IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

In re:	)	
	)	Chapter 11
Curae Health, Inc., *et al.*[1]	)	Case No. 18-05665
	)	
1721 Midpark Road, Suite B200	)	Judge Walker
Knoxville, TN 37921	)	
Debtors.	)	Jointly Administered

ORDER (I) AUTHORIZING THE DEBTORS TO ENTER INTO THE INTERIM MANAGEMENT SERVICES AGREEMENT WITH CLARKSDALE HMA, LLC, COAHOMA COUNTY, AND CHS/COMMUNITY HEALTH SYSTEMS, INC. AND (II) GRANTING RELATED RELIEF

Upon the motion (Docket No. 314) (the "**Motion**")[2] of the debtors and debtors in possession (the "**Debtors**") in the above-captioned chapter 11 cases (the "**Chapter 11 Cases**") for entry of an order, pursuant to sections 105(a), 363, and 365 of title 11 of the United States Code (the "**Bankruptcy Code**"), rules 2002 and 6006 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and rule 9075-1 of the Local Rules of the Bankruptcy Court for the Middle District of Tennessee (the "**Local Rules**"), authorizing Debtors to (I)(A) shut down the Clarksdale Hospital; (B) reject unexpired leases and contracts of Clarksdale; and (C) receive related relief; or, in the alternative, (II)(A) transfer operations of the Clarksdale Hospital to a new operator free and clear of any liens, claims, or encumbrances pursuant to an operations transfer agreement to be filed with the court; (B) assume and assign the Coahoma County Lease and certain other unexpired leases and contracts requested by the new operator;

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Curae Health, Inc. (5638); Amory Regional Medical Center, Inc. (2640); Batesville Regional Medical Center, Inc. (7929); and Clarksdale Regional Medical Center, Inc. (4755); Amory Regional Physicians, LLC (5044); Batesville Regional Physicians, LLC (4952); Clarksdale Regional Physicians, LLC (5311).

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Interim Management Services Agreement, attached hereto as Exhibit A.

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and (C) receive related relief, all as more fully set forth in the Motion; and upon the Court's Interim Order on Debtors' Motion (Docket No. 393) (the "**Interim Order**"); and upon the record of the hearings on the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court being able to issue a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Motion having been given pursuant to Local Rule 9075-1; and it appearing that no other or further notice of the Motion is required; and this Court having found that the relief requested by the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and after due deliberation thereon; and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED as set forth below.

2. The Interim Management Services Agreement, attached hereto as Exhibit A, is hereby approved.

3. Pursuant to Section 2.1 of the Interim Management Services Agreement, other than with respect to acts of gross negligence or willful misconduct, none of the Board of Directors, Curae, the Hospital, the Hospital Governing Body, Strategic Healthcare Resources, LLC, or each of their respective directors, officers, employees, agents, representatives, members, attorneys, investment bankers, restructuring consultants and financial advisors shall have or incur any liability to any person or governmental or non-governmental entity for any act or omission in connection with the execution and performance of the Interim Management Services Agreement.

4. Pursuant to sections 105(a) and 363 of the Bankruptcy Code, the Debtors are authorized, but not directed, to enter into the Interim Management Services Agreement.

5. Notwithstanding the relief granted herein and any actions taken hereunder, nothing in the Motion or this Order shall: (a) constitute an admission as to the validity or priority of any claim against the Debtors, (b) constitute a waiver of the Debtors' rights to dispute any claim, or (c) constitute an assumption or rejection of any executory contract or lease of the Debtors.

6. The Debtors are authorized, but not directed, to take such actions and to execute such documents as may be necessary to implement the relief granted by this Order.

7. Good cause exists to waive the stay provisions of Bankruptcy Rules 6004(h) and the Court hereby waives such provisions. This Order shall become effective immediately upon its entry.

8. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Order.

This Order Was Signed And Entered Electronically As Indicated At The Top Of The First Page

APPROVED FOR ENTRY:

POLSINELLI PC

/s/ Michael Malone
Michael Malone
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-and-

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Counsel to the Debtors and
Debtors in Possession

Exhibit A

(Interim Management Services Agreement)

INTERIM MANAGEMENT SERVICES AGREEMENT

by and between

CLARKSDALE REGIONAL MEDICAL CENTER, INC. AND CLARKSDALE REGIONAL PHYSICIANS, LLC (Collectively, "Owner"),

CLARKSDALE HMA, LLC ("Manager"),

COAHOMA COUNTY, MISSISSIPPI ("County")

and

CHS/COMMUNITY HEALTH SYSTEMS, INC. ("Indemnitor")

December ____, 2018

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INTERIM MANAGEMENT SERVICES AGREEMENT

THIS INTERIM MANAGEMENT SERVICES AGREEMENT ("**Agreement**") is entered into as of December ____, 2018 (the "**Execution Date**"), by and between CLARKSDALE REGIONAL MEDICAL CENTER, INC., a Tennessee nonprofit corporation, CLARKSDALE REGIONAL PHYSICIANS, LLC, a Tennessee Limited Liability Company (together, "**Owner**"), CLARKSDALE HMA, LLC, a Mississippi limited liability company ("**Manager**"), COAHOMA COUNTY, MISSISSIPPI ("**County**") and, solely for purposes of Section 4.1, CHS/COMMUNITY HEALTH SYSTEMS, INC. ("**Indemnitor**"). Owner, Manager, and County are sometimes referred to in this Agreement as a "**Party**" or, collectively, as the "**Parties.**"

RECITALS

A. Owner owns and operates a general acute care hospital located in Clarksdale, Mississippi, commonly known as Northwest Mississippi Regional Medical Center, together with certain outpatient care facilities, physician practices and ancillary services related to such hospital (the "**Hospital**"). Owner leases the real property on which the acute care hospital is operated pursuant to a lease of real property and related assets from the County, as further set forth in that certain Lease Agreement dated as of December 28, 1995 among Coahoma County, Mississippi, acting through the Coahoma County Board of Supervisors and Clarksdale HMA, Inc. and Health Management Associates, Inc. (the "Lease"), as amended on December 15, 1998 and assigned to Owner pursuant to that certain Assignment and Assumption of Lease, recorded at Book 2017 Page 4644 in the office of the Chancery Clerk for Coahoma County, Mississippi.

B. Owner and certain of its affiliates filed petitions under Chapter 11 of Title of the United States Code, 11 U.S.C. § 101 *et seq.* (the "**Bankruptcy Code**"), on August 24, 2018, Jointly Administered as Case No. 3:18-bk-05665 (the "**Bankruptcy Case**"), in the United States Bankruptcy Court for the Middle District of Tennessee (the "**Bankruptcy Court**").

C. On November 2, 2018, the Bankruptcy Court entered an Order, Docket No. 393 in the Bankruptcy Case (the "**November 2 Order**"), authorizing an agreement between Owner and the County pursuant to which the Hospital could remain open with certain financial support of the County while the County and Owner work toward a sale of the Hospital to the County or to a third-party operator selected by the County.

D. On November 5, 2018, County and Manager agreed that Manager will take over Hospital operations on December 10, 2018 with the shared goal of keeping the Hospital operating, improving its clinical and financial operations, and attracting a new owner for the Hospital for the remaining term of the Lease.

