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules"), made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any finding of fact shall later be determined to be a conclusion of law it shall be so deemed and vice versa.

B. This Court has jurisdiction to hear and determine the Sale Motion pursuant to 28 U.S.C. §§ 157 and 1334.

C. Venue of this case in this district is proper pursuant to 28 U.S.C. § 1408(a) and venue of this proceeding is proper pursuant to 28 U.S.C. § 1409(a).

D. Determination of the Sale Motion is a core proceeding under 28 U.S.C. §§ 157(b) (2) (A) and (N). The statutory predicates for the relief requested herein are sections 105, 363 and 365 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq. as amended (the "Bankruptcy Code") and Bankruptcy Rules 2002, 6004, 6006 and 9019.

E. The Debtors have followed the procedures for notice of the Sale Motion and the Sale Hearing set forth in the Sale Procedures Order, which procedures were fair and reasonable to provide notice of the Sale Motion and the Sale Hearing to all creditors and other parties in interest and to provide interested bidders with notice of the Sale Motion and Sale Hearing and an opportunity to bid for the Debtors' assets..

F. Proper, timely, adequate and sufficient notice of the Sale Motion, the Sale Hearing and the sale has been provided in accordance with all applicable law, including without limitation, Section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006 and 9019 and the Sale Procedures Order, and no other or further notice of the Sale Motion, the Sale Hearing, or of the entry of this Sale Order is required. The pre-petition and post-petition marketing efforts, advertising and solicitations conducted in connection with the sale were appropriate and reasonable to obtain the highest and best price for the assets offered for sale.

G. A reasonable opportunity to bid, to object and to be heard regarding the relief requested in the Sale Motion has been afforded to all creditors, parties in interest and other entities, including but not limited to (a) all creditors, employees and patients of the Debtors, (b) all parties who claim interests in or liens upon the assets, (c) all parties to the Assumed Contracts (as described

in the Asset Purchase Agreement, defined in paragraph O below), (d) all governmental taxing, pension, environmental, health and welfare (including the Department of Health of the Commonwealth of Pennsylvania and the Department of Health and Human Services of the United States of America) or other authorities who have, or as a result of the sale of the Assets may have, claims, contingent or otherwise, against any Debtor, (e) all creditors and parties who have filed notices of appearance in this case, (f) the Attorney General of the Commonwealth of Pennsylvania, and (g) all parties who are or may be bidders for the assets.

H. The only bid filed by the bid deadline set forth in the Sale Procedures Order (the "Bid Deadline") was that of Temple University, which filed a bid (the "Temple Bid") to purchase Saint Christopher's Hospital for Children for a price of $12,500,000.

I. After the Bid Deadline, Vanguard asserted the occurrence of a material adverse change in the Debtors' business operations and terminated its agreement to purchase the Debtors' assets and Tenet HealthSystem Philadelphia, Inc. and Tenet Healthcare Corporation (collectively, "Tenet") filed an agreement (the "Tenet Bid"), dated September 29, 1998, binding Tenet to purchase substantially all of the Debtors' assets (hereinafter the assets to be sold pursuant to the Tenet Bid are referred to as the "Assets") for the consideration set forth in the Tenet Bid (the "Purchase Price"), subject to certain adjustments.

J. No other bids for the Debtors' assets were received in connection with the Sale Hearing.

K. At the Sale Hearing, the Debtors and the Official Committee of Unsecured Creditors (the "Creditors' Committee") jointly recommended that the Court approve the Tenet Bid and reject the Temple Bid.

L. Tenet has provided the Debtors a cash deposit of $1,000,000 and has adequately demonstrated its financial wherewithal to pay the Purchase Price and its commitment to close the transactions contemplated by the Tenet Bid.

M. The Tenet Bid includes an acquisition of the University Assets (as defined in the Asset Purchase Agreement)and a hearing to confirm the sale of the University Assets is to be conducted at the University Sale Hearing described in paragraph 2 below.

N. The Temple Bid is inadequate in amount and specificity and does not represent a reasonable alternative for the Debtors; moreover, because no other bidder is willing to purchase the balance of the Debtors' assets for an amount that, together with the Temple Bid, exceeds the value of the Tenet Bid, the Temple Bid does not maximize the value of the Debtors' estates.

O. The highest and best price for the Debtors' assets is represented by the Tenet Bid and it is therefore in the best interest of the Debtors, their respective creditors, and their respective estates that the Court enter this order (the "Sale Order") authorizing and directing, under Sections 105, 363 and 365 of the Bankruptcy Code, (1) Debtors and Diversified Health Group ("DHG," and together with Debtors, "Sellers") to enter into and comply with the terms and conditions of that certain Asset Purchase Agreement (the "Asset Purchase Agreement")[1] dated September 29, 1998, by and between Sellers and Tenet in the form attached as Exhibit "A" (2) the sale of the Assets to Tenet, free and clear of all liens, claims, interests and encumbrances (including all "interests" in the Assets within the meaning of section 363(f) of the Bankruptcy Code), except as permitted by the Asset Purchase

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[1] Unless otherwise defined, capitalized terms used herein shall have the meanings ascribed to them in the Asset Purchase Agreement.

Agreement; (3) Sellers to execute and deliver the Administrative Services Agreement; (4) Sellers, subject to the Contract Hearing described in paragraph 2 below, to assume and assign to Tenet, or its designees, the Assumed Contracts described in the Asset Purchase Agreement and (5) Sellers to execute and deliver the Indemnity Escrow Agreement and provide the Escrow Agent with an indemnity from liability for actions taken other than in gross negligence or wilful misconduct.

P. Upon the issuance of this Sale Order (1) each of the Debtors and DHG have full corporate power and authority, and are directed forthwith, to execute and deliver the Asset Purchase Agreement, the Administrative Services Agreement and the Indemnity Escrow Agreement and all other documents contemplated thereby, including the consent to the Assignment and Assumption Agreement, and the sale of the Assets to Tenet by the Debtors and DHG shall be deemed to have been duly and validly authorized by all necessary corporate action of the Debtors and DHG; (2) each of the Debtors and DHG have all the corporate power and authority necessary to consummate the transactions contemplated by the Asset Purchase Agreement, the Administrative Services Agreement and the Indemnity Escrow Agreement; and (3) other than those consents expressly provided for in the Asset Purchase Agreement, no consents, approvals or orders (including any order otherwise required under 15 Pa. C.S.A. §5547) are required for the Debtors and DHG to consummate the transactions contemplated by the Asset Purchase Agreement, the Administrative Services Agreement and the Indemnity Escrow Agreement.

Q. Approval of the Asset Purchase Agreement, the Administrative Services Agreement and the Indemnity Escrow Agreement and consummation of the sale of the Assets at this time are in the best interests of each of the Debtors, their respective creditors, and their respective estates. The Debtors intend to propose plan or plans of reorganization under Chapter 11 of the

Bankruptcy Code. However, they have presented good and sufficient business justification for the sale of the Assets pursuant to Section 363 of the Bankruptcy Code in advance of, and in contemplation of, the confirmation of such plan or plans of reorganization, the assumption and assignment of the Assumed Contracts and entry into the Administrative Services Agreement and the Indemnity Escrow Agreement, in that, among other things:

(1) An expeditious sale of the Assets in accordance with the procedures followed by the Debtors will enable the estates to realize the highest possible price for the Assets, and in the absence of a prompt sale the Assets will likely decline precipitously in value due to deteriorating market conditions, inadequate liquidity for necessary operating and capital expenditures, and uncertainty about the future of the Debtors' businesses; and

(2) Claims against the Debtors' estates will be minimized as a result of the prompt consummation of a sale of the Assets and the assumption of certain liabilities by Tenet under the Asset Purchase Agreement and the concomitant assumption and assignment of the Assumed Contracts to Tenet; and

(3) A sale of the Assets out of the ordinary course of business and outside of a plan of reorganization is essential to ensure the continued provision of uninterrupted, high-quality medical services to the patients of the Hospitals owned by the Debtors.

R. The Asset Purchase Agreement represents the highest and best offer for the Assets, the purchase price is fair and reasonable, and constitutes fair consideration and reasonably equivalent value under the Bankruptcy Code and applicable state law.

S. As a condition to the purchase of the Assets by Tenet, Tenet requires that the Assets be sold free and clear of all liens, claims, interests and encumbrances (except those specifically assumed by Tenet or otherwise permitted under the Asset Purchase Agreement), and that Tenet has no liability for any liabilities of the Debtors (except those specifically assumed by Tenet or otherwise permitted under the Asset Purchase Agreement). Tenet would not enter into and consummate the sale, thus adversely affecting the Debtors' estates and interfering with the Debtors' reorganization efforts, if the sale to Tenet were not free and clear of all liens, claims, interests and encumbrances of the Debtors, other than as specifically provided in the Asset Purchase Agreement, or if Tenet were or would be liable for liabilities of the Debtors other than as specifically assumed by Tenet or otherwise permitted under the Asset Purchase Agreement.

T. The assumption and assignment to Tenet of the Assumed Contracts, pursuant to Section 365 of the Bankruptcy Code, is in the best interest of each of the Debtors and its creditors and estate, and represents a prudent exercise of each Debtor's business judgment. A procedure to determine the cure amounts (the "Cure Amounts") to be paid by the Debtors with respect to the Assumed Contracts, as required by Section 365 of the Bankruptcy Code, shall be established by the Court. The Cure Amounts will be the sole amounts necessary to cure all defaults, if any, and to pay all actual or pecuniary losses that have resulted from such defaults, under the Assumed Contracts. Tenet has provided adequate assurance of Tenet's future performance under the Assumed Contracts within the meaning of Sections 365(b) (1) (C) and (f) (2) (B) of the Bankruptcy Code.

U. The deposit of the proceeds from the sale of the Assets (other than the proceeds necessary to fund the Indemnity Escrow, pay the amount due with respect to the debtor in possession financing extended to the Debtors and pay ordinary and customary closing costs incurred

by Debtors in connection with the sale) in a separate account, invested in accordance with Section 345 of the Bankruptcy Code, as modified by the investment guidelines approved by this Court relative to the Debtors, pending further order of the Court in respect to any disbursement thereof shall constitute (i) adequate protection for the liens, claims, interests and encumbrances, if any, against the Assets pursuant to Sections 361 and 363(b) and (f) of the Bankruptcy Code, and (ii) adequate assurance of a prompt cure of any defaults with respect to any Assumed Contracts pursuant to Section 365(b)(1)(A) and (C) of the Bankruptcy Code.

V. The Asset Purchase Agreement has been proposed by Tenet in good faith in accordance with the standards of applicable law and In re Abbotts Dairies of Pennsylvania, Inc., 788 F.2d 143 (3d Cir. 1986). Neither Tenet nor Restructured University, as defined in the Asset Purchase Agreement, is affiliated with any of the Debtors or with DHG. Tenet is a good faith purchaser under Section 363(m) of the Bankruptcy Code and, as such, is entitled to the protections afforded thereby. No party has engaged in any conduct that would cause or permit the Asset Purchase Agreement to be avoided under Section 363(n) of the Bankruptcy Code.

W. In the absence of a stay of this Sale Order, Tenet will be acting in good faith within the meaning of Section 363(m) of the Bankruptcy Code in consummating the transactions contemplated by the Asset Purchase Agreement, including the assumption by the Debtors and assignment to Tenet of the Assumed Contracts and the execution and delivery of the Administrative Services Agreement and the Indemnity Escrow Agreement, at any time after the entry of this Sale Order.

X. The sale and transfer of the Assets and the assignment of the Assumed Contracts contemplated by the Asset Purchase Agreement (1) are or will be legal, valid and

effective transfers of property of the Debtors' estates to Tenet or Tenet's designees, including Restructured University, and (2) vest or will vest Tenet or Tenet's designees with all right, title and interest of the Debtors in and to the Assets and Assumed Contracts free and clear of all liens, claims, encumbrances and interests under Sections 363(f) and 105 of the Bankruptcy Code, other than as specifically provided in the Asset Purchase Agreement. Tenet, in its sole discretion, shall be authorized and permitted to designate the University Assets and, upon such designation, such University Assets will be transferred on the University Asset Transfer Date to Restructured University as provided in the Asset Purchase Agreement.

Y. Tenet will sustain irreparable damage and harm unless the injunctions specified in the ordering paragraphs below are entered. All the elements necessary for the imposition of these injunctions have been established.

Z. All of the provisions of this Sale Order are nonseverable and mutually dependent.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Sale Motion is denied as to Vanguard, but approved as to Tenet as provided herein.

2. All objections to the Sale Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled on the merits, except certain objections related to the Assumed Contracts, which objections are not material to approval of the sale of the Assets to Tenet pursuant to the Asset Purchase Agreement and will be addressed at a hearing which, pursuant to that certain Order Concerning Further

Proceedings in Respect of the Assumption and Assignment of Executory Contracts and Unexpired Lease, has been scheduled for October 20, 1998, at 1:00 p.m. in Harrisburg, Pennsylvania (the "Contract Hearing"). In addition, Debtors shall immediately file, serve and notice a motion to confirm the sale of the University to Tenet, which motion shall be and hereby is scheduled for hearing October 19, 1998, at 11:00 a.m. in Harrisburg, Pennsylvania (the "University Sale Hearing").

3. The terms and conditions of the Asset Purchase Agreement are hereby approved in all respects. Pursuant to the provisions of Sections 105, 363 and 365 of the Bankruptcy Code, the Debtors are hereby authorized and directed to sell the Assets described in the Asset Purchase Agreement to Tenet, free and clear of all liens, claims, interests and encumbrances except as provided in the Asset Purchase Agreement and to assume and assign the Assumed Contracts to Tenet. No further consent, approval or order, including any separate authorization of any state court contemplated by 15 Pa.C.S.A. §5547, is required for such sale and assumption and assignment, except as specified in the Asset Purchase Agreement.

4. By the issuance of this Order, DHG and each of the Debtors are authorized and directed to execute and deliver, and empowered and directed fully to perform under, consummate and implement, the Asset Purchase Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Asset Purchase Agreement (including the Administrative Services Agreement and the Indemnity Escrow Agreement and the consent to the Assignment and Assumption Agreement), and to take all further actions as may reasonably be requested by Tenet for the purpose of assigning, transferring, granting, conveying and conferring to Tenet or Tenet's designees, or reducing to Tenet's or Tenet's designees'

possession, any or all of the Assets, or as otherwise may be necessary or appropriate to the performance of the obligations as contemplated by the Asset Purchase Agreement.

5. Pursuant to Sections 105(a) and 363(f) of the Bankruptcy Code, the Assets shall be transferred to Tenet upon the closing under the Asset Purchase Agreement (the "Closing") and, except as specifically specified in the Asset Purchase Agreement, shall be, to the maximum extent permitted under the Bankruptcy Code and other applicable law, free and clear of (a) all mortgages, security interests, conditional sale or other title retention agreements, pledges, liens, judgments, demands, encumbrances, easements, restrictions or charges of any kind or nature, if any, including, but not limited to, any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership (the foregoing collectively referred to herein as "Liens") and (b) all debts arising in any way in connection with any acts or omissions of any of the Sellers, claims (as that term is defined in Section 101(5) of the Bankruptcy Code) against the Sellers arising on or prior to the date of the closing of the sale under the Asset Purchase Agreement and obligations, demands, guaranties, options, rights, contractual commitments, restrictions, interests and matters of or against the Sellers of any kind and nature, whether arising prior to or subsequent to the commencement of these cases, whether matured or unmatured, liquidated or unliquidated, whether known or unknown, and whether imposed by agreement, understanding, law, equity or otherwise, including without limitation, those of the kind specified in Sections 502(g), 502(h) and 502(i) of the Bankruptcy Code (the foregoing collectively referred to as "Claims" herein). All such Liens and Claims (including, without limitation, Liens and Claims in respect of any DIP Financing) shall be released, terminated and discharged as to the Assets and shall attach to the proceeds of the sale paid by Tenet (other than any portion of the Purchase Price that is placed in escrow pursuant to

the Indemnity Escrow Agreement and any portion of the Purchase Price necessary to pay the amount due with respect to the debtor in possession financing extended to the Debtors and pay ordinary and customary closing costs incurred by Debtors in connection with the sale), in the order of their priority, with the same validity, force and effect which they now have as against the Assets.

6. Upon the sale pursuant to the Asset Purchase Agreement and this Sale Order of Sellers' right, title and interest in the property described in the ground lease dated April 10, 1990 by and between United Hospitals, Inc. and Warmister Medical Office Condominium Association, as lessor, and Suburban Philadelphia Imaging Partners, as lessee (the "Ground Lease"), the lien of the leasehold mortgage in favor of Bucks County Bank and Trust Company, predecessor in interest to First Union National Bank, shall, unless determined otherwise at a hearing before the Court on October 20, 1998 at 1:00 p.m. in Harrisburg, Pennsylvania, be divested from such Ground Lease and, in any event, as adequate protection such lien shall attach to the proceeds of the sale (other than the sale proceeds that are used to fund the Indemnity Escrow, to pay the amount due with respect to the debtor in possession financing extended to the Debtors and to pay ordinary and customary closing costs incurred by Debtors in connection with the sale).

7. The Indemnity Escrow shall be created and funded with $30 million of the sale proceeds. Tenet may apply any funds placed in escrow pursuant to the Indemnity Escrow Agreement (and any earnings thereon) against any Sellers' obligations under the Asset Purchase Agreement and related documents to the extent provided in the Indemnity Escrow Agreement and the Asset Purchase Agreement without further order of this Court. Funds held in escrow pursuant to the Indemnity Escrow Agreement shall be released to the Sellers at the times and subject to the

satisfaction of the conditions provided in the Indemnity Escrow Agreement and the Asset Purchase Agreement.

8. With the exception of any liabilities specifically assumed under the Asset Purchase Agreement, all persons and entities holding Liens or Claims of any kind and nature against any of the Debtors or with respect to the Assets are hereby barred and enjoined from asserting such Liens and Claims against the Assets or Tenet, its successors, designees (including Restructured University) or assigns, or their respective affiliates, shareholders, members, officers, directors or trustees.

9. Each of the Sellers is hereby authorized and directed in accordance with Section 365 of the Bankruptcy Code to (a) assume and assign to Tenet each of the Assumed Contracts pursuant to the provisions of Sections 365 of the Bankruptcy Code, in each case free and clear of all Claims and Liens, and (b) execute and deliver to Tenet such documents or other instruments as may be necessary to assign and transfer the Assumed Contracts to Tenet.

10. Each non-Debtor party to an Assumed Contract shall, in connection with the Contract Hearing, assert any defaults in such Assumed Contract existing as of the date of the Contract Hearing or be forever barred and enjoined from asserting such defaults.

11. The Debtors are hereby authorized and empowered to pay all Cure Amounts under the Assumed Contracts in accordance with the procedures established by the Court at the Contract Hearing, by paying or reserving for payment all such Cure Amounts from the proceeds received from the sale to Tenet or other available cash. The Debtors shall establish, pursuant to court order, an appropriate reserve from the sale proceeds for this purpose. The assumption and assignment to Tenet or its designees, of the Assumed Contracts, as provided in the Asset Purchase

Agreement, constitutes adequate assurance of future performance thereunder consistent with Section 365 of the Bankruptcy Code.

12. The Assumed Contracts shall, upon assignment to Tenet, be valid, binding and in full force and effect and enforceable in accordance with their terms, and, pursuant to Section 365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Assumed Contracts after such assignment, and each non-Debtor party to such Assumed Contract shall be, and hereby is, barred and enjoined from asserting any prior default thereon or seeking to enforce or collect any portion of the Cure Amount, if any, against Tenet or its designees or, with respect to any subsequent default thereon, against the Sellers.

13. Upon the Closing, all Liens or Claims against the Assets shall, without the necessity of further action on the part of any creditor, be deemed released and discharged. On the Closing Date, the creditors of each of the Debtors are authorized and directed to execute such documents and take all other actions as may be necessary to document the release of their Liens on or Claims against the Assets, if any, as such Liens or Claims may have been recorded or may otherwise exist.

14. This Sale Order (a) is and shall be effective as a determination that, on the Closing Date and except as specially provided in the Asset Purchase Agreement, all Liens and Claims existing on the Assets before the Closing have been unconditionally released, discharged and terminated, and that the conveyance described in ordering paragraph 5 hereof has been effected, and (b) is and shall be binding upon and govern the acts of all entities including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state,

federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Assets.

15. Each and every federal, state and local governmental agency or department hereby is directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Asset Purchase Agreement.

16. If any person or entity that has filed financing statements or other documents or agreements evidencing Liens on or interests in the Assets shall not have delivered to the Sellers prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, or releases of all Liens or other interests which the person or entity has with respect to the Assets, each Seller is hereby authorized and directed to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Assets.

17. All entities who are presently, or on the Closing Date may be, in possession of some or all of the Assets are hereby directed to surrender possession of said Assets to Tenet on the Closing Date or, with respect to the University Assets, on the University Asset Transfer Date.

18. As of the Closing Date, all agreements of any kind whatsoever and all orders of this Court entered prior to the date hereof shall be deemed amended and or modified to the extent required to permit the consummation of the transactions contemplated by the Asset Purchase Agreement.

19. Notwithstanding any provision to the contrary in the Asset Purchase Agreement or in this Order, (a) the Debtors and Tenet acknowledge their statutory liability to the United States Department of Health and Human Services under the Hill-Burton Act in respect of a certain grant provided to St. Christopher's Hospital for Children, subject to the provisions of Section 7.12 of the Asset Purchase Agreement requiring the Debtors to provide for any unsatisfied obligations under the Hill-Burton Act, (b) except as permitted in Section 365 of the Bankruptcy Code, no executory contracts or unexpired leases to which the United States of America (the "U.S.A.") is a party shall be assumed or assigned to the Tenet without the express written consent of the U.S.A. and (c) except as permitted in Sections 363 or 365 of the Bankruptcy Code, no permits, licenses or other approvals issued by the U.S.A. shall be transferred without the express written consent of the U.S.A.

20. The Department of Health of the Commonwealth of Pennsylvania, Tenet and the Sellers each shall employ their best efforts to complete all applicable licensing requirements prior to October 21, 1998.

21. Except as otherwise expressly provided in the Asset Purchase Agreement or related instruments or as otherwise provided in this Sale Order, Tenet shall have no liability or responsibility for any liability or other obligation of the Sellers arising under or related to the Assets other than for the Purchase Price. Without limiting the effect of the foregoing, the transfer of the Assets and the assignment of the Assumed Contracts do not and will not subject Tenet to any liability for claims against any Seller or the Assets by reason of such transfer under the laws of the United States, any state, territory or possession thereof or the District of Columbia applicable to such transactions. Tenet shall not be deemed, as a result of any action taken in connection with the

Asset Purchase Agreement, to: (a) be the successor of DHG or any of the Debtors; (b) have, de facto or otherwise, merged with or into DHG or any of the Debtors; (c) be a mere continuation or substantial continuation of DHG or any of the Debtors or the enterprise of DHG or any of the Debtors; or (d) be responsible for any liability of DHG or any of the Debtors or for payment of any benefit accruing to DHG or any of the Debtors, except as specifically provided for in the Asset Purchase Agreement.

22. This Court retains jurisdiction (a) to enforce and implement the terms and provisions of the Asset Purchase Agreement, all amendments thereto, any waivers and consents thereunder, and each of the agreements executed in connection therewith, (b) to compel delivery of the Assets to Tenet, (c) to enforce the assumption and assignment of the Assumed Contracts, (d) to resolve any disputes arising under or related to the Asset Purchase Agreement, and (e) to interpret, implement and enforce the provisions of this Sale Order.

23. Nothing contained in any plan of reorganization (or liquidation) confirmed in these cases or the order of confirmation confirming any plan of reorganization (or liquidation), nor any order dismissing any case or converting it to a Chapter 7 liquidation shall conflict with or derogate from the provisions of the Asset Purchase Agreement, the Administrative Services Agreement, the Indemnity Escrow Agreement, any document or instrument executed in connection therewith, or the terms of this Sale Order.

24. Tenet is a purchaser of the Assets in good faith as determined in accordance with applicable law, including without limitation, In re Abbots Dairies of Pennsylvania, Inc., 788 F.2d 143 (3d Cir. 1986) and is entitled to all of the protections afforded by Section 363(m) of the Bankruptcy Code.

25. In the absence of a stay of this Sale Order, if Tenet elects to close under the Asset Purchase Agreement at any time after entry of this Sale Order, then, with respect to the Asset Purchase Agreement, including the assumption and assignment of the Assumed Contracts approved and authorized herein and the execution and delivery of the Administrative Services Agreement and the Indemnity Escrow Agreement, Tenet shall be entitled to the protections of Section 363(m) of the Bankruptcy Code if this Sale Order or an authorization contained herein is reversed or modified on appeal.

26. The terms and provisions of the Asset Purchase Agreement, the Administrative Services Agreement and the Indemnity Escrow Agreement, together with the terms and provisions of this Sale Order, shall be binding in all respects upon, and shall inure to the benefit of, each of the Debtors, its estate and its creditors, and Tenet, and their respective affiliates, successors and assigns, and any affected third parties including but not limited to all non-Debtor parties to the Assumed Contracts to be assigned to Tenet pursuant to the Asset Purchase Agreement and persons asserting a claim against or interest in any Debtor's estate or any of the Assets to be sold to Tenet pursuant to the Asset Purchase Agreement, notwithstanding any subsequent appointment of any trustee for a Debtor under any chapter of the Bankruptcy Code, as to which trustee such terms and provisions likewise shall be binding in all respects.

27. The failure specifically to include any particular provisions of the Asset Purchase Agreement or any of the documents, agreements or instruments executed in connection therewith in this Sale Order shall not diminish or impair the efficacy of such provision, document, agreement or instrument, it being the intent of the Court that the Asset Purchase Agreement and each such document, agreement or instrument be authorized and approved in its entirety.

28. The Asset Purchase Agreement and any related agreements; documents or other instruments may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of the Court, provided that any such modification, amendment or supplement is not material.

29. As adequate protection for the liens, claims, interests and encumbrances, if any, against the Assets pursuant to Sections 361 and 363(b) and (f) of the Bankruptcy Code, and as adequate assurance of a prompt cure of any defaults with respect to any Assumed Contracts pursuant to Section 365(b)(1)(A) and (C) of the Bankruptcy Code, all of the proceeds from the sale of the Assets (other than the proceeds necessary to fund the Indemnity Escrow, pay the amount due with respect to the debtor in possession financing extended to the Debtors and pay ordinary and customary closing costs incurred by Debtors in connection with the sale) shall be held in a separate account, invested in accordance with Section 345 of the Bankruptcy Code, as modified by the investment guidelines approved by this Court relative to the Debtors, pending further order of the Court in respect to any disbursement thereof..

30. As provided by Bankruptcy Rule 7062, this Sale Order shall be effective and enforceable immediately upon entry.

M. BRUCE MCCULLOUGH,
UNITED STATES BANKRUPTCY JUDGE

Dated: Wilmington, Delaware
October 1, 1998

DA982650.022 9-

COPY

EXECUTION VERSION

ASSET PURCHASE AGREEMENT

BY AND AMONG

ALLEGHENY UNIVERSITY HOSPITALS, EAST

ALLEGHENY HOSPITALS, CENTENNIAL,

ALLEGHENY UNIVERSITY MEDICAL PRACTICES,

ALLEGHENY UNIVERSITY OF THE HEALTH SCIENCES,

DIVERSIFIED HEALTH GROUP

ALLEGHENY HEALTH EDUCATION AND RESEARCH FOUNDATION,

TENET HEALTHSYSTEM PHILADELPHIA, INC.

AND

TENET HEALTHCARE CORPORATION

DATED AS OF SEPTEMBER 29, 1998

LIST OF SCHEDULES

chedule 1.02 ..... Knowledge of Seller
chedule 2.01(a) ..... List of Real Property
chedule 2.01(b) ..... List of Personal Property
chedule 2.01(e) ..... List of Assumed Contracts
chedule 2.01(f) ..... List of Permits and Licenses
chedule 2.01(g) ..... List of Intellectual Properties
chedule 2.01(i) ..... List of Investments
chedule 2.02 ..... Certain Excluded Assets
chedule 2.02(b) ..... List of Additional Excluded Current Assets
chedule 2.03 ..... Assumed Liabilities
chedule 3.01 ..... Organization
chedule 3.02 ..... Powers; Consents; Absence of Conflicts, Etc.
chedule 3.04 ..... Subsidiaries, Investments and Third Party Options
chedule 3.05 ..... Legal and Regulatory Compliance
chedule 3.06 ..... Financial Statements
chedule 3.07 ..... Undisclosed Liabilities
chedule 3.08 ..... Recent Activities
chedule 3.09 ..... Other Facility Locations
chedule 3.12 ..... Title to Personal Property
chedule 3.13 ..... Real Property
chedule 3.14 ..... Environmental Matters
chedule 3.15 ..... Intellectual Properties, Computer Software, Etc.
chedule 3.16 ..... Insurance
chedule 3.17 ..... Permits and Licenses
chedule 3.18 ..... Government Reimbursement Programs; Accreditation
chedule 3.21 ..... Employees and Employee Relations
chedule 3.22 ..... Employee Benefit Plans
chedule 3.23 ..... Litigation and Proceedings
chedule 3.24 ..... Taxes
chedule 3.29 ..... Operation of the Hospitals
chedule 5.22 ..... Restricted Assets

Exhibit A. Administrative Services Agreement
Exhibit B. Assignment and Assumption Agreement

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement ("Agreement") is made and entered into this 29th day of September. 1998, by and among **Tenet HealthSystem Philadelphia, Inc.**, a Pennsylvania corporation ("Buyer"), **Tenet Healthcare Corporation,** a Nevada corporation ("Tenet"), **Allegheny Health, Education and Research Foundation**, a Pennsylvania non-profit corporation ("AHERF"), **Diversified Health Group,** a Pennsylvania for profit corporation ("DHG"), **Allegheny University Hospitals, East**, a Pennsylvania non-profit corporation ("AUH East"), **Allegheny Hospitals, Centennial**, a Pennsylvania non-profit corporation ("AUH Centennial"), **Allegheny University Medical Practices**, a Pennsylvania non-profit corporation ("AUMP") and **Allegheny University of the Health Sciences**, a Pennsylvania non-profit corporation (the "University" and, together with AHERF, AUH East, DHG, AUH Centennial and AUMP, the "Sellers").

WITNESSETH

WHEREAS. Sellers (other than DHG) are debtors under those certain Cases No. 98-25773, No. 98-25774, No. 98-25775. No. 98-25776 and No. 98-25777 (collectively, the "Bankruptcy Cases") filed on July 21, 1998 (the "Petition Date") under the Bankruptcy Code in the Bankruptcy Court;

WHEREAS, AHERF is the sole member of AUH East, AUH Centennial, AUMP and AUHS and the sole shareholder of DHG;

WHEREAS, AUH East and AUH Centennial own and operate eight Hospitals (as hereinafter defined) in and around Philadelphia, Pennsylvania;

WHEREAS, the University owns and operates schools of medicine, nursing, health professions and public health in Philadelphia. Pennsylvania, including MCP-Hahnemann School of Medicine, the School of Nursing, the School of Health Professions and the School of Public Health in Philadelphia. Pennsylvania:

WHEREAS. the University employs physicians who provide professional clinical services at the Hospitals and medical clinics and offices, and administrative, supervisory and teaching services at the Hospitals;

WHEREAS, the University and the Hospitals are integrally related;

WHEREAS, Sellers desire to sell to Buyer, and Buyer desires to purchase from Sellers. on the terms and conditions set forth in this Agreement, substantially all of the assets, real, personal and mixed, tangible and intangible. owned by Sellers, including but not limited to the assets comprising and constituting:

(1) Allegheny University Hospitals, Graduate, a 330-bed general acute care hospital located in Philadelphia, Pennsylvania:

(2) Allegheny University Hospitals, City Avenue, a 228-bed general acute care hospital located in Philadelphia, Pennsylvania;

(3) Allegheny University Hospitals, Parkview, a 181-bed general acute care hospital located in Philadelphia, Pennsylvania;

(4) Allegheny University Hospitals, Bucks County, a 190-bed general acute care hospital located in Warminster, Pennsylvania;

(5) Allegheny University Hospitals, Elkins Park, a 304-bed general acute care hospital located in Elkins Park, Pennsylvania;

(6) Allegheny University Hospitals, Hahnemann, a 540-bed general acute care hospital located in Philadelphia, Pennsylvania;

(7) Allegheny University Hospitals, MCP, a 265-bed general acute care hospital located in Philadelphia, Pennsylvania (including the Eastern Pennsylvania Psychiatric Institute);

(8) St. Christopher's Hospital for Children, a 178-bed children's hospital located in Philadelphia, Pennsylvania;

(9) Allegheny University of the Health Sciences; and

(10) Allegheny University Medical Practices.

NOW, THEREFORE, for and in consideration of the premises, and the agreements, covenants, representations and warranties hereinafter set forth, and other good and valuable consideration, the receipt and adequacy of which are forever acknowledged and accepted, the parties, intending to be legally bound, hereby agree as follows:

1. DEFINITIONS AND REFERENCES

1.01. Definitions: As used in this Agreement, and unless the context requires a different meaning, the following terms have the meanings given:

Accounts Receivable: all accounts receivable of any of the Sellers, of whatever kind or nature, including but not limited to all current or deferred rights to payment for medical services rendered on or prior to the Closing Date, whether or not such services have been billed by the Sellers as of such Closing Date;

Accreditation Bodies: any Government Authority, or private non-profit organization, that reviews and, based thereon, accredits hospitals or educational institutions of higher learning and/or schools or departments thereof;

Acquired Affiliated Physician Practices Accounts Receivable: all Accounts Receivable related to the Affiliated Physician Practices that are designated to be acquired by Buyer or its designee pursuant to section 2.06 hereof;

Administrative Services Agreement: that certain agreement, substantially in the form of **Exhibit A** attached hereto as the same may be amended with the consent of Buyer, between Sellers, Buyer and Restructured University to provide administrative services pursuant to Section 5.21 hereof;

Affiliate: any Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another Person and includes the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of securities, election or appointment of directors, by Contract or otherwise;

Affiliated Group: any affiliated group within the meaning of Code Sec. 1504 or any similar group defined under a similar provision of state, local or foreign law;

Affiliated Physician Practices: all Philadelphia-area medical practices conducted by physicians who are employed by one or more of the Sellers (including hospital-based physicians) other than University Faculty Physicians and physicians whose practices are located in New Jersey and associated with AUH - Rancocas;

Agreement: this Asset Purchase Agreement and all Exhibits and Schedules attached hereto, as amended, consolidated, supplemented, novated or replaced by the parties from time to time, and all instruments, agreements, certificates or other documents executed by any party at Closing or, to the extent applicable, at the University Assets Transfer Date;

AHERF: Allegheny Health, Education and Research Foundation, a Pennsylvania non-profit corporation;

Articles: articles of the Agreement;

Assets: all assets, real, personal and mixed, tangible and intangible, other than the Excluded Assets, owned by Sellers or leased by Sellers pursuant to capital leases;

Assumed Contracts: the Contracts described in **Schedule 2.01(e)** as the same may be amended by Buyer as permitted by the Court;

Assumed Liabilities: (i) the Hired Employee Benefits, (ii) all obligations of Sellers arising on or after the Closing Date with respect to any period commencing on the Closing Date under the Assumed Contracts and (iii) the other liabilities and obligations, if any, described on **Schedule 2.03**;

Assignment and Assumption Agreement: that certain agreement between Buyer and Restructured University related to conveyance of the University Assets, which agreement shall be in substantially the form of Exhibit B attached hereto;

Audited Financial Statements: the audited consolidated balance sheet of AHERF as of June 30, 1997, and the audited consolidated statement of revenue and expenses, and audited consolidated statement of cash flows for the fiscal years then ended, together with the notes thereto and the report thereon of Coopers & Lybrand, independent certified public accountants, and any audited restatements thereof;

AUR -- Centennial: Allegheny Hospitals, Centennial, a Pennsylvania non-profit corporation;

AUH -- East: Allegheny University Hospitals -- East, a Pennsylvania non-profit corporation;

AUH - Rancocas: Allegheny University Hospitals - New Jersey, a New Jersey non-profit corporation;

AUMP: Allegheny University Medical Practices, a Pennsylvania non-profit corporation;

Bankruptcy Code: 11 U.S.C. 101 *et. seq.*, and applicable federal rules of bankruptcy procedure thereunder;

Bankruptcy Court: the United States District Court for the Western District of Pennsylvania having jurisdiction over the Bankruptcy Cases, to the extent of any reference under section 157 of title 28 of the United States Code, the unit of such District Court constituted under section 151, title 28 of the United States Code or such other Court to which the Bankruptcy Cases may be transferred.

Buyer: Tenet HealthSystem Philadelphia, Inc., a Pennsylvania corporation that is a wholly owned indirect subsidiary of Tenet;

Buyer's Indemnified Persons: Buyer, Tenet, Restructured University, and Buyer's, Tenet's and Restructured University's shareholders, members, Affiliates, successors and assigns, and their respective stockholders, partners, Affiliates, directors, trustees, officers, employees, agents and representatives; provided, however, that the rights of Restructured University, its trustees, members, successors and assigns as a Buyer's Indemnified Person shall be subject to the terms of the Assignment and Assumption Agreement;

Centennial Group Hospitals: Allegheny University Hospitals, Graduate; Allegheny University Hospitals, City Avenue; and Allegheny University Hospitals, Parkview;

Claim Notice: written notification of a Third Party Claim by an Indemnified Party to an Indemnifying Party under Article 9, including a Revenue Agent's Report, Statutory Notice of Deficiency, Notice of Proposed Assessment, or any other official written notice from a Taxing authority that Taxes are due or that a Tax audit will be conducted;

Closing: defined in Section 8.01;

Closing Balance Sheets: the unaudited individual and combined balance sheets of the Hospital Businesses or the University as of the day immediately prior to the Closing Date;

Closing Date: the date on or as of which the Closing occurs;

Code: the Internal Revenue Code of 1986, as amended;

Competing Transaction: any transfer or other disposition of all or substantially all of the Assets of, or any transfer of an ownership interest in, or management or control over the operation of, any one or more of the Hospitals or the University (including any merger,

consolidation, or similar transaction involving one or more of the Hospitals or the University) in a single transaction or series of related transactions:

Contracts: all commitments, contracts, leases, licenses, agreements and understandings, written or oral, relating to the Assets or the operation of the Hospital Businesses or the University to which any Seller or any Affiliate of any Seller is a party or by which it or any of the Assets are bound, including agreements with payers, physicians and other providers, agreements with health maintenance organizations, independent practice associations, preferred provider organizations and other managed care plans and alternative delivery systems, Grant Agreements, student loan program participation agreements with Governmental Authorities, joint venture and partnership agreements, management, employment, retention and severance agreements, vendor agreements, real and personal property leases and schedules, maintenance agreements and schedules, agreements with municipalities and labor organizations, and bonds, mortgages and other loan agreements:

Controlled Group: with respect to any Seller, a group consisting of each trade or business (whether or not incorporated) which, together with such Seller, would be deemed a "single employer" within the meaning of section 4001(b)(l) of ERISA or subsections (b), (c), (m) or (o) of Section 414 of the Code;

Cost Reports: all cost and other reports filed pursuant to the requirements of the Government Reimbursement Programs or any Grant Providers, or any Governmental Authorities not constituting Grant Providers, for payment or reimbursement of amounts due from them;

Delaware Valley Group Hospitals: Allegheny University Hospitals, Bucks County; Allegheny University Hospitals, Elkins Park; Allegheny University Hospitals, Hahnemann; Allegheny University Hospitals, MCP; and St. Christopher's Hospital for Children;

DIP Financing: one or more post-petition loans obtained by Sellers with the approval of the Bankruptcy Court, not exceeding in the aggregate the principal amount of $100 million, plus interest thereon;

DRG Transition Patients: defined in Section 5.13;

Effective Date: September 29, 1998;

Employee Benefit Plan: any (1) nonqualified deferred compensation or retirement plan or arrangement which is an Employee Pension Benefit Plan, (2) qualified defined contribution retirement plan or arrangement which is an Employee Pension Benefit Plan (including any Multiemployer Plan), (3) qualified defined benefit retirement plan or arrangement which is an Employee Pension Benefit Plan (including any Multiemployer Plan), or (4) Employee Welfare Benefit Plan or material fringe benefit plan or program:

Employee Pension Benefit Plan: defined in ERISA Sec. 3(2);

Employee Welfare Benefit Plan: defined in ERISA Sec. 3(1);

Encumbrances: liabilities, levies, claims, charges, assessments, mortgages, security interests, liens, pledges, conditional sales agreements, title retention contracts, leases,

subleases, rights of first refusal, options to purchase, restrictions and other encumbrances, and agreements or commitments to create or suffer any of the foregoing;

Endowment and Grant Restrictions: the terms and conditions of the underlying Endowments, Grants and Grant Agreements;

Endowment Shortfall: the amount of the imbalances that exist in the Sellers' Endowment and Grant Accounts;

Endowments: any and all cash or cash equivalents or other property of any kind, together with the proceeds thereof, that has been contributed or has been committed to be contributed to Sellers for any purpose whatsoever pursuant to Endowment and Grant Restrictions;

Environmental Claim: any written notice (or oral notice reduced to writing by any Seller) by a Person alleging potential liability (including potential liability for investigatory costs, cleanup costs, Governmental Authority response costs, natural resource damages, property damages, personal injuries, or penalties) arising out of, based on or resulting from (1) the presence, or release into the environment, of any Materials of Environmental Concern at any location, whether or not owned by Sellers, or (2) circumstances forming the basis of any violation, or alleged violation, of any Environmental Laws;

Environmental Laws: any and all Legal Requirements relating to pollution or protection of human health or the environment (including ground water, land surface or subsurface strata), including Legal Requirements relating to emissions, discharges, releases or threatened releases of Materials of Environmental Concern, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, recycling, reporting or handling of Materials of Environmental Concern;

ERISA: the Employee Retirement Income Security Act of 1974, as amended;

ERISA Fiduciary: defined in ERISA Section 3(21);

Escrow Agent: a financial institution acceptable to the parties;

Excluded Affiliated Physician Practices Accounts Receivable: all Accounts Receivable related to the Affiliated Physician Practices that are not designated to be acquired by Buyer or its designee pursuant to section 2.06 hereof;

Excluded Assets: defined in Section 2.02;

Excluded Liabilities: any and all liabilities of any Seller other than the Assumed Liabilities, whether known or unknown, fixed or contingent, recorded or unrecorded;

Executory Contract Assumption and Assignment Order: an Order of the Bankruptcy Court, in form and substance acceptable to Buyer, which (a) approves the provisions of Section 5.23, (b) authorizes and directs Sellers, pursuant to section 365 of the Bankruptcy Code, to assume and to assign to Buyer (or, with respect to Assumed Contracts related to the University, to Restructured University) the Assumed Contracts and to make all cure payments related thereto and (c) determines that Buyer and/or Restructured University, as

may be appropriate, has provided adequate assurance of future performance relative to the Assumed Contracts;

Final Order: an order of the Bankruptcy Court, the operation or effect of which has not been stayed, and which is not subject to any pending appeal, request for leave to appeal or request for reconsideration and as to which the time for any such appeal, request for leave to appeal or request for reconsideration has expired;

Financial Statements: the Audited Financial Statements, the Unaudited Financial Statements, the Interim Financial Statements, the Interim Closing Balance Sheets and the Closing Balance Sheets;

Governmental Authorities: all agencies, authorities, bodies, boards, commissions, courts (including the Bankruptcy Court), instrumentalities, legislatures and offices of any nature whatsoever of any federal, state, county, district, municipal, city, foreign or other government or quasi-government unit or political subdivision, and private arbitration panels or dispute resolution makers;

Government Reimbursement Programs: federal and state Medicare, Medicaid and CHAMPUS programs, and similar or successor programs with or for the benefit of Governmental Authorities;

Grant Agreement: contract with a Grant Provider, the terms and conditions of which govern the funding of specific activities, including research and education, related to the Sellers;

Grant Provider: any Governmental Authority, private non-profit organization or trust, or other Person providing Grants to Sellers for the conduct of research, education or other non-profit or charitable activities;

Grants: any and all grants, honoraria, prizes and any other funds or property of any kind that have been awarded or otherwise committed to any of the Sellers to be used by Sellers for a defined project, research area or other specified purpose;

Hill-Burton Act: the Public Health Service Act, 42 U.S.C. Section 291, *et seq.*;

Hired Employees: those employees of the Hospital Businesses or the University who accept Buyer's offer of employment as of the Closing Date and those employees of the Hospital Businesses or the University employed under written Contracts which are Assumed Contracts;

Hired Employee Benefits: vacation and holiday accumulations of the Hired Employees, and related Taxes thereon;

Hospital Accounts Receivables: the Accounts Receivable of the Hospitals;

Hospital Endowment and Grant Accounts: specially created escrow accounts to be administered by Buyer in accordance with the terms and conditions of the Endowment and Grant Restrictions;

Hospitals: Allegheny University Hospitals. Graduate; Allegheny University Hospitals. City Avenue; Allegheny University Hospitals. Parkview; Allegheny University Hospitals. Bucks County; Allegheny University Hospitals. Elkins Park; Allegheny University Hospitals. Hahnemann; Allegheny University Hospitals. MCP (including the business conducted at Eastern Pennsylvania Psychiatric Institute); and St. Christopher's Hospital for Children;

Hospital Businesses: all businesses owned. leased. managed or otherwise operated or conducted by Sellers (other than the University) and comprising or used in the operation or management of each and every one of the Hospitals and Affiliated Physician Practices. and all other businesses (including outpatient facilities. medical office buildings, parking facilities, corporate offices) owned, managed or leased by Sellers in connection with each and every one of the Hospitals and Affiliated Physician Practices;

HSR Act: the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended;

Immaterial Contracts: Contracts that (i) require the future payment by any Seller of $10,000 or less or the future performance by any Seller of services having a value of $10,000 or less, and (ii) are terminable by Seller at any time without cause upon notice of 90 days or less, provided that. notwithstanding the foregoing, Immaterial Contracts shall not include any Contracts described in paragraphs (a) through (j) of Section 3.19 or any Contracts that are not assignable in bankruptcy;

Indemnified Party: any Person entitled to indemnification under Article 9;

Indemnifying Party: any Person obligated to indemnify another Person under Article 9;

Indemnity Deposit: the sum of $30,000,000 to be delivered by Buyer to the Escrow Agent pursuant to the Indemnity Escrow Agreement. and all accumulated earnings thereon, which sum will be funded from the Cash Portion of the Purchase Price and allocated to the Delaware Valley Group Hospitals and the Centennial Group Hospitals in a manner mutually acceptable to Buyer and Sellers. The Indemnity Deposit shall be decreased by $5 million in the second year of the Indemnity Escrow Agreement on the terms and conditions provided therein;

Indemnity Escrow Agreement: the Indemnity Escrow Agreement to be executed at Closing by Sellers, Buyer and the Escrow Agent pursuant to which the Indemnity Deposit will be delivered to the Escrow Agent at Closing for a term of two years to secure Sellers' obligations of indemnity described in Article 9 of this Agreement and otherwise containing terms and conditions acceptable to the parties thereto;

Indemnity Notice: written notification of a claim for indemnity under Article 9. other than a Third Party Claim, made by an Indemnified Party to an Indemnifying Party pursuant to Section 9.05(b);

Intellectual Properties: all marks, names (including "Hahnemann Hospital", "Medical College of Pennsylvania", "MCP", "St. Christopher's Hospital for Children", Graduate Hospital", "Parkview Hospital", "City Avenue Hospital", "Eastern Pennsylvania Psychiatric Institute", "Elkins Park Hospital", "Bucks County Hospital", MCP/Hahnemann School of

Medicine and all variations of the foregoing), trademarks, service marks, patents, patent rights, assumed names, logos; copyrights, trade secrets and similar intangibles (including variants thereof and applications therefor);

Interim Closing Balance Sheets: the unaudited individual and combined balance sheets of the Hospital Businesses or the University as of the most recent month end available prior to the Closing Date;

Interim Financial Statements: the balance sheets and income statements of the Hospital Businesses or the University and corporate "management services" provided by AHERF and its Affiliates in Philadelphia, Pennsylvania for the two months ended August 31, 1998, attached to this Agreement as **Schedule 3.06**;

Investments: shares of capital stock of any corporation, interests in partnerships or limited liability companies, or other equity or debt instruments issued by any Person, other than such investments that relate to Endowments and Grants or are short-term investments of Unrestricted Cash, and proceeds from the sale thereof;

Legal Requirements: with respect to any Person, all statutes, ordinances, by-laws, codes, rules, regulations, restrictions, orders, judgments, orders, writs, injunctions, decrees, determinations or awards of any Governmental Authority having jurisdiction over such Person or any of such Person's assets or businesses;

Losses: any and all damages, claims, costs, losses, liabilities, expenses or obligations (including Taxes, interest, penalties, court costs, costs of preparation and investigation, and attorneys', accountants' and other professional advisors' fees and expenses);

Materials of Environmental Concern: chemicals, pollutants, contaminants, wastes (including medical waste), toxic substances, petroleum and petroleum products, including hazardous wastes under the Resource, Conservation and Recovery Act, 42 U.S.C. § 6903 *et seq.*, hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 *et seq.*, asbestos, polychlorinated biphenyls and urea formaldehyde, and low-level nuclear materials, special nuclear materials or nuclear-byproduct materials, all within the meaning of the Atomic Energy Act of 1954 as amended, and any rules, regulations or policies promulgated thereunder;

Medicare Straddle Patients: defined in Section 5.13;

Multiemployer Plan: defined in ERISA section 3(37) or section 4001(a)(3);

Multiple Employer Plan: an Employee Pension Benefit Plan which is not a Multiemployer Plan and for which a Person who is not a member of a Controlled Group that includes any Seller is or has been a contributing sponsor;

Notice Period: defined in Section 9.05(a)(i);

Other Plan: any Contract, program or arrangement which provides cash or non-cash benefits or perquisites to current or former employees of any Seller, but which is not an Employee Benefit Plan;

Party: any party to this Agreement, its successors and assigns;

Party In Interest: a "party in interest" as defined in ERISA Section 3(14), and a "party in interest" as defined in the Bankruptcy Code;

PBGC: the Pension Benefit Guaranty Corporation;

Permitted Personal Property Encumbrances: those Encumbrances described in **Schedule 3.12**;

Permitted Real Property Encumbrances: those Encumbrances described in **Schedule 3.13**, including utility easements and other customary covenants and restrictions of record that do not adversely affect the ownership of the Real Property or the conduct of the Hospital Businesses or University;

Person: any individual, company, body corporate, association, partnership, firm, joint venture, trust, trustee or Governmental Authority;

Prohibited Transaction: defined in ERISA Sec. 406 and Code Sec. 4975;

Purchase Price: defined in Section 2.05;

Real Property: all real property owned by Sellers, including but not limited to the real property described on **Schedule 2.01(a)**, together with all buildings, improvements and fixtures thereon and all appurtenances and rights thereto;

Reportable Event: defined in ERISA Sec. 4043;

Restricted Assets: all Restricted Cash, Endowments and Grants;

Restricted Cash: all cash and cash equivalents that are subject to Endowment and Grant Restrictions;

Restructured University: Philadelphia Health and Education Corporation, a special purpose non-profit, tax-exempt entity organized and existing under the laws of the Commonwealth of Pennsylvania that will be Buyer's designee (i) to receive title to the University Assets from Sellers on the University Asset Transfer Date and (ii) to own and operate the University Assets pursuant to the terms of the Assignment and Assumption Agreement;

Restructured University Endowment and Grant Accounts: specially created escrow accounts to be administered by the Restructured University in accordance with the terms and conditions of the Endowment and Grant Restrictions;

Restructured University Fund: the sum of $60 million payable to the Restructured University from the Purchase Price;

Sale Order: an Order of the Bankruptcy Court, in form and substance acceptable to Buyer in its sole discretion, which, among other things, contains the provisions described in Section 5.25(a) relative to the Hospital Businesses;

Schools: MCP-Hahnemann School of Medicine, the School of Nursing, the School of Public Health and the School of Health Professions, all owned, managed and operated by the University;

Sections: sections of the Agreement;

Sellers: AUH - East, AUH - Centennial, AUMP, DHG, the University and AHERF;

Sellers' Endowment and Grant Accounts: special accounts administered and maintained by Sellers with respect to the Endowments and Grants.