E. From the Effective Date of this Agreement (as defined in Section 6.1) until the consummation of a transaction pursuant to which the Hospital is sold and the Lease is assigned to Manager or a third party lessee (the "**Closing Date**") or the earlier termination of this Agreement in accordance with Section 6.2 (the "**Transition Period**"), the Parties desire for

Manager to provide Owner with certain management and administrative services in support of the Hospital's operations as identified in this Agreement.

AGREEMENT

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. DUTIES OF MANAGER

1.1 Management. Subject to those duties which shall remain the responsibility of Owner as set forth in Article II, Manager shall provide day-to-day management and operations support for the Hospital. Manager shall provide its services in a manner that meets the day-to-day requirements of the business, operational and administrative needs of the Hospital. Manager shall have the exclusive authority to perform these functions, subject to Owner's ultimate direction and control over the professional, clinical, administrative and other operations of the Hospital as required under applicable conditions of participation (42 C.F.R. Part 482) and regulations thereunder.

1.2 Specific Responsibilities. Subject to the other terms of this Agreement, Manager shall assume and discharge all usual and customary responsibilities, duties and obligations in connection with operating and maintaining the Hospital as a general acute care hospital in material compliance with all regulations and standards required of a general acute care hospital so licensed, including, without limitation, the following services:

(a) Maintenance, repair and/or replacement, as necessary, of the real and personal property of the Hospital, excepting ordinary wear and tear;

(b) Coordination with the Hospital's medical staff;

(c) Management and supervision of all employed personnel and staff;

(d) Billing and collection services for services provided by the Hospital after the Effective Date;

(e) Processing and payment of accounts payable of the Hospital in accordance with the provisions of this Agreement;

(f) Payroll processing, including processing of payroll taxes;

(g) Purchasing all supplies, consumable goods, and other items necessary for the operation of the Hospital, as provided herein;

(h) Bookkeeping and accounting for the operation of the Hospital; and

(i) The timely filing of all reports required by the government and/or any other person or entity, provided that Manager shall use commercially reasonable efforts to provide such filing to Owner for review and possible revision at least ten (10) days prior to its filing; and

(j) Operation of the Hospital in material compliance with all policies of insurance maintained by the Owner, all third party contracts and all operating and capital leases relating to the Hospital.

1.3 Supervision and Employment of Personnel.

(a) During the period between the Effective Date and the earlier of the termination of this Agreement in accordance with Section 6.2 (in which case all Personnel, as defined below, shall immediately become employees of the County's designee) or such date as Personnel shall become employees of Manager pursuant to Section 1.3(b) hereof (the "**Transition Employment Period**"), all employees of Owner and Curae Health, Inc. ("**Curae**") who work at the Hospital ("**Personnel**") shall be and remain employees of Curae and shall continue to participate and receive the benefits being provided under Owner's welfare and pension benefit plans, if any, as of the day before the Effective Date, and such benefits payable and accruing during the Transition Employment Period shall be funded by the Manager consistent with Sections 1.4 and 3.5 hereof, as applicable. During the Transition Employment Period, Owner shall remain responsible for processing payroll and payroll taxes, with Manager funding all payroll, payroll tax expenses, and payroll processing costs attributable to the Transition Employment Period. Manager shall manage and supervise the Personnel on behalf of Owner, in material compliance with all applicable federal, state and local laws and ordinances, rules, regulations and orders, and ensure compliance, in all material respects, with all staffing requirements and related obligations under Mississippi licensure, accreditation and certification and payor participation standards.

(b) Manager shall be responsible for all accrued vacation, paid time off, sick leave, and similar benefits that accrue to the Personnel during the Transition Employment Period. In Manager's sole discretion, at any time prior to the expiration of this Agreement, Manager may elect to hire certain Personnel as employees of Manager or an affiliate of Manager on such terms as may be agreed between Manager and such Personnel. Nothing in this paragraph or any other shall be deemed to affect or limit in any way the normal management prerogatives of Owner or Manager or Manager's affiliates with respect to employees or to create or grant to any such employees third party beneficiary rights or claims of any kind or nature.

1.4 Financial Management.

(a) For all Hospital revenues collected during the Transition Period, Owner and Manager shall direct Owner's revenue cycle vendors, MEDHOST of Tennessee, Inc. and Athenahealth, Inc. (the "**RCVs**"), to determine whether such revenues pertain to items and services provided before the Effective Date ("**Pre-Effective-Date-Revenues**") or to items and services provided on or after the Effective Date ("**Post-Effective-Date-Revenues**") and shall provide Owner, Manager, MidCap Funding IV Trust ("MidCap"), ServisFirst Bank ("ServisFirst"), and the Official Committee of Unsecured Creditors with weekly reports setting forth the accounting for Pre- and Post-Effective Date Revenues.

(b) Owner shall designate an existing Owner-owned bank account (the "**Owner Operating Account**") to receive transfers of Pre-Effective-Date-Revenues. To the extent received, Manager shall cause to be transferred to the Owner Operating Account, by federal wire fund transfer or otherwise immediately available funds, pursuant to a sweep or transfer agreement, on a daily basis during the Term of this Agreement, all Pre-Effective Date Revenues. All Pre-Effective Date Revenues (but not Post-Effective-Date-Revenues) shall be subject to liens in favor of MidCap and ServisFirst to the same extent, validity, and priority as of the date immediately preceding the execution of this Agreement. For the avoidance of doubt, the entirety of the December 2018 Mississippi Hospital Access Program ("MHAP") payment, regardless of when actually received, shall constitute Pre-Effective-Date-Revenues payable to Owner, subject to liens in favor of MidCap and ServisFirst to the same extent, validity, and priority as of the date immediately preceding the execution of this Agreement, and Manager shall not be obligated to pay any portion of any MHAP contribution necessary to allow owner to receive any MHAP payment.

(c) Owner shall maintain the bank accounts described on **Schedule 1.4(b)** that it has as of the Effective Date into which all payments are deposited ("**Owner Bank Accounts**").

(d) Manager shall designate a Manager-owned bank account (the "**Manager Operating Account**") to receive transfers of funds from Owner for Post-Effective-Date-Revenues. Owner shall remit to Manager all Post-Effective-Date-Revenues deposited in the Owner Bank Accounts (in any event not later than ten (10) business days following receipt) and shall retain all Pre-Effective-Date-Revenues.

(e) With respect to Hospital revenues attributable to items and services provided for patients who are admitted to the Hospital prior to the Effective Date but who are not discharged until after the Effective Date (such patients being referred to herein as the "**Transition Patients**" and services rendered to them being referred to herein as the "**Transition Patient Services**"), Manager and Owner shall take the following actions:

(i) As soon as practicable after the earlier of the Closing Date or termination of this Agreement pursuant to Section 6.2, Manager shall deliver to Owner a statement itemizing the Transition Patient Services provided to the Transition Patients whose medical care is paid for, in whole or in part, by Medicare, Medicaid, TRICARE, Blue Cross or any other third party payor who pays on a diagnostic related group ("**DRG**"), case rate or other similar basis (the "**DRG Transition Patients**"). Owner shall be entitled to retain or receive from Manager, as applicable, an amount equal to (a) the total DRG (including disproportionate share, uncompensated care, low volume adjustment, indirect medical education and graduate medical education) and outlier payments (including capital and any deposits, deductibles or copayments received by Manager or Owner) per the remittance advice received by Manager (and delivered to Owner) on behalf of a DRG Transition Patient, multiplied by a fraction, the numerator of which shall be the number of days such DRG Transition Patient was confined in the Hospital through and including the day immediately preceding the date on which the Effective Date occurs, and the denominator of which shall be the total number of days such DRG Transition Patient was confined in the Hospital, minus (b) any deposits, deductibles or co-payments made or payable by

such DRG Transition Patients to Owner; and

(ii) As of the Effective Date, cut-off billings ("**Interim Billings**") for all Transition Patients not covered by Section 1.4(e)(i) shall be prepared by Owner and sent by Manager following the discharge of the patient from the Hospital. Any payments received by either Manager or Owner for such Interim Billings are the property of Owner and shall be paid to Owner, when and as received by Manager, within ten (10) business days of receipt.