Sellers' Indemnified Persons: Sellers and Sellers' members, Affiliates, successors and assigns, and their respective shareholders, members, directors, trustees, officers, employees, agents and representatives;

Seller Transition Services: defined in Section 5.13;

Straddle Patients: defined in Section 5.13;

Tax: any income, unrelated business income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, privilege, premium, windfall profits, environmental (including taxes under Code Sec. 59A), customs duties, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, stamp, sales, use, transfer, registration, unclaimed property, value added, alternative or add-on minimum, estimated or other tax, assessment, charge, levy or fee of any kind whatsoever, including payments or services in lieu of Taxes, interest or penalties on and additions to all of the foregoing, which are due or alleged to be due to any Governmental Authority, whether disputed or not;

Tax Return: any return, declaration, report, claim for refund, information return or statement, including schedules and attachments thereto and amendments, relating to Taxes;

Tenet: a Nevada corporation that is publicly traded on the New York Stock Exchange and the Pacific Stock Exchange;

Third Party Claim: defined in Section 9.05(a)(i);

Transition Patients: defined in Section 5.13;

Tuitions Receivable: all commitments owed to Sellers of any kind or nature whatsoever, whether evidenced by an account, scholarship entitlement, Contract, note, governmental funding obligation or otherwise, for student tuition, fees and expenses related to the University.

Unaudited Financial Statements: the unaudited consolidated balance sheet of AHERF as of June 30, 1998, and the unaudited consolidated statement of revenue and expenses, and audited consolidated statement of cash flows for the fiscal years then ended, together with the notes thereto, attached to this Agreement as **Schedule 3.06**;

University: Allegheny University of the Health Sciences, a Pennsylvania non-profit corporation, which includes the Schools:

University Asset Transfer Date: that date, not to exceed 90 days after the Closing Date, designated in writing by Buyer as the date for the transfer of the University Assets by Sellers to Restructured University.

University Assets: those Assets that constitute and are integral to the University, whether or not presently owned by the University or by another of the Sellers, which assets will be designated by Buyer at or prior to the Closing, and include without limitation the Sellers' interest in the Health Partners Health Plan and Tuitions Receivable;

University Faculty Physicians: physicians who are employed by the University and whose principal professional activities are teaching, clinical care, research, and administrative, supervisory and teaching services relating to graduate medical education, other than physicians whose medical practices are located primarily in New Jersey or Western Pennsylvania; and

University Asset Sale Order: an Order of the Bankruptcy Court, in form and substance acceptable to Buyer and Sellers which, among other things, contains the provisions described in Section 5.25(a) relative to the University Assets.

Unrestricted Cash: all cash and cash equivalents, including unrestricted short-term investments, other than Restricted Cash;

WARN Act: the Worker's Adjustment and Retraining Notification Act, 29 U.S.C. §§2101-2109.

1.02. Certain References. As used in this Agreement, and unless the context requires otherwise:

(a) references to "include" or "including" mean including without limitation:

(b) references to "partners" include general and limited partners of partnerships and members of limited liability companies:

(c) references to "partnerships" include general and limited partnerships, joint ventures and limited liability companies:

(d) references to "hereof", "herein" and derivative or similar words refer to this Agreement;

(e) references to any document are references to that document as amended, consolidated, supplemented, novated or replaced by the parties thereto from time to time;

(f) references to any law are references to that law as amended, consolidated, supplemented or replaced from time to time and all rules and regulations promulgated thereunder:

(g) references to time are references to Philadelphia, Pennsylvania time;

(h) references in this Agreement to the "knowledge" of Sellers or variants thereof (including "best knowledge") mean the actual knowledge after due inquiry of each of the Persons whose names or positions are set forth in **Schedule 1.02**;

(i) the gender of all words includes the masculine, feminine and neuter, and the number of all words includes the singular and plural; and

(j) the Table of Contents, the divisions of this Agreement into articles, sections and subsections and the use of captions and headings in connection therewith are solely for convenience and shall have no legal effect in construing the provisions of this Agreement.

2. SALE OF ASSETS AND RELATED MATTERS

2.01. Sale of Assets. Subject to the terms and conditions of this Agreement, at Closing (or, in the case of the University Assets, on the University Asset Transfer Date) Sellers shall sell, assign, convey, transfer and deliver to Buyer (or, in the case of the University Assets, to Restructured University) or cause to be sold, assigned, conveyed, transferred and delivered to Buyer (or, in the case of the University Assets, to Restructured University), and Buyer shall purchase from Sellers, the Assets, free and clear of all Encumbrances other than the Permitted Real Property Encumbrances, the Permitted Personal Property Encumbrances and the Endowment and Grant Restrictions, including but not limited to the following:

(a) the Real Property;

(b) all major, minor or other equipment (including medical and computer equipment at the Hospital Businesses or the University), vehicles, furniture and furnishings and other tangible personal properties of Sellers, including those associated with the Affiliated Physician Practices and those listed in **Schedule 2.01(b)**;

(c) all usable supplies and inventory of the Hospital Businesses or the University ;

(d) all financial, patient, medical staff, personnel and other records of the Hospital Businesses or the University (including equipment records, medical/administrative libraries, medical records, documents, catalogs, books, records, files and operating manuals);

(e) all interests of Sellers in the Assumed Contracts;

(f) all licenses, accreditations, permits and other approvals (including pending approvals) of Governmental Authorities, and all accreditations by Accreditation Bodies that are not Governmental Authorities, to the extent assignable, relating to the ownership, development and operations of the Hospital Businesses or the University, including the licenses, accreditations and permits described on **Schedule 2.01(f)**;

(g) all interests of Sellers in and to all Intellectual Properties used in connection with, or derived from or arising out of, the ownership and operation of the Hospital Businesses or the University and all computer software, programs and similar systems licensed for use at the Hospital Businesses or the University, to the extent assignable, including those described in **Schedule 2.01(g)**;

(h) all interests of Sellers in all property, real, personal or mixed, tangible or intangible, arising or acquired between the Effective Date and the Closing Date;

(i) the Investments described on **Schedule 2.01(i)**;

(j) all insurance proceeds (including applicable deductibles, copayments or self insured requirements) arising in connection with damage to the Assets occurring prior to the Closing Date, to the extent not expended for the repair or restoration of the Assets;

(k) general intangibles of the Hospital Businesses or the University, including goodwill, and the Sellers' interest in the Health Partners Health Plan;

(l) any and all claims and causes of action, including privileges related thereto, of Sellers against third parties relating to the value, condition or title to the Assets, manufacturer's or vendor's warranties with respect to the Assets or products liability related to the Assets, whether choate or inchoate, known or unknown, contingent or otherwise;

(m) all corporate office furniture and equipment, data center hardware and equipment, residential real property and other assets of Sellers located in Philadelphia, Pennsylvania;

(n) all Tuitions Receivable and Accounts Receivable, except the Excluded Affiliated Physician Practices Accounts Receivable and the Hospital Accounts Receivable;

(o) all right, title and interest of the Sellers in Restricted Assets, together with any and all funds or other property of any kind recovered by Sellers, whether from litigation, insurance or otherwise, on account of the Endowment Shortfall, and any and all claims and causes of action, including privileges related thereto, of Sellers related to the Endowment Shortfall; and

(p) all proceeds of the foregoing and all other property of the Sellers of every kind, character or description, tangible and intangible, known or unknown, wherever located and whether or not reflected on the Financial Statements or similar to the properties described above.

2.02. Excluded Assets. Notwithstanding the generality of Section 2.01, the following assets (the "Excluded Assets") are not a part of the sale and purchase contemplated by this Agreement and are excluded from the Assets:

(a) any Hospital, patient, student or other records which by law Sellers are required to retain in their possession;

(b) all Unrestricted Cash, short-term investments of Unrestricted Cash and notes receivable (other than notes receivable that are Tuitions Receivable), and other current assets, if any, described on **Schedule 2.02(b)**;

(c) inventory and supplies disposed of or exhausted prior to the Closing Date in the ordinary course of the Hospital Businesses or the University, and Assets transferred or disposed of in accordance with Section 5.02(e);

(d) Cost Report settlement receivables, and all appeals and appeal rights relating thereto;

(e) those corporate assets located in Pittsburgh, Pennsylvania which are not used by Sellers or their Affiliates primarily in the management and administration of the Hospital Businesses or the University;

(f) except as specifically set forth herein, all right, title and interest of Sellers in and to the name "Allegheny University Hospital" and variants thereof;

(g) all Contracts other than Assumed Contracts;

(h) Excluded Affiliated Physician Practices Accounts Receivable and Hospital Accounts Receivable;

(i) all real and tangible personal property constituting or used solely at the former Mt. Sinai Hospital;

(j) those other assets identified on **Schedule 2.02**;

(k) any claims or causes of action of the Sellers against third parties not covered by Section 2.01(l) or (o) above, including avoidance claims available to Sellers under Chapter 5 of the Bankruptcy Code and all claims relating to Excluded Liabilities;

(l) any assets associated with Affiliated Physician Practices and University Faculty Physicians whose medical practices are located primarily in New Jersey or Western Pennsylvania; and

(m) any other assets excluded by mutual written agreement of the parties.

2.03. Assumed Liabilities. As of the Closing Date. Buyer shall assume the Assumed Liabilities. The Assumed Liabilities do not include any obligation of the Sellers for cure payments under the Assumed Contracts.

2.04. Excluded Liabilities. Under no circumstance shall Buyer assume or be obligated to pay, and none of the Assets shall be or become liable for or subject to, any of the Excluded Liabilities. including but not limited to the following liabilities, which shall be and remain liabilities of Sellers:

(a) all liabilities accrued on the Closing Balance Sheets;

(b) liabilities or obligations of Sellers for Taxes in respect of periods ending on prior to the Closing Date or resulting from the consummation of the transactions contemplated herein, except as specifically provided in Section 5.26;

(c) liabilities or obligations associated with any Excluded Assets;

(d) liabilities or obligations associated with any and all indebtedness of Sellers for borrowed money;

(e) liabilities or obligations arising from any Assumed Contract before the Closing Date or resulting from any breach or default prior to the Closing Date of any Assumed Contracts or other Assumed Liabilities and liabilities arising under any Contracts not assumed by Buyer;

(f) liabilities or obligations arising out of or in connection with claims, litigation or proceedings described in **Schedule 3.23**, and claims. litigation and proceedings (whether instituted prior to or after Closing) for acts or omissions which allegedly occurred prior to the Closing Date;

(g) liabilities or obligations under the Hill-Burton Act or any medical school construction program, or arising from Sellers' participation in restricted grant or loan programs of any Grant Provider or Governmental Authority;

(h) except with respect to the Hired Employee Benefits, liabilities or obligations to Sellers' employees, Employee Benefit Plans, the Internal Revenue Service, PBGC or any other Governmental Authority, arising from or relating to periods prior to Closing (whether or not triggered by the transactions contemplated by this Agreement), including liabilities or obligations arising under any Employee Benefit Plan, severance pay program or arrangement, EEOC claim, unfair labor practice, and wage and hour practice;

(i) Cost Report settlement payables relating to all Cost Report periods ending on or before the Closing Date;

(j) penalties, fines, settlements, interest, costs and expenses arising out of or incurred as a result of any actual or alleged violation by any Seller of any Legal Requirement;

(k) liabilities or obligations arising under the WARN Act, if any, arising out of or resulting from layoffs of employees by Sellers prior to Closing and/or the consummation of the transactions described in this Agreement;

(l) liabilities related to Sellers' DIP Financing from Madelaine LLC or any other debtor in possession lender; and

(m) liabilities other than the Assumed Liabilities.

2.05. Purchase Price: Purchase Price Adjustment: Prorations.

(a) Subject to the terms and conditions hereof, in reliance upon the representations, warranties and covenants of Sellers herein set forth, and as consideration for the sale and purchase of the Assets, at Closing, Buyer shall assume the Assumed Liabilities and shall tender to Sellers as the purchase price (the "Purchase Price") cash in the amount of Three Hundred Forty Five Million and 00/100 Dollars ($345,000,000.00).

(b) On or prior to September 29, 1998, Buyer shall deposit, by wire transfer, the sum of $1 million with Sellers (the "Deposit"), which Deposit shall be credited against the Purchase Price at the Closing. The balance of the Purchase Price shall be paid at Closing. At Closing, Buyer shall deliver to Sellers the balance of the Purchase Price minus (i) the Indemnity Deposit, (ii) the Restructured University Fund, (iii) the Hired Employees Benefits and (iv) the sum of $40 million related to the acquisition of Tail Insurance as provided in Section 5.27 (the "Cash Portion of the Purchase Price"). In addition, Buyer shall deliver the Indemnity Deposit and the Restructured University Fund as provided in 8.03(b) and 8.03(c), respectively, purchase the Tail Insurance as provided in Section 5.27 and assume liability to pay the Hired Employees Benefits from the Purchase Price.

(c) Any Purchase Price payment required by this Section shall be made by wire transfer of immediately available funds to an account or accounts designated by the payee, and the parties shall execute such receipts or other acknowledgments as are reasonably necessary to evidence payment of the Purchase Price.

2.06. Acquired Affiliated Physician Practices Accounts Receivable. At or prior to Closing, Buyer shall designate, by writing delivered to the Sellers, which of the Accounts Receivable of the Affiliated Physician Practices are Acquired Affiliated Physician Practices Accounts Receivable.

2.07. Prorations. At Closing, Buyer and Sellers shall prorate real estate and personal property lease payments, real estate and personal property Taxes and other assessments, plus all other income and expenses (including utilities) with respect to the Assets which are normally prorated upon a sale of assets of a going concern, provided that if, as a result of the transactions contemplated by this Agreement, Sellers become liable for real estate or personal property Taxes for which Sellers otherwise would be exempt, such Taxes shall not be prorated but shall be paid by Buyer. If any payment in lieu of Taxes made by Sellers prior to Closing is credited against real estate Taxes for which Buyer will be liable, the amount of such credit will be paid to Sellers upon its receipt by Buyer.

3. REPRESENTATIONS AND WARRANTIES OF SELLERS

Each of the Sellers makes the following representations and warranties to Buyer and Tenet on and as of the Effective Date and shall be deemed to make them again at and as of the Closing and, with respect to the University Assets, at and as of the University Asset Transfer Date. Notwithstanding any references in this Article to "Sellers", "no Seller", "any Seller", "each Seller", or words or phrases of similar import, each of the Sellers represents and warrants to Buyer and Tenet solely with respect to itself and the Assets, Hospital Businesses or the University owned or operated by it as follows:

3.01. Organization. Each Seller is duly organized and validly existing in good standing under the laws of the Commonwealth of Pennsylvania. Except as set forth on **Schedule 3.01**, none of Sellers is licensed, qualified or admitted to do business in any jurisdiction other than the Commonwealth of Pennsylvania and there is no other jurisdiction in which the ownership, use or leasing of any of Sellers' assets or properties, or the conduct or nature of their businesses, makes such licensing, qualification or admission necessary.

3.02. Powers; Consents; Absence of Conflicts, Etc. Subject to approval of this Agreement by the Bankruptcy Court, each Seller has the requisite power and authority to conduct its businesses as now being conducted, to enter into this Agreement and to perform its obligations hereunder, and except as described in **Schedule 3.02**, the execution, delivery and performance by each Seller of this Agreement and the consummation of the transactions contemplated herein:

(a) are within such Seller's corporate powers, are not in contravention of any Legal Requirement or of the terms of its articles or certificate of incorporation, bylaws and other governing documents, if any, as amended to date, and have been duly authorized by all appropriate corporate and member action;

(b) except as otherwise expressly provided in this Agreement, do not require any approval or consent of, or filing with, any Governmental Authority bearing on the validity of this Agreement, other than the Pennsylvania Department of Education as related to the University; and

(c) do not violate any Legal Requirement to which any Seller or the Assets may be subject (including any bulk transfer or similar law).

3.03. Binding Agreement. Subject to approval of this Agreement by the Bankruptcy Court, this Agreement and all instruments and agreements hereunder to which each Seller is or becomes a party are (or upon execution will be) valid and legally binding obligations of such Seller, enforceable against such Seller in accordance with the respective terms hereof or thereof, except as enforceability may be subject to general principles of equity.

3.04. Subsidiaries, Investments and Third Party Rights. Except as described in **Schedule 2.01(i)** or **Schedule 3.04**, no Affiliate of any Seller conducts any business that competes with the Hospital Businesses or the University, Sellers have no subsidiaries or other interests in any Persons that conduct any business that competes with the Hospital Businesses or the University, Sellers hold no Investments that are recorded as assets of the Hospitals, University or Affiliated Physician Practices. There are no agreements, options, commitments or rights with, of or to any Person to acquire, directly or indirectly, any material Assets, or any interest therein, owned by DHG or by any Affiliate of any Seller that is not a debtor-in-bankruptcy.

3.05. Legal and Regulatory Compliance. Except as described in **Schedule 3.05**, each Seller is in compliance with all Legal Requirements, and has timely filed all reports, data and other information required to be filed with Governmental Authorities, where a failure to be in compliance or file timely would have a material adverse effect on any Seller, the Hospital Businesses or the University or the Assets. Except as described on **Schedule 3.05**, no Seller has received notice from any Person of any proceeding or investigation by Governmental Authorities alleging or based upon a violation of any Legal Requirements that (i) is currently pending or (ii) if not currently pending, would not otherwise have an adverse effect on the Hospital Businesses or the University. To the

knowledge of Sellers, no Seller is threatened by any Person with, any proceeding or investigation by Governmental Authorities alleging or based upon a violation of any Legal Requirements.

3.06. Financial Statements. Attached as **Schedule 3.06** are copies of the Audited Financial Statements, the Unaudited Financial Statements and the Interim Financial Statements. Except for the announced restatement of the Audited Financial Statements or as disclosed on **Schedule 3.08**, the Financial Statements are true, complete and accurate and fairly present the financial condition and results of operations of Sellers as of the respective dates thereof and for the periods therein referred to, all in accordance with generally accepted accounting principles, subject in the case of the Interim Financial Statements, to normal recurring year-end adjustments (the effect of which will not, individually or in the aggregate, be materially adverse) and the absence of notes (which, if presented, would not differ materially from those included in the Audited Financial Statements); and the Financial Statements reflect the consistent application of such accounting principles throughout the periods involved.

3.07. Undisclosed Liabilities. **Schedule 3.07** contains an accurate description of all material liabilities of Sellers not included in the Audited Financial Statements of any nature relating to the Assets and the Hospital Businesses or the University, whether accrued, absolute, contingent or otherwise, together with, in the case of those liabilities which are not fixed in amount, a reasonable estimate of the maximum amount which may be payable in respect thereof.

3.08. Recent Activities. Except as described in **Schedule 3.08**, which schedule will be amended to reflect events that have actually occurred up to and including September 29, 1998:

(a) since the Interim Financial Statements of August 31, 1998, and except for the filing by certain Sellers of voluntary petitions for relief under Chapter 11 of the Bankruptcy Code, or as otherwise known to Buyer on September 29, 1998, no unforeseen material adverse change has occurred in the financial condition, assets, liabilities (contingent or otherwise), working capital reserves, income or prospects of the Hospital Businesses or the University;

(b) since December 31, 1997, no material damage, destruction or loss (whether or not covered by insurance) has occurred affecting the Assets;

(c) since December 31, 1997 and except in the ordinary course of business in accordance with existing Hospital personnel policies, no Seller has increased or agreed to increase the compensation payable to any of its employees or agents or made or agreed to make any bonus or severance payment to any of its employees or agents, and no Seller has mployed any additional management personnel;

(d) since December 31, 1997, no labor dispute, enactment of state or local law, promulgation of state or local regulation, or other event or condition has occurred materially adversely affecting any of the Hospital Businesses or the University;

(e) since December 31, 1997, no Seller has sold, assigned, transferred, distributed or otherwise disposed of any of the Assets, except in the ordinary course of the Hospital Businesses or the University or as permitted by Final Order of the Bankruptcy Court;

(f) since December 31, 1997, no Seller has canceled or waived any rights in respect of the Assets, except in the ordinary course of the Hospital Businesses or the University or as permitted by Final Order of the Bankruptcy Court;

(g) since December 31, 1997, there has been no change in any accounting method, policy or practice of any Seller;

(h) since December 31, 1997, no Seller has paid or agreed to pay to any Person damages, fines, penalties or other amounts in respect of actual or alleged violation of any Legal Requirement; and

(i) with respect to each accreditation held by Sellers issued by an Accreditation Body, since the date of Sellers' last review by such Accreditation Body, no change has occurred in the conduct of the Schools or in any other respect that would jeopardize Sellers' ability to maintain such accreditation, or would cause such Accreditation Body to reject accreditation for Sellers, or any School, business, program or department conducted by Sellers, if applied for by Sellers de novo, based on current accreditation standards.

3.09. Other Facility Locations. **Schedule 3.09** sets forth a list of all locations in the Philadelphia metropolitan area (other than the Hospitals) at which AHERF or any of its Affiliates (including physician employees of the University) conducts any healthcare business, including the private practice of medicine, urgent care clinics and laboratories, and a description of the businesses conducted at such locations.

3.10. Inventory. All items of inventory and supplies on hand consist of items of a quality usable or saleable in the ordinary course of business, except for those items which are obsolete, below standard quality or in the process of repair and for which adequate reserves have been provided in the Financial Statements.

3.11. Equipment. All equipment constituting Assets, whether reflected in the Financial Statements or otherwise, is well maintained and in good operating condition, except for reasonable wear and tear. All medical and leased equipment constituting Assets is maintained (either by Sellers, the manufacturer or lessor, as the case may be) in accordance with manufacturer and lessor requirements, and complete and accurate maintenance logs or journals have been maintained at all times. All equipment constituting Assets owned by DHG or any Affiliate of any Seller that is not in bankruptcy is held by such Person free and clear of any Encumbrance or interest of any other Person, other than the interest of lessors of equipment leased by Seller.

3.12. Title to Personal Property. Sellers own and hold good and valid title or leasehold title to all Assets other than the Real Property and the Endowments and Grants, free and clear of any Encumbrances other than the Permitted Personal Property Encumbrances described in **Schedule 3.12.** At Closing Sellers will convey to Buyer good and valid title to all Assets other than the Real Property and the Endowments and Grants, free and clear of any Encumbrances other than the Permitted Personal Property Encumbrances.

3.13. Real Property.

(a) Sellers own fee simple or leasehold title (as the case may be) to the Real Property, including the Real Property described in **Schedule 2.01(a)**, together with all

buildings, improvements and fixtures thereon and all appurtenances and rights thereto, free and clear of any Encumbrances other than the Encumbrances described in **Schedule 3.13**.

(b) The Real Property comprises all of the real property owned or leased by Sellers or their Affiliates which is associated with or employed in the operation of the Hospital Businesses or the University.

(c) At Closing Sellers will convey to Buyer good and marketable fee simple or leasehold title (as the case may be) to all Real Property, except Real Property that is an Excluded Asset, free and clear of any Encumbrances other than the Permitted Real Property Encumbrances.

(d) No Seller nor any Affiliate of any Seller may assert after Closing any rights in respect of any Encumbrance that will interfere with Buyer's use and enjoyment of the Real Property after Closing.

(e) Except as described on **Schedule 3.13**, the buildings constructed on the Real Property are in a state of good condition and repair, are structurally sound, and in need of no maintenance or repairs except for ordinary, routine maintenance.

(f) No Seller has received notice of condemnation or similar proceeding relating to the Real Property or any part thereof.

(g) No part of the Real Property contains, is located within or abuts any flood plain, navigable water or other body of water, tideland, wetland, marshland or any other area which is subject to special State, federal or municipal regulation, control or protection.

3.14. Environmental Matters.

(a) To Sellers' knowledge and except as described on **Schedule 3.14**, there are no circumstances in existence that may prevent or interfere with compliance by the Hospital Businesses or the University in all material respects with Environmental Laws. Except as described on **Schedule 3.14**, no Seller has received any written communication (or reduced to writing any oral communication) from any Person alleging that, with respect to the conduct of the Hospital Businesses or the University, any Seller is not in full compliance with Environmental Laws. Each Seller has all material permits, licenses and approvals required under applicable Environmental Laws to own its properties and to conduct the Hospital Businesses or the University thereon. All licenses, permits and other authorizations of Governmental Authorities currently held by Sellers pursuant to the Environmental Laws are identified in **Schedule 2.0(h)**.

(b) With respect to the Hospital Businesses or the University and except as described on **Schedule 3.14**, there is no Environmental Claim pending or to Sellers' knowledge threatened against any Person whose liability for any Environmental Claim any Seller has or may have retained or assumed either contractually or by operation of law.

(c) To Sellers' knowledge and except as described on **Schedule 3.14**, no actions, activities, circumstances, conditions, events or incidents, including the release, emission, discharge or disposal of any Materials of Environmental Concern, have occurred at the Hospital Businesses or the University that could form the basis of any Environmental Claim

against any Person whose liability for any Environmental Claim any Seller has or may have retained or assumed either contractually or by operation of law.

(d) Without in any way limiting the generality of the foregoing, (i) all on-site and off-site locations where Sellers store, dispose or arrange for the disposal of Materials of Environmental Concern for the Hospital Businesses or the University are identified in **Schedule 3.14**, (ii) all Contracts dealing with the removal, storage, disposal and handling of Materials of Environmental Concern of the Hospital Businesses or the University are with properly licensed vendors, (iii) all underground storage tanks, and the capacity and contents of such tanks, located on the Real Property are identified in **Schedule 3.14**, (iv) except as described in **Schedule 3.14**, there is no asbestos contained in or forming part of any building, building component, structure or office space owned or leased by Sellers and used in the conduct of the Hospital Businesses or the University, and (v) except as set forth on **Schedule 3.14**, no polychlorinated biphenyls are used or stored at any Real Property owned or leased by Sellers.