(f) Subject to the provisions of 1.4(e) above, if payments are received by Owner or Manager for which no designation is made as to the date of service and Owner and Manager do not otherwise agree as to how to apply such payment, Owner and Manager shall observe the following procedures:

(i) Any payment received from a payor during the first sixty (60) days after the Effective Date shall be applied first to such payor's pre-Effective Date balances and any remaining portion shall be applied to such payor's post-Effective Date balances.

(ii) Any payment received from a payor after the first sixty (60) days after the Effective Date shall be applied first to such payor's Post-Effective-Date balances and any remaining portion shall be applied to such payor's pre-Effective Date balances.

(iii) Any payments received in connection with this Section 1.4(f) shall be paid in accordance with immediately preceding clauses (i) and (ii) within ten (10) business days of receipt of such payments.

(g) Owner, and not Manager, shall be solely responsible for payment of all expenses, invoices, accounts payable and other obligations of Owner that were incurred or arose from actions prior to the Effective Date, except for payroll and any payroll related expenses ("**Pre-Effective-Date-Expenses**"), subject to applicable bankruptcy and non-bankruptcy law. Owner shall treat all Pre-Effective-Date-Expenses in accordance with Owner's Plan of Reorganization. Invoices, expenses, accounts payable, and other obligations shall be prorated to the extent necessary for appropriate classification as Pre-Effective-Date-Expenses or Post-Effective-Date-Expenses (defined below).

(h) Subject to the other terms of this Agreement, Manager shall undertake, manage, assume, administer, and pay from its own funds: (i) all Hospital operating expenses, including without limitation, all payroll obligations, taxes, employee benefits and accounts payable incurred and arising on or after the Effective Date, including amounts due under capital and operating leases relating to the Hospital and all insurance premiums ("**Post-Effective-Date-Expenses**"); (ii) the timely billing of fees for all services, goods and other items provided at the Hospital on or after the Effective Date; and (iii) the collection of accounts receivable pertaining to services and items provided or otherwise reimbursable after the Effective Date. Manager shall take such actions on behalf of Owner and under Owner's provider numbers, including, without limitation, Owner's provider numbers issued by Medicare, Medicaid or their fiscal

intermediaries or paying agents (the "**Programs**"). For avoidance of doubt, Post-Effective-Date-Expenses shall not include debt service obligations and adequate protection payments, which shall remain the sole responsibility of Owner, but -Effective-Date-Expenses shall include payments on capitalized leases. All expenses that cannot be separated as Pre-Effective-Date Expenses and Post-Effective-Date Expenses will be prorated. Prepaid items and deposits incurred by Owner but used after the Effective Date will be paid by Manager. Any Post-Effective-Date Expenses of Owner that cannot be separately billed for by the Hospital (such as insurance premiums under a master policy of insurance) will be allocated by the Owner and paid by the Manager.

(i) Manager shall maintain all accounting books and records that relate to Owner and its operations after the Effective Date and shall provide access to such books and records to Owner upon reasonable notice. Manager shall, at Manager's own expense, provide Owner with all information in Manager's possession necessary for Owner to file its Monthly Operating Reports with the Bankruptcy Court.

(j) Owner hereby appoints Manager as its agent for purposes of billing and collecting Owner's accounts receivable and Owner hereby agrees to execute any and all documents reasonably necessary to memorialize such appointments. Owner further appoints Manager to be its true and lawful attorney-in-fact during the term of this Agreement for purposes of (i) billing and collecting in the name of Owner, and (ii) receiving, taking possession of and endorsing in the name of Owner any notes, checks, money orders, insurance payments and other instruments received in payment of accounts receivable of Owner. Owner agrees to cooperate with Manager, and to execute such documents and take such other actions as may be reasonably necessary or desirable, in connection with the efficient day-to-day billing and collection of the fees and charges of Owner.

(k) Notwithstanding anything to the contrary set forth herein, all billing and collection functions during the Interim Period pertaining to items and services provided prior to the Effective Date shall be performed by the RCVs pursuant to Owner's agreement with the RCVs.

(l) On or prior to the date hereof, Manager and Owner shall enter into a facility accounts transition agreement with MidCap, in form and substance acceptable to MidCap.

1.5 Legal Compliance. Manager shall use commercially reasonable efforts to manage the Hospital (including, without limitation, its billing and collection activities) in a manner that (i) is intended to result in the delivery of quality medical care, and (ii) is in material compliance with all applicable federal, state and local laws and ordinances, rules, regulations and orders.

1.6 Patient Information.

(a) Manager shall comply at all times, in all material respects, with the requirements of all applicable HIPAA Requirements (as defined in Exhibit A attached hereto)

and the business associate agreement by and between the Parties attached hereto as **Exhibit A** (the "**BAA**") and incorporated herein by this reference.

(b) All patient records and information shall remain the property of Owner during the term of this Agreement. Manager shall properly and completely maintain all patient records of the Hospital during the term of this Agreement. Manager shall have the right, to the extent permitted by applicable law, to analyze and obtain information from such records and report same to Owner. Nothing in this section constitutes the waiver of any attorney-client privilege or other privilege or confidentiality obligation and neither Party shall be required hereunder to give the other Party documents if, as a result, an existing attorney-client privilege or other privilege or confidentiality obligation would be waived. All records, files, proceedings and related information with respect to patients, and of Owner and of Owner's medical staff ("**Medical Staff**") and its committees pertaining to the evaluation and improvement of the quality of patient care at the Hospital, shall be kept strictly confidential by Manager and its personnel according to any applicable federal and state laws and Owner policies. Manager shall take all steps necessary to assure that the confidentiality of medical records and health information of Hospital patients is preserved in accordance with HIPAA Requirements as defined in the BAA, and that all employees and agents of Manager shall use such information solely for the purposes necessary to perform Manager's obligations under this Agreement. Neither Manager nor its personnel shall voluntarily disclose such records or information, either orally or in writing, except as expressly required by law.

1.7 Utilities and Supplies. Manager shall order all utilities, services, materials and supplies reasonably required in the proper day-to-day operations of the Hospital, as required by all laws, regulations, certifications and payer requirements. Manager, on behalf of Owner, shall also arrange and manage the acquisition of all pharmaceutical items for the Hospital, to the extent allowed by law. Manager and Owner shall pay for all such utilities, services, materials, supplies and pharmaceutical items in accordance with the provisions of Section 1.4 hereof. Manager shall purchase the inventory and supplies at the Hospital from Owner based on their historical cost as determined by a physical inventory performed by Owner and Manager as of the close of business on or about the Effective Date. Such payment shall be made within ten (10) business days after the Effective Date. The proceeds will be held in escrow by the Owner subject to the liens of ServisFirst Bank and MidCap pending further order of the Bankruptcy Court. Any inventory and supplies delivered to the Hospital on or after the Effective Date will be paid for by Manager.