3.15. Intellectual Properties, Computer Software, etc. Except as described in **Schedule 3.15** and except for customary licensing fees payable under the Contracts, Sellers have the right to use, free and clear of any royalty or other payment obligations, claims of infringement or other liens, (i) all Intellectual Properties used or needed by Sellers in the conduct of the Hospital Businesses or the University, and (ii) all computer software, programs and similar systems owned by or licensed under Contracts to Sellers and used in the conduct of the Hospital Businesses or the University; and no Seller is in conflict with or in violation or infringement of, nor has any Seller received a notice alleging any conflict with or violation or infringement of, any rights of any other Person with respect to any such Intellectual Properties or computer software, programs or similar systems. Except as set forth in **Schedule 3.15** and except for customary licensing fees payable under the Contracts, subsequent to the Closing and without further action or the payment of additional fees, royalties or other compensation to any Person, Buyer will be entitled to unrestricted use of all Intellectual Properties (other than the name "Allegheny University Hospital" and variations thereof, the use of which shall be governed by Section 5.09), computer software, programs and similar systems currently used in the Hospital Businesses or the University.

3.16. Insurance. **Schedule 3.16** describes all insurance arrangements, including self-insurance, in place for the benefit of the Assets and the conduct of the Hospital Businesses or the University. With respect to third party insurance, **Schedule 3.16** sets forth the name of each insurer, whether such insurer is an Affiliate of any Seller, and the number, coverage, limits, term and premium for each policy of insurance purchased or held by Sellers covering the ownership and operation of the Assets and the Hospital Businesses or the University. True and correct copies of all such policies and any endorsements thereto shall be delivered to Buyer no later than October 15, 1998.

3.17. Permits and Licenses. **Schedule 2.01(f)** contains an accurate list and summary description of all material licenses, permits, franchises and certificates of need (including applications therefor) owned or held by Sellers relating to the ownership, development or operations of the Hospital Businesses or the University and the Assets, all of which, to Sellers' knowledge, are in good standing and not subject to meritorious challenge. The Hospitals are duly licensed as acute care hospitals by the appropriate state agencies and any ancillary departments located at the Hospitals that are required to be specifically licensed are duly licensed by the appropriate state agencies. Except as described in **Schedule 3.17**, the Hospitals are in compliance with such licensing

requirements. There are no provisions in or agreements relating to any such licenses, permits and certificates of need (including applications therefor) which would preclude or limit Buyer from operating the Hospital Businesses or the University and using all the beds of the Hospitals as they are currently classified. Sellers have delivered to Buyer copies of the latest licensure, survey and/or fire marshal reports of the Hospital Businesses or the University and plans of correction or responses thereto. All violations set forth in such reports, if any, have been or by Closing will be corrected by such Seller at its expense.

3.18. Government Reimbursement Programs; Accreditations. The Hospitals and, to the extent required, the Schools are qualified for participation in and have current and valid provider contracts with the Government Reimbursement Programs and/or their fiscal intermediaries or paying agents and comply in all material respects with the conditions of participation therein. The Hospitals and, to the extent required, the Schools are entitled to payment under the Government Reimbursement Programs for services rendered to qualified beneficiaries and have received all approvals or qualifications necessary for capital reimbursement on the Assets. The Cost Reports were filed when due for all Cost Report periods through June 30, 1997. The Cost Reports have been audited and Notices of Program Reimbursement issued for all Cost Report periods through June 30, 1994. All amounts shown as due from Sellers in the Cost Reports were remitted with such reports and all amounts shown in the Notices of Program Reimbursement as due have been paid. Except to the extent liabilities and contractual adjustments of the Hospitals and the Schools under the Government Reimbursement Programs have been properly reflected and adequately reserved in the Financial Statements, the Hospitals and the Schools have not received or submitted any claim for payment in excess of the amount provided by law or applicable Contract and, except as described on **Schedule 3.18**, no Seller has received notice of any dispute or claim by any Governmental Authority, fiscal intermediary or other Person regarding the Government Reimbursement Programs or Sellers' participation therein.

The Schools are duly accredited with no contingencies by the Accreditation Bodies named on **Schedule 3.18** for the periods specified thereon and any ancillary departments located at the Schools that are required to be specifically accredited are duly accredited by the appropriate Accreditation Bodies named on **Schedule 3.18** for the periods specified thereon. Except as described on **Schedule 3.18**, the Schools are in compliance with all accreditation requirements. There are no provisions in or agreements relating to any such accreditations (including applications therefor) which would preclude or limit Buyer from operating the University as it is presently being operated. The Hospitals are duly accredited with no contingencies by the accrediting organizations named on **Schedule 3.18** for the periods specified thereon. Sellers have delivered to Buyer true and complete copies of the most recent accreditation survey reports, deficiency lists, statements of deficiency, plans of correction and similar materials. Sellers have taken or are taking all reasonable steps to correct all material deficiencies noted therein.

3.19. Agreements and Commitments. Sellers have delivered to Buyer complete and genuine copies of the Contracts. Except for the Contracts:

(a) there are no Contracts affecting the ownership or use of, title to or interest in any Real Property;

(b) there are no Contracts with referral sources to any of the Hospital Businesses or the University and no Contracts between any Affiliate of any Seller and any physician or physician group who is (or whose members are) employees of AHERF or any Affiliate of

AHERF, members of the medical staff of any of the Hospitals or University Faculty Physicians:

(c) there are no Contracts with respect to patents, patent applications, trademarks, trade names, technical assistance, copyrights or similar intellectual property rights;

(d) there are no Contracts relating to information and data processing systems, hardware and software utilized in connection with the Hospital Businesses or the University;

(e) there are no collective bargaining agreements or other Contracts with labor unions or other employee representatives or groups;

(f) there are no Contracts with directors, trustees, shareholders, partners, Affiliates, officers or other individual employees of any Seller relating to the Hospital Businesses or the University;

(g) there are no requirements or exclusive Contracts or Contracts prohibiting or limiting competition or the conduct of any lawful business by the Hospital Businesses or the University;

(h) there are no Contracts providing for payments based in any manner on the revenues, purchases or profits of the Hospital Businesses or the University or any part thereof;

(i) there are no Contracts for the administration, operation or funding of any Employee Benefit Plan; and

(j) there are no other Contracts other than Immaterial Contracts.

3.20. The Contracts. Except (i) as otherwise provided in the Bankruptcy Code, or (ii) for events of default arising as a result of the filing of a voluntary petition for relief under Chapter 11 of the Bankruptcy Code:

(a) the Contracts constitute lawful, valid and legally binding obligations of the parties thereto and are enforceable in accordance with their terms;

(b) each Contract is in full force and effect and constitutes the entire agreement by and between the parties thereto;

(c) in all material respects, all obligations required to be performed under the Contracts by the parties thereto on or prior to the date hereof have been performed, and no event has occurred or failed to occur which constitutes, or with the giving of notice, the lapse of time or both would constitute, a default by any Seller under the Contracts;

(d) no Contract prohibits or requires the consent of any Person to the assignment to and assumption by Buyer (or, in the case of University Assets, by the Restructured University) of the Contract;

(e) no Contract will prohibit competition or restrict the ability of Buyer (or, in the case of University Assets, by the Restructured University) to engage in any lawful business after Closing (including ambulatory surgery centers and home health services);

(f) the assignment of the Contracts to and assumption of such Contracts by Buyer (or, in the case of University Assets, by the Restructured University) will not result in any penalty, premium or variation of the rights, remedies, benefits or obligations of any party thereunder; and

(g) Sellers are not in material breach or default under any Grant Agreement, nor have Sellers made any untrue or misleading statements, or failed to disclose any fact that by its omission would have the effect of a misrepresentation or be misleading, in connection with obtaining funding from any Grant Provider under a Grant Agreement.

3.21. Employees and Employee Relations.

(a) **Schedule 3.21** sets forth (i) a complete list (as of the date set forth therein) of names, positions, current annual salaries or wage rates, and bonus and other compensation arrangements of all full-time and part-time non-physician employees of Sellers (and their Affiliates, if applicable) employed in the operation of the Hospital Businesses or the University, and (ii), a separate complete list (as of the date set forth therein) of names, positions, current annual salaries or wage rates, and bonus and other compensation arrangements of all full-time and part-time physician employees of Sellers (and their Affiliates, if applicable) (indicating in both lists whether each employee is part-time or full-time, whether such employee is employed under written Contract, and, if such employee is not actively at work, the reason therefor).

(b) There is no pending or, to Sellers' knowledge, threatened employee strike, work stoppage or slowdown or labor dispute. Except as described on **Schedule 3.21**, no employees of any Seller are represented by, or have made demand for recognition of, a labor union or employee organization, and no other union organizing or collective bargaining activities by or with respect to any employees of any Seller are taking place.

3.22. Employee Benefit Plans.

(a) **Schedule 3.22** lists each Employee Benefit Plan and Other Plan that any Seller or any member of the Controlled Group that includes any Seller maintains or ever has maintained or to which it contributes (including employee elective deferrals), ever has contributed or ever has been required to contribute.

(b) Each Employee Benefit Plan (and related trust, insurance contract or fund) complies in form and in operation in all material respects with applicable Legal Requirements, and has been administered and operated in all material respects in accordance with the terms of the Plan and applicable Legal Requirements. All required reports and descriptions (including Form 5500 Annual Reports, Summary Annual Reports, PBGC- 1's and Summary Plan Descriptions) have been filed or distributed appropriately with respect to each Employee Benefit Plan. Seller has delivered to Buyer correct and complete copies of the plan documents and summary plan descriptions, most recent determination letters received from the Internal Revenue Service, most recent Form 5500 Annual Report, and all

related trust agreements. insurance contracts and other funding agreements which implement each Employee Benefit Plan. Since January 1, 1993, no Employee Benefit Plan has been audited by any Governmental Authority and no written notice that such an audit will or may be conducted has been received by any Seller.

(c) Each Employee Pension Benefit Plan meets the requirements of a qualified plan under Code Sec. 40 1(a), a tax sheltered annuity plan under Code Section 403(b), or a qualified employee pension plan under Code Section 408, and each qualified plan has received a favorable determination letter from the Internal Revenue Service reflecting compliance at least through the requirements imposed by the Tax Reform Act of 1986. All contributions (including employer contributions and employee salary reduction contributions) to each Employee Pension Benefit Plan that are required to be paid have been paid, and all Seller contributions in respect of periods ending the day prior to the Closing Date will be accrued on the Closing Balance Sheets. The market value of all assets under each Employee Pension Benefit Plan and the present value of all vested and unvested liabilities thereunder have been determined and, with respect to each such Employee Pension Benefit Plan, as of such date of determination the vested and unvested liabilities thereunder were determined in accordance with PBGC immediate and deferred factors and assumptions applicable to an Employee Pension Benefit Plan terminating on the date for determination.

(d) The requirements of Part 6 of Subtitle B to Title I of ERISA and of Code Sec. 4980B have been met with respect to each Employee Welfare Benefit Plan; all premiums or other payments for all periods ending on or before the Closing Date have been paid with respect to each Employee Welfare Benefit Plan.

(e) To Sellers' knowledge, there have been no Prohibited Transactions with respect to any Employee Benefit Plan that would subject any Seller or any member of the Controlled Group that includes any Seller to any liability; no ERISA Fiduciary has any material 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 Employee Benefit Plan; no action, suit, proceeding, hearing or investigation with respect to the administration or the investment of the assets of any Employee Benefit Plan (other than routine claims for benefits) is pending or to Sellers' knowledge threatened; and to Sellers' knowledge there exists no basis for any such action. suit. proceeding, hearing or investigation. No Party in Interest has any interest in any assets of any Employee Benefit Pension Plan other than as a beneficiary by virtue of such Person's participation in such plan.

(f) No Employee Benefit Plan which is an Employee Pension Benefit Plan has been completely or partially terminated or the subject of a Reportable Event and no proceeding by the PBGC to terminate any Employee Pension Benefit Plan has been instituted or to Sellers' knowledge threatened; and no Seller has incurred any material liability to the PBGC (other than PBGC premium payments) or otherwise under Title IV of ERISA (including any withdrawal liability) or under the Code with respect to any Employee Pension Benefit Plan.

(g) No Seller, and no member of the Controlled Group that includes any Seller, contributes to, ever has contributed to, or ever has been required to contribute to any Multiple Employer Plan or any Multiemployer Plan or has any liability (including withdrawal liability) under any Multiple Employer Plan or any Multiemployer Plan. No Seller, and no member of

the Controlled Group that includes any Seller, maintains or contributes, ever has maintained or contributed, or ever has been required to maintain or contribute to any Employee Welfare Benefit Plan providing medical, health or life insurance or other welfare-type benefits for current or future retired or terminated employees, their spouses or their dependents (other than in accordance with Code Sec. 4980B).

3.23. Litigation and Proceedings. **Schedule 3.23** contains an accurate list and summary description of all claims, actions, suits, litigation, arbitration, mediations, investigations and other proceedings pending against or otherwise affecting any Seller which are not stayed pursuant to Section 362 of the Bankruptcy Code. Except as described in **Schedule 3.23**, and except for claims, actions, suits, litigation, arbitration, mediations, investigations and other proceedings pending against or otherwise affecting any Seller which are stayed pursuant to Section 362 of the Bankruptcy Code, (i) there are no claims, actions, suits, litigation, arbitration, mediations, investigations or other proceedings (including *qui tam* actions) pending, affecting or to Sellers' knowledge threatened against any Seller, the Hospital Businesses or the University or the Assets, (ii) there are no claims, actions, suits, litigation, arbitration, mediations, investigations or other proceedings (including *qui tam* actions) pending, affecting or to Sellers' knowledge threatened against any Seller which might have an adverse effect on the Hospital Businesses or the University or the Assets, and (iii) to Sellers' knowledge, there exist no facts that might form the basis of any such claim, action, suit, litigation, arbitration, mediation, investigation or other proceeding.

3.24. Taxes.

(a) Sellers have filed all Tax Returns required to be filed by or on behalf of any of them, all such Tax Returns are correct and complete in all material respects, and Sellers have duly paid or made provision in the Audited Financial Statements for the payment of all Taxes; and as of Closing there will be no Encumbrances on any Assets that arose in connection with any failure (or alleged failure) to pay any Tax.

(b) Except as described on **Schedule 3.24**, each Seller has withheld proper and accurate amounts from its employees' compensation in full and complete compliance with all withholding and similar provisions of the Code and any and all other applicable Legal Requirements, and has withheld and paid, or caused to be withheld and paid, all Taxes on monies paid by Sellers to independent contractors, creditors and other Persons for which withholding or payment is required by law.

(c) To Sellers' knowledge, no taxing authority intends to assess any additional Taxes for any period for which Tax Returns have been filed. Except as set forth on **Schedule 3.24**, there is no dispute or claim concerning any Tax liability of Sellers either claimed or raised by any Governmental Authority in writing, or as to which any Seller has notice or knowledge based upon personal contact with any agent of such authority.

(d) Sellers are corporations exempt from federal and State income taxation, and each has received favorable letters of determination from the IRS regarding such Tax status. No similar letters of determination are required to be obtained from the Commonwealth of Pennsylvania Department of Revenue.

(e) Except as described on **Schedule 3.24**, no Seller has or may have any liability for the Taxes of any Person other than Sellers under Reg. § 1.1502-6 (or any similar

provision of state, local, or foreign law), as a transferee or successor, by Contract or otherwise.

3.25. Medical Staff: Physician Relations. Sellers have delivered to Buyer complete and genuine copies of the bylaws, rules, and regulations currently in effect of the medical staff and medical executive committees of the Hospital Businesses. Except as set forth on **Schedule 3.23**, there are no pending or to Sellers' knowledge threatened disputes with Hospital medical staff members or applicants or allied health professionals and all appeal periods in respect of any medical staff member or applicant against whom an adverse action has been taken have expired. Sellers have delivered to Buyer complete and genuine copies of the written policies and procedures currently in effect at all of the University, including but not limited to such policies and procedures as apply to, or affect, the University Faculty Physicians. Except as set forth on **Schedule 3.23**, there are no pending or to Sellers' knowledge threatened disputes with University Faculty Physicians or applicants or allied health professionals and all appeal periods in respect of any University Faculty Physician or applicant against whom an adverse action has been taken have expired.

3.26. Special Funds. **Except for St. Christopher's Hospital for Children,** none of the Assets are subject to any liability in respect of funds received by any Person for the purchase, improvement or use of any of the Assets or the conduct of the Hospital Businesses or the University under restricted or conditioned grants or donations, including monies received under the Hill-Burton Act or from any other Governmental Authority pursuant to any grant or loan program for the funding of the construction or improvement of the Schools.

3.27. Brokers and Finders. No Seller nor any Affiliate of any Seller, nor any officer, trustee, director, employee or agent thereof, has engaged any finder or broker in connection with the transactions contemplated hereunder, except that Sellers have engaged Merrill Lynch & Co. and Lehman Brothers to act as Seller's independent financial advisor in connection with the transactions contemplated by this Agreement.

3.28. Payments. No Seller has, directly or indirectly, paid or delivered or agreed to pay or deliver any fee, commission or other sum of money or item of property, however characterized, to any Person which is in any manner related to the Assets or the Hospital Businesses or the University in violation of any Legal Requirement. No Seller, nor any officer, director or trustee of any Seller has received or, as a result of the consummation of the transaction contemplated by this Agreement, will receive any rebate, kickback or other improper or illegal payment from Person with whom Sellers conduct or have conducted business.

3.29. Operation of the Hospital Businesses or the University. The Assets constitute all assets, properties, goodwill and businesses necessary to operate the Hospital Businesses or the University in all material respects in the manner in which they been operated since July 21, 1998. Except as set forth in **Schedule 3.29**, no Seller has received any notice to the effect that any payor of the Hospital Businesses or the University intends to terminate or materially curtail its business relationship with or materially reduce reimbursement rates to a Hospital.

3.30. Full Disclosure. This Agreement and the Schedules and other documents and information described in this Agreement as having been delivered or otherwise made available to Buyer do not and will not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements made therein not misleading.

3.31. Restricted Assets. Sellers own and hold good and valid title to all Restricted Assets, free and clear of any Encumbrances other than the Endowment and Grant Restrictions. At Closing Sellers will convey to Buyer (or, in the case of Restricted Assets that are University Assets, to Restructured University) good and valid title to all Restricted Assets, free and clear of any Encumbrances other than the Endowment and Grant Restrictions. The schedule prepared by Sellers, pursuant to Section 5.29, accurately describes the Endowment Shortfall.

4. REPRESENTATIONS AND WARRANTIES OF BUYER AND TENET

Buyer and Tenet, on their own behalf and, as applicable, on behalf of Restructured University, make the following representations and warranties to Sellers on and as of the Effective Date and shall be deemed to make them again at and as of the Closing. Buyer and Tenet represent and warrant to Sellers as follows:

4.01. Organization. Buyer is a for-profit corporation duly organized and validly existing in good standing under the laws of the Commonwealth of Pennsylvania. Tenet is a corporation duly organized and validly existing in good standing under the laws of the State of Nevada. Restructured University is a non-profit corporation duly organized and validly existing in good standing under the laws of the Commonwealth of Pennsylvania.

4.02. Corporate Powers; Consents; Absence of Conflicts, Etc. Each of Buyer and Tenet has the requisite power and authority to conduct its business as now being conducted, to enter into this Agreement, and to perform its obligations hereunder. Restructured University has the requisite power and authority to accept conveyance of the University Assets, to own and operate the University and to perform under the Assignment and Assumption Agreement. The execution, delivery and performance by Buyer and Tenet of this Agreement and the consummation of the transactions contemplated herein by each of them and by Restructured University:

(a) are within their corporate powers and are not in contravention of the terms of their articles or certificates of incorporation and bylaws, as amended to date, and have been approved by all requisite corporate action;

(b) except as otherwise expressly herein provided, do not require any approval or consent of, or filing with, any Governmental Authority bearing on the validity of this Agreement;

(c) do not conflict with or result in any breach or contravention of, any material agreement to which either Buyer, Tenet or Restructured University is a party or by which it is bound; and

(d) do not violate any Legal Requirement to which Buyer, Tenet or Restructured University may be subject.

4.03. Binding Agreement. This Agreement and all instruments and agreements hereunder to which Buyer, Tenet or Restructured University is or becomes a party are (or upon execution will be) valid and legally binding obligations of Buyer, Tenet and Restructured University, respectively, enforceable against each of them in accordance with the respective terms hereof and thereof, except as enforceability against them may be restricted, limited or delayed by applicable bankruptcy or other laws affecting creditors' rights generally and except as enforceability may be subject to general principles of equity.

4.04. Buyer's and Tenet's Management Experience. Buyer and Tenet have substantial experience managing and operating hospitals and health care delivery systems. Tenet currently owns and operates over 120 hospitals in seventeen states. employing in excess of 105.000 people. More specifically, Tenet owns and operates three facilities which serve as the teaching hospitals for, respectively, the University of Southern California School of Medicine. Creighton University School of Medicine, and Saint Louis University School of Medicine. Tenet has a number of other facilities with close teaching affiliations with medical schools in Massachusetts. Louisiana, Florida, Tennessee, Texas, Georgia, Arizona and California. Further, Tenet operates subsidiaries which provide (i) physician management to over 1,000 medical practices and (ii) accounts receivable collection services to all of Tenet's facilities.

4.05. Brokers and Finders. Neither Buyer, nor any Affiliate of Buyer (including Tenet), nor any officer, director, employee or agent thereof, has engaged any finder or broker in connection with the transactions contemplated hereunder.

4.06 Payments. Neither Buyer nor any Affiliate of Buyer (including Tenet) nor any officer, director, employee or agent thereof, has, directly or indirectly, paid or delivered, offered to pay or deliver, or agreed to pay or deliver any fee. commission or other sum of money or item of property, however characterized, to any person which is now or was previously an affiliate or insider (as those terms are defined in the Bankruptcy Code) of Sellers.

4.07. Title to University Assets. On or prior to the Closing Date. Buyer intends to assign its right, title and interest in and to the University Assets to Restructured University. Such assignment shall not alter Buyer's obligations hereunder, including but not limited to Buyer's obligation to pay the Purchase Price to Sellers, nor shall it alter Seller's obligations hereunder. Restructured University shall hold the Endowments and Grants related to the University subject to the Endowment and Grant Restrictions.

5. COVENANTS AND AGREEMENTS OF THE PARTIES

5.01. Operations. From the Effective Date until the Closing Date (or. in the case of the University Assets, the University Asset Transfer Date), except as otherwise expressly provided in this Agreement and subject to the obligations of Sellers to comply with any applicable order of the Bankruptcy Court and the provisions of the Bankruptcy Code. Sellers will:

(a) carry on the Hospital Businesses or the University in substantially the same manner as they have heretofore;

(b) to the extent funds are available for such purposes. maintain the Assets in as good working order and condition as at present, ordinary wear and tear excepted;

(c) perform when due all Legal Requirements and obligations under Contracts relating to or affecting the Hospital Businesses or the University, except to the extent such performance is excused under the Bankruptcy Code or by order of the Bankruptcy Court;

(d) take all actions necessary and appropriate to deliver to Buyer title to the Assets free and clear of all Encumbrances (except for the Real Property Permitted Encumbrances and the Personal Property Permitted Encumbrances) and to obtain appropriate releases. consents, estoppels, certificates, opinions and other instruments as Buyer may reasonably request;

(e) keep in full force and effect present insurance policies or other comparable insurance benefiting the Assets and the conduct of the Hospital Businesses or the University;

(f) maintain and preserve their business organizations and operations substantially intact; retain the present employees at the Hospital Businesses or the University (subject to the right of Sellers, after consultation with Buyer, to discharge any employee in the ordinary course of the Hospital Businesses or the University); except to the extent excused under the Bankruptcy Code or by order of the Bankruptcy Court, maintain their relationships with physicians, suppliers, patients and other Persons doing business with Sellers; and take such actions as are reasonably necessary and achievable to cause the smooth, efficient and successful transition to Buyer of the Hospital Businesses or the University at Closing; and

(g) permit and allow reasonable access by Buyer to discuss and make offers of post-Closing employment with any of Sellers' personnel, to advertise for post-Closing employment at the Hospital Businesses or the University, and to establish relationships with physicians, payors and other Persons having business relations with Sellers.

5.02. Certain Actions. From the Effective Date until the Closing Date Sellers shall not take any of the following actions without first consulting with Buyer and, so long as Buyer is not in default under this Agreement, Sellers will act in accordance with the stated preferences of Buyer except to the extent that Sellers believe, in their sole discretion, that acting in accordance with the stated preferences of Buyer would not be in the best interests of the estates and creditors of the Sellers who are in bankruptcy or would impede such Sellers' ability to comply with the Bankruptcy Code or any order of the Bankruptcy Court, including the terms of the DIP Financing:

(a) amend or terminate any Assumed Contract, or enter into any Contract, except for the DIP Financing and Immaterial Contracts entered into, terminated or amended in the ordinary course of the Hospital Businesses or the University;

(b) make offers to any employees of the Hospital Businesses or the University for employment with any Person after Closing or make any material change in personnel, operations, finances, accounting policies, or real or personal property of the Hospital Businesses or the University;

(c) increase compensation payable or to become payable to, make a bonus or severance payment to, or otherwise enter into one or more bonus or severance agreements with, any employee or agent of any Seller except in the ordinary course of the Hospital Businesses or the University in accordance with existing personnel policies;

(d) create, assume or permit to exist any new Encumbrance upon any of the Assets other than the interests of lessors under operating leases entered into in the ordinary course of the Hospital Businesses or the University, and except for Encumbrances securing the DIP Financing;

(e) sell, assign, transfer, distribute or otherwise transfer or dispose of any property, plant or equipment of any Seller having an original cost in excess of $5,000 except in the ordinary course of the Hospital Businesses or the University with comparable replacement thereof;

(f) take any action outside the ordinary course of the Hospital Businesses or the University;

(g) amend or agree to amend the articles or certificate of incorporation or bylaws of any Seller or otherwise take any action relating to any liquidation or dissolution of any Seller;

(h) create, incur, assume, guarantee or otherwise become liable for any liability of any Seller, or agree to do any of the foregoing, except for liabilities and obligations constituting the DIP Financing and otherwise in the ordinary course of the Hospital Businesses or the University consistent with past practices;

(i) cancel, forgive, release, discharge or waive any receivable or any similar Asset or right with respect to the Hospital Businesses or the University, or agree to do any of the foregoing, except in the ordinary course of the Hospital Businesses or the University consistent with past practices;

(j) change any accounting method, policy or practice in the Financial Statements; or

(k) terminate, amend or otherwise modify any Employee Benefit Plan or Other Plan, except for amendments required to comply with applicable Legal Requirements or as requested by Buyer.