1.8 Audit Rights; Manager Liaison with Owner. For purposes of inspection and audit in order to confirm Manager's compliance with Section 1.4 hereof, Owner shall at all times for a period not to exceed twelve (12) months from the Effective Date, have full and unrestricted access to the Hospital, including all of its facilities, Personnel, accounts, books and records, contracts and otherwise, as the owner and operator of the Hospital and in furtherance of Owner's discharge of its duties thereby. Manager shall facilitate such access by the Owner's board of directors (the "**Board of Directors**") and its representatives.

1.9 Access to Books and Records. Manager agrees that it will keep, and will make available upon request to the Secretary of Health and Human Services, or to the Comptroller General or any of their duly authorized representatives the contract and books, documents and

records necessary to comply with the provisions of Section 1861(v)(1)(I) of the Social Security Act, which are in the possession of Manager, until the expiration of four (4) years after the furnishing of services pursuant to this Agreement, subject to applicable privileges and immunities. This Section shall continue to be effective between the Parties notwithstanding the termination or rescission of all or part of the remainder of this Agreement.

1.10 Contracts. Manager shall not bind Owner to any contracts without the prior approval of Owner, which approval shall not be unreasonably withheld, conditioned or delayed. Manager may terminate any contract (other than this Agreement) on behalf of Owner, provided that such termination is performed legally and does not result in any amounts payable by Owner except for rejection damages available pursuant to the Bankruptcy Code.

1.11 Final Cost Reporting. To the extent Owner is required by law to file a final cost report pertaining to the Transition Period, Manager shall provide to Owner all financial and administrative resources and support that are reasonably necessary to permit Owner to file a final cost report with all necessary governmental and nongovernmental payors, including, but not limited to, the Mississippi Department of Health and the Centers for Medicare & Medicaid Services ("**CMS**"), within forty-five (45) days following the Closing Date, in accordance with Section 1815(a) of the Social Security Act and the regulations thereunder. Notwithstanding the foregoing deadlines, the time for the Parties' respective performance concerning the delivery and filing of the final cost report will be reasonably extended in the event that an extension for filing is obtained in writing from CMS.

1.12 Manager's Right to Subcontract. Manager may subcontract with other persons or entities for any of the services that Manager is required to perform under this Agreement.

ARTICLE II. DUTIES OF OWNER

2.1 Exculpation. The Effective Date shall not occur until such time as the Bankruptcy Court enters an Order in all respects in form and substance satisfactory to Owner and the Committee (a) approving this Agreement; and (b) providing that, other than with respect to acts of gross negligence or willful misconduct, none of the Board of Directors, Curae, the Hospital Governing Body (as defined below), Strategic Healthcare Resources, LLC, or each of their respective directors, officers, employees, agents, representatives, members, attorneys, investment bankers, restructuring consultants and financial advisors (collectively, the "**Exculpated Parties**") shall have or incur any liability to any person or governmental or non-governmental entity for any act or omission in connection with the execution and performance of this Agreement. Notwithstanding the foregoing, nothing in this Section 2.1 shall be deemed as an exculpation of any party's contractual obligations under this Agreement.

2.2 Owner's Board of Directors; Role and Responsibilities. Without limiting (a) the responsibility of Owner and its Board of Directors concerning establishment of the mission and vision of the Hospital and determination of appropriate strategic goals, objectives and relationships for the Hospital, or (b) the duties of the board of trustees of the Hospital ("**Hospital Governing Body**") as prescribed under applicable conditions of participation (42 C.F.R. Part 482), the Hospital Governing Body, acting in its duly appointed role, shall:

(a) **Board Control.** Exercise ultimate control over the assets and operation of the Hospital, except that Manager (as provided in Section 1.1) shall act as the Hospital Governing Body's agent for the management of the Hospital, and shall have the authority to supervise and manage its day-to-day operations in accordance with the policy directives, written rules and regulations adopted by the Hospital Governing Body and as otherwise expressly set forth herein. Notwithstanding the foregoing, each of Owner and Hospital Governing Body shall at all times during the term of this Agreement have full and unrestricted access to the Hospital, including all of its facilities, Personnel, accounts, books and records, contracts and otherwise, as the owner and operator of the Hospital; and

(b) **Medical Staff Appointments and Privileges.** Ensure that all Medical Staff requirements are met in accordance with the applicable conditions of participation and approve all Medical Staff appointments, as well as define, adjust, withhold, or withdraw any and all practice privileges in the Hospital. Such action will be based upon the recommendations of the Medical Staff within the provisions of the Bylaws of the Hospital. Manager shall consult with Hospital Governing Body and/or the Medical Staff in regard to matters pertaining to appointments, the definition of privileges, and Medical Staff function within the Hospital.

2.3 Licensure. Owner and Manager shall use commercially reasonable efforts to keep in full force and effect all licenses, certifications, permits, provider numbers and similar items necessary or appropriate to the continued operation of the Hospital, and both Parties shall use commercially reasonable efforts to not allow any of the same to become invalid, restricted, or otherwise adversely affected by the acts or omissions of any of their officers, employees, agents or representatives. Owner, with assistance from Manager, shall perform those obligations and responsibilities that must be performed by Owner for the Hospital to remain licensed, but the Parties recognize that the Hospital will be managed and operated by Manager, and that Manager therefore shall have the primary responsibility for taking all actions necessary to maintain all licenses, certifications and provider numbers. Manager shall notify Owner of any actions that must be affirmatively taken by Owner in order to maintain any of the above items during the term of this Agreement.

(a) Owner shall not take any action or fail to take any action that could be reasonably anticipated to terminate or jeopardize the effectiveness of any licenses, certifications, approvals or provider numbers necessary for operation of the Hospital.

(b) Owner shall: (i) notify Manager immediately if Owner receives any written notice or communication relating to the Hospital or operation thereof; and (ii) execute and return, in a timely manner, all contracts and agreements (including extensions and renewals thereof) reasonably necessary to continue in effect the Hospital's participation in and eligibility for the Programs.

2.4 Consent by Owner; Cooperation. Owner shall not unreasonably withhold, delay or condition its consent to any action requested by Manager hereunder. Owner shall cooperate in good faith with Manager in connection with the provision of Manager's services hereunder.

2.5 **Owner Actions**. During the term of this Agreement, Owner shall not, without the consent of Manager:

(a) Authorize or approve the transfer, sale or other disposition of any of the Hospital's real or personal property, except for such items as are no longer useful, or obsolete, worn out or incapable of any further use, and as will be replaced in accordance with Owner's usual practice with other items of substantially the same value and utility as the items transferred, sold, exchanged or otherwise disposed of; provided this shall not restrict Owner's ability to seek to sell the Hospital's real and personal property pursuant to Bankruptcy Code Section 363;

(b) Authorize or approve the creation, participation in or agreement to the creation of any liens, encumbrances or hypothecations of any of the Hospital's real or personal property, except any liens for current taxes not yet due and payable, liens existing on the date hereof and liens created in the ordinary and usual course of its business as heretofore conducted;

(c) Authorize or approve the execution of any lease, contract or agreement of any kind or character with respect to the Hospital or its licensed operations, or incur any liabilities in connection therewith, save and except (a) those which will terminate or expire prior to the Closing Date; and (b) those to which it is presently committed or that arise in the ordinary course of business as heretofore conducted;

(d) Authorize or approve the termination of any permits concerning the Hospital or the its licensed operations;

(e) Authorize or approve the waiver or release of any right or claim of Owner with respect to the Hospital or its licensed operations except in the ordinary course of business; or

(f) Take any action that in any way alters Manager's rights to access Hospital assets as set forth in this Agreement.

ARTICLE III. COMPENSATION

3.1 **Management Fee**. As compensation for providing the items and services under this Agreement, Manager shall retain the excess of any Post-Effective-Date-Revenue over Post-Effective-Date-Expenses during the term of this Agreement. In the event that Post-Effective-Date-Revenue is insufficient to cover Post-Effective-Date-Expenses, Manager shall not receive any management fee and Manager shall provide funding in an amount sufficient to make up the shortfall between Post-Effective-Date-Revenue received and Post-Effective-Date-Expenses incurred during the term of this Agreement without any recourse to Owner, which shortfall shall not be paid by Owner.

3.2 **Pre-Manager Accounts.** Owner shall close its financial books with respect to the time period prior to the Effective Date, and shall make a record of all accounts receivable, accounts payable and other financial information pertaining to the Hospital prior to the Effective Date (the **"Pre-Manager Accounts"**). Owner shall have sole responsibility for all liabilities and expenses that pertain to the operations of the Hospital prior to the Effective Date

except as provided in the November 2 Order, this Agreement and subject to applicable bankruptcy and non-bankruptcy law.

3.3 Post-Manager Accounts. Manager shall establish a new set of financial books for the Hospital operations on and after the Effective Date (the **"Post-Manager Accounts"**). Manager shall, on Owner's behalf, pay Post-Effective-Date-Expenses using Post-Effective-Date-Revenues or Manager's own funds.

3.4 Right to Audit. Owner and Manager shall have the right to audit all financial information and/or books with respect to Owner, Manager's and the Hospital's performance under the terms of this Agreement.

3.5 Medical Insurance Plan Maintained by Owner. Money collected from employees for health care contributions will be paid to Owner through December 31, 2018. Manager will pay the Owner's portion of the cost of health care attributable to the Transition Employment Period and Owner will be responsible for paying claims incurred in that period from the funds contributed by the employees and the Owner's portion contributed by the Manager. The parties understand that the Owner's portion of the cost of health care amounts to approximately $225,000 per month, before considering any pro rata allocation between Owner and Manager to determine the amount attributable to the Transition Employment Period.

ARTICLE IV. INDEMNITY

4.1 Indemnification by Manager and Indemnitor. Except as and to the extent relating to Owner's or any of its affiliates' gross negligence or willful misconduct, bad faith or fraud, Manager and Indemnitor, jointly and severally, shall indemnify and hold harmless Owner, its affiliates, and its and their respective officers, directors, partners, managers, shareholders, members, principals, attorneys, agents, employees and other representatives (collectively, the "**Owner Indemnified Parties**") from and against any and all Losses that any such Owner Indemnified Party incurs as a result of, or arising from the operation of the Hospital after the Effective Date. "**Losses**" means all losses, liabilities, claims, damages, penalties, fines, judgments, awards, settlements, costs, fees (including court costs and costs of appeal), disbursements and expenses (including reasonable costs of investigation and defense and reasonable attorneys' fees) incurred or suffered by an Owner Indemnified Party, whether or not involving a third party claim. Notwithstanding the foregoing, if an Owner Indemnified Party receives an amount under insurance coverage or from such other party with respect to Losses at any time subsequent to indemnification provided by Manager, then such Owner Indemnified Party shall promptly reimburse Manager for any related indemnification payment made. During the Transition Period, Owner shall maintain all policies of insurance that were in place immediately prior to the Effective Date, and Manager shall pay for the cost of maintaining such insurance through the Transition Period by delivering to Owner an amount equal to the prorated portion of premiums for such insurance applicable to the Transition Period. Notwithstanding the foregoing, Owner Indemnified Parties shall have no obligation to pursue any claims against such insurance but, upon request of Manager, shall assign any such insurance claims to Manager to pursue at the Manager's sole cost and expense.

4.2 Indemnification by Owner. Except as and to the extent relating to Manager's or any of its affiliates' gross negligence or willful misconduct, bad faith or fraud, including the gross negligence, willful misconduct, bad faith or fraud of Manager's employees or contractors, Owner shall indemnify and hold harmless Manager, its affiliates, and its and their respective officers, directors, partners, managers, shareholders, members, principals, attorneys, agents, employees and other representatives (collectively, the "Manager Indemnified Parties") from and against any and all Losses that any such Manager Indemnified Party incurs as a result of, arising out of, relating to or in connection with: (i) any breach or nonfulfillment of any covenants or other agreements made by Owner in this Agreement or (ii) any gross negligence, fraud, willful misconduct or criminal acts of Owner; provided, however, that Owner's indemnity obligation pursuant to this Section 4.2 shall be strictly limited to the amount of any insurance proceeds paid or payable by Owner's insurance carriers on account of claims for such Losses. Notwithstanding the foregoing, nothing in this Section 4.2 shall obligate Owner to fund any deductible or self-insured retention applicable to any insurance policy, and Manager shall have the right, but not the obligation, to contribute to the funding of such deductible or self-insured retention in its sole discretion.

ARTICLE V. RELATIONSHIP BETWEEN THE PARTIES

5.1 Independent Contractor. Manager is and shall at all times be an independent contractor with respect to Owner in meeting Manager's responsibilities under this Agreement. Nothing in this Agreement is intended nor shall be construed to create a partnership, employer-employee or joint venture relationship between Manager and Owner or between Manager and the Medical Staff.

5.2 Limitation on Control. Manager shall neither have nor exercise any control or direction over the professional medical judgment of any professional provider contracted with Owner, or the methods by any professional provider contracted with Owner performs professional medical services; provided, however, that Owner and any professional provider contracted with Owner shall be subject to and shall at all times comply with the bylaws, guidelines, policies and rules of Manager, including Manager's code of conduct. Neither Party shall have any right, power or authority to act for or enter into binding agreements on behalf of the other Party, except as specifically set forth in this Agreement.

5.3 Referrals. No term of this Agreement shall be construed as requiring or inducing Owner or any person employed or retained by Owner to refer patients to Manager or any Manager-affiliated entity. Owner's rights under this Agreement shall not be dependent in any way on the referral of patients to Manager or its affiliated organizations by Owner or any person employed or retained by Owner.

ARTICLE VI. TERM AND TERMINATION

6.1 Term. This Agreement shall become effective as of 12:01 a.m. on December 16, 2018 (the **"Effective Date"**), and shall continue until the Closing Date, subject to the termination provisions of this Agreement.

6.2 Termination.

(a) If Manager breaches any material provision of this Agreement, then Owner may, at its option, upon thirty (30) days written notice to Manager, unless Manager has cured said breach before said thirty (30) days have elapsed or immediately in the case of danger to patient care, (i) terminate this Agreement, or (ii) maintain this Agreement in full force and effect, and in either case seek damages or other relief appropriate thereto.

(b) If Owner breaches any material provision of this Agreement, then Manager may, at its option, upon thirty (30) days written notice to Owner, unless Owner has cured said default before said thirty (30) days have elapsed, or immediately in the case of danger to patient care, (i) terminate this Agreement, or (ii) maintain this Agreement in full force and effect, and in either case seek damages or other relief appropriate thereto.

(c) This Agreement may be terminated upon mutual agreement of Manager and Owner.