5.03. Employee Matters.

(a) Subject to the exclusions set forth in this Section, Buyer will offer, or cause its Affiliates to offer, to employ as of the Closing Date all active non-corporate employees of Sellers working at the Hospital Businesses or the University on the Closing Date (provided such employees or their predecessors-in-title were also working at the Hospital Businesses or the University as of February 13, 1998), and such corporate employees of Sellers and their Affiliates who are currently serving the operations of Sellers in Eastern Pennsylvania to whom Buyer, in its sole discretion, may choose to make offers of employment, all in the manner and upon terms and conditions of employment determined by Buyer in its sole discretion. Subject to the foregoing and subject to the right of Buyer to set the initial terms and conditions of employment of union employees, Buyer will recognize all existing unions at the Hospitals and will bargain in good faith the subsequent terms and conditions of employment for employees in the bargaining units represented by those unions, to the extent required by law. Employees employed under written Contracts will not be offered employment pursuant to this Section, but employment of such employees shall be governed by the terms of the Assumed Contracts, if any, relating to such employees. Buyer shall give all Hired Employees credit for their vacation and holiday accumulations to the extent the same constitute Assumed Liabilities. Sellers acknowledge that all employment offers are subject to the satisfactory completion by Buyer of its customary employee background checks. Nothing contained in this Section or elsewhere in this Agreement shall be deemed to limit or otherwise affect in any manner the right of Buyer or any Affiliate of Buyer to terminate at will the employment of any Hired Employee (except as otherwise provided in Assumed Contracts with such employees). Sellers shall be responsible for and pay any and all liabilities or obligations arising under the WARN Act, if any, arising out of or resulting

from layoffs of employees prior to Closing and/or the consummation of the transactions described in this Agreement.

(b) As of the Closing Date, Sellers shall terminate the participation of all Hired Employees in any Employee Pension Benefit Plan of Sellers, and provide for distributions consistent with the terms of the applicable plans, ERISA and the Code. As soon as practicable after Closing (but in any event prior to January 1, 1999), Sellers shall provide Buyer with all necessary payroll records for the calendar year in which the Closing occurs so that Buyer may furnish a Form W-2 to all Hired Employees disclosing all wages and other compensation paid to them (and amounts withheld therefrom) by Sellers and Buyer in the calendar year.

5.04. Access to and Provision of Additional Information.

(a) From the Effective Date until the Closing Date, Sellers shall provide to Buyer full and complete access to and the right to inspect the Assets, books and records of Sellers relating to the Hospital Businesses or the University, and will furnish to Buyer all material information concerning the Hospital Businesses or the University not otherwise disclosed pursuant to this Agreement, all pleadings and other documents or schedules filed with the Bankruptcy Court, access to Sellers' files and other records regarding claims, actions, suits, litigation, arbitration, mediations, investigations and other proceedings pending against or otherwise affecting any Seller, the Hospital Businesses or the University or the Assets, and such additional financial, operating and other data and information regarding the Hospital Businesses or the University as Buyer may from time to time reasonably request, without regard to where such information may be located.

(b) From the Effective Date until the Closing Date, Sellers shall cause their respective officers and employees to confer on a regular and frequent basis with one or more representatives of Buyer and to answer Buyer's questions regarding matters relating to the conduct of the Hospital Businesses or the University and the status of transactions contemplated by this Agreement. Sellers shall notify Buyer in writing of any material changes in the operations, financial condition or prospects of the Hospital Businesses or the University and of any complaints, investigations, hearings or adjudicatory proceedings (or communications indicating that the same may be contemplated) of any Person and shall keep Buyer reasonably informed of such matters.

(c) The exercise by Buyer of any right of access granted herein shall not materially interfere with the business operations of Sellers.

5.05. Post-Closing Maintenance of and Access to Information.

(a) The parties acknowledge that after Closing each party may need access to information or documents in the control or possession of another party for the purposes of concluding the transactions herein contemplated, Tax Returns or audits, compliance with the Government Reimbursement Programs, Assumed Contracts including Grant Agreements and other Legal Requirements, and the prosecution or defense of third party claims. Accordingly, each party shall keep, preserve and maintain in the ordinary course of business, and as required by Legal Requirements and relevant insurance carriers, all books, records (including patient medical and student records), documents and other information in the possession or

control of such party and relevant to the foregoing purposes at least until the expiration of any applicable statute of limitations or extensions thereof.

(b) Each party shall cooperate fully with, and make available for inspection and copying by, the other party, its employees, agents, counsel and accountants and/or Governmental Authorities, upon written request and at the expense of the requesting party, such books, records documents and other information to the extent reasonably necessary to facilitate the foregoing purposes. In addition, each party shall cooperate with, and shall permit and use its best efforts to cause, at the expense of the requesting party, its respective former and present directors, officers and employees to cooperate with, the other party on and after Closing in furnishing information, evidence, testimony and other assistance in connection with any action, proceeding, arrangement or dispute of any nature with respect to the subject matters of this Agreement and pertaining to periods prior to the Closing Date.

(c) Upon Buyer's receipt of appropriate consents and authorizations, Sellers shall be entitled to remove from the Hospital Businesses or the University, at Sellers' sole risk and expense, any patient, student or other records that relate to events or periods prior to Closing for purposes of pending litigation involving matters to which such records refer, as certified in writing prior to removal by counsel retained by Sellers in connection with such litigation. Any records so removed from the Hospital shall be promptly returned to Buyer following their use by Sellers.

(d) The exercise by either party of any right of access granted herein shall not materially interfere with the business operations of the other party.

5.06. Governmental Authority Approvals; Consents to Assignment.

(a) From the Effective Date until the Closing Date, each Seller and Buyer shall (i) promptly apply for and use its reasonable best efforts to obtain prior to Closing all consents, approvals, authorizations and clearances of Governmental Authorities required of it to consummate the transactions contemplated hereby, (ii) provide such information and communications to Governmental Authorities as the other party or such Persons may reasonably request, and (iii) assist and cooperate with other parties to obtain all consents, licenses, permits, approvals, authorizations and clearances of Governmental Authorities that the other parties reasonably deem necessary or appropriate, and to prepare any document or other information reasonably required of it by any such Persons to consummate the transactions contemplated herein, provided that, notwithstanding the foregoing, no party shall have any obligation under such provisions (x) to pay any cash amounts to Governmental Authorities other than filing fees, or (y) to agree to divest assets or limit the operations of its businesses.

(b) From the Effective Date until the Closing Date, each of the parties shall file, if and to the extent required by law, all reports or other documents required or requested by Governmental Authorities under the HSR Act concerning the purchase and sale of Allegheny University Hospitals, Graduate, Allegheny University Hospitals, City Avenue, Allegheny University Hospitals, Parkview, Allegheny University Hospitals, Bucks County, Allegheny University Hospitals, Elkins Park, Allegheny University Hospitals, Hahnemann, Allegheny University Hospitals, MCP, SCHC, and the Affiliated Physician Practices, and comply promptly with any requests by the Governmental Authorities for additional information

concerning the purchase and sale of such hospitals, so that the waiting period specified in the HSR Act with respect to those hospitals will expire as soon as reasonably possible after the Effective Date. Each of the parties shall furnish to the other parties such information as the other parties reasonably require to perform their obligations under the HSR Act and shall exchange drafts of the relevant portions of each other's report forms prior to filing.

(c) From the Effective Date. Sellers shall use their reasonable best efforts (i) to obtain Bankruptcy Court approval of the assumption and assignment to Buyer of the Assumed Contracts, including curing past defaults under such Assumed Contracts and (ii) obtain all other consents required to assign the Assumed Contracts to Buyer.

5.07. [Intentionally Omitted].

5.08. Noncompetition.

(a) For a period of five years from and after the Closing Date and subject to the exceptions described in Section 5.08(b), no Seller nor any Affiliate of Sellers shall, directly or indirectly (including by affiliation or "virtual merger" with another system), in any capacity:

(i) own, lease, manage, operate, control, participate in the management or control of, be employed by, or maintain or continue any interest whatsoever in any enterprise engaged in the business of providing healthcare goods or services, Including hospitals and outpatient surgery or diagnostic facilities, within a 50-mile radius of the corner of Broad and Vine Streets, Philadelphia, Pennsylvania; or

(ii) employ or solicit the employment of any Hired Employee unless (X) such employee resigns voluntarily (without any solicitation from Seller or any of its Affiliates), (Y) Buyer consents in writing to such employment or solicitation, or (Z) such employee is terminated by Buyer after the Closing Date; or

(iii) induce, cause or attempt to induce or cause any Person (including any physician employee or independent contractor) to replace or terminate any Contract for the provision or arrangement of health care services from the Hospital with products or services of any other Person at any time after the Closing Date: or

(iv) induce, cause or attempt to induce or cause any physician employee or independent contractor to change his or her practice patterns at the Hospitals.

(b) Notwithstanding the covenants set forth in Section 5.08(a)(i) above, AUH - Rancocas and other Affiliates of Sellers may continue to own, operate and conduct the businesses constituting AUH - Rancocas at their current locations in Willingboro, New Jersey in substantially the same manner as they are owned and operated as of the Effective Date;

(c) Seller acknowledges and agrees that any remedy at law for any breach of this Section would be inadequate and consents to the granting by any court of an injunction or

other equitable relief. without the necessity of actual monetary loss being proved, in order that a breach or threatened breach of this Section may be effectively enjoined.

5.09. Use of Name. Buyer shall have the right to use the name "Allegheny University Hospitals" royalty free in the conduct of the Hospital Businesses or the University for a reasonable period of time after Closing until Buyer has replaced signage and consumed disposables at the Hospitals. From and after Closing, Sellers shall not use the names "Hahnemann Hospital", "Medical College of Pennsylvania", "MCP", "St. Christopher's Hospital for Children", Graduate Hospital", "Parkview Hospital", "City Avenue Hospital", "Eastern Pennsylvania Psychiatric Institute", "Elkins Park Hospital", "Bucks County Hospital", MCP/Hahnemann School of Medicine or any variation of the foregoing in the conduct of their businesses, except as may be necessary to wind up their corporate affairs.

5.10. Allocation of Purchase Price. Sellers and Buyer agree that, for tax purposes, the Purchase Price shall be allocated among the Assets as Buyer may determine, in accordance with their fair market values consistent with Section 1060 of the Code, and such allocation shall be binding upon the parties for all applicable federal, state, local and foreign Tax purposes. Sellers and Buyer covenant to report gain or loss or cost basis, as the case may be, in a manner consistent with such allocation on all Tax Returns filed by any of them after Closing and not to voluntarily take any inconsistent position therewith in any administrative or judicial proceeding relating to such returns. Sellers and Buyer shall exchange mutually acceptable and completed IRS Forms 8594 (including supplemental forms, if required), which they shall use to report the transaction contemplated hereunder to the Internal Revenue Service in accordance with such allocation. Notwithstanding anything to the contrary, no allocation hereunder shall supersede or otherwise usurp the jurisdiction of the Bankruptcy Court to value the assets for purposes of distribution to the respective Debtors' estates under the Bankruptcy Code.

5.11. Further Acts and Assurances. At any time and from time to time at and after the Closing, upon request of Buyer, each Seller shall do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such further acts, deeds, assignments, transfers, conveyances, powers of attorney, confirmations and assurances as Buyer may reasonably request to more effectively convey, assign and transfer to and vest in Buyer, its successors and assigns, full legal right, title and interest in and actual possession of the Assets and the Hospital Businesses or the University, to confirm such Seller's capacity and ability to perform its post-Closing covenants and agreements under this Agreement, and to generally carry out the purposes and intent of this Agreement. Each Seller shall also furnish Buyer with such information and documents in its possession or under its control, or which Seller can execute or cause to be executed, as will enable Buyer to prosecute any and all petitions, applications, claims and demands relating to or constituting a part of the Assets and Hospital Businesses or the University.

5.12. Casualty. If prior to the Closing Date any part of one or more of the Hospitals with a value exceeding $40 million is destroyed or suffers damage in excess of $40,000,000 by reason of fire, theft, vandalism or other cause or casualty, Buyer may terminate this Agreement in its entirety without penalty. Otherwise, Buyer may elect at its option to (i) reduce the Purchase Price by the fair market value of the Assets destroyed or damaged (determined as of the date immediately prior to the destruction or damage) or, if greater, by the estimated cost to restore, repair or replace such Assets, in which event Sellers shall retain all right, title and interest in and to insurance proceeds payable on account of such destruction or damage, or (ii) agree to consummate the transaction notwithstanding such destruction or damage, in which event Sellers shall pay, transfer and assign to Buyer at Closing

the proceeds (or the right to receive the proceeds) of, plus any deductibles or copayments required under, the applicable insurance policy. In the absence of an agreement among the parties, any reduction in Purchase Price pursuant to this Section shall be determined by an MAI appraiser mutually selected and paid equally by Sellers, on the one hand, and Buyer, on the other hand.

5.13. Transition Services and Patients. To compensate Sellers for services rendered and medicine, drugs and supplies provided by Sellers on or before the Closing Date (the "Seller Transition Services") to patients admitted to the Hospitals on or before the Closing Date but discharged on or after the Closing Date (such patients being referred to herein as the "Transition Patients"), the parties shall take the following actions:

(a) As soon as practicable after the Closing Date, Sellers shall deliver to Buyer a statement itemizing the Seller Transition Services provided by Sellers prior to the Closing Date to those Transition Patients for which reimbursement by any payor (including Government Reimbursement Programs) is made on a DRG or similar fixed price basis ("DRG Transition Patients") and the total charges therefor. Buyer shall pay to Sellers an amount equal to:

(i) the total DRG and outlier payments, including capital, indirect medical education and disproportionate share (before deposit and deductible/copayments per the remittance advice), actually received by Buyer on behalf of a particular DRG Transition Patient multiplied by a fraction, the numerator of which shall be the total charges for the Seller Transition Services provided to the DRG Transition Patient, and the denominator of which shall be the sum of (1) the total charges for the Seller Transition Services provided to the DRG Transition Patient and (2) the total charges of Buyer for services rendered and medicine, drugs and supplies provided to the DRG Transition Patient by Buyer on or after the Closing Date; minus

(ii) the amount of deposits and deductibles/copayments per the remittance advice.

Such payment shall be made to Sellers within 30 days after Buyer's receipt of such DRG or outlier payments, accompanied by copies of remittances and other supporting documentation as reasonably required by Sellers. If Buyer receives any amounts from the Government Reimbursement Programs for capital costs associated with the operation of the Hospitals prior to the Closing Date, Buyer shall promptly tender same to Sellers. If Sellers receive any amounts from the Government Reimbursement Programs for capital costs associated with the operation of the Hospitals on or after the Closing Date, Sellers shall promptly tender same to Buyer. Each party shall be entitled to receive from the Government Reimbursement Programs cost reimbursement (including capital costs, indirect medical education and disproportionate share) for those DRG Transition Patients receiving services at the time such party owned the Hospitals based upon the Cost Report filed by such party.

(b) With respect to those Transition Patients for which Government Program Reimbursement is made on a cost basis (the "Medicare Straddle Patients"), Buyer shall pay to Sellers an amount equal to:

(i) the amount of cost-based reimbursement actually received by Buyer for a particular Medicare Straddle Patient on or after the Closing Date multiplied by a

fraction, the numerator of which shall be the total number of days prior to the Closing Date on which Sellers provided Seller Transition Services to the Medicare Straddle Patient, and the denominator of which shall be the total number of days of the Medicare Straddle Patient's stay at the Hospitals; minus

(ii) the amount of deposits and deductibles/copayments per the remittance advice.

(c) If interim billing is permitted by the applicable payor, Sellers shall prepare cut-off billings for all patients not covered by Section 5.13(a) or (b) (the "Straddle Patients") and Sellers shall be responsible for billing and collecting all amounts due Sellers from such Straddle Patients. If interim billing is not permitted by the applicable payor, Buyer shall be responsible for billing and collecting all amounts due from such Straddle Patients, and shall pay to Sellers an amount equal to:

(i) the payments actually received by Buyer from or on behalf of a particular Straddle Patient on or after the Closing Date multiplied by a fraction, the numerator of which shall be the total charges of Sellers for the Seller Transition Services provided to the Straddle Patient, and the denominator of which shall be the sum of(I) the total charges of Sellers for the Seller Transition Services provided to such Straddle Patient and (2) the total charges of Buyer for services rendered and medicine, drugs, and supplies provided to the Straddle Patient on or after the Closing Date; minus

(ii) any deposits or co-payments made by the Straddle Patient to Sellers.

(d) If any party receives any payment from any payor (including Government Reimbursement Programs) attributable in whole or in part to services rendered solely by another party, the party receiving such payment shall immediately remit the full amount attributable to such services to the other party.

(e) Capitation payments received by Sellers before Closing, but that relate to services to be rendered at the Hospital on or after Closing will be allocated between the parties based on a proration of calendar days with respect to the month in which Closing occurs.

5.14. Sellers' Cost Reports. Sellers will prepare and timely file all Cost Reports required to be filed after Closing for periods ending on or prior to the Closing Date, including, if applicable, any terminating Cost Report required as a result of the consummation of the transactions described herein. If a terminating Cost Report is required to be filed by Sellers, the Purchase Price shall be allocated for such purposes consistent with the allocation for tax purposes. Buyer will forward to Sellers any and all correspondence, remittances and demands relating to Sellers' Cost Reports within five business days after receipt by Buyer. Sellers shall retain all rights to Sellers' Cost Reports, including any payables resulting from or reserves relating to the Cost Reports and the right to appeal any Medicare determinations relating to the Cost Reports.

5.15. Hospital Boards of Trustees. Following the Closing Buyer will appoint a Board of Trustees for each of the Hospitals composed of the Hospital's Chief Executive Officer, physicians on the Hospital's medical staff and community representatives in accordance with Buyer's standard policy. Subject to applicable Legal Requirements, the Board of Trustees will be responsible for

medical staff credentialing, quality assurance and accreditation of the Hospital, in accordance with Buyer's model Board of Trustee Bylaws. The initial Board of Trustees of the Restructured University will be comprised of 12 representatives. at least four of which will represent the University Faculty Physicians and other University faculty members. Provision will be made for community representatives to be designated at a later date.

5.16. Indigent Care. The first precept of Buyer's and Tenet's vision statement is to "meet the needs of each and every patient whose care is our primary purpose and mission." Thus, the mission of AHERF to provide compassionate quality care with special concern for the needy, its deep respect for all human life and its commitment to enhance health in the Philadelphia community will continue to be respected and supported. Buyer, therefore, will adopt AHERF's current policy for providing charity care to patients who seek care at the Hospitals and will apply such policy in a similar manner as AHERF.

5.17. Costs and Expenses.

(a) Except as otherwise expressly set forth in this Agreement, all expenses of the preparation of this Agreement and of the purchase of the Assets set forth herein. including counsel, accounting, brokerage and investment advisor fees and disbursements, shall be borne by the respective party incurring such expense. whether or not such transactions are consummated. Sellers shall be responsible for paying any allowed fees and expenses of Merrill Lynch & Co. and Lehman Brothers in connection with the transactions contemplated by this Agreement.

(b) Sellers shall pay the cost of Buyer's owner's title insurance policies described in Section 7.07, and the cost of removing Encumbrances that are not Permitted Real Property Encumbrances, Permitted Personal Property Encumbrances or Endowment and Grant Restrictions. Buyer shall pay the cost of Buyer's land title surveys of the Real Property, and environmental, engineering and other professional studies undertaken by Buyer.

(c) In the event either party elects to incur legal fees or expenses to enforce or interpret any provision of this Agreement. the prevailing party will be entitled to recover such legal fees and expenses, including attorney's fees. costs and necessary disbursements. in addition to any other relief to which such party shall be entitled.

5.18. Insurance Ratings. From the Effective Date until the Closing Date, Sellers will take all actions reasonably requested by Buyer to enable Buyer to succeed to the Workers' Compensation and Unemployment Insurance ratings, insurance policies, deposits and other interests of Sellers and the Hospital Businesses or the University for insurance or other purposes. Buyer shall not be obligated to succeed to any such rating, insurance policy, deposit or other interest. except as it may elect to do so.

5.19. Fulfillment of Conditions. Each party will execute and deliver at Closing each agreement, instrument or other document that such party is required by this Agreement to execute and deliver as a condition to Closing, and will take all commercially reasonable steps necessary or desirable and proceed diligently and in good faith to satisfy each other condition to the obligations of the parties contained in this Agreement, to the extent that satisfaction of such condition is within the control of such party.

5.20. Release of Encumbrances. Sellers shall cause all Encumbrances other than the Permitted Real Property Encumbrances, the Permitted Personal Property Encumbrances and the Endowment and Grant Restrictions to be released and discharged at or prior to Closing, including Encumbrances of Sellers' tax-exempt bond indebtedness, which Encumbrances may be released and discharged by the Bankruptcy Court in the Sale Order.

5.21. Administrative Services Agreement. At Closing, and for the purpose of ensuring a smooth transition of general corporate and other administrative services from Sellers to Buyer, Buyer and AHERF shall enter into the Administrative Services Agreement, in substantially the form attached as **Exhibit A** hereto, pursuant to which AHERF agrees to provide to Buyer certain management and administrative services for a fee.

5.22. Restricted Assets. Buyer acknowledges that the Restricted Assets are subject to the Endowment and Grant Restrictions. Schedule 5.22 sets forth a description of the Restricted Assets and the Hospital and University uses, as may be applicable, to which they must be applied. Buyer (and to the extent that the Restricted Assets are University Assets, the Restructured University) will take such actions after Closing as are reasonably necessary to comply with the conditions of such Endowment and Grant Restrictions, including but not limited to establishment and maintenance of the Restructured University Endowment and Grant Accounts and the Hospital Endowment and Grant Accounts.

5.23. Assumed and Assigned Contracts: Rejected Contracts.

(a) Assumed Contracts. Attached hereto as Schedule 5.23(a) is a schedule of Contracts to be assumed by Sellers and assigned to Buyer (the "Assumed Contracts") on the Closing Date under Section 365 of the Bankruptcy Code. Prior to the Closing, Buyer may, as permitted by the Court and with the consent of the Sellers, designate additional Contracts as Assumed Contracts and/or eliminate some or all of the Contracts as Assumed Contracts. With respect to the Assumed Contracts, Sellers shall cure any past defaults in order to assume and assign to Buyer (or Buyer's designee) the Assumed Contracts in accordance with Section 365 of the Bankruptcy Code. Buyer (or Buyer's designee) shall assume all rights and obligations of Sellers arising on or after the Closing Date under the Assumed Contracts. Any Assumed Contracts designated by Buyer shall be assigned to and assumed by Buyer (or Buyer's designee) at Closing to the extent permitted by law. Subject to the following right of Sellers to reject any Contract, the final determination of which Contracts Sellers will assume and assign to Buyer shall be within the sole discretion of Buyer, provided that no Physician Contract will be assumed without the consent of the physician.

(b) Rejected Contracts. Contracts that are not Assumed Contracts shall be rejected by Sellers, unless Buyer otherwise consents in the case of one or more individual Contracts, which consent shall not be unreasonably withheld; provided, however, that the Contracts listed on **Exhibit B** to the Notice of Filing by Tenet and Buyer's Affiliate, Tenet Healthsystem Medical, Inc., of Schedule of Executory Contracts and Unexpired Leases to Be Assumed and Assigned Pursuant to Asset Purchase Agreement, filed on September 15, 1998, shall not be rejected by the Sellers, without the consent of Buyer, prior to the date set forth on such **Exhibit B** (the "Delayed Rejection Date"). From the Closing Date through the Delayed Rejection Date, Buyer shall make all current payments required to be made under the Contracts whose rejection has been delayed by the provisions hereof. Upon request of Buyer, Sellers shall cooperate with and provide reasonable assistance to Buyer in Buyer's efforts to negotiate acceptable terms and conditions of post-Closing Contracts with the parties to any rejected Contract. Subsequent to the Court's approval of this Agreement and prior to

Closing, Sellers shall consult with Buyer about any Contract Sellers seek to reject and consider in good faith Buyer's opinions on any such rejection, in recognition of Buyer's bona fide interest in preserving to the maximum extent possible the Contracts which Buyer believes are reasonably necessary to the continued operation and financial viability of the Hospital Businesses or the University after Closing, but Sellers shall have the right in their discretion to reject any Contract which in their judgment Sellers believe must be rejected to maintain the viability of the Hospital Businesses or the University prior to the Closing Date or to comply with any order of the Bankruptcy Court, including the terms of the DIP Financing.

5.24. Restructured University. At or prior to Closing, Buyer will designate, in writing, and deliver to the Sellers a schedule of the Assets that are University Assets. On the University Asset Transfer Date, which may be the Closing Date, the University Assets shall, at Buyer's written direction and request, be assigned, transferred or conveyed by Sellers to Restructured University. In connection with such assignment, transfer or conveyance, Restructured University and Buyer have entered into the Assignment and Assumption Agreement attached hereto as **Exhibit B**. The University Asset Transfer Date may occur after the Closing Date if the transfer of the University Assets must be delayed to facilitate necessary accreditation and/or licensing for Restructured University to own and operate the University. The occurrence of the University Asset Transfer Date after the Closing Date shall not impact Buyer's or Tenet's obligation to close the transaction described in this Agreement on the Closing Date or to pay the Purchase Price. During the period, if any, from the Closing Date through the University Asset Transfer Date, Restructured University shall manage the University pursuant to a management agreement to be negotiated between the Sellers and Restructured University prior to closing (the "Management Agreement") and shall be responsible for all cash flow deficits incurred by the University. No management fee shall be charged by Restructured University pursuant to the Management Agreement. Restructured University shall operate the Schools after the University Asset Transfer Date. Buyer hereby commits to provide Restructured University $33 million of annual academic support for two years plus $30 million of initial working capital, all as set forth in an acceptable academic affiliation agreement between Buyer and Restructured University.

5.25. Bankruptcy Court Approval.

(a) Sellers shall obtain the Sale Order and the University Asset Sale Order which, among other things, (i) determines that this Agreement was proposed by Buyer and Tenet in good faith and represents the highest and best offer for the Assets and should be approved, (ii) determines that Buyer and Tenet are good faith purchasers under section 363(m) of the Bankruptcy Code and that the provisions of section 363(n) of the Bankruptcy Code have not been violated, (iii) authorizes and directs Sellers to sell the Assets to Buyer pursuant to this Agreement and section 363 of the Bankruptcy Code, free and clear of all liens, claims, interests, liabilities and Encumbrances (including any and all "interests" in the Assets within the meaning of section 363(f) of the Bankruptcy Code), other than the Assumed Liabilities, the Permitted Personal Property Encumbrances, the Permitted Real Property Encumbrances and the Endowment and Grant Restrictions such that neither Buyer, Tenet nor the Restructured University shall incur any liability, as a successor to the Hospital Businesses or the University, (iv) authorizes and directs Sellers to execute, deliver, perform under, consummate and implement, this Agreement, together with all additional instruments and documents, including but not limited to the Administrative Services Agreement and the Indemnity Escrow Agreement, that may be reasonably necessary or desirable to implement the foregoing; and (v) permanently enjoins each and every holder of an Excluded Liability from commencing, continuing or otherwise pursuing or enforcing any remedy, claim or

cause of action against Buyer, Tenet or the Restructured University relative to such Excluded Liability.

(b) Sellers shall obtain the Executory Contract Assumption and Assignment Order.

(c) Sellers shall promptly make any filings, take all actions, and use their respective best efforts to obtain any and all other approvals and orders necessary or appropriate for consummation of the transactions contemplated hereby, subject to their obligations to comply with any order of the Bankruptcy Court.

(d) In the event an appeal is taken, or a stay pending appeal is requested, from the Sale Order, the University Asset Sale Order or the Executory Contract Assumption and Assignment Order, Sellers shall immediately notify Buyer of such appeal or stay request and shall provide to Buyer within one business day a copy of the related notice of appeal or order of stay. Sellers shall also provide Buyer with written notice of any motion or application filed in connection with any appeal from either of such orders.

5.26. Transfer Taxes. In accordance with section 1146(c) of the Bankruptcy Code, the making or delivery of any instrument of transfer, including the filing of any deed or other document of transfer to evidence, effectuate or perfect the rights, transfers and interest contemplated by this Agreement, shall be pursuant to and in contemplation of a plan or plans of reorganization to be confirmed in Sellers' bankruptcy cases, and as such shall be free and clear of any and all transfer Tax, stamp Tax or similar Taxes. The instruments transferring the Assets to Buyer shall contain the following endorsement:

> "Because this [instrument] has been authorized pursuant to Order of the United States Bankruptcy Court for the Western District of Pennsylvania, relating to a plan of reorganization of the Grantor, it is exempt from transfer taxes, stamp taxes or similar taxes pursuant to 11 U.S.C. § 1146(c), and is further exempt pursuant to § 1102-C.3(2) of the Pennsylvania Tax Reform Code of 1971, as amended, 72 P.S. § 1102-C.3(2), and Section 19-1405(2) of the Philadelphia Realty Transfer Tax Ordinance as a document which the Commonwealth and the City are prohibited from taxing under the Constitution and statutes of the United States."

In the event real estate transfer Taxes are required to be paid in order to record the deeds to be delivered to Buyer in accordance herewith, or in the event any such Taxes are assessed at any time thereafter, such real estate transfer Taxes incurred as a result of the transactions contemplated hereby shall be paid one-half by Sellers and one-half by Buyer. In the event sales, use or other transfer Taxes are assessed at Closing or at any time thereafter on the transfer of any other Assets, such Taxes incurred as a result of the transactions contemplated hereby shall be paid by Sellers. Buyer agrees to negotiate, in good faith, with the City of Philadelphia to reduce and/or eliminate any transfer Taxes.

5.27. Tail Insurance. On or prior to the Closing Date or except as otherwise agreed by Buyer at Closing, Buyer will purchase and obtain on Sellers' behalf an unlimited extended claims reporting provision ("Tail Insurance") for all primary and excess insurance policies in force as of the Effective Date which cover Sellers and each physician employee of Sellers (or for which Sellers otherwise have an obligation to provide such insurance) and which are written on a claims made insuring agreement, including the portion of coverage underwritten by the Pennsylvania Medical

Professional Liability Catastrophe Loss Fund. Such extended claim endorsements shall name Buyer and other Persons designated by Buyer as named insureds thereunder. In connection with such purchase of Tail Insurance, Buyer shall, without any further action on the part of the parties hereto or the Bankruptcy Court, reduce the Purchase Price by $40 million.

5.28. Accounts Receivable Collection: At or prior to Closing, Sellers and Buyer (or Buyer's collection company affiliate) shall enter into a collection arrangement (the "Collection Agreement") pursuant to which Buyer shall assist Sellers to collect the Excluded Affiliated Physician Practices Accounts Receivable and the Hospital Accounts Receivable. The terms and conditions of such collection arrangement shall be mutually acceptable to Buyer and Sellers, provided however, that the fee charged by Buyer for such services shall be 10% of the accounts receivable collected.

5.29. Endowment Shortfall. At or prior to Closing, Sellers will compile and deliver to Buyer a schedule that reflects the amount of the Endowment Shortfall and any particulars known to the Sellers about such Shortfall. Prior to Closing, Sellers shall use their best efforts to recover, by litigation or otherwise, the Endowment Shortfall. Any portion of the Endowment Shortfall recovered by Sellers as of the Closing shall be deposited in the Endowment and Grant Accounts. At Closing, any and all claims, rights to payment and causes of action of Sellers related to the Endowment Shortfall shall be transferred to Buyer and/or Restructured University, as may be appropriate. After the Closing, Sellers shall cooperate with Buyer and/or Restructured University relative to the recovery of the Endowment Shortfall. Any portion of the Endowment Shortfall recovered by Buyer and/or Restructured University shall be deposited in the Restructured University Endowment and Grant Accounts or the Hospital Endowment and Grant Accounts, as may be appropriate. Subsequent to the Closing, any portion of the Endowment Shortfall recovered by Sellers shall be immediately transferred to Buyer or the Restructured University for deposit in the Restructured University Endowment and Grant Accounts or the Hospital Endowment and Grant Accounts, as may be appropriate.

6. CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLERS

The obligations of Sellers hereunder are subject to the satisfaction on or prior to the Closing Date of the following conditions unless waived in writing by Sellers:

6.01. Representations and Warranties: Covenants.

(a) Each of the representations and warranties of Buyer and Tenet contained in this Agreement shall be true and correct on and as of the Effective Date; each of the representations and warranties of Buyer and Tenet contained in this Agreement that are qualified as to materiality shall be true and correct on and as of the Closing Date and with respect to the University Assets, on and as of the University Asset Transfer Date; and each of the other representations and warranties of Buyer and Tenet contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date and, with respect to the University Assets, on and as of the University Asset Transfer Date.

(b) Each and all of the terms, covenants and agreements to be complied with or performed by Buyer on or before the Closing Date shall have been complied with and performed, including the obligations of Buyer in Section 8.03.

6.02. Adverse Action or Proceeding. No action or proceeding before any Governmental Authority shall have been instituted or threatened to restrain or prohibit the transactions herein contemplated, and no Governmental Authority shall have taken any other action or made any request of Sellers or Buyer as a result of which Sellers reasonably and in good faith deem it inadvisable to proceed with the transactions hereunder; and there shall not be in effect any order restraining, enjoining or otherwise preventing consummation of the sale of the Assets and other transactions contemplated hereunder.

6.03. Pre-Closing Confirmations. Sellers shall have obtained documentation or other evidence reasonably satisfactory to Sellers that Sellers have received or will receive all consents, approvals, authorizations and clearances of Governmental Authorities required of it to consummate the transactions contemplated hereby and that all applicable waiting periods under the HSR Act have expired.

6.04. Opinion of Buyer's Counsel. Sellers shall have received an opinion from counsel to Buyer (who may be in-house counsel) dated as of the Closing Date and addressed to Sellers, in form and substance satisfactory to Sellers, to substantially the following effect:

(a) Each of Buyer and Tenet is a corporation duly incorporated and validly existing in good standing under the laws of the State of its incorporation with full corporate power to carry on its business as it is now being conducted. Each of Buyer and Tenet has full power and authority to execute and deliver the Agreement and to perform its obligations therein. All corporate proceedings required to be taken by Buyer or Tenet to authorize the execution and delivery of the Agreement and to authorize the performance of its obligations therein, have all been duly and properly taken.

(b) The execution, delivery and performance of the Agreement by Buyer and Tenet does not violate any provision of its Charter or Bylaws, or of any indenture or other material agreement or instrument to which Buyer or Tenet is a party.

(c) The Agreement constitutes a valid and binding obligation of Buyer and Tenet, enforceable against Buyer and Tenet in accordance with its terms, subject, as to enforcement of remedies, to (a) applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect, and (b) limitations on the enforcement of equitable remedies.

(d) To such counsel's knowledge, the consummation of the transactions described in the Agreement will not result in a violation, breach or default by Buyer or Tenet under any material Legal Requirements.

In rendering such opinion, such counsel may rely upon certificates of governmental officials and may place reasonable reliance upon certificates of officers of Buyer or Tenet.

6.05. Evidence of Available Funds. Buyer's obligations hereunder are not subject to a financing contingency. Buyer has delivered to Sellers evidence reasonably satisfactory to Sellers that Buyer has available funds to pay to Sellers at Closing the Cash Portion of the Purchase Price.

6.06. Additional Agreements. The terms and conditions of the Administrative Services Agreement and the Collection Agreement shall be acceptable to Sellers and approved by the Bankruptcy Court and, upon such approval, such terms and conditions shall be binding upon Buyer.

7. CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER

The obligations of Buyer hereunder are subject to the satisfaction on or prior to the Closing Date of the following conditions, unless waived in writing by Buyer:

7.01. Representations and Warranties: Covenants.

(a) Each of the representations and warranties of Sellers contained in this Agreement shall be true and correct on and as of the Effective Date; each of the representations and warranties of Sellers contained in this Agreement that are qualified as to materiality shall be true and correct on and as of the Closing Date and, with respect to the University Assets, on and as of the University Asset Transfer Date; and each of the other representations and warranties of Sellers contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date and, with respect to the University Assets, on and as of the University Asset Transfer Date.

(b) Each and all of the terms, covenants and agreements to be complied with or performed by Sellers on or before the Closing Date shall have been complied with and performed, including the obligations of Sellers in Section 8.02.

7.02. Pre-Closing Confirmations and Contractual Consents. Buyer shall have obtained documentation or other evidence reasonably satisfactory to Buyer that:

(a) Sellers and Buyer have received all consents, permits, approvals, authorizations and clearances (including certificates of need) of Governmental Authorities required to consummate the transactions herein contemplated;

(b) Buyer has received confirmation from the Pennsylvania Department of Health Services and all other applicable licensure agencies or Accreditation Bodies that upon Closing (or, in the case of the University Assets, on the University Asset Transfer Date) all licenses or accreditations required by law to operate the Hospital Businesses or the University will be transferred to or issued in the name of Buyer (or, in the case of the University, to Restructured University);

(c) Buyer has obtained reasonable assurances that certification of the Hospitals by all Government Reimbursement Programs for their operation by Buyer will be effective as of the Closing Date and that Buyer may participate in and receive reimbursement from such programs effective as of the Closing Date;

(d) the Sale Order, University Asset Sale Order and Executory Contract Assumption and Assignment Order have been entered by the Bankruptcy Court and have become Final Orders, unless Buyer, in its sole discretion, waives the requirement that one or more of these Orders be a Final Order;

(e) Seller has obtained consents to assignment of all material Assumed Contracts (other than Immaterial Contracts) for which such consents are required;

(f) Buyer has obtained such other consents and approvals as may be legally or contractually required for Buyer's consummation of the transactions described herein; and

(g) all applicable waiting periods under the HSR Act have expired.

7.03. Adverse Action or Proceeding. No action or proceeding before any Governmental Authority shall have been instituted or threatened to restrain or prohibit the transactions herein contemplated, and no Governmental Authority shall have taken any other action or made any-request of Sellers or Buyer as a result of which Buyer reasonably and in good faith deems it inadvisable to proceed with the transactions hereunder; and there shall not be in effect any order restraining, enjoining or otherwise preventing consummation of the sale of the Assets and other transactions contemplated hereunder.

7.04. No Material Adverse Change. Since the Interim Financial Statements of August 31, 1998, and except as described on **Schedule 3.08**, or as otherwise known to Buyer on September 29, 1998, no material unforeseen adverse change in the Assets or results of operations, financial condition or prospects for future operations of any of the Hospital Businesses or the University shall have occurred, except as expressly provided by Section *5.25*.

7.05. [Intentionally Omitted].

7.06. Title Insurance Policies and Surveys. Buyer shall have received:

(a) commitments from a title insurance company or companies designated by Buyer to issue as of the Closing Date one or more ALTA extended coverage owner's title insurance policies for the Real Property, in amounts acceptable to Buyer, in form satisfactory to Buyer and with such endorsements as Buyer may require; and

(b) ALTA surveys of the Real Property and improvements thereon, in form satisfactory to Buyer and the title insurance company, from an engineering firm designated by Buyer and certified to Buyer, the title insurance company and such other Persons as Buyer may designate.

7.07. [Intentionally Omitted].

7.08. Opinion of Sellers' Counsel. Buyer shall have received an opinion from counsel to Sellers (who may be in-house counsel) dated as of the Closing Date and addressed to Buyer, in form and substance satisfactory to Buyer, to substantially the following effect:

(a) Each Seller is a corporation duly incorporated and validly existing in good standing under the laws of the Commonwealth of Pennsylvania with full corporate power to carry on its business as it is now being conducted. Each Seller has full power and authority to execute and deliver the Agreement and to perform its obligations therein. All corporate proceedings required to be taken by each Seller to authorize the execution and delivery of the Agreement and to authorize the performance of its obligations therein, have all been duly and properly taken.

(b) The execution, delivery and performance of the Agreement by each Seller does not violate any provision of its Charter or Bylaws, or of any indenture or other material agreement or instrument to which such Seller is a party.

(c) The Agreement constitutes a valid and binding obligation of such Person, enforceable against such Seller in accordance with its terms, subject, as to enforcement of remedies, to (a) applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect, and (b) limitations on the enforcement of equitable remedies.

(d) To such counsel's knowledge, the consummation of the transactions described in the Agreement will not result in a violation, breach or default by any Seller under any material Legal Requirements.

In rendering such opinion, such counsel may rely upon certificates of governmental officials and may place reasonable reliance upon certificates of officers of Sellers.

7.09. Deliveries at Closing. Sellers shall have delivered to Buyer, in form reasonably acceptable to Buyer and approved by Buyer's counsel, deeds, bills of sale, assignments or other instruments of transfer, and estoppels, consents and waivers by others, necessary or appropriate to transfer to and effectively vest in Buyer (or, in the case of the University Assets, in Restructured University) the Assets and all agreements, instruments, certificates or other documents required to be executed by any Seller pursuant to this Agreement.

7.10. Lien Searches. Sellers shall have delivered to Buyer UCC lien, litigation and tax searches showing all Encumbrances on the Assets, accompanied by fully executed UCC or other releases or conveyances relating to all Encumbrances that are not Permitted Real Property Encumbrances or Permitted Personal Property Encumbrances.

7.11. Additional Agreements. The terms and conditions of the Administrative Services Agreement and the Collection Agreement shall be acceptable to Buyer and approved by the Bankruptcy Court and, upon such approval, such terms and conditions shall be binding upon Sellers. Restructured University shall have entered into a management agreement for the Schools, which agreement shall be acceptable to Buyer, with an entity experienced in the operation and management of academic institutions.

7.12. Hill-Burton Facilities. Sellers shall have satisfied or made appropriate provision for any unsatisfied obligations under the Hill-Burton Act such that, as of Closing, there is no Encumbrance on or affecting any of the Assets or Hospital Businesses or the University relating to or arising out of the Hill-Burton Act.

7.13. Medical School Construction Programs. Sellers shall have satisfied or made appropriate provision for any unsatisfied obligations under any grant or loan program of any Governmental Authority relating to funding for the construction or improvements of medical schools such that, as of Closing, there is no Encumbrance on or affecting any of the Assets or Hospital Businesses or the University relating to or arising out of any such program.

8. CLOSING: TERMINATION OF AGREEMENT

8.01. Closing.

(a) Consummation of the sale and purchase of the Hospital Businesses or the University and the other transactions contemplated by and described in this Agreement (the

"Closing") shall take place at the offices of Seller at 10:00 a.m. on the later of (i) the first business day following satisfaction or waiver of the conditions set forth in Articles 6 and 7, and (ii) October 21. 1998, or at such time or place as the parties may mutually agree. Unless otherwise agreed in writing by the .parties at Closing, the Closing shall be effective for accounting purposes as of 12:01 A.M. on the day following the Closing Date.

(b) At the Closing, Buyer may designate one or more Affiliates to take title to the Assets for regulatory or other reasons and references to instruments or agreements to be executed and delivered to or by Buyer in this Agreement at Closing shall apply to each such designee with respect to the Assets acquired by it. Buyer shall notify Sellers prior to Closing of the names of such designees and, from and after Closing, the rights, privileges and benefits of this Agreement applicable to Buyer shall benefit each such designee, subject to the terms, covenants and conditions of this Agreement, with respect to the Assets acquired by it.

8.02. Action of Sellers at Closing. At the Closing (or, in the case of the University Assets, on the University Asset Transfer Date) and unless otherwise waived in writing by Buyer, Sellers shall deliver:

(a) to Buyer deeds containing general warranties of title, fully executed by Sellers in recordable form, conveying to Buyer good and marketable fee title to the Real Property, free and clear of all Encumbrances other than the Permitted Real Property Encumbrances;

(b) to Buyer bills of sale and assignment, fully executed by Sellers, in form and substance acceptable to Buyer, conveying to Buyer good and valid title to all Assets other than the Real Property, free and clear of all Encumbrances other than the Permitted Personal Property Encumbrances;

(c) to Buyer assignments, fully executed by Sellers, in form and substance acceptable to Buyer, conveying to Sellers' interests in the Assumed Contracts to Buyer;

(d) to Buyer the Administrative Services Agreement, fully executed by AHERF;

(e) to Buyer the Indemnity Escrow Agreement, fully executed by Sellers;

(f) [Intentionally Omitted];

(g) to the Restructured University Endowment and Grant Accounts. the Endowments and Grants related to the University;

(h) to Buyer any Endowments and Grants that are not related to the University;

(i) if the University Asset Transfer Date is not the Closing Date, the Management Agreement fully executed by Sellers. an assignment of AHERF's membership interest in the University to the Restructured University, and the resignations of all members of the University board of trustees;

(j) to Buyer copies of resolutions duly adopted by the board of directors or trustees of each Seller and, if required, the members of such Seller, authorizing and approving the execution and delivery of this Agreement and the consummation of the

transactions contemplated hereby, certified as true and in full force and effect as of the Closing Date by the appropriate officers or partners of such Seller;

(k) to Buyer certificates of the duly authorized President, Vice President or partner of each Seller certifying that each of the representations and warranties of Seller contained in this Agreement that are qualified as to materiality is true and correct on and as of the Closing Date, that each of the other representations and warranties of Seller contained in this Agreement is true and correct in all material respects on and as of the Closing Date, and that each and all of the terms, covenant and agreements to be complied with or performed by Seller on or before the Closing Date have been complied with and performed;

(l) to Buyer certificates of incumbency for the respective officers of each Seller executing the Agreement and other Closing documents, dated as of the Closing Date;

(m) to Buyer certificates of existence and good standing from the state or states in which each Seller is incorporated or organized, each dated the most recent practical date prior to Closing;

(n) to Buyer, Sellers' consent to the Assignment and Assumption Agreement;

(o) to Buyer, the Collection Agreement, fully executed by Sellers;

(p) to Buyer, appropriate letters or other documentation necessary to transfer and sell the Accounts Receivable, except Excluded Affiliated Physician Practices Accounts Receivable and Hospital Accounts Receivable, to the Buyer and to advise the account debtors of such transfer and sale;

(q) to the Restructured University Endowment and Grant Accounts or the Hospital Endowment and Grant Accounts, as may be appropriate, any portion of the Endowment Shortfall recovered as of the Closing Date and not previously deposited in the Endowment and Grant Accounts; and

(r) to Buyer such other instruments, agreements, certificates and documents as Buyer reasonably deems necessary to effect the transactions contemplated hereby.

8.03. Action of Buyer at Closing. At the Closing and unless otherwise waived in writing by Seller, Buyer shall deliver:

(a) to Sellers the Cash Portion of the Purchase Price (less the Deposit) together with evidence of the Tail Insurance required by Section 5.27;

(b) to the Escrow Agent the Indemnity Deposit in accordance with the Indemnity Escrow Agreement;

(c) to the Restructured University the Restructured University Fund;

(d) to Sellers an assumption agreement, fully executed by Buyer, in form and substance acceptable to Sellers, pursuant to which Buyer shall assume the future payment and performance of the Assumed Liabilities; provided however, that Buyer shall retain from the Purchase Price that sum necessary to pay the Hired Employees Benefits;

(e) to AHERF the Administrative Services Agreement, fully executed by Buyer;

(f) to Sellers the Indemnity Escrow Agreement and the Collection Agreement, fully executed by Buyer, and, if the University Asset Transfer Date is not the Closing Date, the Management Agreement, fully executed by Restructured University;

(g) to Sellers copies of resolutions duly adopted by the board of directors of Buyer authorizing and approving Buyer's execution and delivery of this Agreement and the transactions contemplated hereby, certified as true and in full force and effect as of the Closing Date by an appropriate officer of Buyer;

(h) to Sellers certificates of the duly authorized President or a Vice President of Buyer certifying that each of the representations and warranties of Buyer contained in this Agreement that are qualified as to materiality is true and correct on and as of the Closing Date, that each of the other representations and warranties of Buyer contained in this Agreement is true and correct in all material respects on and as of the Closing Date, and that each and all of the terms, covenants and agreements to be complied with or performed by Buyer on or before the Closing Date have been complied with and performed;

(i) to Sellers certificates of incumbency for the officers of Buyer executing this Agreement and other Closing documents, dated as of the Closing Date;

(j) to Sellers certificates of existence and good standing of Buyer from the state in which it is incorporated, dated the most recent practical date prior to Closing; and

(k) to Sellers such other agreements, instruments and documents as Sellers reasonably deem necessary to effect the transactions contemplated hereby.

8.04. Termination Prior to Closing.

(a) Notwithstanding anything herein to the contrary, this Agreement may be terminated, and the transactions contemplated by this Agreement abandoned, upon notice by the terminating party to the other parties:

(i) at any time before the Closing, by mutual consent of Buyer and Sellers;

(ii) by Buyer in accordance with Section 5.12;

(iii) at any time before the Closing, by Buyer on the one hand, or Sellers on the other hand, in the event of material breach of this Agreement by the non-terminating party or if the satisfaction of any condition to such party's obligations under this Agreement becomes impossible or impracticable with the use of commercially reasonable efforts and the failure of such condition to be satisfied is not caused by a breach by the terminating party;

(iv) at any time after October 31, 1998, by Sellers if the transactions contemplated by this Agreement have not been consummated on or before such date;

(v) at any time after October 31, 1998, by Buyer if the transactions (other than the occurrence of the University Asset Transfer Date) contemplated by this Agreement have not been consummated on or before such date;

(vi) by Buyer if, since the Interim Financial Statements on August 31, 1998, an unforeseen material adverse change in the Assets or results of operations, financial condition or prospects for future operations of any of the Hospital Businesses or the University has occurred, except as disclosed in **Schedule 3.08** or as otherwise known to Buyer on September 29, 1998;

(vii) at the election of Buyer, if any of the following shall occur:

(a) the Bankruptcy Court approves a Competing Tranaction;

(b) the Bankruptcy Cases, or any one of them, is dismissed or converted to chapter 7 of the Bankruptcy Code; or

(d) the Sale Order, in a form acceptable to Buyer in its sole discretion, shall not have been entered by October 10, 1998.

(b) If this Agreement is validly terminated pursuant to this Section, this Agreement will be null and void, and there will be no liability on the part of any party (or any of their respective officers, directors, trustees, employees, agents, consultants or other representatives) except that, upon termination of this Agreement pursuant to subparagraph (iii) of Section 8.04(a), Sellers will remain liable to Buyer and Buyer will remain liable to Sellers for any breach of their respective obligations under Section 5.17 existing at the time of such termination, and each party may seek such remedies or damages against the other with respect to any such breach as are provided in this Agreement or as are otherwise available at law or in equity.