(d) This Agreement may be terminated by Manager after January 25, 2019 if no motion has been filed in the Bankruptcy Case pursuant to 11 U.S.C. § 363 seeking approval of a transaction pursuant to which the assets of the Hospital are to be transferred to Manager or any other party agreed to by Owner and County upon terms agreeable to the Parties hereto; provided, however, that in the event of a termination pursuant to this Section 6.2(d): (i) such termination shall not be effective until thirty (30) days after Manager provides notice of its intent to terminate; (ii) upon such termination, County will immediately take the necessary steps to operate the Hospital at its cost and expense and on an emergency basis as it may determine in its sole discretion in accordance with applicable Mississippi law; and (iii) Manager, Owner, and County agree to work in good faith to achieve a transfer of operations of the Hospital to County or to County's designee within such thirty (30) day period, provided that neither the Owner nor its bankruptcy estate shall bear any costs or expenses in connection with such transition.

(e) This Agreement may be terminated by Owner, the Official Committee of Unsecured Creditors, MidCap or ServisFirst after January 25, 2019 if no motion has been filed in the Bankruptcy Case pursuant to 11 U.S.C. § 363 seeking approval of a transaction pursuant to which the assets of the Hospital are to be transferred to Manager or any other party agreed to by Owner and County upon terms agreeable to the Official Committee of Unsecured Creditors, MidCap and ServisFirst; provided, however, that in the event of a termination pursuant to this Section 6.2(e): (i) such termination shall not be effective until thirty (30) days after January 25, 2019; (ii) upon such termination, County will immediately take the necessary steps to operate the Hospital at its cost and expense and on an emergency basis as it may determine in its sole discretion in accordance with applicable Mississippi law; and (iii) Manager, Owner, and County agree to work in good faith to achieve a transition of management of the Hospital to County or to County's designee within such thirty (30) day period, provided that neither the Owner nor its bankruptcy estate shall bear any costs or expenses in connection with such transition.

6.3 Rights Upon Termination. Upon any termination or expiration of this Agreement, all rights and obligations of the Parties shall cease except those rights and

obligations that have accrued or expressly survive such termination or expiration, including without limitation the rights and obligations under Article IV of this Agreement. If the assets comprising the Hospital have not been sold by the Owner, Manager shall return the assets comprising the Hospital to Owner in the same condition as existed on the Effective Date, reasonable wear and tear excepted.

ARTICLE VII. DISPUTE RESOLUTION

7.1 **Dispute Resolution**. The Parties acknowledge and agree that the Bankruptcy Court shall have jurisdiction to resolve any dispute that may arise under this Agreement during the pendency of the Bankruptcy Case.

ARTICLE VIII. GENERAL PROVISIONS

8.1 **Amendment**. This Agreement may be modified or amended only by mutual written agreement of the Parties and approved by the Official Committee of Unsecured Creditors, MidCap and ServisFirst. Any such modification or amendment must be in writing, dated, signed by the Parties and attached to this Agreement.

8.2 **Assignment**. Except for assignment by Manager to an entity owned, controlled by, or under common control with Manager (for which no prior consent shall be required), neither Party may assign any interest or obligation under this Agreement without the other Party's prior written consent. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns.

8.3 **Attorneys' Fees**. If either Party brings an action for any relief or collection against the other Party, declaratory or otherwise, arising out of the arrangement described in this Agreement, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' fees and costs actually incurred in bringing such action, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. For the purpose of this Section, attorneys' fees shall include fees incurred in connection with discovery, post judgment motions, contempt proceedings, garnishment and levy.

8.4 **Authorized Persons**. Whenever any consent, approval or determination of a Party is required pursuant to this Agreement, the consent, approval or determination shall be rendered on behalf of the Party by the person or persons duly authorized to do so, which the other Party shall be justified in assuming means any officer of the Party rendering such consent, approval or determination, or the Party's board of directors.

8.5 **Choice of Law**. This Agreement shall be construed in accordance with and governed by title 11 of the United States Code and the laws of the State of Tennessee, except choice of law rules that would require the application of the laws of any other jurisdiction.

8.6 **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8.7 **Entire Agreement**. This Agreement and the November 2 Order are the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties. No other understanding between the Parties shall be binding on them unless set forth in writing, signed and attached to this Agreement.

8.8 **Schedules and Exhibits**. The attached schedules and exhibits, together with all documents incorporated by reference in the schedules and exhibits, form an integral part of this Agreement and are incorporated into this Agreement wherever reference is made to them to the same extent as if they were set out in full at the point at which such reference is made.

8.9 **Force Majeure**. Neither Party is liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), action of any governmental authority not foreseeable at the time of the execution of this Agreement, riots, revolutions, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, strikes or similar nonperformance or defective performance or late performance of employees, suppliers or subcontractors.

8.10 **Further Assurances**. Each Party shall, at the reasonable request of the other Party, execute and deliver to the other party all further instruments, assignments, assurances and other documents, and take any actions as the other Party reasonably requests in connection with the carrying out of this Agreement.

8.11 **Headings**. The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

8.12 **Notices**. All notices or communications required or permitted under this Agreement shall be given in writing and delivered personally or sent by United States registered or certified mail with postage prepaid and return receipt requested or by overnight delivery service (e.g., Federal Express, DHL). Notice is deemed given when sent if sent as specified in this paragraph, or otherwise deemed given when received. In each case, notice shall be delivered or sent to:

OWNER:

Clarksdale Regional Medical Center, Inc.
Clarksdale Regional Physicians, LLC
c/o Curae Health, Inc.
Stephen N. Clapp
1721 Midpark Rd.
Knoxville, TN 37921

With a copy to:	David Gordon Polsinelli PC 1201 West Peachtree Street, Suite 1100 Atlanta, GA 30309
MANAGER:	Clarksdale HMA, LLC 4000 Meridian Blvd. Franklin, TN 37067 Attn: Senior Vice President - Development
With a copy to:	CHSPSC, LLC 4000 Meridian Blvd. Franklin, TN 37067 Attn: General Counsel
COUNTY:	Tom T. Ross, Jr. Hunt Ross and Allen, PA 123 Court St. Clarksdale, MS 38614
With a copy to:	Erika R. Barnes Stites & Harbison PLLC 401 Commerce Street, Suite 800 Nashville, TN 37219
INDEMNITOR:	
With a copy to:	

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS:

	Andrew Sherman, Esq. SILLS CUMMIS & GROSS PC 1 Riverfront Plaza Newark, NJ 07102
MIDCAP:	David E. Lemke, Esq. Katie G. Stenberg, Esq. WALLER LANSDEN DORTCH & DAVIS, LLP 511 Union Street, Suite 2700 Nashville, Tennessee 37219
SERVISFIRST:	James Kelley

Neal & Harwell, PLC
Suite 1000
1201 Demonbreun Street
Nashville, TN 37203

8.13 **Severability**. If any provision of this Agreement is determined to be illegal or unenforceable, that provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability of the remainder of this Agreement unless the purpose of this Agreement is thereby destroyed.

8.14 **No Third-Party Beneficiary Rights**. The Parties do not intend to confer and this Agreement shall not be construed to confer any rights or benefits to any person, firm, Owner, corporation or entity other than the Parties or their successors (including any Debtor Representative of Liquidating Trustee appointed pursuant to the Debtors' plan of liquidation), other than: (i) the Official Committee of Unsecured Creditors, which shall have the right to enforce this Agreement on behalf of itself and/or the Debtors' estates; (ii) MidCap and ServisFirst, solely for purposes of Sections 1.4(a), 1.4(b), 1.4(h), 1.7 and 6.2; and (iii) MidCap, solely for purposes of Section 1.4(k).

8.15 **Waiver**. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

The Parties have executed this Agreement as of the date first above written.

OWNER:

CLARKSDALE REGIONAL MEDICAL CENTER, INC.

By: ____
Its: ____

CLARKSDALE REGIONAL PHYSICIANS, LLC

By: ____
Its: ____

MANAGER:

CLARKSDALE HMA, LLC

By: ____
Its: ____

COUNTY:

By: ____
Its: ____

INDEMNITOR:

By: ____
Its: ____

Schedule 1.4(b)

OWNER BANK ACCOUNTS

66381253.11

Exhibit A

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("**Agreement**") dated ________________, 2018 (the "**Effective Date**"), is entered into by and between _____________________ ("**Covered Entity**"), and _____________________ ("**Business Associate**"), each a "**Party**" and collectively, the "**Parties**."

WHEREAS, pursuant to the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("**HITECH**"), the U.S. Department of Health & Human Services ("**HHS**") promulgated the Standards for Privacy of Individually Identifiable Health Information (the "**Privacy Standards**"), security standards for the Protection of Electronic Protected Health Information (the "**Security Standards**") and standards for Breach Notification for Unsecured Protected Health Information (the "**Breach Notification Standards**") at 45 C.F.R. Parts 160 and 164 (collectively, the Privacy Standards, the Security Standards and the Breach Notification Standards are sometimes referred to herein as the "**HIPAA Requirements**");

WHEREAS, Covered Entity and Business Associate have entered into, or are entering into, or may subsequently enter into, one or more agreements (collectively, the "**Services Arrangements**") pursuant to which Business Associate may provide products and/or services for Covered Entity that require Business Associate to access, create and use health information that is protected by federal law;

WHEREAS, the HIPAA Requirements require that certain obligations be extended to Business Associate through an agreement between Covered Entity and Business Associate;

WHEREAS, Business Associate and Covered Entity desire to enter into this Agreement in order to satisfy such requirement;

NOW THEREFORE, the parties agree as follows:

1. <u>Business Associate Obligations</u>. Business Associate may use and disclose PHI only as permitted or required by this Agreement. All capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in the HIPAA Requirements; provided that Protected Health Information ("**PHI**") and Electronic Protected Health Information ("**EPHI**") are limited to such information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity in connection with the Services Arrangements. All references to PHI herein shall be construed to include EPHI. To the extent Business Associate is to carry out the obligations of Covered Entity under Part 164, Subpart D of the HIPAA Requirements pursuant to the Services Agreements (or to carry out the obligations of any covered entities the Covered Entity may own, operate, or manage, to the extent Business Associate is obligated to provide services to such covered entities under the Services Arrangements), Business Associate shall comply with the requirements of such subpart in the performance of such obligations.

2. <u>Use of PHI</u>. Business Associate may use PHI (i) as required by law, (ii) for the purpose of performing services for Covered Entity as such services are defined in Services Arrangements to the extent such uses are permitted by applicable federal or state law; provided that Business Associate shall not so use PHI in a manner that would violate the HIPAA Requirements if the PHI were used by Covered Entity in the same manner, and (iii) as necessary for the proper management

and administration of the Business Associate or to carry out its legal responsibilities. Business Associate agrees to use PHI in compliance with 45 C.F.R. §164.504(e).

3. Disclosure of PHI.

3.1 To the extent permitted by applicable state and federal law, Business Associate may disclose PHI to any third party persons or entities as necessary to perform its obligations under the Business Arrangement (provided that Business Associate obtains reasonable assurances from any such third party to whom the information is disclosed that it will be held confidential and used and disclosed only as required by law or for the purpose for which it was disclosed to the third party, and that Business Associate shall not so disclose PHI in a manner that would violate the HIPAA Requirements if the PHI were disclosed by Covered Entity in the same manner).

3.2 Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that (i) such disclosures are required by law, or (ii) Business Associate: (a) obtains reasonable assurances from any third party to whom the information is disclosed that it will be held confidential and further used and disclosed only as required by law or for the purpose for which it was disclosed to the third party; (b) requires the third party to agree to promptly notify Business Associate of any instances of which it is aware that PHI is being used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the HIPAA Requirements.

3.3 In accordance with §164.502(e)(1)(ii) and §164.308(b)(2) of the HIPAA Requirements, Business Associate shall ensure that its subcontractors that use, disclose, create, receive, maintain and/or transmit PHI on behalf of Business Associate agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such information and in the case of EPHI, agree to comply with the applicable requirements of Part 164, Subpart C of the HIPAA Requirements.

3.4 Business Associate shall report to Covered Entity any security incident involving PHI, including any breach of unsecured PHI, and use or disclosure of PHI not permitted by this Agreement, of which it becomes aware, such report to be made within fifteen (15) business days of the Business Associate becoming aware of such use or disclosure.

4. Individual Rights Regarding Designated Record Sets. If Business Associate maintains a Designated Record Set on behalf of Covered Entity, Business Associate shall (i) provide access to, and permit inspection and copying of, PHI by Covered Entity under conditions and limitations required under 45 CFR §164.524, as it may be amended from time to time, and (ii) amend PHI maintained by Business Associate as requested by Covered Entity. Business Associate shall respond to any request from Covered Entity for access by an Individual within ten (10) days of such request and shall make any amendment requested by Covered Entity within twenty (20) days of such request. Any information requested under this **Section 4** shall be provided in the form or format requested, if it is readily producible in such form or format. Business Associate may charge a reasonable fee based upon the Business's labor costs in responding to a request for electronic information (or a cost-based fee for the production of non-electronic media copies). Covered Entity shall determine whether a denial of access and/or amendment is appropriate or an exception applies. Business Associate shall notify Covered Entity within five (5) business days of receipt of

any request for access or amendment of PHI by an Individual. Covered Entity shall determine whether to grant or deny any access or amendment requested by the Individual. Business Associate shall have a process in place for requests for amendments and for appending such requests to the Designated Record Set.

5. <u>Accounting of Disclosures. Business Associate shall make available to Covered Entity</u> in response to a request from an Individual, information required for an accounting of disclosures of PHI with respect to the Individual in accordance with 45 CFR §164.528. Business Associate shall provide to Covered Entity such information necessary to provide an accounting within thirty (30) days of Covered Entity's request or such shorter time as may be required by state or federal law. Such accounting must be provided without cost to the Individual or to Covered Entity if it is the first accounting requested by an Individual within any twelve (12) month period. For subsequent accountings within a twelve (12) month period, Business Associate may charge a reasonable fee based upon the Business's labor costs in responding to a request for electronic information (or a cost-based fee for the production of non-electronic media copies) so long as Business Associate informs the Covered Entity in advance of the fee, and the Individual is afforded an opportunity to withdraw or modify the request. Such accounting obligations shall survive termination of this Agreement and shall continue as long as Business Associate maintains PHI.

6. <u>Data Aggregation</u>. In the event that Business Associate works for more than one covered entity (as such term is defined in the HIPAA Requirements), Business Associate is permitted to use and disclose PHI for data aggregation purposes, however, only in order to analyze data for permitted health care operations, and only to the extent that such use is permitted under the HIPAA Requirements.