9. INDEMNIFICATION

9.01. Indemnification by Sellers. Subject to and to the extent provided in this Article, from and after the Closing, Sellers shall jointly and severally indemnify, defend and hold harmless Buyer's Indemnified Persons, and each of them, from and against any Losses incurred or suffered by Buyer's Indemnified Persons, directly or indirectly, as a result of or arising from:

(a) any inaccuracy of any representation or warranty of any Seller, whether or not Buyer's Indemnified Persons relied thereon or had knowledge thereof, provided that in determining whether there has been any such inaccuracy, any qualification as to materiality included in any representation or warranty shall not be taken into account;

(b) the nonfulfillment of any covenant, agreement or other obligation of any Seller set forth in this Agreement or in any other agreement or instrument delivered by any Seller pursuant to this Agreement; and

(c) the Excluded Liabilities.

Sellers' obligations under this Section shall have the priority of a claim for the cost of administration of Sellers' bankruptcy cases under Sections 503(b) and 507(a)(1) of the Bankruptcy Code.

9.02. Sellers' Limitations. Sellers shall have no liability under Section 9.01 and no claim under Section 9.01 shall:

(a) accrue to any of Buyer's Indemnified Persons against Sellers under Section 9.01(a) unless and until the total liability of Sellers in respect of claims arising under Section 9.01(a) exceeds $250,000 in the aggregate, provided that, if claims arising under Section 9.01(a) in the first year after Closing do not exceed $250,000 in the aggregate, no claim shall accrue under Section 9.01(a) unless and until the total liability of Sellers in respect of claims arising under Section 9.01(a) exceeds $500,000 in the aggregate; provided further that there shall be no minimum Loss requirement, and liability of Sellers shall arise from and after $1.00 of Losses, in respect of Losses resulting from any Seller's intentional, misrepresentation or fraud, provided however, that no claim shall accrue under Section 3.11 unless and until the total liability of Sellers in respect of claims arising under such Section 3.11 exceeds $1,000,000 in the aggregate;

(b) be made unless notice thereof shall have been given by or on behalf of any of Buyer's Indemnified Persons to Sellers in the manner provided in Section 9.05;

(c) be recoverable by Buyer except (i) until a plan or reorganization in each of Sellers' bankruptcy cases has become effective or, if the cases are converted to Chapter 7 cases, until each such case is closed, as administrative expenses of Sellers' bankruptcy estates, (ii) against the Indemnity Deposit for claims asserted within two years after the Closing Date, and (iii) pursuant to Buyer's rights of offset and set off in Section 11.13, provided that all claims for indemnification made by Buyer under this Article will survive any termination or expiration described above and be recoverable from the sources described above until such claims shall have been satisfied or otherwise resolved as provided herein.

9.03. Indemnification by Buyer. Subject to and to the extent provided in this Article, from and after the Closing Date, Buyer shall indemnify, defend and hold harmless Sellers' Indemnified Persons, and each of them, from and against any Losses incurred or suffered by Sellers' Indemnified Persons, directly or indirectly, as a result of or arising from:

(a) the inaccuracy in any representation or warranty of Buyer, whether or not Seller's Indemnified Persons relied thereon or had knowledge thereof, provided that in determining whether there has been any such inaccuracy, any qualification as to materiality included in any representation or warranty shall not be taken into account;

(b) the nonfulfillment of any covenant, agreement or other obligation of Buyer set forth in this Agreement or in any other agreement or instrument delivered by Buyer pursuant to this Agreement; and

9.04. Buyer's Limitations.

(a) Buyer shall have no liability under Section 9.03 and no claim under Section 9.03 shall:

(i) accrue to any of Sellers' Indemnified Persons against Buyer under Section 9.03(a) unless and until the total liability of Sellers in respect of claims arising under Section 9.03(a) exceeds $250,000 in the aggregate, provided that, if claims arising under Section 9.03(a) in the first year after Closing do not exceed

$250,000 in the aggregate, no claim shall accrue under Section 9.03(a) unless and until the total liability of Sellers in respect of claims arising under Section 9.03(a) exceeds $500,000 in the aggregate; provided further that there shall be no minimum Loss requirement and liability of Buyer shall arise from and after $1.00 of Losses, in respect of Losses resulting from Buyer's intentional misrepresentation or fraud; and

(ii) be made unless notice thereof shall have been given by or on behalf of any of Sellers' Indemnified Persons to Buyer in the manner provided in Section 9.05.

9.05. Notice and Procedure. All claims for indemnification by any Indemnified Party against an Indemnifying Party under this Article shall be asserted and resolved as follows:

(a)(i) If any claim or demand for which an Indemnifying Party would be liable for Losses to an Indemnified Party is alleged or asserted by a Person other than any Buyer's Indemnified Person or any Sellers' Indemnified Person (a "Third Party Claim"), the Indemnified Party shall deliver a Claim Notice with reasonable promptness to the Indemnifying Party, together with a copy of all papers served, if any, and specifying the nature of and alleged basis for the Third Party Claim and, to the extent then feasible, the alleged amount or the estimated amount of the Third Party Claim. If the Indemnified Party fails to deliver the Claim Notice to the Indemnifying Party within 30 days after the Indemnified Party receives notice of such Third Party Claim, the Indemnifying Party will not be obligated to indemnify the Indemnified Party with respect to such Third Party Claim if and only to the extent that the Indemnifying Party's ability to defend the Third Party Claim has been irreparably prejudiced by such failure. The Indemnifying Party will notify the Indemnified Party within 10 days after receipt of the Claim Notice (the "Notice Period") whether the Indemnifying Party intends, at the sole cost and expense of the Indemnifying Party, to defend the Indemnified Party against the Third Party Claim. The assumption by the Indemnifying Party of the defense of the Third Party Claim constitutes an admission by the Indemnifying Party that the claim is one for which the Indemnifying Party is ultimately liable under this Article.

(ii) If the Indemnifying Party notifies the Indemnified Party within the Notice Period that the Indemnifying Party intends to defend the Indemnified Party against the Third Party Claim, then the Indemnifying Party will have the right to defend, at its sole cost and expense, the Third Party Claim by all appropriate proceedings, which proceedings will be diligently prosecuted by the Indemnifying Party to a final conclusion or settled at the discretion of the Indemnifying Party (with the consent of the Indemnified Party). The Indemnifying Party will have full control of such defense and proceedings; provided that the Indemnified Party may file during the Notice Period, at the sole cost and expense of the Indemnified Party, any motion, answer or other pleading that the Indemnified Party may deem necessary or appropriate to protect its interests and not irrevocably prejudicial to the Indemnifying Party (it being understood and agreed that, except as provided in Section 9.05(a)(iii), if an Indemnified Party takes any such action that is irrevocably prejudicial and conclusively causes a final adjudication that is materially adverse to the Indemnifying Party, the Indemnifying Party will be relieved of its obligations hereunder with respect to that portion of the Third Party Claim prejudiced by the Indemnified Party's action); and provided further that, if requested by the Indemnifying Party, the

Indemnified Party shall cooperate. at the sole cost and expense of the Indemnifying Party, with the Indemnifying Party and its counsel in contesting any Third Party Claim that the Indemnifying Party elects to contest or, if appropriate in the judgment of the Indemnified Party and related to the Third Party Claim, in making any counterclaim or cross-claim against any Person (other than the Indemnified Party). The Indemnified Party may participate in, but not control, any defense or settlement of any Third Party Claim assumed by the Indemnifying Party pursuant to this Section 9.05(a)(ii) and, except as provided in the preceding sentence, the Indemnified Party will bear its own costs and expenses with respect to such participation. Notwithstanding the foregoing, the Indemnifying Party may not assume the defense of the Third Party Claim if (1) the Persons against whom the claim is made, or any impleaded Persons, include both the Indemnifying Party and any Indemnified Party, and (2) representation of both such Persons by the same counsel would be inappropriate due to actual or potential differing interests between them, in which case any Indemnified Party shall have the right to defend the Third Party Claim and to employ counsel at the expense of the Indemnifying Party.

(iii) If the Indemnifying Party fails to notify the Indemnified Party within the Notice Period that the Indemnifying Party intends to defend the Indemnified Party against the Third Party Claim. or if the Indemnifying Party gives such notice but fails to diligently prosecute or settle the Third Party Claim, or if the Indemnifying Party fails to give any notice whatsoever within the Notice Period, then the Indemnified Party will have the right (but not the obligation) to defend, at the sole cost and expense of the Indemnifying Party, the Third Party Claim by all appropriate proceedings, which proceedings will be diligently prosecuted by the Indemnified Party to a final conclusion or settled ax the discretion of the Indemnified Party. The Indemnified Party will have full control of such defense and proceedings, including any compromise or settlement thereof; provided that, if requested by the Indemnified Party, the Indemnifying Party shall cooperate, at the sole cost and expense of the Indemnifying Party, with the Indemnified Party and its counsel in contesting the Third Party Claim which the Indemnified Party is contesting, or. if appropriate and related to the Third Party Claim in question. in making any counterclaim or cross claim against any Person (other then the Indemnifying Party).

(iv) Notwithstanding the foregoing provisions of Section 9.05(a)(iii), if the Indemnifying Party notifies the Indemnified Party within the Notice Period that the Indemnifying Party disputes its obligation to indemnify the Indemnified Party against the Third Party Claim, and if such dispute is resolved pursuant to Section 9.05(c) in favor of the Indemnifying Party, the Indemnifying Party will not be required to bear the costs and expenses of the Indemnified Party's defense pursuant to Section 9.05(a)(iii) or of the Indemnifying Party's participation therein at the Indemnified Party's request, and the Indemnified Party will reimburse the Indemnifying Party in full for all such costs and expenses. The Indemnifying Party may participate in, but not control, any defense or settlement controlled by the Indemnified Party pursuant to Section 9.05(a)(iii), but the Indemnifying Party will bear its own costs and expenses with respect thereto if such participation is not at the request of the Indemnified Party.

(b) In the event any Indemnified Party should have a claim against any Indemnifying Party that is not a Third Party Claim. the Indemnified Party shall deliver an

Indemnity Notice with reasonable promptness to the Indemnifying Party specifying the nature of and specific basis for the claim and, to the extent then feasible, the amount or the estimated amount of the claim. The failure by any Indemnified Party to give timely notice referred to in the preceding sentence shall not impair such Person's rights hereunder except to the extent that an Indemnifying Party demonstrates that it has been irreparably prejudiced thereby. If the Indemnifying Party does not notify the Indemnified Party within ten days following its receipt of the Indemnity Notice that the Indemnifying Party disputes its obligation to indemnify the Indemnified Party hereunder, the claim will be conclusively deemed a liability of the Indemnifying Party hereunder.

(c) If the Indemnifying Party timely disputes its liability with respect to a claim described in a Claim Notice or an Indemnity Notice, the Indemnifying Party and the Indemnified Party shall proceed promptly and in good faith to negotiate a resolution of such dispute within 60 days following receipt of the Claim Notice or Indemnity Notice and, if such dispute is not resolved through negotiations during such 60-day period, it shall be resolved pursuant to the provisions of Article 13.

(d) The Indemnifying Party shall pay the amount of any liability to the Indemnified Party within 30 days following its receipt of a Claim Notice or an Indemnity Notice, or on such later date (i) in the case of a Third Party Claim, as the Indemnified Party suffers Losses in respect of the Third Party Claim, or (ii) in the case of an Indemnity Notice in which the amount of the claim is estimated, promptly after any Losses in respect of such claim are actually incurred by the Indemnified Party. In the event the Indemnified Party is not paid in full for its claim in a timely manner after the Indemnifying Party's obligation to indemnify and the amount thereof has been determined, the amount due shall bear interest from the date that the Indemnifying Party received the Claim Notice or the Indemnity Notice until paid at the interest rate provided in Section 11.16, and in addition to any other rights it may have against the Indemnifying Party, the Indemnified Party shall have the right to set-off the unpaid amount of such claim against any amounts owed by it to the Indemnifying Party.

(e) Any estimated amount of a claim submitted in a Claim Notice or an Indemnity Notice shall not be conclusive of the final amount of such claim, and the giving of a Claim Notice when an Indemnity Notice is properly due, or the giving of an Indemnity Notice when a Claim Notice is properly due, shall not impair such Indemnified Party's rights hereunder except to the extent that an Indemnifying Party demonstrates that it has been irreparably prejudiced thereby. Notice of any claim comprised in part of Third Party Claims and claims that are not Third Party Claims may be given pursuant to either Section 9.05(a) or 9.05(b).

9.06. Survival of Representations; Indemnity Periods. Notwithstanding any right of Buyer (whether or not exercised) to investigate the Hospital Businesses or the University or any right of any party (whether or not exercised) to investigate the accuracy of the representations and warranties of the other party contained in this Agreement, Sellers have, on the one hand, and Buyer and Tenet have, on the other hand, the right to rely fully upon the representations, warranties, covenants and agreements of the other contained in this Agreement. The representations, warranties, covenants and agreements in this Agreement made by Sellers and Buyer respectively will survive the Closing (a) indefinitely with respect to matters covered by Sections 2.04, 3.01, 4.01, 9.01(c) and 9.03(c), (b) until 60 days after the expiration of all applicable statutes of limitations (including all periods of extension, whether automatic or permissive) with respect to matters covered by Sections 3.05, 3.07,

3.14, 3.18, 3.22, 3.23, 3.24, 3.27 and 3.28, and (c) until the second anniversary of the Closing Date in the case of all other representations, warranties, covenants and agreements, except that

(i) any representation, warranty, covenant or agreement that would otherwise terminate in accordance with clause (b) or (c) above shall survive if a Claim Notice or an Indemnity Notice shall have been given on or prior to such termination date, until the related claim for indemnification has been satisfied or otherwise resolved as provided in this Article,

(ii) in the event of intentional misrepresentation or fraud in the making of any representation or warranty, or intentional, willful or reckless nonfulfillment or breach of any covenant in this Agreement, all representations, warranties, covenants and agreements that are the subject of the intentional misrepresentation, fraud, willful or reckless nonfulfillment or breach, shall survive until 60 days after the expiration of all applicable statutes of limitations (including all periods of extension, whether automatic or permissive) with respect to matters covered thereby,

(iii) covenants and agreements to be performed after the Closing Date will survive the Closing for the term specified therein, or, if no term is specified, indefinitely, and

(iv) rights to indemnification under this Article will survive until any claims brought hereunder shall have been satisfied or otherwise resolved as provided herein.

9.07. Notwithstanding anything in this Section 9 to the contrary, Sellers' liability for indemnification under this Agreement shall be limited to the sum of $30 million, and Buyer's liability for indemnification under this Agreement shall be limited to the sum of $30 million.

10. [INTENTIONALLY OMITTED]

11. GENERAL

11.01. Schedules. The Schedules and all Exhibits and documents referred to in or attached to this Agreement are integral parts of this Agreement as if fully set forth herein and all statements appearing therein shall be deemed to be representations. Nothing in the Schedules shall be deemed adequate to disclose an exception to a representation or warranty made herein unless the Schedule identifies the exception with reasonable particularity and, without limiting the generality of the foregoing, the mere listing of a document as an exception to any representation or warranty shall not be deemed to disclose the contents of such document as an exception to any representation or warranty.

11.02. CON Disclaimer. This Agreement shall not be deemed to be an acquisition or obligation of a capital expenditure or of funds within the meaning of the certificate of need laws of any state, until the appropriate Governmental Authorities shall have granted a certificate of need or other appropriate approval or determined that no certificate of need or other approval is required.

11.03. Tax and Government Reimbursement Program Effect. None of the parties (nor such parties' counsel or accountants) has made or is making in this Agreement any representation to any other party (or such party's counsel or accountants) concerning any of the Tax or Government

Reimbursement Program effects or consequences on the other party of the transactions provided for in this Agreement. Each party represents that it has obtained, or may obtain, independent Tax and Government Reimbursement Program advice with respect thereto and upon which it, if so obtained, has solely relied.

11.04. Reproduction of Documents. This Agreement and all documents relating hereto, including consents, waivers and modifications which may hereafter be executed, the documents delivered at the Closing, and financial statements, certificates and other information previously or hereafter furnished to any party may be reproduced by any party by any photographic, photostatic, microfilm, micro-card, miniature photographic or other similar process and the parties may destroy any original documents so reproduced. The parties stipulate that any such reproduction shall be admissible in evidence as the original itself in any judicial, arbitral or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made in the ordinary course of business) and that any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence.

11.05. Consented Assignment. Notwithstanding anything contained herein to the contrary, this Agreement shall not constitute an agreement to assign any Contract, claim or right not assignable under the provisions of the Bankruptcy Code pursuant to the Sale Order. If an attempted assignment would be invalid under the provisions of the Bankruptcy Code, Sellers shall cooperate in any reasonable arrangement designed to provide for Buyer the benefits under any such Contract, claim or right, including enforcement of any and all rights of any Seller against the other Person arising out of the breach or cancellation by such other Person or otherwise.

11.06. Time of Essence. Time is of the essence in the performance of this Agreement. This Section may be waived only in a writing expressly referring hereto.

11.07. Consents, Approvals and Discretion. Except as herein expressly provided to the contrary, whenever this Agreement requires any consent or approval to be given by either party or either party must or may exercise discretion, such consent or approval shall not be unreasonably withheld or delayed and such discretion shall be reasonably exercised.

11.08. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to such state's conflicts of laws rules.

11.09. Benefit: Assignment. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors and assigns. No party may assign this Agreement without the prior written consent of the other parties, provided that Buyer may assign this Agreement, in whole or in part, to any Affiliate of Buyer, and provided further that Buyer may assign its right, title and interest with respect to the University Assets to Restructured University.

11.10. No Third Party Beneficiary. The terms and provisions of this Agreement (including provisions regarding employee and employee benefit matters) are intended solely for the benefit of the parties, the Buyer's Indemnified Persons, Sellers' Indemnified Persons, and their respective successors and permitted assigns, and are not intended to confer third-party beneficiary rights upon any other Person. Any reference in this Agreement to one or more Employee Benefit Plans of Buyer includes provisions, if any, in such plans permitting their termination or amendment and any

covenant in this Agreement to provide any Employee Benefit Plan shall not be deemed or construed to limit Buyer's right to terminate or amend such plan of Buyer in accordance with its terms.

11.11. Waiver of Breach, Right or Remedy. The waiver by any party of any breach or violation by another party of any provision this Agreement or of any right or remedy permitted the waiving party in this Agreement (i) shall not waive or be construed to waive any subsequent breach or violation of the same provision, (ii) shall not waive or be construed to waive a breach or violation of any other provision, and (iii) shall be in writing and may not be presumed or inferred from any party's conduct. Except as expressly provided otherwise in this Agreement no remedy conferred by this Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be in addition to every other remedy granted in this Agreement or now or hereafter existing at law or in equity, by statute or otherwise. The election of any one or more remedies by a party shall not constitute a waiver of the right to pursue other available remedies. In addition to any other rights and remedies any party may have at law or in equity for breach of this Agreement, each party shall be entitled to seek an injunction to enforce the provisions of this Agreement.

11.12. Notices. Any notice, demand or communication required, permitted or desired to be given hereunder shall be deemed effectively given if given in writing (i) on the date tendered by personal delivery, (ii) on the date received by facsimile or other electronic means (including telegraph and telex), (iii) on the date tendered for delivery by nationally recognized overnight courier, or (iv) on the date tendered for delivery by United States mail, with postage prepaid thereon, certified or registered mail, return receipt requested, in any event addressed as follows:

If to Buyer or Tenet:

Tenet Healthcare Corporation
14001 Dallas Parkway, Suite 105
Dallas, Texas 75240
Attn: Mr. David R. Mayeux
William A. Barrett, Esq.
Facsimile: 972/789-2385

with a copy to:

Gibson, Dunn & Crutcher LLP
1717 Main Street, Suite 5400
Dallas, Texas 75201
Attn: Michael A. Rosenthal, Esq.
Facsimile: 214/698-3400

If to Sellers:

Allegheny Health, Education and Research Foundation
320 East North Avenue
Pittsburgh, Pennsylvania 15212-4772
Attn: Chief Financial Officer
Facsimile: (412) 359-3065

with a copy to:

Allegheny Health, Education and Research Foundation
320 East North Avenue
Pittsburgh, Pennsylvania 15212-4772
Attn: General Counsel
Facsimile: (412) 359-3065

or to such other address or number, and to the attention of such other Person, as any party may designate at any time in writing in conformity with this Section.

11.13. Misdirected Payments; Offset Rights. Sellers shall remit to Buyer with reasonable promptness any monies received by Sellers constituting or in respect of the Assets and Assumed Liabilities. Buyer shall remit to Sellers with reasonable promptness any monies received by Buyer constituting or in respect of the Excluded Assets and Excluded Liabilities. If any Person determines that funds previously paid or credited to any Seller or the Hospital Businesses or the University in respect of services rendered prior to the Closing Date have resulted in an overpayment or must be repaid, Sellers shall be responsible for the repayment of said monies (and the defense of such actions). If Buyer suffers any deduction to or offset against amounts due Buyer of funds previously paid or credited to any Seller or the Hospital Businesses or the University in respect of services rendered prior to the Closing Date, Sellers shall immediately pay to Buyer the amounts so billed or offset upon demand. Any amounts due Buyer by Sellers, or due Sellers by Buyer, may be offset against monies or other funds held by the party entitled to payment of such amounts.

11.14. Severability. If any provision of this Agreement is held or determined to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any party under this Agreement will not be materially and adversely affected thereby: (a) such provision will be fully severable; (b) this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof; (c) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom; and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

11.15. Entire Agreement; Amendment. This Agreement supersedes all previous contracts, agreements and understandings and constitutes the entire agreement of whatsoever kind or nature existing between or among the parties representing the within subject matter and no party shall be entitled to benefits other than those specified herein. As between or among the parties, any oral or written representation, agreement or statement not expressly incorporated herein, whether given prior to or on the Effective Date, shall be of no force and effect unless and until made in writing and signed by the parties on or after the Effective Date. The representations and warranties set forth in this Agreement shall survive the Closing and remain in full force and effect as provided in Article 9, and shall survive the execution and delivery of all other agreements, instruments or other documents described, referenced or contemplated herein and shall not be merged herewith or therewith. Each representation, warranty and covenant contained in this Agreement has independent significance and if any party has breached any representation, warranty or covenant contained herein in any respect, the fact that there exists another representation, warranty or covenant relating to the same subject

matter (regardless of the relative level of specificity) that such party has not breached shall not detract from or mitigate the fact that the party is in breach of the first representation, warranty or covenant. This Agreement may be executed in two or more counterparts, each and all of which shall be deemed an original and all of which together shall constitute but one and the same instrument. This Agreement may not be amended except in a written instrument executed the parties.

11.16. Interest. Unless otherwise provided herein to the contrary, any monies required to be paid by any party to another party pursuant to this Agreement shall be due two business days after demand therefor and if not paid when due shall accrue interest from and including the due date to the date full payment is made at an annual rate equal to the average prime rate of Citibank, N.A., during such period plus three percent (3%) per annum.

11.17. Drafting. No provision of this Agreement shall be interpreted for or against any Person on the basis that such Person was the draftsman of such provision, and no presumption or burden of proof shall arise favoring or disfavoring any Person by virtue of the authorship of any provision of this Agreement.

12. GUARANTEE

12.01. Guarantee of Buyer's Obligations. Tenet, as principal obligor and not merely as a surety, hereby unconditionally guarantees full, punctual and complete performance by Buyer of all of Buyer's obligations under the Agreement and so undertakes to Sellers that, if and whenever Buyer is in default, Tenet will on demand duly and promptly perform or procure the performance of Buyer's obligations. The foregoing guarantee is a continuing guarantee and will remain in full force and effect until the obligations of Buyer under this Agreement have been duly performed or discharged and will continue to be effective or will be reinstated, as the case may be, if at any time any sum paid to Sellers must be restored by Sellers upon the bankruptcy, liquidation or reorganization of Buyer.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in multiple originals by their duly authorized officers as of the Effective Date.

ALLEGHENY UNIVERSITY HOSPITALS - EAST

By: _____
Title: _____

ALLEGHENY HOSPITALS, CENTENNIAL

By: _____
Title: _____

ALLEGHENY UNIVERSITY MEDICAL PRACTICES

By: _____
Title: _____

ALLEGHENY UNIVERSITY OF THE HEALTH SCIENCES

By: _____
Title: _____

DIVERSIFIED HEALTH GROUP

By: _____
Title: _____

ALLEGHENY HEALTH EDUCATION AND RESEARCH FOUNDATION

By: _____
Title: _____

TENET HEALTHSYSTEM OF PHILADELPHIA, INC.

By: _____
Title: VICE PRESIDENT

TENET HEALTHCARE CORPORATION

By: _____
Title: EXECUTIVE VICE PRESIDENT

DA982750.003

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in multiple originals by their duly authorized officers as of the Effective Date.

ALLEGHENY UNIVERSITY HOSPITALS - EAST

By: _____
Anthony M. Sanzo
President and CEO

ALLEGHENY HOSPITALS, CENTENNIAL

By: _____
Meg McGoldrick
President and CEO

ALLEGHENY UNIVERSITY MEDICAL PRACTICES

By: _____
Anthony M. Sanzo
President and CEO

ALLEGHENY UNIVERSITY OF THE HEALTH SCIENCES

By: _____
Dorothy McKenna Brown
President and CEO

DIVERSIFIED HEALTH GROUP

By: _____
Anthony M. Sanzo
President

ALLEGHENY HEALTH EDUCATION AND RESEARCH FOUNDATION

By: _____
Anthony M. Sanzo
President and CEO

TENET HEALTHSYSTEM OF PHILADELPHIA, INC.

By: _____
Title: _____

TENET HEALTHCARE CORPORATION

By: _____
Title: _____

SCHEDULES AND EXHIBITS

The Schedules and Exhibits to the Original Asset Purchase Agreement, dated September 29, 1998, have been intentionally omitted as they have been fully superseded and replaced by the Schedule and Exhibits to the First Amendment, dated November 10, 1998 attached hereto.

EXECUTION COPY

FIRST AMENDMENT TO THE

ASSET PURCHASE AGREEMENT

BY AND AMONG

ALLEGHENY UNIVERSITY HOSPITALS-EAST

ALLEGHENY HOSPITALS, CENTENNIAL,

ALLEGHENY UNIVERSITY MEDICAL PRACTICES,

ALLEGHENY UNIVERSITY OF THE HEALTH SCIENCES,

DIVERSIFIED HEALTH GROUP

ALLEGHENY HEALTH, EDUCATION AND RESEARCH FOUNDATION,

TENET HEALTHSYSTEM PHILADELPHIA, INC.