7. <u>De-identified Information</u>. Business Associate may use and disclose de-identified health information if the de-identification is in compliance with 45 C.F.R. §164.514 and the HIPAA Requirements.

8. <u>Obligations of Covered Entity</u>. Covered Entity shall: (i) provide Business Associate with a copy of its notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. §164.520 as well as any changes to such notice, to the extent that it effects Business Associate's use or disclosure of PHI; (ii) notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522 of the Privacy Regulations, to the extent that such restriction may affect Business Associate's use or disclosure of PHI pursuant to the terms of this Agreement; (iii) notify Business Associate in conformance with **Section 14.1** of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and (iv) Covered Entity shall obtain all authorizations necessary for any use or disclosure of any PHI as contemplated under the Services Arrangements.

9. <u>Withdrawal of Authorization</u>. If the use or disclosure of PHI in this Agreement is based upon an Individual's specific Authorization for the use of his or her PHI, and (i) the Individual revokes such Authorization in writing, (ii) the effective date of such Authorization has expired, or (iii) the consent or Authorization is found to be defective in any manner that renders it invalid, Covered Entity shall promptly provide Business Associate written notice of such revocation or invalidity, to permit Business Associate to cease the use and disclosure of any such Individual's

PHI except to the extent it has relied on such use or disclosure, or where an exception under the HIPAA Requirements expressly applies.

10. Records and Audit. Business Associate shall make available to HHS or its agents, its books and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Covered Entity for the purpose of determining the Parties' compliance with the HIPAA Requirements, in a time and manner designated by HHS.

11. Implementation of Security Standards; Notice of Security Incidents. Business Associate will use appropriate administrative, technical, and physical safeguards to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement, will comply with the applicable requirements of Part 164, Subpart C of the HIPAA Requirements, and will promptly report to Covered Entity any Security Incident involving EPHI of which it becomes aware; provided, however, that Covered Entity shall be deemed to have received notice from Business Associate of routine occurrences of: (i) unsuccessful attempts to penetrate computer networks or services maintained by Business Associate; and (ii) immaterial incidents such as "pinging" or "denial of services" attacks.

12. Data Breach Notification. Business Associate agrees to implement reasonable systems for the discovery and reporting of any "breach" of "unsecured PHI" as those terms are defined by 45 C.F.R. §164.402 provided however, that a breach shall not include (i) any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of Covered Entity or Business Associate, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in a further use or disclosure in a manner not permitted under the Privacy Rule; (ii) any inadvertent disclosure by a person authorized to access PHI at Covered Entity or Business Associate to another person authorized to access PHI at Covered Entity or Business Associate, or an organized health care arrangement in which Covered Entity participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the HIPAA Requirements; or (iii) a disclosure of PHI where Covered Entity or Business Associate has a good faith belief that the unauthorized person to whom the disclosure was made would not have reasonable been able to retain the disclosed information (hereinafter, a "**HIPAA Breach**"). The parties acknowledge and agree that 45 C.F.R. §§164.404, 164.410 govern the determination of the date of a HIPAA Breach. Business Associate will, following the discovery of a HIPAA Breach, notify Covered Entity promptly and in no event later than fifteen (15) business days after Business Associate discovers such HIPAA Breach, unless Business Associate is prevented from doing so by 45 C.F.R. §164.412 concerning law enforcement investigations. No later than twenty (20) business days following a HIPAA Breach, and to the extent such information is known to Business Associate, Business Associate shall provide Covered Entity with the information required by 45 C.F.R. §§164.404(c), 164.410.

13. Term and Termination.

13.1 This Agreement shall commence on the Effective Date and shall remain in effect until terminated in accordance with the terms of this **Section 13**.

13.2 Either Party may immediately terminate this Agreement (the **"Terminating Party"**) and shall have no further obligations to the other Party (the "**Terminated Party**") hereunder if the Terminated Party fails to observe or perform any material covenant or obligation contained in this Agreement for thirty (30) days after written notice thereof has been given to the Terminated Party.

13.3 Upon the termination of all Services Arrangements, either Party may terminate this Agreement by providing written notice to the other Party.

13.4 Upon termination of this Agreement for any reason, Business Associate agrees either to return to Covered Entity or to destroy all PHI received from Covered Entity or otherwise through the performance of services for Covered Entity, that is in the possession or control of Business Associate or its agents. In the case of PHI which is not feasible to "return or destroy," Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

14. Miscellaneous.

14.1 Notice. All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and shall be sent by (i) personal delivery; (ii) certified or registered United States mail, return receipt requested; or (iii) overnight delivery service with proof of delivery. Notices shall be sent to the addresses below. Neither party shall refuse delivery of any notice hereunder.

Business Associate:	**Covered Entity:**
____________________	________________________
4000 Meridian Boulevard	________________________
Franklin, TN 37067	________________________
Attention: Vice President- Development	Attention:________________
With a copy to:	With a copy to:
CHSPSC, LLC	____________________________
4000 Meridian Boulevard	____________________________
Franklin, TN 37067	____________________________
Attention: General Counsel	Attention: ____________________

14.2 Waiver. No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the Party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

14.3 Severability. Any provision of this Agreement that is determined to be invalid or unenforceable will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.

14.4 Entire Agreement. This Agreement constitutes the complete agreement between Business Associate and Covered Entity relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Services Arrangements or any such later agreement(s), the terms of this Agreement shall control with respect to the subject matter of this Agreement unless the parties specifically otherwise agree in writing. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either Party. No obligation on either Party to enter into any transaction is to be implied from the execution or delivery of this Agreement. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.

14.5 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Tennessee, excluding its conflicts of law provisions.

14.6 Nature of Agreement; Independent Contractor. Nothing in this Agreement shall be construed to create (i) a partnership, joint venture or other joint business relationship between the parties or any of their affiliates, or (ii) a relationship of employer and employee between the parties. Business Associate is an independent contractor, and not an agent of Covered Entity under this Agreement. This Agreement does not express or imply any commitment to purchase or sell goods or services.

14.7 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought.

14.8 PCI Compliance. If Covered Entity stores, processes, or transmits cardholder data in connection with the Services Arrangements, Covered Entity agrees to comply with all applicable PCI-DSS standards and requirements and other applicable payment card issuer regulatory requirements (**"PCI Regulatory Requirements")**. Covered Entity represents and warrants that it has performed the necessary steps to validate its compliance with the PCI Regulatory Requirements. Upon the request of Business Associate, Covered Entity shall provide Business Associate with evidence of Covered Entity's compliance with the PCI Regulatory Requirements. During the term of this Agreement, if Covered Entity undergoes a change, or has reason to believe a change will occur, with respect to its compliance status with the PCI Regulatory Requirements, Covered Entity shall promptly notify Business Associate of such change. Without limitation of any obligations herein, in the event of the occurrence of a breach involving cardholder data, Covered Entity shall reasonably cooperate with payment card processors and card issuers involved and allow them to reasonably investigate, review, and audit Covered Entity's facilities, systems, files, procedures, and records related to such breach and shall promptly comply with any applicable PCI Regulatory Requirements.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

COVERED ENTITY:	**BUSINESS ASSOCIATE:**
______________________	______________________
By:_________________________	By:_________________________
_________________________ (Print or Type Name)	_________________________ (Print or Type Name)
_________________________ (Title)	_________________________ (Title)
Date: ________, 2018	Date: _________, 2018