AND

TENET HEALTHCARE CORPORATION

DATED AS OF NOVEMBER 10, 1998

FIRST AMENDMENT TO THE ASSET PURCHASE AGREEMENT

This First Amendment to the Asset Purchase Agreement ("Amendment") is made and entered into this 10th day of November, 1998, by and among **Tenet HealthSystem Philadelphia, Inc.**, a Pennsylvania corporation ("Buyer"), **Tenet Healthcare Corporation**, a Nevada corporation ("Tenet"), **Allegheny Health, Education and Research Foundation**, a Pennsylvania non-profit corporation ("AHERF"), **Diversified Health Group**, a Pennsylvania for profit corporation ("DHG"), **Allegheny University Hospitals-East**, a Pennsylvania non-profit corporation ("AUH East"), **Allegheny Hospitals, Centennial**, a Pennsylvania non-profit corporation ("AUH Centennial"), **Allegheny University Medical Practices**, a Pennsylvania non-profit corporation ("AUMP") and **Allegheny University of the Health Sciences**, a Pennsylvania non-profit corporation (the "University" and, together with AHERF, AUH East, DHG, AUH Centennial and AUMP, the "Sellers").

WITNESSETH

WHEREAS, each of the parties hereto is a party to that certain Asset Purchase Agreement dated as of September 29, 1998, (the "Agreement") providing for, among other things, the transfer and sale to Buyer of certain assets generally described in the Agreement as the Hospital Businesses, the transfer of assets to the Restructured University, and Buyer's contribution to the Restructured University;

WHEREAS, the parties hereto now desire to amend and revise certain portions of the Agreement and add certain conditions in order to clarify the intent of the parties, provide for a pledge of support by Buyer in favor of Drexel University ("Drexel") (or to an escrow established for the benefit of Drexel or the Restructured University), update certain information and more accurately reflect the terms of the transaction;

NOW, THEREFORE, for and (except for Buyer's agreement to make the University Pledges, as defined below) in consideration of the premises, and the agreements, covenants, representations and warranties hereinafter set forth, and other good and valuable consideration, the receipt and adequacy of which are forever acknowledged and accepted, the parties, intending to be legally bound, hereby agree as follows:

1. **Recitals.** The following recitals are hereby added to the Agreement:

> WHEREAS, Buyer wishes to pledge to contribute certain funds to the general endowment fund of Drexel University ("Drexel") in recognition of Drexel's assistance with the educational efforts of the Restructured University;
>
> WHEREAS, Buyer wishes to pledge to contribute certain funds to the general endowment fund of Restructured University to assist Restructured University's efforts to educate doctors, nurses and other medical professionals by using the Hospitals as training facilities.

2. **Definitions.**

(a) The definition of "Endowments" included and referenced in the Agreement is hereby replaced in its entirety with the following:

Endowments: any and all cash or cash equivalents or other property of any kind, together with the proceeds thereof, that has been contributed or has been committed to be contributed to Sellers for any purpose whatsoever pursuant to Endowment and Grant Restrictions, other than those primarily related to the western operations of AHERF and its affiliates and those designated as Excluded Assets on Schedule 2.02.

(b) The definition of "Grants" included and referenced in the Agreement is hereby replaced in its entirety with the following:

Grants: any and all grants, honoraria, prizes and any other funds or property of any kind that have been awarded or otherwise committed to any of the Sellers to be used by Sellers for a defined project, research area or other specified purpose, other than those primarily related to the western operations of AHERF and its affiliates and those designated as Excluded Assets on Schedule 2.02.

(c) The definition of "Restricted Cash" included and referenced in the Agreement is hereby replaced in its entirety with the following:

Restricted Cash: all cash and cash equivalents that are subject to Endowment and Grant Restrictions, other than those primarily related to the western operations of AHERF and its affiliates and those designated as Excluded Assets on Schedule 2.02.

(d) The definition of "Permitted Personal Property Encumbrances" included and referenced in the Agreement is hereby replaced in its entirety with the following:

Permitted Personal Property Encumbrances: those Encumbrances described in **Schedule 3.12** that represent a protective filing under the Pennsylvania Uniform Commercial Code by the owner of, and with respect to, personal property that is the subject of an Assumed Contract; provided, however, that nothing herein shall be interpreted to cause Permitted Personal Property Encumbrances to include any amounts owed with respect to such liens or underlying property for periods on or prior to the Closing, or with respect to amounts otherwise discharged, satisfied or released pursuant to an order of the Court.

(e) The following definitions are hereby added to the Agreement:

Drexel: Drexel University, a Pennsylvania non-profit corporation.

Drexel Fund: the sum of $50,000,000 payable to Drexel (or to an escrow established for the benefit of Drexel or the Restructured University as set forth in the Gift Agreement).

Endowment Agreement: an agreement between Buyer and the Restructured University describing the terms and conditions by which Buyer will transfer to the Restructured University, the Restructured University Fund.

Faculty Continuation Payment: the sum of $1,000,000.

Gift Agreement: an agreement or series of agreements between Buyer, Drexel, an escrow agent and the Restructured University describing the terms and conditions by which Buyer will transfer the Drexel Fund to Drexel and to such escrow agent in favor of Drexel or the Restructured University.

Grant Accounting Professional Fees: the sum of $2,000,000 deducted from the Purchase Price which shall be retained by Buyer and used to pay the fees and expenses incurred in connection with Buyer's engagement of KPMG Peat Marwick to reconcile Sellers' accounts with respect to the Grants.

Grant Escrow Deposit: the sum of $3,000,000 to be delivered by Buyer to the Escrow Agent pursuant to the Grant Escrow Agreement, and all accumulated earnings thereon, which sum will be funded from the Cash Portion of the Purchase Price.

Grant Escrow Agreement: the Grant Escrow Agreement to be executed at Closing by Sellers, Buyer, Restructured University and the Escrow Agent pursuant to which the Grant Escrow Deposit will be delivered to the Escrow Agent at Closing for a term of one year to satisfy potential claims arising with respect to certain Grants.

Grant Loss: a Loss (not including the Grant Accounting Professional fees) incurred by Restructured University with respect to Grants associated with the University and transferred to Restructured University that are a result of (i) a Grant Provider refusing or failing to reimburse Restructured University for an expense that was not paid by Sellers, requiring repayment from Restructured University or offsetting future Grant revenue owed to Restructured University due to or in connection with pre-Closing cost overruns related to a Grant, pre-Closing unallowable costs with respect to a Grant, a reconciliation or delayed reconciliation of a letter of credit, with respect to pre-Closing activities, between such Grant Provider and Restructured University, or a pre-Closing unallowable cost transfer with respect to a Grant; (ii) the inability of Restructured University, for a reason other than the negligence of Restructured University and after undertaking commercially reasonable collection efforts, to collect a receivable shown on the Interim Closing Balance Sheet due from a Grant Provider with respect to a Grant; or (iii) a Grant Provider reducing the overhead or indirect cost rates which were in place prior to Closing with respect to a Grant as the result of a review of such rates for any pre-Closing period with respect to such Grant; provided, however that notwithstanding the foregoing (A) a Grant Loss shall be reduced by (or Restructured University shall promptly refund to Sellers after the

quarterly reconciliations as provided in subsection (B) below) Grant Credits, defined as credits or payments received by Restructured University or one or more Sellers and transferred to Restructured University with respect to Grants associated with the University that are a result of (I) a Grant Provider reimbursing, or repaying, or increasing future Grant revenue owed to, Restructured University for an expense paid by Sellers due to or in connection with pre-Closing cost overruns with respect to a Grant, pre-Closing unallowable costs with respect to a Grant, a reconciliation or delayed reconciliation of a letter of credit, with respect to pre-Closing activities, between such Grant Provider and Restructured University or a pre-Closing allowable cost transfer with respect to a Grant; (II) the collection of a receivable shown in the Interim Closing Balance Sheet due from a Grant Provider with respect to such Grant, where the amount collected is in excess of the receivable shown in said Balance Sheet, in which case only the excess shall be considered a credit; or (III) a Grant Provider increasing the overhead or indirect cost rates which were in place prior to Closing with respect to a Grant as the result of a review of such rates, for any pre-Closing period, with respect to such Grant, and (B) Buyer and Sellers shall reconcile at the end of each calendar quarter the cumulative amount of Grant Losses and Grant Credits in respect of each Grant transferred to the Restructured University and, finally, at the end of one year from the date hereof.

PHRC: Philadelphia Health and Research Corporation, a Pennsylvania non-profit corporation.

Total Payment: the sum of the Purchase Price and the University Pledges.

University Pledges: the sum of (a) the Drexel Fund and (b) the portion of the Restructured University Fund that does not represent payment for the Assets..

(f) The defined term of "Purchase Price" included and referenced in the Agreement is hereby changed to "Total Payment" wherever the context indicates that the term is intended to refer to all payments by Buyer for the Assets under Section 2.05 and all payments by Buyer to fund the University Pledges under Section 2.05A. Otherwise, the defined term of "Purchase Price" shall remain as defined in Section 2.05.

3. **Purchase Price.** Section 2.05 of the Agreement is hereby replaced in its entirety with the following Sections 2.05 and 2.05A:

2.05. Purchase Price; Purchase Price Adjustment; Prorations.

(a) Subject to the terms and conditions hereof, in reliance upon the representations, warranties and covenants of Sellers herein set forth, and as consideration for the sale and purchase of the Assets, at Closing, Buyer shall assume on an ongoing basis the Assumed Liabilities and shall tender to Sellers as the purchase price for the Assets cash in the aggregate amount of $345,000,000.00, less the University Pledges (the "Purchase Price").

(b) Buyer has deposited the sum of $1 million with Sellers (the "Deposit"), which Deposit shall be credited against the Purchase Price at the Closing. The balance of the Purchase Price shall be paid at Closing. At Closing, Buyer shall deliver to Sellers the balance of the Purchase Price minus (i) the Indemnity Deposit, (ii) portion of the Restructured University Fund that represents payment for the Assets, (iii) the Hired Employees Benefits, (iv) the Faculty Continuation Payment, (v) the Grant Accounting Professional Fees, (vi) the Grant Escrow Deposit, and (vii) the sum of $40 million related to the acquisition of Tail Insurance as provided in Section 5.27. In addition, at Closing, Buyer shall deliver the Indemnity Deposit, the Grant Escrow Deposit, the portion of the Restructured University Fund that represents payment for the Assets, purchase the Tail Insurance as provided in Section 5.27 and assume the liability to pay the Hired Employees Benefits and the Faculty Continuation Payment.

(c) Any Purchase Price payment required by this Section shall be made by wire transfer of immediately available funds to an account or accounts designated by the payee or such other manner acceptable to the payee, and the parties shall execute such receipts or other acknowledgments as are reasonably necessary to evidence payment of the Purchase Price.

2.05A University Pledges.

(a) Subject to the terms and conditions hereof and the terms and conditions of such gift agreements, endowment agreements, and other documents as may be prepared in connection with the establishment of the Drexel Fund and the Restructured University Fund, at Closing, Buyer shall satisfy its pledge to Drexel by tendering to Drexel (or to an escrow established for the benefit of Drexel or the Restructured University as set forth in the Gift Agreement) the Drexel Fund, and shall satisfy its pledge to Restructured University by tendering that portion of the Restructured University Fund that does not represent payment for the Assets (collectively, the "University Pledges").

(b) Any University Pledge payment required by this Section shall be made by wire transfer of immediately available funds to an account or accounts designated by the payee or such other manner acceptable to the payee, and the parties shall execute such receipts or other acknowledgments as are reasonably necessary to evidence payment of the University Pledges.

4. **Schedules & Exhibits to the Agreement.** All prior versions of the Schedules and Exhibits which were attached to the Agreement as of the Effective Date and made a part thereof are hereby deleted and replaced in their entirety with the Schedules and Exhibits attached hereto and made a part hereof.

5. **University Faculty Physician Accounts Receivable.**

(a) Section 2.01(n) of the Agreement is hereby replaced in its entirety with the following:

(n) all Tuitions Receivable and Accounts Receivable (including, without limitation, all Accounts Receivable attributable to University Faculty Physicians), except the Excluded Affiliated Physician Practices Accounts Receivable and the Hospital Accounts Receivable;

(b) The following is hereby added to the Agreement as Section 5.30:

5.30 Physician Releases. After the date hereof and, if necessary, for a period of one year after Closing, Buyer will use its good faith efforts to obtain from each of the physicians who are on the faculty of the Restructured University or the clinical practice groups and deliver to Sellers, a written release of the Sellers from any liability that Sellers may owe to such physicians as a result of the termination of each such faculty members' employment agreement or severance benefits (excluding COBRA benefits) to which such faculty members may otherwise be entitled, but excluding any incentive payments which such faculty members may be owed. Buyer shall have no liability to Sellers for its failure to obtain such releases except in the absence of good faith efforts to do so.

6. **Prorations**. Section 2.07 of the Agreement is hereby replaced in its entirety with the following:

2.07 Buyer and Sellers shall make a good faith estimate to prorate real estate and personal property lease payments, real estate and personal property Taxes and other assessments, plus all other income and expenses (including utilities) with respect to the Assets which are normally prorated upon a sale of assets of a going concern. Buyer and Sellers hereby agree to take all steps necessary to reconcile all such estimated Prorations and to make appropriate reimbursements and payments pursuant thereto within sixty (60) days following the Closing Date. Notwithstanding the above, if, as a result of the transactions contemplated by this Agreement, Sellers become liable for real estate or personal property Taxes for which Sellers otherwise would be exempt, such Taxes shall not be prorated but shall be paid by Buyer. If any payment in lieu of Taxes made by Sellers prior to Closing is credited against real estate Taxes for which Buyer will be liable, the amount of such credit will be paid to Sellers upon its receipt by Buyer.

7. **Restricted Assets**. Section 3.31 of the Agreement is hereby replaced in its entirety with the following:

3.31 Restricted Assets. Sellers hold all Restricted Assets free and clear of any Encumbrances other than the Endowment and Grant Restrictions. At Closing, Sellers shall transfer, assign and convey all Restricted Assets to the Restructured University, Buyer or PHRC, as may be appropriate (subject only to Endowment

and Grant Restrictions) subject to the conditions set forth in the Pennsylvania Orphan's Court Orders entered on November 6, 1998. The schedule prepared by Sellers pursuant to Section 5.29 accurately describes the Endowment Shortfall for the funds reflected on the books of the Sellers as endowments and specific purpose funds; to the extent Sellers identify additional items that comprise the Endowment Shortfall, Sellers will promptly advise Restructured University, Tenet and PHRC of same. The Grants are not subject to any Grant Losses which are not covered by the Grant Escrow Agreement provided that Sellers' liability under the Indemnity Escrow Agreement with respect to Grant Losses (other than those recovered by Restructured University pursuant to the Grant Escrow Agreement) shall be limited to the lesser of $3.5 million or 50% of Grant Losses in excess of those recovered pursuant to Grant Escrow Agreement.

8. Drexel Fund.

(a) Section 4.07 of the Agreement is hereby replaced in its entirety with the following and Section 4.07A is hereby added to the Agreement:

4.07. Title to University Assets. On or prior to the Closing Date, Buyer intends to assign its right, title and interest in and to the University Assets to Restructured University. Such assignment shall not alter Buyer's obligations hereunder, including but not limited to Buyer's obligation to pay the Purchase Price to Sellers and pay the University Pledges to the respective recipients, nor shall it alter Sellers' obligations hereunder. Restructured University shall hold the Endowments and Grants related to the University subject to the Endowment and Grant Restrictions.

4.07A Title to Endowments Related to Hospital Businesses. On the Closing Date, Buyer will assign its rights, title and interest in and to the Endowments related to the Hospital Businesses to PHRC.

(b) The first sentence of Section 5.10 of the Agreement is hereby replaced in its entirety with the following:

"Sellers and Buyer agree that, for tax purposes, the Purchase Price payable to Sellers for the Assets shall be allocated among the Assets as Buyer may determine, in accordance with their fair market values consistent with Section 1060 of the Code, and such allocation shall be binding upon the parties for all applicable federal, state, local and foreign Tax purposes."

9. **Grant Accounting.** The following is hereby added to the Agreement as Section 5.31:

5.31 At or prior to Closing, Buyer shall cause KPMG Peat Marwick to be engaged to reconcile Seller's accounts with respect to the Grants and shall allow Sellers the right to review the scope of work and the progress thereon and to provide Sellers with any final and interim with reports of KPMG received by Buyer within five (5) days of their receipt by Buyer.

10. **Physician Releases.** The following is hereby added to the Agreement as Section 5.32:

5.32 Buyer shall obtain releases signed by the various University faculty physicians who filed an appeal with the Pennsylvania Department of Education challenging the decision to approve Restructured University's licensing application.

11. **Reimbursement of Certain Cure Payments.** The following is hereby added to the Agreement as Section 5.33:

5.33 Buyer agrees that Sellers' aggregate cure obligation to Aetna U.S. Healthcare, Independence Blue Cross and HealthPartners, or their affiliates, under their respective Third Party Payor Contracts shall not exceed the sum of $7,000,000; Buyer shall pay 100% of the cure amount, if any, in excess of $7,000,000 due under such Third Party Payor Contracts. Buyer agrees to reimburse Sellers for 50% of all cure payments in excess of $4,000,000 made by Sellers on or after the Closing Date related to service and supply Contracts that are Assumed Contracts. In addition, Buyer agrees to reimburse Sellers for (a) 50% of any cure payments made by Sellers on or after the Closing Date with respect to Third Party Payor Contracts that are Assumed Contracts other than such Contracts with Aetna U.S. Healthcare, Independence Blue Cross and HealthPartners, or their affiliates, provided however, that Buyer's maximum reimbursement liability to Sellers hereunder with respect to these Third Party Payor Contracts shall not exceed $1,000,000; and (b) 50% of any cure payments in excess of $6,275,000 made by Sellers on or after the Closing Date with respect to Real Estate Contracts that are Assumed Contracts, provided however, that (i) Buyer's maximum reimbursement liability to Sellers hereunder with respect to such Real Estate Contracts shall not exceed $1,000,000, and (ii) lease payments for November 1998 rents made by Sellers or Buyer relative to the Real Estate Contracts that are Assumed Contracts shall not be included in the computation of cure payments owed with respect to Real Estate Contracts that are Assumed Contracts. Nothing herein contained shall obligate or be construed to obligate Buyer directly or under any third party beneficiary theory to any party to whom the Sellers make a cure payment that is the subject of a reimbursement obligation owed by Buyer to Sellers hereunder or constitute or be deemed to constitute an assumption by Buyer of Sellers' obligation to make cure payments with respect to Assumed Contracts or limit the protection afforded to Buyer by the Sale Orders from liability for cure payments with respect to the Assumed Contracts.

12. **Conditions Precedent.**

(a) Seller's Conditions. The following is hereby added to the Agreement as Section 6.03A:

6.03A Sellers shall have received confirmation from the Pennsylvania Department of Education that the appeal filed by various University tenured faculty physicians challenging the decision to approve Restructured University's licensing application has been withdrawn with prejudice.

(b) Buyer's Conditions. The following is hereby added to the Agreement as Section 7.02(h):

7.02(h) Buyer shall have received confirmation from the Pennsylvania Department of Education that the appeal filed by various University tenured faculty physicians challenging the decision to approve Restructured University's licensing application has been withdrawn with prejudice.

13. **Actions at Closing.**

(a) **Actions of Seller.** Section 8.02(f) of the Agreement shall be replaced in its entirety with the following:

(f) to Buyer the Grant Escrow Agreement, fully executed by Sellers, and to Buyer, Restructured University and Drexel the Gift Agreement fully executed by Sellers.

(b) **Actions of Buyer.** Sections 8.03(b), (c) and (f) of the Agreement shall be replaced in their entirety with the following:

(b) (i) to the Escrow Agent, the Indemnity Deposit in accordance with the Indemnity Escrow Agreement and the Grant Escrow Deposit in accordance with the Grant Escrow Agreement; and (ii) to the Escrow Agent under the Gift Agreement, the Drexel Fund.

(c) to the Restructured University the Restructured University Fund pursuant to the Endowment Agreement and to Drexel (or to the Escrow Agent under the Gift Agreement) the Drexel Fund;

(f) to Sellers the Indemnity Escrow Agreement, the Grant Escrow Agreement and the Collection Agreement, fully executed by Buyer and the Academic Affiliation Agreement between the Restructured University and Allegheny General Hospital and the Gift Agreement fully executed by Buyer, Drexel and Restructured University.

(c) **Actions of Buyer**. Sections 8.03(l) shall be added to the Agreement as follows:

(l) to Restructured University the Endowments and Grants related to the University, and to PHRC the Endowments related to the Hospital Businesses.

14. **General.**

(a) **Definitions**. Capitalized terms not defined in this Amendment shall have the meanings ascribed to them in the Agreement.

(b) **Schedules**. The Schedules and Exhibits attached to this Amendment are integral parts of the Agreement as if fully set forth therein and all statements appearing therein shall be deemed to be representations.

(c) **Reproduction of Documents**. This Amendment and all documents relating hereto, including consents, waivers and modifications which may hereafter be executed, the documents delivered at the Closing, and financial statements, certificates and other information previously or hereafter furnished to any party may be reproduced by any party by any photographic, photostatic, microfilm, micro-card, miniature photographic or other similar process and the parties may destroy any original documents so reproduced. The parties stipulate that any such reproduction shall be admissible in evidence as the original itself in any judicial, arbitral or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made in the ordinary course of business) and that any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence.

(d) **Consented Assignment**. Notwithstanding anything contained herein to the contrary, this Amendment shall not constitute an agreement to assign any Contract, claim or right not assignable under the provisions of the Bankruptcy Code pursuant to the Hospital Businesses Sale Order or the University Asset Sale Order. If an attempted assignment would be invalid under the provisions of the Bankruptcy Code, Sellers shall cooperate in any reasonable arrangement designed to provide for Buyer the benefits under any such Contract, claim or right, including enforcement of any and all rights of any Seller against the other Person arising out of the breach or cancellation by such other Person or otherwise.

(e) **Time of Essence**. Time is of the essence in the performance of this Amendment. This Section may be waived only in a writing expressly referring hereto.

(f) **Consents, Approvals and Discretion**. Except as herein expressly provided to the contrary, whenever this Amendment requires any consent or approval to be given by either party or either party must or may exercise discretion, such consent or approval shall not be unreasonably withheld or delayed and such discretion shall be reasonably exercised.

(g) **Choice of Law**. This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to such state's conflicts of laws rules.

(h) **No Third Party Beneficiary**. The terms and provisions of this Amendment are intended solely for the benefit of the parties, the Buyer's Indemnified Persons, Sellers' Indemnified Persons, and their respective successors and permitted assigns, and are not intended to confer third-party beneficiary rights upon any other Person.

(i) **Waiver of Breach, Right or Remedy**. The waiver by any party of any breach or violation by another party of any provision of this Amendment or of any right or remedy permitted the waiving party in this Amendment (i) shall not waive or be construed to waive any subsequent breach or violation of the same provision, (ii) shall not waive or be construed to waive a breach or violation of any other provision, and (iii) shall be in writing and may not be presumed or inferred from any party's conduct. Except as expressly provided otherwise in this Amendment no remedy conferred by this Amendment is intended to be exclusive of any other remedy, and each and every remedy shall be in addition to every other remedy granted in this Amendment or now or hereafter existing at law or in equity, by statute or otherwise. The election of any one or more remedies by a party shall not constitute a waiver of the right to pursue other available remedies. In addition to any other rights and remedies any party may have at law or in equity for breach of this Amendment, each party shall be entitled to seek an injunction to enforce the provisions of this Amendment.

(j) **Notices**. Any notice, demand or communication required, permitted or desired to be given hereunder shall be deemed effectively given if given in writing pursuant to the terms of the Agreement.

(k) **Severability**. If any provision of this Amendment is held or determined to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any party under this Amendment will not be materially and adversely affected thereby: (a) such provision will be fully severable; (b) this Amendment will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof; (c) the remaining provisions of this Amendment will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom; and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Amendment a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

(l) **Entire Agreement; Amendment**. The Agreement, as amended by this Amendment, supersedes all previous contracts, agreements and understandings and constitutes the entire agreement of whatsoever kind or nature existing between or among the parties representing the within subject matter and no party

shall be entitled to benefits other than those specified. As between or among the parties, any oral or written representation, agreement or statement not expressly incorporated, whether given prior to or on the date hereof, shall be of no force and effect unless and until made in writing and signed by the parties on or after the date hereof. This Amendment may not be amended except in a written instrument executed the parties.

(m) **Counterparts**. This Amendment may be executed in two or more counterparts, each and all of which shall be deemed an original and all of which together shall constitute but one and the same instrument.

(n) **Drafting**. No provision of this Amendment shall be interpreted for or against any Person on the basis that such Person was the draftsman of such provision, and no presumption or burden of proof shall arise favoring or disfavoring any Person by virtue of the authorship of any provision of this Amendment.

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IN WITNESS WHEREOF, the parties have caused this Amendment to be executed in multiple originals by their duly authorized officers as of the Effective Date.

ALLEGHENY UNIVERSITY HOSPITALS-EAST

By: _____
Title: _____

ALLEGHENY HOSPITALS, CENTENNIAL

By: _____
Title: _____

ALLEGHENY UNIVERSITY MEDICAL PRACTICES

By: _____
Title: _____

ALLEGHENY UNIVERSITY OF THE HEALTH SCIENCES

By: _____
Title: Interim President

DIVERSIFIED HEALTH GROUP

By: _____
Title: _____

ALLEGHENY HEALTH, EDUCATION AND RESEARCH FOUNDATION

By: _____
Title: _____

TENET HEALTHSYSTEM PHILADELPHIA, INC.

By: _____
Title: _____

TENET HEALTHCARE CORPORATION

By: _____
Title: _____

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By:
Title: