

AMENDED AND RESTATED
SCHEDULE 1 TO SPOHN MEMBERSHIP AGREEMENT

SPOHN'S OCCUPANCY OF ~~MEMORIAL FACILITY~~ DISTRICT FACILITIES

In accordance with the provisions of the Spohn Amended and Restated Membership Agreement (the "Agreement"), the Nueces County Hospital District (the "District") shall grant CHRISTUS Spohn Hospital System Corporation ("Spohn") access to, and the right to use and occupy, the premises located at 2606 Hospital Boulevard, Corpus Christi, Texas, together with the adjoining lots ~~and~~, other buildings described in **Exhibit A** attached hereto and incorporated by reference herein **and the Dr. Hector P. Garcia – Memorial Family Health Center once completed and operational**, consistent with the provisions set forth below.

1. DEFINITIONS

- 1.1. "Assets" shall mean collectively the Property, Licenses and Records.
- 1.2. "Business Day" shall mean any day other than Saturday, Sunday or any other day on which banking institutions in Nueces County, Texas are required or authorized by law to suspend operations.
- 1.3. "Fixtures" shall mean all machinery and other items of tangible personal property owned by the District and so attached to the Real Property, including, but not limited to, all furnaces, boilers, heaters, electrical equipment, heating, plumbing, lighting, ventilating, refrigerating, incineration, air and water pollution control, waste disposal, air-cooling and air-conditioning systems, equipment and apparatus, sprinkler systems and fire and theft protection equipment, built-in oxygen and vacuum systems, wiring, tubing, central clock systems, doctor register systems, elevators, dumbwaiters, intercom systems, nurse call systems, affixed cabinetry and counters, pneumatic tube systems, telephone systems, vacuum cleaning systems, conveyor systems, paging systems, mill work, x-ray protection, pass-through boxes, exhaust systems, laboratory plumbing and piping, medical gas systems, nurse station counters, emergency generators, and similar items located in or on the Improvements (or any portion(s) thereof), all of which to the greatest extent permitted by law are deemed to constitute real estate, together with all replacements, modifications, alterations and additions thereto, but specifically excluding the Hospital Equipment and Replaced Equipment.
- 1.4. "Governmental Entity" shall mean any court or any federal, state or local legislative body or governmental municipality, political subdivision, department, commission, board, bureau, agency or authority.
- 1.5. "Hospitals" shall mean, individually and collectively: (a) the hospital facility known as CHRISTUS Spohn Hospital Corpus Christi—Memorial ("Memorial"), located at 2606 Hospital Boulevard, Corpus Christi, Texas, (b) the District's ~~three~~four (34) primary care clinics known as "Northside Neighborhood Care Center," located at 1406 Martin Luther King Drive, Corpus Christi, Texas; "~~West~~

~~Nueces Neighborhood Care Center~~Westside Clinic,” located at ~~403 East Main Street, Robstown~~4617 Greenwood Road, Corpus Christi, Texas; and ~~“Agua Dulce Wellness Center~~“Robstown Clinic,” located at ~~1513 Second Street, Agua Dulce, Texas;~~ (c) ~~the real property and improvements now or later constructed thereon at the primary clinic known as the~~1038 Texas Yes Boulevard, Corpus Christi, Texas; and “Padre Island ~~Neighborhood Care Center~~Clinic,” located at 14202 ~~South S.~~ Padre Island ~~Drive~~Dr., Corpus Christi, Texas; and ~~(d)(c)~~ the District’s three (3) medical office buildings located at 2400 Morgan Avenue, 2500 Morgan Avenue and 2601 Hospital Boulevard, Corpus Christi, Texas, each located on the Real Property as more particularly shown, and described, on Exhibit A attached hereto; and (d) the Dr. Hector P. Garcia – Memorial Family Health Center which shall be located at the Main Campus, once completed and operational.

- 1.6. “Hospital Equipment” shall mean all equipment, machinery, computers, tools vehicles, software (to the extent assigned to Spohn from the District), furniture or other tangible personal property owned by the District and used by Spohn in connection with the Hospitals at the Real Property.
- 1.7. “Improvements” shall mean all buildings, structures, and other improvements of every kind, including, but not limited to, alleyways and connecting tunnels, sidewalks, utility pipes, conduits, lines (off-site and on-site) parking areas, roadways and other related site and off-site improvements appurtenant to such buildings and structures, now or at any time hereafter situated upon the Real Property or any portion(s) thereof.
- 1.8. “Joint Commission” shall mean The Joint Commission, which accredits and certifies hospitals and other health care organizations.
- 1.9. “Licenses” shall mean collectively the State of Texas Department of Health Hospital Licenses used by the District prior to the 1996 Transaction Date to operate the Hospital, and all other licenses, permits, certificates, consents, accreditations, authorizations and approvals of any Governmental Entity (excluding, however, Environmental Permits) or Person which are held by the District as of the 1996 Transaction Date and which are necessary for the District’s operation of the Hospital.
- 1.10. [Section 1.10 left blank intentionally.]
- 1.11. “Material Adverse Effect” shall mean (a) with respect to Spohn or the District, any change in the business, results of operations, financial condition or liabilities thereof that (individually or in the aggregate) is, or may reasonably be expected to be, material and adverse to Spohn or the District, as the case may be, or (b) with respect to the Property, a change in the value, condition or use thereof that (individually or in the aggregate) is, or may reasonably be expected to be, material and adverse to the Property, taken as a whole, and/or the business conducted therein.

- 1.12. “Main Campus” shall mean the Real Property and Improvements, comprising the main campus located at 2606 Hospital Boulevard, Corpus Christi, Texas, as described in Exhibit A.
- 1.13. ~~1.12.~~ “Material Alteration to the Main Campus” shall mean any material alterations, performed by Spohn during the term at Spohn’s sole cost and expense, to the Real Property, including the Improvements, comprising the Main Campus located at 2606 Hospital Boulevard, Corpus Christi, Texas, as described in Exhibit A, pursuant to which the altered Real Estate will continue to be occupied and used by Spohn in conformity with the Permitted Uses described in Section 3.1. Such Material Alteration to the Main Campus may include re-designing all or any portion of the Improvements comprising the Main Campus, renovating existing Improvements on the Real Property comprising the Main Campus, or demolishing and constructing any replacement Improvements on the Real Property comprising the Main Campus.
- 1.14. ~~1.13.~~ “Medical Office Buildings” shall mean, collectively, the three (3) medical office buildings located at 2400 Morgan Avenue, 2500 Morgan Avenue and 2601 Hospital Boulevard, Corpus Christi, Texas and which are part of the Real Property.
- 1.15. ~~1.14.~~ “Person” shall mean an individual, partnership, joint venture, corporation, limited liability company, bank, trust, unincorporated organization or Governmental Entity.
- 1.16. ~~1.15.~~ “Purchased Assets” shall mean collectively all of the following that are owned by the District, located on or in any of the ~~Hospital~~Hospitals on the 1996 Transaction Date or undelivered but under purchase order by the District on the 1996 Transaction Date and used or to be used solely in connection with any of the ~~Hospital~~Hospitals: (i) all rights in any Contracts acquired by Spohn from the District; (ii) the District’s ownership interest in the South Texas Healthcare Alliance; and (iii) all personnel records in possession of the District with respect to employees transferred by the District to Spohn.
- 1.17. ~~1.16.~~ “Property” shall mean, collectively, the Real Property, Hospital Equipment and Replaced Fixtures.
- 1.18. ~~1.17.~~ “Real Property” shall mean , collectively, (i) those parcels of Real Property described in Exhibit A attached hereto, (ii) the Dr. Hector P. Garcia – Memorial Family Health Center once completed and operational, (iii) all Improvements, (iii)iv) all easements, licenses, rights-of-way and appurtenances relating to the aforementioned Real Property and Improvements, and (iv)y) all Fixtures located in or on the Real Property or Improvements.
- 1.19. ~~1.18.~~ “Records” shall mean, without limitation, all written depictions or data, however stored, retrieved or used, including copies of all financial, corporate, asset, patient and medical staff, personnel (other than those employees transferred by the District to Spohn) and other records of the District, including patient billing

records, all paid claim history records, medical records, equipment records, market research, marketing plans, medical and administrative libraries, documents, catalogs, books, files, operating and other manuals and existing financial data relating to the ownership and operation of the Hospital, the Assets, operating expense statements, rent rolls and tenant deposits, and the contracts relating thereto. Records shall not include any written depictions or data stored, retrieved or used, including all organizational records, deeds, leases, minute books, financial statements, ledgers, work papers, bank records, deposit slips, cancelled checks and bank statements, documents and data relating to applicants or recipients for indigent health care, all legal files, books and records of legal work, litigation, opinions and memoranda pertaining to all self-insurance programs, pension plans, and investment plans and programs of the District, all data statutorily required to be kept by ~~the~~ the District, all data protected by the attorney-client privilege or the attorney work-product privilege as defined by the Texas Rules of Evidence.

1.20. ~~1.19.~~ “Replaced Equipment” shall mean any equipment, machinery or furniture purchased by Spohn and used on or in the operation of the Hospitals at the Real Property, excluding the Hospital Equipment.

1.21. ~~1.20.~~ “Replaced Fixtures” shall mean any Fixtures owned by Spohn and used on or in the operation of the Hospitals at the Real Property that replace any Fixtures owned by the District.

1.22. ~~1.21.~~ “Replacement Cost” shall mean the amount required to rebuild or replace (including the cost of debris removal) all of the Property or all of the Subject Real Property, as the case may be as hereinafter specified, as if all of the Property, or a portion thereof, had been destroyed as a result of a casualty.

1.23. ~~1.22.~~ “1996 Transaction Date” shall mean the “Effective Time” as defined in the Master Agreement as amended through September ~~—~~30, 2012.

2. IMPOSITIONS

2.1. ~~2.1.~~ —Impositions Defined. As used in this Schedule 1, “Impositions” shall mean Taxes (if any), excises, license and permit fees, and other charges of any kind or nature whatsoever, which shall or may during the term be assessed, levied, charged, confirmed or imposed by any Governmental Entity upon or accrue or become a Lien on (a) the Real Property (or any portion(s) thereof), (b) the appurtenances thereto or the sidewalks, streets, or vaults adjacent thereto, (c) the rent and income received by or for the account of Spohn from any subleases or for any use or occupancy of the Real Property (or any portion(s) thereof), or (d) any documents to which Spohn is a party creating or transferring an interest or estate in the Real Property (or any portion(s) thereof) or other Property.

2.2. Spohn’s Obligation for Certain Impositions. During the term, except as set forth in Section 2.3 hereof, Spohn shall pay or cause to be paid to the District as and when the same shall become due all Impositions. Spohn shall pay all Impositions for

which it is responsible directly to the Governmental Entity imposing same and shall, upon written request of District, deliver to District copies of the receipted bills or other evidence reasonably satisfactory to District showing such payment. To the extent any Imposition that Spohn is obligated to pay may be paid pursuant to law in installments, Spohn may pay such Imposition in installments as and when such installments become due; provided, however, Spohn may not enter into an installment plan with respect to any Impositions which would provide for a “balloon payment” after the term or any renewal term. Spohn shall be liable for such installments due after the termination of this Schedule 1.

2.3. ~~2.3.~~ District’s Obligation for Certain Taxes. The District acknowledges that it is the owner of the Real Property for all purposes, including for purposes of determining whether such property is subject to real property taxes assessed by any Governmental Entity, and District agrees that this Schedule 1 shall be interpreted so as to give effect to the fact that District is the owner of the Real Property and is protected by applicable legal requirements from the imposition of taxes. During the term, so long as Spohn shall remain incorporated as a non-profit corporation under the Texas Non-Profit Corporation Act, as supplanted by the Texas Business Organizations Code and satisfy the requirements of Section 501(c)(3) of the Internal Revenue Code of 1986, the District acknowledges and agrees that District shall be solely responsible for all real property taxes (if any) relating to the Real Property owned by the District or its affiliates, which shall or may during the term be assessed, levied or imposed by any Governmental Entity upon or accrue or become a Lien on the Real Property (or any portion(s) thereof), or the Improvements located thereon (all of the foregoing hereinafter referred to as “County Impositions”).

2.4. ~~2.4.~~ Contest. Spohn may, at its sole cost and expense, contest the validity or amount of any Imposition for which it is responsible, in which event the payment thereof may be deferred during the pendency of such contest, if diligently prosecuted, provided that ten (10) days prior to the date any contested Imposition shall become due, Spohn shall deposit with the District or, at Spohn’s discretion, the Governmental Entity imposing the same an amount sufficient to pay such contested item, together with any reasonably estimated interest and penalties thereon, which amount shall be applied to the payment of such items when the amount thereof shall be finally determined. In lieu of such cash deposit, Spohn may deliver to the District a surety company bond in form and substance and issued by a company reasonably satisfactory to the District. Nothing herein contained, however, shall be construed to allow any Imposition to remain unpaid for such length of time as would permit the Real Property, or any part thereof, to be sold or seized by any Governmental Entity for the nonpayment of the same. If at any time, in the sole but reasonable judgment of the District, it shall become necessary to do so, the District may, after written notice to Spohn, under protest if so requested by Spohn, direct the application of the amounts so deposited or so much thereof as may be required to prevent a sale or seizure of the Real Property (or any portion(s) thereof) or foreclosure of any lien created thereon by such item. If the amount deposited exceeds the amount of such payment, the excess shall be paid to Spohn,

or, in case there should be any deficiency, the amount of such deficiency shall be promptly paid on demand by Spohn to the District (provided that the District has advanced such amount), and, if not so paid, such amount shall be a debt of Spohn to the District, together with interest thereon at the interest rate from the date advanced until paid. Spohn shall promptly furnish the District with copies of all proceedings and documents relating to any tax contest relating to the Real Property (or any portion(s) thereof), and the District shall have the right, at its sole cost and expense, to participate therein.

The District may, at its sole cost and expense, contest the validity or amount of any County Imposition for which it is responsible, in which event the payment thereof may be deferred during the pendency of such contest, if diligently prosecuted, provided that ten (10) days prior to the date any contested County Imposition shall become due, the District shall deposit with the Governmental Entity imposing the same an amount sufficient to pay such contested item, together with any reasonably estimated interest and penalties thereon, which amount shall be applied to the payment of such items when the amount thereof shall be finally determined. Nothing herein contained, however, shall be construed to allow any County Imposition to remain unpaid for such length of time as would permit the Real Property, or any part thereof, to be sold or seized by any Governmental Entity for the nonpayment of the same. The District shall promptly furnish Spohn with copies of all proceedings and documents relating to any tax contest relating to the Real Property (or any portion(s) thereof), and Spohn shall have the right, at its sole cost and expense, to participate therein.

2.5. ~~2.5.~~ Evidence Concerning Impositions. The certificate, advice, bill, or statement issued or given by the appropriate officials authorized by law to issue the same or to receive payment of any Imposition or County Imposition shall be prima facie evidence of the existence, nonpayment or amount of such Imposition or County Imposition for purposes of establishing Spohn's or the District's obligations pursuant to this Schedule 1.

3. COVENANTS

3.1. Use of Property. Spohn may use, or cause to be used, the Real Property and Property (or any portion(s) thereof) other than those parcels thereof (i) described on Exhibit B attached hereto, that are currently used as a ~~medical—office building~~Medical Office Building (individually and collectively, the "Office Parcels"), or (ii) described on Exhibit C attached hereto, that are currently used as a clinic (individually and collectively, the "Clinic Parcels"), for any lawful health care, health care-related or social services purpose (including any other services benefiting or intended for the benefit of the indigent, poor, and medically underserved population), including, but not limited to, as a general health care facility, general health or rehabilitation hospital, psychiatric hospital, nursing home, retirement center, congregate living facility, health care-related apartments or hotel, medical office building, including incidental office and administrative uses, or any other medical facility with treatment, diagnostic, and/or surgical

facilities for inpatient or outpatient care (which may include, but is not limited to, acute care inpatient facilities, skilled nursing facilities, intermediate care facilities, home health agencies, primary care clinics, ambulatory care clinics, or similar facilities), offering health care products and services, as the case may be, and for such other uses as may be necessary or incidental to such use. In addition, Spohn may use, or cause to be used, the Office Parcels (or any portion(s) thereof) for the purpose of subleasing office space to sublessees and such other lawful purposes as Spohn may determine in its reasonable discretion, and the Clinic Parcels (or any portion(s) thereof) for the purpose of health care and other clinical services available for the benefit of the indigent, poor, and medically underserved population, and such office, administrative, and other uses as may be directly incidental to such health care and clinical services. Spohn may use the Hospital Equipment for the provision of health care, health care-related, or social service purposes, and for such other uses and services as are directly incidental to such health care services. (The permitted uses described in, and allowed by, the preceding sentences of this Section 3.1 are hereinafter referred to as the “Permitted Uses.”) Spohn shall operate the Real Property and use the Property in compliance with all applicable legal requirements. The District understands that Spohn shall use the Real Property in a manner consistent with Spohn’s Articles of Incorporation and Bylaws, a current copy of which was previously delivered to the District. In addition, Spohn may not use or occupy, or permit the Real Property to be used or occupied, in any manner which would in any way make void or voidable any insurance then in force with respect thereto. Notwithstanding any other provision to the contrary set forth herein, Spohn shall have no obligation to occupy, operate, or use all of the Real Property and may elect to only occupy, operate, or use such portion(s) of the Real Property as is necessary to perform Spohn’s obligations herein [and in Section 6.03 of the Agreement](#).

- 3.2.** Maintenance of Licenses and Permits. The District shall not sell, assign, or transfer to any third person, other than Spohn, any License or any interest in a License relating to the Real Property or the business conducted on such Real Property. Spohn shall timely file all requisite cost reports, claims, and other reports required to be filed in connection with all Medicare, Medicaid, and other governmental health programs relating to Spohn’s use and operation of the Hospitals. Notwithstanding anything to the contrary contained elsewhere in this Schedule 1, Spohn shall have the right from time to time, in Spohn’s sole discretion, to turn in or retire such of said Permits and/or Licenses as Spohn determines to no longer be required in connection with Spohn’s operations at such location, and to obtain other Licenses and Permits as Spohn shall determine necessary or any applicable legal requirements otherwise require.
- 3.3.** Utilities. Spohn shall arrange for and pay all charges for gas, electricity, light, heat, air conditioning, power, telephone and other communication services, and all other utilities and similar services rendered or supplied to the Real Property, and all sewer service charges, or other similar charges levied or charged against, or in connection with, the Real Property during the term of the Agreement. Utility charges that are payable for the utility billing period in which the Agreement ends

shall be apportioned so that each of the District and Spohn shall pay its proportionate share based upon the respective time periods each has had responsibility for operating the Real Property.

3.4. Insurance; Indemnity.

3.4.1. Spohn shall at all times during the Agreement maintain or cause to be maintained the types and amounts of insurance with respect to Spohn and the Property covering such risks as are customarily carried by businesses similar to the business conducted in or at the Hospitals; provided, however, that (i) the amount of insurance covering the Real Property (excluding land), Property, Replaced Equipment, and Replaced Fixtures shall be maintained for the full Replacement Cost of the Real Property (excluding land), Property, and Replaced Fixtures, including boilers and machinery, (ii) no coverage shall be needed for rents or rental value insurance, and (iii) the amount of public liability insurance shall be not less than One Million Dollars (\$1,000,000) per claim, with an annual aggregate of not less than Three Million Dollars (\$3,000,000), and otherwise in type and form reasonably satisfactory to the District. With respect to the minimum insurance coverage amounts set forth in clause (iii) of the immediately preceding sentence, Spohn agrees that it shall, from time to time as is commercially reasonable, review the same, and if, in connection with such review, Spohn determines, in its sole but commercially reasonable judgment, that such amounts, given the passage of time, are, consistent with then current industry standards for commercial operations in Nueces County of the nature and type then being conducted by Spohn at the Real Property, insufficient, Spohn shall increase the amount of such coverages to an amount which Spohn, consistent with the foregoing standard, determines to be commercially reasonable.

3.4.2. All insurance policies shall have deductibles in amounts reasonably satisfactory to the District, be issued on forms reasonably satisfactory to the District and have a provision giving the District thirty (30) days' prior notice of cancellation or change of the coverage. All property insurance policies shall be issued by companies with an A.M. Best's rating of A or better, and all other policies shall be issued by companies with similar ratings or must be approved by the District. Spohn shall maintain professional and general liability insurance or maintain an actuarially sound self-funded liability program with excess coverage by third-party commercial carriers, provided the limits are reasonably acceptable to the District. With respect to the Real Property and Property, all policies shall have loss payable clauses in favor of the District, with loss proceeds payable as their interests may appear with regard to the Real Property and Property. Agreed amounts will be reflected on endorsements. Each renewal certificate of insurance or substitute policy (and corresponding certificate) shall be delivered to the District with premiums fully paid when the insurance so requires. Spohn shall pay all premiums on policies required

hereunder as they become due and payable and, upon written request of the District, shall promptly deliver to the District evidence satisfactory to the District of the timely payment thereof. Spohn shall furnish to the District upon request, at reasonable intervals, a certificate or certificates from the respective insurer or insurers setting forth the nature and extent of all insurance maintained by Spohn as set forth herein. Spohn shall comply or cause compliance at all times with the provisions of any insurance policy covering or applicable to Spohn or the Property or any portion thereof.

3.4.3. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT SCHEDULE 1 TO THE CONTRARY, THE DISTRICT AND SPOHN HEREBY, TO THE EXTENT NOT PROHIBITED OR RESTRICTED BY OR CAUSING THE CANCELLATION OR REDUCTION OF ANY APPLICABLE INSURANCE POLICY, WAIVE ANY AND ALL RIGHTS OF RECOVERY, CLAIMS, ACTIONS, OR CAUSES OF ACTION AGAINST THE OTHER PARTY AND ITS AGENTS, EMPLOYEES, PARTNERS, DIRECTORS, OFFICERS, OR MEMBERS FOR ANY LOSS OR DAMAGE THAT MAY OCCUR TO THE REAL PROPERTY (OR ANY PORTION(S) THEREOF) OR ANY PERSONAL PROPERTY THEREIN, INCLUDING, WITHOUT LIMITATION, PROPERTY AND REPLACED FIXTURES, BY REASON OF FIRE, THE ELEMENTS, OR ANY OTHER CAUSE WHICH IS INSURED AGAINST UNDER THE TERMS OF THE ALL-RISK INSURANCE COVERAGE REQUIRED HEREIN, REGARDLESS OF CAUSE OR ORIGIN, INCLUDING NEGLIGENCE OF EITHER PARTY OR THEIR AGENTS, EMPLOYEES, PARTNERS, OR MEMBERS, AND THE DISTRICT AND SPOHN COVENANT AND AGREE THAT NO INSURER SHALL HOLD ANY RIGHT OF SUBROGATION AGAINST EITHER PARTY. THE DISTRICT AND SPOHN SHALL ADVISE THEIR RESPECTIVE INSURERS OF THIS WAIVER OF SUBROGATION, AND SUCH WAIVER SHALL BE INCORPORATED INTO AND MADE A PART OF EACH PARTY'S INSURANCE POLICIES MAINTAINED WITH RESPECT TO THE PROPERTIES AND INTERESTS DESCRIBED HEREIN.

3.4.4. WITH RESPECT TO CLAIMS BROUGHT BY EITHER PARTY TO THIS SCHEDULE 1 AGAINST THE OTHER OR BY THIRD PARTIES AGAINST EITHER SPOHN OR THE DISTRICT, IN EACH CASE RELATING TO THIS SCHEDULE 1, THE REPLACED FIXTURES, THE REPLACED EQUIPMENT, THE HOSPITALS OR THE BUSINESSES OPERATED ON THE REAL PROPERTY, OR THE PROPERTY, SPOHN AND THE DISTRICT AGREE AS FOLLOWS:

3.4.4.1. TO THE FULLEST EXTENT PERMITTED BY LAW, SPOHN AGREES TO INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS THE DISTRICT AND THE DISTRICT'S OFFICERS, BOARD AND EMPLOYEES FROM AND

AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS AND CAUSES OF ACTION AND ANY AND ALL LIABILITIES, COSTS, DAMAGES (INCLUDING ANY BODILY INJURY OR DEATH OF ANY EMPLOYEES OR THIRD PARTIES), EXPENSES, FINES, PENALTIES AND JUDGMENTS INCURRED IN CONNECTION THEREWITH (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES AND COSTS OF SUIT) (COLLECTIVELY, "DAMAGES"), WHETHER ARISING IN EQUITY, AT COMMON LAW OR BY STATUTE, INCLUDING THE TEXAS DECEPTIVE TRADE PRACTICES - CONSUMER PROTECTION ACT OR SIMILAR STATUTE OF OTHER JURISDICTIONS, OR UNDER THE LAW OF CONTRACTS, TORTS OR PROPERTY (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), AND ARISING IN FAVOR OF OR AGAINST OR BROUGHT BY OR AGAINST THE DISTRICT AND/OR BY ANY THIRD PARTY AGAINST THE DISTRICT, BASED UPON, IN CONNECTION WITH, RELATING TO, OR ARISING OR ALLEGED TO ARISE OUT OF EITHER (X) SPOHN'S BREACH OF ITS COVENANTS, AGREEMENTS, REPRESENTATIONS OR WARRANTIES MADE HEREIN; OR (Y) SPOHN'S USE AND OPERATION OF THE PROPERTY ON OR AFTER THE 1996 TRANSACTION DATE, INCLUDING, WITHOUT LIMITATION, THE DISPOSAL OR RELEASE TO OR FROM THE REAL PROPERTY OF HAZARDOUS MATERIALS. SPOHN AGREES TO PROVIDE SUCH INDEMNITY EVEN IF THE DAMAGES ARISE IN PART FROM THE STRICT LIABILITY, OR THE CONTRIBUTORY OR CONCURRENT NEGLIGENCE OF THE DISTRICT OR THE DISTRICT'S BOARD, OFFICERS OR EMPLOYEES. THE INDEMNIFIED DAMAGES DO NOT INCLUDE ANY DAMAGES WHICH ARISE FROM THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF THE DISTRICT OR THE DISTRICT'S BOARD, OFFICERS OR EMPLOYEES.

- 3.4.4.2. TO THE FULLEST EXTENT PERMITTED BY LAW, THE DISTRICT AGREES TO INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS SPOHN AND SPOHN'S DIRECTORS, TRUSTEES, OFFICERS, MEMBER AND EMPLOYEES FROM AND AGAINST ANY AND ALL DAMAGES, WHETHER ARISING IN EQUITY, AT COMMON LAW, OR BY STATUTE, INCLUDING THE TEXAS DECEPTIVE TRADE PRACTICES - CONSUMER PROTECTION ACT OR SIMILAR STATUTE OF OTHER JURISDICTIONS, OR UNDER THE LAW OF CONTRACTS, TORTS OR PROPERTY (INCLUDING, WITHOUT

LIMITATION, NEGLIGENCE), AND ARISING IN FAVOR OF OR AGAINST OR BROUGHT BY OR AGAINST SPOHN AND/OR BY ANY THIRD PARTY AGAINST SPOHN, BASED UPON, IN CONNECTION WITH, RELATING TO, OR ARISING OR ALLEGED TO ARISE OUT OF ANY OF THE FOLLOWING: (X) THE DISTRICT'S BREACH OF ITS COVENANTS, THIS SCHEDULE 1, REPRESENTATIONS OR WARRANTIES MADE IN THIS SCHEDULE 1; (Y) THE DISTRICT'S USE AND OPERATION OF THE PROPERTY PRIOR TO THE 1996 TRANSACTION DATE, INCLUDING, WITHOUT LIMITATION, THE DISPOSAL OR RELEASE TO OR FROM THE REAL PROPERTY OF HAZARDOUS MATERIALS PRIOR TO THE 1996 TRANSACTION DATE; OR (Z) ANY FAILURE OF THE DISTRICT TO SATISFY AND DISCHARGE ANY OBLIGATION, INCLUDING ALL RETAINED LIABILITIES, RETAINED BY THE DISTRICT AS OWNER AND OPERATOR OF THE PROPERTY PRIOR TO THE 1996 TRANSACTION DATE, (INCLUDING, WITHOUT LIMITATION, THE FOLLOWING LIABILITIES AND OBLIGATIONS: (I) ANY AND ALL ~~THE~~ DISTRICT PLAN OBLIGATIONS AND LIABILITIES OF THE DISTRICT PRIOR TO THE 1996 TRANSACTION DATE AND COMPLIANCE WITH ALL OBLIGATIONS AND LIABILITIES UNDER APPLICABLE LAW WITH RESPECT TO ANY EMPLOYEES OF THE DISTRICT AT THE HOSPITALS; (II) ANY AND ALL THIRD-PARTY REIMBURSEMENT RECAPTURE LIABILITIES ARISING FROM THE DISTRICT'S CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS SCHEDULE 1; (III) ALL TAXES ARISING WITH RESPECT TO OR IN CONNECTION WITH THE PROPERTY PRIOR TO THE 1996 TRANSACTION DATE; (IV) ALL BROKERS' AND FINDERS' COMMISSIONS, FEES OR OTHER FORMS OF COMPENSATION THAT MAY BE DUE OR PAYABLE FROM OR BY THE DISTRICT TO ANY BROKER OR FINDER PRIOR TO THE 1996 TRANSACTION DATE; (V) ALL LIABILITIES (INCLUDING AMOUNTS FOR INTEREST, PENALTIES OR SANCTIONS) ARISING FROM TITLE XVIII MEDICARE COST REPORT SETTLEMENTS AND ACCOUNTS AND TITLE XIX MEDICAID FOR PERIODS PRIOR TO THE 1996 TRANSACTION DATE AND ANY SETTLEMENTS WITH OTHER THIRD-PARTY PAYORS FOR PERIODS PRIOR TO THE 1996 TRANSACTION DATE; (VI) ALL LIABILITIES ARISING FROM OVERPAYMENTS RECEIVED BY THE DISTRICT FROM ANY PERSON ON OR PRIOR TO THE 1996

TRANSACTION DATE; AND (VII) ALL LIABILITIES STATED OR WHICH SHOULD HAVE BEEN STATED ON THE DISTRICT'S FINANCIAL STATEMENTS AS OF THE 1996 TRANSACTION DATE (OTHER THAN THOSE CONTRACT LIABILITIES EXPRESSLY ASSUMED BY SPOHN PURSUANT HERETO). THE DISTRICT AGREES TO PROVIDE SUCH INDEMNITY EVEN IF THE DAMAGES ARISE IN PART FROM THE STRICT LIABILITY, OR THE CONTRIBUTORY OR CONCURRENT NEGLIGENCE OF SPOHN OR SPOHN'S DIRECTORS, TRUSTEES, OFFICERS, MEMBERS OR EMPLOYEES. THE INDEMNIFIED DAMAGES DO NOT INCLUDE ANY DAMAGES WHICH ARISE FROM THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF SPOHN OR SPOHN'S DIRECTORS, TRUSTEES, OFFICERS, ~~MEMBER~~MEMBERS OR EMPLOYEES.

- 3.4.4.3. In the event that any party hereto shall incur any Damages in respect of which indemnity may be sought by such party pursuant to this Section 3.4, the party from whom such indemnity may be sought (the "Indemnifying Party") shall be given written notice thereof by the party seeking such indemnity (the "Indemnified Party"), which notice shall set forth the basis of such claim in reasonable detail, specify the amount and nature of such Damages and include the request of such Indemnified Party for indemnification of such amount. If and to the extent there is no objection from the Indemnifying Party to the Indemnified Party's claim for Damages within twenty (20) days after receiving such notice, the Indemnifying Party shall promptly pay to the Indemnified Party the amount of the Damages so specified or assume the defense of such claim as provided herein.
- 3.4.4.4. The Indemnified Party shall provide to the Indemnifying Party as promptly as practicable all information and documentation in the possession or control of the Indemnified Party, or as may be reasonably requested by the Indemnifying Party, to support and verify the claim asserted, and the Indemnifying Party shall be given reasonable access to all books and records in the possession or control of the Indemnified Party or any of its affiliates which the Indemnifying Party reasonably determines to be related to such claim.
- 3.4.4.5. In the case of third-party claims, the written notice given by the Indemnified Party as set forth above shall be given within ten (10) days of the filing or assertion of any claim against the Indemnified Party and shall state the nature and basis of such claim; provided, however, that any delay or failure to notify any Indemnifying

Party of any claim shall not relieve it from any liability except to the extent that the Indemnifying Party demonstrates that the defense of such action is materially prejudiced by such delay or failure to notify. In the case of such third-party claims, the Indemnifying Party shall, within twenty (20) days of receipt of notice of such claim, notify the Indemnified Party of its intention to assume the defense of such claim. If the Indemnifying Party shall assume the defense of the claim, the Indemnifying Party shall have the right and obligation (i) to conduct any proceedings or negotiations in connection therewith and necessary or appropriate to defend the Indemnified Party, (ii) to take all other required steps or proceedings to settle or defend any such claims, and (iii) to employ counsel to contest any such claim or liability in the name of the Indemnified Party or otherwise. The Indemnifying Party may not settle any such claim or litigation without the written consent of the Indemnified Party (which consent may be withheld in the sole discretion of the Indemnified Party) if such settlement is not solely for money damages and does not include a full release of the Indemnified Party from all liability in connection therewith. If defendants in any action include the Indemnified Party and the Indemnifying Party, and the Indemnified Party shall have been advised by its counsel that there are legal defenses available to the Indemnified Party which are different from or in addition to those available to the Indemnifying Party, the Indemnified Party shall have the right to employ its own counsel in such action. If the Indemnifying Party shall not assume the defense of any such claim or litigation resulting therefrom, the Indemnified Party may defend against any such claim or litigation in such manner as it may deem appropriate, and the Indemnified Party may settle such claim or litigation on such terms as it may deem appropriate. If it shall be finally determined that the Indemnifying Party is liable to the Indemnified Party for Damages, then the expenses incurred by the Indemnified Party in defending the claim resulting in such Damages shall be borne by the Indemnifying Party.

- 3.4.4.6. As used in this Section 3.4, the term “disputed claim” means a claim for Damages by an Indemnified Party under Section 3.4.4.5 above which the Indemnifying Party objects to in writing within twenty (20) days after receiving notice of the claim. In the event there is a disputed claim with respect to any Damages, the Indemnifying Party shall be required to pay the Indemnified Party the amount of such Damages for which the Indemnifying Party has, pursuant to a final determination, been found liable within ten (10) days after there has been a final determination with respect to such disputed claim. As used in this Section 3.4, a final determination of a disputed claim shall be (i) a judgment of any

court determining the validity of a disputed claim, if no appeal is pending from such judgment and if the time to appeal therefrom has elapsed, (ii) an award of any arbitration determining the validity of such disputed claim, if there is not pending any motion to set aside such award and if the time within which to move to set such award aside has elapsed, (iii) a written termination of the dispute with respect to such claim signed by all of the parties thereto or their attorneys, (iv) a written acknowledgment of the Indemnifying Party that it no longer disputes the validity of such claim, or (v) such other evidence of final determination of a disputed claim as shall be acceptable to the parties.

3.4.4.7. The District acknowledges and agrees that to the extent the District is not permitted under applicable legal requirements to indemnify Spohn or Spohn's members, directors, trustees, officers and employees for any Damages, the District shall use its reasonable efforts to assign to Spohn all rights the District has or may have under any insurance policies with respect to such Damages.

3.4.4.8. Spohn acknowledges and agrees that to the extent Spohn is not permitted under applicable legal requirements to indemnify the District or the District's Board, officers and employees for any Damages, Spohn shall use its reasonable efforts to assign to the District all rights Spohn has or may have under any insurance policies with respect to such Damages.

3.4.4.9. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DISTRICT AND SPOHN HEREBY ACKNOWLEDGE AND AGREE THAT THE DISTRICT AND SPOHN SHALL ONLY BE LIABLE TO THE OTHER PARTY HERETO FOR ACTUAL DIRECT DAMAGES AND THAT NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECULATIVE, ENHANCED, INTANGIBLE, SPECIAL OR PUNITIVE DAMAGES (ALL RIGHTS THERETO BEING HEREBY WAIVED AND RELEASED) IN CONNECTION WITH ANY NON-THIRD-PARTY CLAIMS FOR WHICH SUCH INDEMNIFIED PARTY SEEKS INDEMNIFICATION UNDER THIS SECTION 3.4. AS A FURTHER MATERIAL INDUCEMENT TO SPOHN TO ENTER INTO THIS SCHEDULE 1 AND THE TRANSACTIONS CONTEMPLATED HEREIN, THE DISTRICT REPRESENTS TO SPOHN THAT THE DISTRICT HAS BARGAINED FOR AND OBTAINED TERMS UNDER THIS SCHEDULE 1 AND THE RELATED AGREEMENTS WHICH MAKES THE

ACCEPTANCE OF AN AGREEMENT WHICH SUBSTANTIALLY LIMITS ITS RECOURSE AGAINST SPOHN ACCEPTABLE. AS A MATERIAL INDUCEMENT TO THE DISTRICT TO ENTER INTO THIS SCHEDULE 1 AND THE TRANSACTIONS CONTEMPLATED HEREIN, ~~THE~~ SPOHN REPRESENTS TO THE DISTRICT THAT ~~THE~~ SPOHN HAS BARGAINED FOR AND OBTAINED TERMS UNDER THIS SCHEDULE 1 WHICH MAKE THE ACCEPTANCE OF AN AGREEMENT WHICH SUBSTANTIALLY LIMITS ITS RECOURSE AGAINST THE DISTRICT ACCEPTABLE. EACH PARTY HAS AND WILL CONTINUE TO BE REPRESENTED BY LEGAL COUNSEL IN CONNECTION HERewith AND WITH THE TRANSACTIONS DESCRIBED HEREIN.

3.4.5. In the event that Spohn shall incur any Damages equal to or in excess of \$10,000 in respect of which indemnity may be sought by Spohn pursuant to Section 3.4.4.2 (these Damages being referred to in this Section ~~3.4.4.2~~3.4.5 as “Spohn Damages”), Spohn and ~~The~~the District agree as follows:

3.4.5.1. If ~~The~~the District does not object to Spohn’s claim for Spohn Damages within twenty (20) days after receiving notice of such claim or if there has been a final determination of a disputed claim for Spohn Damages, Spohn shall have the right to offset unpaid Spohn Damages against any of the following payments (collectively, “Spohn Payments”): amounts payable to the District under Section 3.4.4.1; or any other sums Spohn is required to pay the District hereunder.

3.4.5.2. If the District does object to Spohn’s claim for Spohn Damages within twenty (20) days after receiving notice of such claim and there has not been a final determination with respect to such claim, Spohn shall have the right to reduce Spohn Payments by an amount equal to the Spohn Damages claimed by Spohn and to deposit this amount with the Escrow Agent at such time or times as the Spohn Payments would otherwise be due. If an amount is deposited with the Escrow Agent in lieu of making a Spohn Payment, the Spohn Payment will be deemed to have been made when due if the deposit is made on or before the due date of the payment.

3.4.6. THE DISTRICT HEREBY ACKNOWLEDGES THAT IT IS THE DISTRICT’S INTENT THAT THE FOLLOWING SOURCES OF FUNDS SHALL BE SUFFICIENT TO COVER ANY INDEMNITY PAYMENTS MADE BY THE DISTRICT TO SPOHN UNDER SECTION 3.4.4, AND ANY INDEMNITY PAYMENTS MADE BY THE DISTRICT TO SPOHN UNDER SECTION 3.4.4 SHALL BE MADE

FROM ONE OR MORE OF THE FOLLOWING SOURCES: (i) THE DISTRICT'S CURRENT REVENUES FOR THE YEAR IN WHICH THE PAYMENTS ARE MADE; (ii) SPOHN'S PAYMENTS CONTEMPLATED BY THIS SCHEDULE 1 AND WHICH ARE WITHIN THE DISTRICT'S CONTROL; OR (iii) OTHER UNRESTRICTED FUND OR FUNDS WITHIN THE IMMEDIATE CONTROL OF THE DISTRICT.

3.5. Construction of Family Health Center and Demolition of Memorial Hospital Facility.

3.5.1. In accordance with Section 3.9.7 of this Schedule 1, Spohn, at Spohn's sole cost and expense, shall be responsible for constructing an outpatient family health center clinic, to be known as the "Dr. Hector P. Garcia – Memorial Family Health Center," as a leasehold Improvement on the District's Main Campus, which leasehold Improvement shall contain at least forty thousand (40,000) gross square feet of space. Architectural drawings and construction plans and specifications (i) complying with all legal requirements and approved by all Governmental Entities whose approval is required and (ii) depicting the Dr. Hector P. Garcia – Memorial Family Health Center (collectively, the "Plans") shall be prepared by Spohn's architect at Spohn's sole cost and expense. Spohn shall cause (i) the Dr. Hector P. Garcia – Memorial Family Health Center to be constructed, furnished, installed and completed in accordance with the Plans and all applicable legal requirements; (ii) all utility services necessary for the operation of the Dr. Hector P. Garcia – Memorial Family Health Center as a health clinic to be available at the Dr. Hector P. Garcia – Memorial Family Health Center upon Spohn's commencement of operations therein; (iii) all roads and parking on site that are necessary for the full utilization of the Dr. Hector P. Garcia – Memorial Family Health Center as a health clinic to be fully installed; (iv) Spohn's architect, Spohn's contractor, each subcontractor and all construction costs to be paid in full solely from Spohn's funds; (v) all construction at the Dr. Hector P. Garcia – Memorial Family Health Center to be performed by Spohn and Spohn's contractor with reasonable diligence in accordance with the Plans and all applicable legal requirements and in a good and workmanlike manner with new or functionally appropriate materials; and (vi) the Dr. Hector P. Garcia – Memorial Family Health Center to be equipped and furnished with the Replaced Equipment and Replaced Fixtures required by Spohn for the provision of Spohn's health care and social services under the Agreement and in accordance with Section 2.8 of Schedule 2 of the Agreement ("Schedule 2"). Spohn agrees to provide periodic (but in no event less frequent than monthly) status reports to the District on the Dr. Hector P. Garcia – Memorial Family Health Center during the construction process. The District shall have ten

(10) business days after the District’s receipt of each such status report to inspect or cause its agents or representatives to inspect the Dr. Hector P. Garcia – Memorial Family Health Center during the construction process in compliance with this Section 3.5.1, and Spohn agrees to cooperate with such inspections. Spohn shall provide the District written notice that the Dr. Hector P. Garcia – Memorial Family Health Center will be ready for occupancy within thirty (30) days after the date of the notice. Upon the District’s receipt of Spohn’s written notice, the District shall have ten (10) business days after the District’s receipt of such written notice to further inspect or cause its agents or representatives to inspect the Dr. Hector P. Garcia – Memorial Family Health Center, and Spohn agrees to cooperate with such inspection. The District and Spohn acknowledge and agree that the parties shall confer and consult in all aspects of the design, construction and furnishing of the Dr. Hector P. Garcia – Memorial Family Health Center, provided that Spohn shall have final control and responsibility with respect to all expenditures of Spohn’s funds and the management of the design, construction and furnishing of the Dr. Hector P. Garcia – Memorial Family Health Center. Notwithstanding any provision in this Section 3.5 to the contrary, fee simple title in and to the Dr. Hector P. Garcia – Memorial Family Health Center, shall vest and belong to the District free and clear of all Liens during the term of the Agreement and thereafter.

3.5.2 Section 2.8 of Schedule 2 describes the clinic services Spohn will provide at the Hector P. Garcia – Memorial Family Health Center.

3.5.3 Subject to the conditions precedent described below, Spohn shall be responsible for demolishing the existing Memorial hospital building and other structures and infrastructure situated on the Main Campus (“Memorial Buildings and Infrastructure”) within the area designated for demolition as depicted in Exhibit E or as otherwise agreed to by Spohn and the District (“Demolition Area”). Spohn acknowledges and agrees that it will not cease operations at, nor demolish, the Memorial Buildings and Infrastructure until Spohn has completed the construction of the Dr. Hector P. Garcia – Memorial Family Health Center and obtained all requisite certificate of occupancy and federal, state or local government licenses and approvals required by all applicable Governmental Entities having jurisdiction over the Dr. Hector P. Garcia – Memorial Family Health Center. Spohn further acknowledges and agrees that it will not cease operations at, nor demolish, the Memorial Buildings and Infrastructure until Spohn has completed the construction to the Shoreline Emergency Department and Trauma Center as described in Sections 2.3 and 2.5 of Schedule 2, ensuring that the community will have constant access to an Emergency Department equipped to provide Level II Trauma services. The demolition, construction, and other costs described in this Section

3.5.3 shall be borne solely by Spohn.

3.5.4 The demolition of the Memorial Buildings and Infrastructure shall be conducted by a qualified contractor engaged by Spohn in accordance with demolition plans prepared by Spohn's representatives at Spohn's sole cost and expense ("Demolition Plans"). The demolition of the Memorial Buildings and Infrastructure shall be conducted by Spohn's contractor in a reasonable and good and workmanlike manner and in accordance with generally accepted demolition practices and applicable legal requirements. In demolishing the Memorial Buildings and Infrastructure, Spohn shall use reasonable efforts to re-use or recycle building materials where applicable, to reduce the volume of refuse from the demolition. Spohn shall provide to the District a copy of the Demolition Plans and consult with the District about such Demolition Plans. Spohn's demolition of the Memorial Buildings and Infrastructure shall not commence until ten (10) business days from providing the District a copy of the Demolition Plans, and said demolition shall result in the complete removal of the Memorial Buildings and Infrastructure (including, without limitation, the basement infrastructure, underground storage tanks, and any other existing above ground or below ground infrastructure) from the portion of the Demolition Area in such manner that said area, including the former sites of the Memorial Buildings and Infrastructure will be suitable for future development, including for the construction of facilities that require deep foundations. Spohn agrees to provide periodic (but in no event less frequent than monthly) status reports to the District on the status of the demolition of the Memorial Buildings and Infrastructure during the demolition process. The District shall have ten (10) business days after the District's receipt of each such status report to inspect or cause its agents or representatives to inspect the Demolition Area periodically during the demolition process to ensure compliance with this Section 3.5.4, and Spohn agrees to cooperate with such inspections. Prior to the completion of the demolition of the Memorial Buildings and Infrastructure, Spohn shall provide the District written notice that the Memorial Building and Infrastructure demolition is nearing completion. Upon the District's receipt of Spohn's written notice, the District shall have ten (10) business days after the District's receipt of such written notice to inspect or cause its agents or representatives to inspect the demolition site for compliance with this Section 3.5.4, and Spohn agrees to cooperate with such inspection.

3.5.5 Following the demolition of the Memorial Buildings and Infrastructure, Spohn shall maintain the "green space" (i.e., the unimproved lawn areas at the Main Campus) throughout the Term of the Agreement in a manner consistent with its maintenance of the remaining undeveloped space at the Hospitals and in accordance with

Spohn's obligations under Section 3.9.1. Further, Spohn shall work collaboratively with the District to identify options for the use of the green space; provided, however, Spohn shall have no obligation to finance any modifications to the green space other than as described in this Section 3.5.5.

3.6. ~~3.5.~~ Compliance With Legal Requirements. Spohn, at its own cost and expense, shall timely comply with all legal requirements applicable to the Permitted Uses of the Property. Promptly upon the District's or Spohn's receipt of any notice from a Governmental Entity or other person of noncompliance with any material legal requirements, the receiving party shall provide the other party with written notice thereof and the party charged with compliance shall thereafter take all actions necessary to comply with such legal requirements and shall provide the other party with evidence of such compliance. Spohn, however, shall not be in breach as to its failure to comply with a particular legal requirement so long as Spohn is contesting in good faith and has received no final adverse order or decree regarding the applicability of such legal requirement to Spohn's operations at the Hospitals and/or the issue of Spohn's compliance or noncompliance therewith.

3.7. ~~3.6.~~ Contracts. Spohn shall use reasonable efforts to negotiate for or otherwise include a provision in each material long-term contract relating to the ownership or operation of the Hospitals that permits the District to elect, in its sole discretion, to assume such contract upon a termination or expiration of this Schedule 1.

3.8. ~~3.7.~~ Liens. The District shall keep the Real Property free and clear of any and all Liens other than the Liens that constitute "Permitted Encumbrances," set forth in **Exhibit D**, provided, however, that the District shall be permitted, from time to time, to encumber its fee interest in the Real Property pursuant to a fee mortgage (each such fee mortgage, hereinafter a "Fee Mortgage") subject to, and provided that the holder of each such Fee Mortgage (hereinafter, a "Fee Mortgagee") shall comply with, the following terms and mortgage: (a) each Fee Mortgage shall be subject and subordinate, in all respects, to Spohn's rights under this Schedule 1 (including any and all amendments, modifications, supplements, renewals, and/or replacements of this Schedule 1 hereinafter entered into from time to time), to all of the terms, provisions, and conditions of this Schedule 1 (and any such amendments, modifications, supplements, renewals, and/or replacements), and to all of Spohn's rights and privileges hereunder (and thereunder); and (b) the District and each such Fee Mortgagee shall have executed and delivered to Spohn a recognition, non-disturbance, and subordination agreement which shall provide, *inter alia*, for such Fee Mortgagee's acknowledgement and agreement to the conditions set forth in the foregoing clause (a) and to the further effects that, among other rights, Spohn shall have the right to notice and the opportunity (but not the obligation) to cure any defaults by the District under such Fee Mortgage, and, in the event of any foreclosure or the exercise of remedies under such Fee Mortgage and/or the subsequent acquisition by said Fee Mortgagee (or any other party) of the District's interest in the Real Property, whether pursuant to such foreclosure, a deed in lieu thereof, or otherwise, Spohn's rights under this Schedule 1 shall remain

undisturbed and such Fee Mortgagee (or other party) shall recognize Spohn as a tenant pursuant to the terms of this Schedule 1 (and any such amendments, modifications, supplements, renewals, and/or replacements, as aforesaid). Except for this Schedule 1, in no event shall Spohn have any right to, nor shall Spohn take any action which shall, encumber the District's fee interest in the Real Property or its ownership interest in any Real Property with any Lien thereon.

3.9. ~~**3.8.**~~ Condition of the Property; Maintenance of the Property; Modifications; Fixtures.

3.9.1. ~~**3.8.1.**~~ Spohn, at its sole cost and expense (except as expressly provided herein for District payments), shall keep the Real Property in a commercially reasonable state of repair, causing all necessary maintenance, repairs, renewals, replacements, additions, and improvements to be promptly made, and will not allow any of the Real Property to be misused, abused, or wasted or to deteriorate, subject in all events to ordinary wear and tear; provided, however, that, in any event, Spohn shall be required to make such capital improvements and repairs as necessary to maintain the Real Property in a commercially reasonable condition for use for one or more, as applicable, of the Permitted Uses. Notwithstanding anything contained in this Schedule 1 to the contrary, Spohn shall not, except in the case of an emergency or as may be otherwise necessary to fulfill its obligations under this Schedule 1 or Article ~~VIII~~VI of the Agreement, without the prior written consent of the District, which consent shall not be unreasonably withheld or delayed, make any structural or other alteration in the Real Property, the cost of which exceeds, in the case of each parcel of property comprising the Real Property, One Million Dollars (\$1,000,000), which amount shall be adjusted annually each year by the increase in the Consumer Price Index from the 1996 Transaction Date to the applicable year. The term "Consumer Price Index" shall mean the Consumer Price Index for All Items, as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index prepared or published by the United States government. The District acknowledges and agrees that its prior consent shall not be required for structural or other alterations to the Real Property the cost of which, in the case of each parcel of property comprising the Real Property, is equal to or less than One Million Dollars (\$1,000,000), as adjusted in accordance with the immediately ~~preceeding~~preceding sentence. Any construction of improvements or alterations by Spohn including, without limitation, construction of the Dr. Hector P. Garcia – Memorial Family Health Center, shall be prosecuted with diligence and continuity, in a good and workmanlike manner and in accordance with sound building and engineering practices, and all applicable legal requirements and free of any and all Liens.

3.9.2. ~~**3.8.2.**~~ Spohn shall maintain any District asset tags on the Hospital Equipment. In the event any such item of Hospital Equipment is replaced by Spohn, Spohn shall tag such items of personal property to show Spohn's

ownership thereof. Spohn shall use reasonable efforts to maintain and update any inventory of Hospital Equipment so that at all times there is available to the District an accurate itemized listing showing the Hospital Equipment owned by the District and used in or by the Hospitals.

3.9.3. ~~3.8.3. Spohn, at Spohn's sole cost and expense, shall cause a third party appraiser to prepare a written valuation report listing each piece of Hospital Equipment having a fair market value of Five Hundred Dollars (\$500) or greater (the "Minimum Value").~~ The District and Spohn acknowledge and agree that upon the termination or expiration of this Schedule 1 for any reason, Spohn shall be required to deliver to the District all Hospital Equipment which Spohn has not previously returned to the District in accordance with Section 3.9.2; provided, however, that Spohn shall only be required to account to the District for those pieces of Hospital Equipment which had a fair market value equal to or greater than ~~the~~ Five Hundred Dollars (\$500) ("Minimum Value") as of the 1996 Transaction Date, as set forth in ~~the aforementioned~~ that certain valuation report prepared by Spohn in accordance with Section 6.8(b) of that certain terminated Lease Agreement between the parties dated September 30, 1996. The District and Spohn further acknowledge and agree that the District shall neither make a claim nor have a right of recovery, of any kind whatsoever, against Spohn with respect to such pieces of Hospital Equipment which do not have a fair market value equal to or greater than the Minimum Value as of the 1996 Transaction Date, as set forth in the aforementioned valuation report.

3.9.4. ~~3.8.4.~~ Spohn shall be permitted to install and maintain trade Fixtures and equipment on the Real Property (or any portion(s) thereof) during the term of the Agreement, and, subject to Section ~~3.9,~~ 3.10, all such trade Fixtures and equipment which are attached to the Real Property (or any portion(s) thereof) may be removed by Spohn; provided, however, that any damage to the Real Property (or any portion(s) thereof) caused by such removal shall be promptly repaired by Spohn at Spohn's sole cost and expense.

3.9.5. ~~3.8.5.~~ Capital Expenditures. Spohn agrees to assume sole responsibility for the preparation of a yearly capital expenditure budget for the Hospitals, which shall provide for the capital expenditures at each of the Hospitals at a monetary level sufficient to allow Spohn to continue to provide quality medical aid and hospital care to the citizens of Nueces County and to maintain the Hospitals in a commercially reasonable manner suitable for one of the permitted purposes hereunder. Spohn shall make average annual Capital Expenditures (as defined below) at the Memorial hospital facility located at 2606 Hospital Boulevard, Corpus Christi, Texas and ~~medical office buildings~~ Medical Office Buildings located at 2601 Hospital Boulevard, 2400 Morgan Avenue, and 2500 Morgan Avenue, Corpus Christi, Texas in the amount of ~~six million dollars~~ Six Million Dollars (\$6,000,000), calculated on a rolling three-year average basis. For purposes

of this Section, "Capital Expenditures" shall mean expenditures for buildings, building equipment, major movable equipment, land improvements and other improvements as those terms are defined in the Medicare Provider Reimbursement Manual Sections 104.2, 104.3, 104.4, 104.7 and 104.8 respectively; provided, however, that the definition of major movable equipment and leasehold improvements shall be modified to require that such equipment and improvements have a minimum life as specified in the then-current edition of the American Hospital Association publication *Estimated Useful Lives of Depreciable Assets*. ~~The above-referenced six million dollars~~ The parties further agree that Capital Expenditures shall not include information technology or other CHRISTUS Health system-wide expenditures effective for calendar year 2017 and each calendar year thereafter during the initial term and any renewal term of the Agreement. The above-referenced Six Million Dollars (\$6,000,000) average annual Capital Expenditures shall be segregated into two Capital ~~Expenditure~~Expenditures pools to be applied by Spohn as follows:

- a. Three ~~million dollars~~Million Dollars (\$3,000,000) to Capital Expenditures (excluding major movable equipment, landscaping and shrubbery) at ~~the Memorial hospital facility located at 2606 Hospital Boulevard, Corpus Christi, Texas;~~ and
- b. Three ~~million dollars~~Million Dollars (\$3,000,000) to Capital Expenditures at the Memorial hospital facility ~~located at 2606 Hospital Boulevard, Corpus Christi, Texas and the medical office buildings located at 2601 Hospital Boulevard, 2400 Morgan Avenue and 2500 Morgan Avenue, Corpus Christi, Texas~~and the Medical Office Buildings.

The District acknowledges and agrees that Spohn is a member of the CHRISTUS Health Obligated Group (the "CHRISTUS Obligated Group") and may borrow monies, from time to time, to fund capital expenditures at the ~~Hospital~~Hospitals. In addition, the District acknowledges that Spohn, as a member of the CHRISTUS Obligated Group, may be required to make a general pledge of all or a portion of receipts from the Hospitals as security for the repayment of the CHRISTUS Obligated Group's outstanding obligations, and the District acknowledges and agrees that its statutory lien shall be subordinated to the pledge by Spohn of the receipts in the Hospitals.

3.9.6. Notwithstanding Section 3.9.5 above, Spohn's Capital Expenditures obligation for calendar years 2015 and thereafter shall be modified as follows:

- a. Calendar Year 2015. Spohn shall be obligated to spend the remaining balance, if any, in connection with Spohn's Capital**

Expenditures obligation for the three (3) year rolling average for 2012, 2013 and 2014 (collectively, the “2014 Deficit”), plus Three Million Dollars (\$3,000,000), in Capital Expenditures during calendar year 2015, which Capital Expenditures shall include (i) infrastructure and equipment Capital Expenditures for the Hospitals and (ii) the construction project costs incurred by Spohn with respect to the Dr. Hector P. Garcia – Memorial Family Health Center leasehold Improvements incurred by Spohn during calendar year 2015. The costs of maintaining the green space, i.e., the unimproved lawn areas, at the Main Campus shall be credited against Spohn’s Three Million Dollar (\$3,000,000) Capital Expenditures requirement for 2015. Any deficiency in Spohn’s Capital Expenditures obligation for the 2014 Deficit and Three Million Dollars (\$3,000,000) in Capital Expenditures and green space maintenance costs during calendar year 2015 shall be added to Spohn’s capital expenditure obligation for calendar year 2016 (collectively, the “2015 Deficit”).

b. *Calendar Year 2016.* Spohn shall be obligated to spend the remaining balance of the 2015 Deficit, if any, plus Two Million Dollars (\$2,000,000) in Capital Expenditures during calendar year 2016, which Capital Expenditures shall include (i) infrastructure and equipment Capital Expenditures for the Hospitals, including green space, i.e., the unimproved lawn areas, at the Main Campus, and (ii) the construction costs incurred by Spohn with respect to the Dr. Hector P. Garcia-Memorial Family Health Center leasehold Improvements incurred by Spohn during calendar year 2016. The costs of maintaining the green space, i.e., the unimproved lawn areas, at the Main Campus shall be credited against Spohn’s Two Million Dollar (\$2,000,000) Capital Expenditures requirement for 2016. Any deficit in Spohn’s obligation for the 2015 Deficit and Two Million Dollars (\$2,000,000) Capital Expenditures and green space maintenance costs in 2016 shall be added to Spohn’s capital expenditure obligation for calendar year 2017 (collectively, the “2016 Deficit”).

c. *Calendar Year 2017 and Thereafter.* Spohn shall be obligated to spend Six Hundred Thousand Dollars (\$600,000) annually during calendar year 2017 and during each calendar year thereafter during the initial term and any renewal term of the Agreement, which expenditures shall include (i) a minimum Two Hundred Thousand Dollars (\$200,000) in Capital Expenditures (exclusive of information technology system-wide expenditures or other CHRISTUS Health system-wide expenditures) at the Hospitals and (ii) other infrastructure,

equipment, repairs, maintenance and minor equipment expenditures for District-owned facilities (exclusive of information technology system-wide expenditures or other CHRISTUS Health system-wide expenditures), which expenditures shall be calculated on a three (3) year rolling average. The costs of maintaining the green space, i.e., the unimproved lawn areas, at the Main Campus shall be credited against the latter of Spohn's two categories of Capital Expenditures requirements each year. In addition, the deficit in Capital Expenditures, including the 2016 Deficit, if any, rolled over from calendar years 2014, 2015 and 2016, shall be paid in full by Spohn to the District following reconciliation of Spohn's capital expenditures for the calendar year 2017.

3.9.7. Notwithstanding the reductions in Capital Expenditures for calendar years 2015 and thereafter, pursuant to the terms of the escrow agreement attached as Exhibit F hereto ("Escrow Agreement"), Spohn shall deposit (on the first day of the first month following the effective date of the Agreement for the calendar year 2015 deposit and on January 1 of each year thereafter) into escrow an amount equal to the difference between Six Million Dollars (\$6,000,000) and the reduced Capital Expenditures obligation for each calendar year commencing with 2015 (excluding the 2014 Deficit, 2015 Deficit, 2016 Deficit, if any) ("Escrow Funds") until Spohn successfully completes its commitments as described in the following Subsections (a) through (f):

- a. Spohn shall obtain a certificate of occupancy for the Dr. Hector P. Garcia – Memorial Family Health Center and treat an Indigent, as defined in Schedule 2 in that facility. Upon Spohn's completion of such commitment and in accordance with the terms of the Escrow Agreement, Spohn shall be entitled to withdraw (i) twenty-five percent (25%) of the Escrow Funds, in the event that Spohn completes this commitment prior to completing any of the other commitments described in this Section 3.9.7, or (ii) an additional twenty-five percent (25%) of the cumulative Escrow Funds previously withdrawn by Spohn (e.g., if Spohn has previously withdrawn 25% of the Escrow Funds, Spohn shall be entitled to withdraw an additional amount equivalent to a cumulative of 50% of the Escrow Funds) as a result of its completion of one or more of the commitments described in Section 3.9.7, in the event Spohn completes this commitment after Spohn completes one or more of Spohn's commitments described in this Section 3.9.7. In addition, Spohn shall reduce its subsequent Escrow Funds deposits by twenty-five percent (25%) upon completion of this commitment.

- b. Spohn shall complete the Emergency Department renovations at the Shoreline hospital campus as described in Section 2.5(a) of Schedule 2. Upon Spohn's completion of such commitment and in accordance with the terms of the Escrow Agreement, Spohn shall be entitled to withdraw (i) twenty-five percent (25%) of the Escrow Funds, in the event that Spohn completes this commitment prior to completing any of the other commitments described in this Section 3.9.7, or (ii) an additional twenty-five percent (25%) of the cumulative Escrow Funds previously withdrawn by Spohn (e.g., if Spohn has previously withdrawn 25% of the Escrow Funds, Spohn shall be entitled to withdraw an additional amount equivalent to a cumulative of 50% of the Escrow Funds) as a result of its completion of one or more of the commitments described in this Section 3.9.7, in the event Spohn completes this commitment after Spohn completes one or more of Spohn's commitments described in this Section 3.9.7. In addition, Spohn shall reduce its subsequent Escrow Funds deposits by twenty-five percent (25%) upon completion of this commitment.
- c. Spohn's Shoreline hospital campus shall obtain designation from the Texas Department of State Health Services as "in active pursuit" of Level II Trauma status. Upon Spohn's completion of such commitment and in accordance with the terms of the Escrow Agreement, Spohn shall be entitled to withdraw (i) twelve and a half percent (12.5%) of the Escrow Funds, in the event that Spohn completes this commitment prior to completing any of the other commitments described in this Section 3.9.7, or (ii) an additional twelve and a half percent (12.5%) of the cumulative Escrow Funds previously withdrawn by Spohn (e.g., if Spohn has previously withdrawn 50% of the Escrow Funds, Spohn shall be entitled to withdraw an additional amount equivalent to a cumulative of 62.5% of the Escrow Funds) as a result of its completion of one or more of the commitments described in this Section 3.9.7, in the event Spohn completes this commitment after Spohn completes one or more of Spohn's commitments described in this Section 3.9.7. In addition, Spohn shall reduce its subsequent Escrow Funds deposits by twelve and a half percent (12.5%) upon completion of this commitment.
- d. Spohn's Shoreline hospital campus shall obtain official designation from the Texas Department of State Health Services as a Level II Trauma facility. Upon Spohn's completion of such commitment and in accordance with the terms of the Escrow Agreement, Spohn shall be entitled to withdraw (i) twelve and a half percent (12.5%) of the Escrow Funds, in the event that

Spohn completes this commitment prior to completing any of the other commitments described in this Section 3.9.7, or (ii) an additional twelve and a half percent (12.5%) of the cumulative Escrow Funds previously withdrawn by Spohn (e.g., if Spohn has previously withdrawn 62.5% of the Escrow Funds, Spohn shall be entitled to withdraw an additional amount equivalent to a cumulative of 75% of the Escrow Funds) as a result of its completion of one or more of the commitments described in this Section 3.9.7, in the event Spohn completes this commitment after Spohn completes one or more of Spohn's commitments described in this Section 3.9.7. In addition, Spohn shall reduce its subsequent Escrow Funds deposits by twelve and a half percent (12.5%) upon completion of this commitment.

e. Spohn shall complete the demolition of the Memorial Buildings and Infrastructure. Upon Spohn's completion of such commitment and in accordance with the terms of the Escrow Agreement, Spohn shall be entitled to withdraw (i) twelve and a half percent (12.5%) of the Escrow Funds, in the event that Spohn completes this commitment prior to completing any of the other commitments described in this Section 3.9.7, or (ii) an additional twelve and a half percent (12.5%) of the cumulative Escrow Funds previously withdrawn by Spohn (e.g., if Spohn has previously withdrawn 75% of the Escrow Funds, Spohn shall be entitled to withdraw an additional amount equivalent to a cumulative of 87.5% of the Escrow Funds) as a result of its completion of one or more of the commitments described in this Section 3.9.7, in the event Spohn completes this commitment after Spohn completes one or more of Spohn's commitments described in this Section 3.9.7. In addition, Spohn shall be entitled to reduce its subsequent Escrow Funds deposits by twelve and a half percent (12.5%) upon completion of this commitment.

f. Spohn shall restore the resulting "green space" following the Memorial Buildings and Infrastructure demolition in accordance with Section 3.5.5. Upon Spohn's completion of such commitment and in accordance with the terms of the Escrow Agreement, Spohn shall be entitled to withdraw (i) twelve and a half percent (12.5%) of the Escrow Funds, in the event that Spohn completes this commitment prior to completing any of the other commitments described in this Section 3.9.7, or (ii) an additional twelve and a half percent (12.5%) of the cumulative Escrow Funds previously withdrawn by Spohn (e.g., if Spohn has previously withdrawn 87.5% of the Escrow Funds, Spohn shall be entitled to withdraw an additional amount equivalent to a cumulative of 100% of the

Escrow Funds) as a result of its completion of one or more of the commitments described in this Section 3.9.7, in the event Spohn completes this commitment after Spohn completes one or more of Spohn's commitments described in this Section 3.9.7.

g. In accordance with Subsections (a) through (f) above, the parties agree that all remaining funds, and earnings thereon, held in the Escrow Fund on deposit with the escrow agent shall be disbursed to Spohn in accordance with the terms of the Escrow Agreement following Spohn's successful completion of all the commitments described in Subsections (a) through (f) above, provided that Spohn completes such commitments on or before September 29, 2023; provided, however, that in the event Spohn's performance of one or more commitments is delayed due to an act outside of Spohn's control (such as a legal action preventing demolition of the Memorial Buildings and Infrastructure, natural disaster, act of war or the like), the parties shall extend the September 29, 2023 deadline for completion of Spohn's commitments to September 29, 2026.

h. Notwithstanding the foregoing, any remaining Escrow Funds balance on deposit with the escrow agent as of September 30, 2023 as a result of Spohn's failure to perform one or more commitments described in Subsections (a) through (f) above on or before September 29, 2023 that was not extended as set forth in Subsection (g), shall be disbursed to the District in accordance with the terms of the Escrow Agreement, and Spohn's obligation to make Escrow Funds deposits will cease on that date, as adjusted pursuant to Subsection (g).

3.9.8. ~~3.8.6.~~ Prior to commencing any Material Alteration to the Main Campus, Spohn shall deliver to the District a notice describing the proposed Material Alteration to the Main Campus (the "Material Alteration Notice") and request the District's prior written consent for such Material Alteration to the Main Campus, which consent shall not be unreasonably withheld or delayed. Following delivery of such Material Alteration Notice, the District and Spohn shall promptly discuss and negotiate in good faith regarding the proposed Material Alteration to the Main Campus considering third party needs assessments, feasibility ~~analyzes~~analyses, community input, and other relevant information and shall also consider the diminished need for continuing annual Capital Expenditures under Section ~~3.8.5~~3.9.5 above after completion of such proposed Material Alteration to the Main Campus. If the ~~Landlord~~District consents to such proposed Material Alteration to the Main Campus and the parties agree to a modification to ~~the Tenant~~Spohn's annual Capital ~~Expenditure~~Expenditures obligations under Section ~~3.8.5~~3.9.5 above, this Schedule 1 will be amended to memorialize such agreement(s).

In accordance with the Material Alteration Notice procedures outlined above, the parties acknowledge that Spohn provided and the District consented to that certain Material Alteration Notice dated September 9, 2014 (“September Notice”). Pursuant to District’s approval of the September Notice, the District approved the construction by Spohn, at Spohn’s sole expense, of a minimum 40,000 building gross square foot outpatient clinic, to be known as the Dr. Hector P. Garcia – Memorial Family Health Center, as a leasehold improvement on the Main Campus for the provision of comprehensive outpatient clinic care, the relocation of the inpatient beds and Level II Trauma Center from Memorial to the Spohn Shoreline hospital facility, and then, Spohn’s demolition, at Spohn’s sole expense, of the Memorial Buildings and Infrastructure on the Main Campus. The Parties have also modified Spohn’s Capital Expenditures obligation as set forth in Section 3.8.5 above.

3.10. ~~3.9.~~ Equipment/Replaced Equipment; Replaced Fixtures; Hospital Equipment.

3.10.1. ~~3.9.1.~~ No later than sixty (60) days prior to the expiration or termination of this Schedule 1 and in the event the parties do not enter into any lease or similar agreement upon such termination, Spohn shall deliver written notice to the District describing each piece of Hospital Equipment still in use, each piece of Replaced Equipment, and each piece of Replaced Equipment which Spohn intends to acquire during the remainder of the term of this Schedule 1. The District shall have the option, but not the obligation, to purchase from Spohn any or all of the Replaced Equipment by paying to Spohn, on or prior to the expiration of the term of this Schedule 1, an amount equal to the Net Book Value (as of the date of purchase by the District) of the Replaced Equipment to be purchased by the District. Upon receipt of payment, Spohn shall deliver to the District a bill of sale for the equipment purchased by the District. No later than forty-five (45) days after the District’s receipt of Spohn’s notice describing the Replaced Equipment, the District shall send to Spohn written notice setting forth which Replaced Equipment the District elects to purchase, if any. Any Replaced Equipment which the District does not elect to purchase shall remain the sole property of Spohn and may be removed by Spohn from the Hospitals in accordance with the terms of this Schedule 1.

3.10.2. ~~3.9.2.~~ No later than sixty (60) days prior to the expiration or termination of this Schedule 1 and in the event the parties do not enter into any lease or similar agreement upon such termination, Spohn shall deliver written notice to the District describing each Replaced Fixture in use and each Replaced Fixture which Spohn intends to acquire during the remainder of the term of this Schedule 1. ~~The District shall be obligated to purchase from Spohn~~ Upon the expiration or termination of Schedule 1 and in the event the parties do not enter into any lease or similar agreement upon such expiration or termination, Spohn shall transfer by operation of law to

the District all of the Replaced Fixtures ~~(other than those Replaced Fixtures constituting a Capex Project, except to the extent that the same has been approved by the District pursuant to Section 1.9.3) by paying to Spohn, on or prior to the expiration of the term of this Schedule 1, an amount equal to the lesser of (i) the Net Book Value (as of the date of purchase by the District) of the Replaced Fixtures, or (ii) the Fair Market Value (as of the date of purchase by the District) of the Replaced Fixtures to be purchased by the District.~~

~~3.9.3. On or after _____, Spohn may provide sixty (60) days' prior written notice of Spohn's intention to undertake a capital improvement project (a "Capex Project") with respect to the Real Property or an Improvement otherwise benefiting one or more of the Hospitals which has a cost equal to or greater than Two Hundred Fifty Thousand Dollars (\$250,000) (the "Base Number"), as determined by Spohn's good faith estimates. The Base Number shall be adjusted annually by an amount equal to the average percentage increase in the Consumer Price Index and the DRI Type Hospital Index from 1996 to the applicable year. The term "Consumer Price Index" shall mean the Consumer Price Index for All Items, as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor index prepared or published by the United States government. The term "DRI Type Hospital Index" shall mean the DRI Type Hospital Index (McGraw Hill Health Care Costs: Regional Tables) as published by McGraw Hill, or any successor index prepared or published by McGraw Hill. Spohn's notice shall include a reasonable description of the Capex Project and Spohn's proposed budget for the Capex Project. Within thirty (30) days of the District's receipt of such notice, the District shall provide Spohn with written notice of whether the District consents to Spohn's proposed Capex Project. In the event the District provides its written consent to a Capex Project, upon expiration of the Agreement, the District shall be obligated to pay Spohn, on or prior to the expiration of the term of this Schedule 1, an amount equal to the Net Book Value (as of the date of the purchase by the District) of each Capex Project to which the District previously provided its written consent.~~

3.10.3. ~~3.9.4.~~ The District and Spohn hereby agree as follows with respect to the Hospital Equipment: (i) Spohn shall be permitted to remove and/or relocate, from time to time at Spohn's sole discretion, the Hospital Equipment, or any portion(s) thereof, from the Real Property; and (ii) Spohn shall from time to time, upon not less than thirty (30) days' prior written notice to the District, advise the District, in order to enable the District to comply with any statutory salvage requirements applicable to the District with respect to the Hospital Equipment, when Spohn no longer requires the use of any items of the Hospital Equipment, whereupon the District shall be required, at the District's sole cost and expense, to remove said item of the Hospital Equipment from the Real Property promptly following Spohn's delivery of said notice. To the extent Spohn removes and/or relocates any Hospital

Equipment from the Real Property, upon the termination of this Schedule 1, Spohn shall return, at Spohn's sole cost or expense, to the Real Property all such Hospital Equipment which has not been previously returned for salvage.

3.10.4. Notwithstanding anything herein to the contrary, in acknowledgment of the contemplated demolition of the Memorial Buildings and Infrastructure during the term of this Schedule 1, as described in Section 3.5.3, the parties agree that the procedures set forth in this Section 3.10.4 shall apply to Hospital Equipment, Replaced Equipment, Replaced Fixtures, and other structural components, infrastructure, or materials located within or comprising the Memorial Buildings and Infrastructure as of the effective date of the demolition thereof. No later than sixty (60) days prior to the demolition of the Memorial Buildings and Infrastructure, Spohn shall deliver written notice to the District describing each piece of Hospital Equipment still in use and that had a fair market value equal to or greater than the Minimum Value as of the 1996 Transaction Date, as set forth in that certain valuation report prepared by Spohn in accordance with Section 6.8(b) of that certain terminated Lease Agreement between the parties dated September 30, 1996, in order to enable the District to comply with any statutory salvage requirements. Following the District's receipt of such notice, the District shall, at the District's sole cost and expense, remove any such item of the Hospital Equipment from the Memorial Buildings and Infrastructure promptly following Spohn's delivery of said notice. All other remaining items of Hospital Equipment, Replaced Equipment, Replaced Fixtures, and other structural components, infrastructure, or materials located within or comprising the Memorial Buildings and Infrastructure as of the effective date of the demolition shall belong to Spohn as of the effective date of the demolition of the Memorial Buildings and Infrastructure. As the owner of such remaining items of Hospital Equipment, Replaced Equipment, Replaced Fixtures, structural components, infrastructure and materials, Spohn shall have the right to sell such Hospital Equipment, Replaced Equipment, Replaced Fixtures, structural components, infrastructure and materials and retain the proceeds thereof to, among other things, offset Spohn's costs of demolishing the Memorial Buildings and Infrastructure.

3.11. ~~**3.10.**~~ Environmental Law Compliance and Indemnity.

3.11.1. ~~**3.10.1.**~~ WITHOUT LIMITING THE OBLIGATIONS OF THE DISTRICT HEREUNDER, SPOHN SHALL PROMPTLY PAY AND DISCHARGE WHEN DUE ALL DEBTS, CLAIMS, LIABILITIES, AND OBLIGATIONS AND PERFORM ALL DUTIES NECESSARY FOR SPOHN TO COMPLY IN ALL MATERIAL RESPECTS WITH ALL ENVIRONMENTAL LAWS WHICH ARE APPLICABLE TO THE REAL

PROPERTY (OR ANY PORTIONS(S) THEREOF) OR THE OPERATION OF THE HOSPITALS DURING THE TERM. SPOHN SHALL NOT CAUSE OR PERMIT ANY HAZARDOUS MATERIALS TO BE BROUGHT UPON, KEPT, OR USED IN OR ABOUT THE REAL PROPERTY IN MATERIAL VIOLATION OF ANY ENVIRONMENTAL LAWS. IF SPOHN (I) BREACHES THE OBLIGATIONS STATED IN THE PRECEDING SENTENCE, OR (II) CAUSES THE EXPOSURE OF ANY PERSON TO HAZARDOUS MATERIALS OR CONTAMINATION OF THE REAL PROPERTY (OR ANY PORTION(S) THEREOF) BY HAZARDOUS MATERIALS, WHETHER DURING OR AFTER THE TERM, OR PERMITTED BY SPOHN AFTER THE 1996 TRANSACTION DATE, THEN SPOHN SHALL INDEMNIFY, DEFEND, AND HOLD THE DISTRICT HARMLESS FROM ANY AND ALL CLAIMS, JUDGMENTS, DAMAGES, PENALTIES, FINES, COSTS, GOVERNMENT ORDERS, LIABILITIES, OR LOSSES (INCLUDING REASONABLE ATTORNEYS' FEES AND RELATED COSTS OF SUIT) WHICH ARISE DURING OR AFTER THE TERM AS A RESULT OF SUCH EXPOSURE OR CONTAMINATION. EXCEPT WITH REGARD TO CONTAMINATION EXISTING PRIOR TO THE 1996 TRANSACTION DATE FOR WHICH SPOHN PROVIDES NO INDEMNIFICATION, THIS INDEMNIFICATION OF THE DISTRICT BY SPOHN INCLUDES COSTS REASONABLY INCURRED BY THE DISTRICT IN CONNECTION WITH ANY INVESTIGATION OF SITE CONDITIONS, OR ANY CLEANUP, REMEDIAL, REMOVAL, OR RESTORATION WORK REQUIRED BY ANY GOVERNMENTAL ENTITY BECAUSE OF HAZARDOUS MATERIALS PRESENT IN THE SOIL OR WATER ON OR UNDER OR MIGRATING FROM THE REAL PROPERTY (OR ANY PORTION(S) THEREOF). WITHOUT LIMITING THE FOREGOING, IF THE PRESENCE OF ANY HAZARDOUS MATERIALS ON THE REAL PROPERTY (OR ANY PORTION(S) THEREOF) CAUSED OR PERMITTED BY SPOHN RESULTS IN ANY MATERIAL ADVERSE CONTAMINATION OF THE REAL PROPERTY (OR ANY PORTION(S) THEREOF), SPOHN SHALL PROMPTLY TAKE ALL ACTIONS, AT ITS SOLE EXPENSE, AS ARE NECESSARY TO RETURN THE REAL PROPERTY (OR ANY PORTION(S) THEREOF) TO THE CONDITION EXISTING PRIOR TO THE INTRODUCTION OF ANY SUCH HAZARDOUS MATERIALS TO THE REAL PROPERTY; PROVIDED THAT THE DISTRICT'S APPROVAL OF SUCH ACTIONS SHALL FIRST BE OBTAINED, WHICH APPROVAL SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED, SO LONG AS SUCH ACTIONS WOULD NOT BE REASONABLY EXPECTED TO HAVE ANY MATERIAL ADVERSE LONG-TERM OR SHORT-TERM EFFECT ON THE REAL PROPERTY.

3.11.2. ~~3.10.2.~~—WITHOUT LIMITING THE OBLIGATIONS OF SPOHN HEREUNDER, AND NOTWITHSTANDING ANY CONTRARY PROVISIONS CONTAINED IN THIS SCHEDULE 1, THE DISTRICT

SHALL PROMPTLY PAY AND DISCHARGE WHEN DUE ALL DEBTS, CLAIMS, LIABILITIES, AND OBLIGATIONS AND PERFORM ALL DUTIES NECESSARY FOR THE DISTRICT TO COMPLY WITH ALL ENVIRONMENTAL LAWS WHICH EXIST OR ARE APPLICABLE TO THE REAL PROPERTY (OR ANY PORTION(S) THEREOF) PRIOR TO THE 1996 TRANSACTION DATE OR TO THE DISTRICT'S USE OF THE REAL PROPERTY (OR ANY PORTION(S) THEREOF) AND WHICH ARE NOT CAUSED BY OR DO NOT ARISE OUT OF AN ACT OR OMISSION OF SPOHN OR BY OR OUT OF AN ACT OR OMISSION AFTER THE 1996 TRANSACTION DATE OF A THIRD PARTY (OTHER THAN THIRD PARTIES UNDER THE DISTRICT'S DIRECTION). IF EXPOSURE OF ANY PERSON TO HAZARDOUS MATERIALS OR CONTAMINATION OF THE REAL PROPERTY (OR ANY PORTION(S) THEREOF) BY HAZARDOUS MATERIALS IS CAUSED BY THE DISTRICT, WHETHER PRIOR TO, DURING, OR AFTER THE TERM, OR IS PERMITTED BY THE DISTRICT PRIOR TO THE 1996 TRANSACTION DATE, THEN THE DISTRICT SHALL INDEMNIFY, DEFEND AND HOLD SPOHN HARMLESS FROM ANY AND ALL (X) DAMAGES INCURRED BY SPOHN DURING OR AFTER THE TERM AS A RESULT OF SUCH EXPOSURE OR CONTAMINATION, AND (Y) CLAIMS, JUDGMENTS, DAMAGES, PENALTIES, FINES, COSTS, GOVERNMENT ORDERS, LIABILITIES, OR LOSSES (INCLUDING REASONABLE ATTORNEYS' FEES AND RELATED COSTS OF SUIT) WHICH ARISE PRIOR TO, DURING, OR AFTER THE TERM AS A RESULT OF SUCH EXPOSURE OR CONTAMINATION. THIS INDEMNIFICATION OF SPOHN BY THE DISTRICT ALSO INCLUDES COSTS REASONABLY INCURRED BY SPOHN IN CONNECTION WITH ANY INVESTIGATION OF SITE CONDITIONS OR ANY CLEANUP, REMEDIAL, REMOVAL, OR RESTORATION WORK REQUIRED BY ANY GOVERNMENTAL ENTITY BECAUSE OF HAZARDOUS MATERIALS PRESENT IN THE SOIL OR WATER ON, UNDER, OR MIGRATING FROM THE REAL PROPERTY (OR ANY PORTION(S) THEREOF). IN ADDITION, IF ANY CONTAMINATION OF THE REAL PROPERTY (OR ANY PORTION(S) THEREOF) BY HAZARDOUS MATERIALS IS CAUSED OR PERMITTED BY THE DISTRICT (OR THIRD PARTIES UNDER THE DISTRICT'S DIRECTION) AND SUCH CONTAMINATION MATERIALLY IMPAIRS SPOHN'S USE OF THE REAL PROPERTY (OR ANY PORTION(S) THEREOF), SPOHN MAY TERMINATE THIS SCHEDULE 1 UPON NINETY (90) DAYS' WRITTEN NOTICE, AND THE DISTRICT SHALL BE SOLELY RESPONSIBLE FOR THE REMEDIATION OF ANY SUCH HAZARDOUS MATERIALS AND ANY SUCH CONTAMINATED MEDIA CAUSED THEREBY.

3.11.3. ~~**3.10.3.**~~—The District and Spohn acknowledge that the ~~Hospital~~ **Property** contains a 5,000-gallon underground storage tank (the

“Storage Tank”) installed in 1978. To the District’s knowledge, such Storage Tank is in good operating order and the operation of same has not caused any contamination of the Real Property requiring remedial action under applicable Environmental Laws.

3.11.4. ~~3.10.4.~~ Spohn shall promptly provide, within twenty (20) Business Days of Spohn’s receipt, written notice to the District of: (i) any notices received by Spohn of an existing, pending, or threatened action, suit, investigation, inquiry, or proceeding commenced by or before any court or Governmental Entity with respect to Hazardous Materials on, about, or beneath the Real Property (or any portion(s) thereof), or the migration of any Hazardous Materials to or from property adjoining or in the vicinity of the Real Property, or alleging any obligation under Environmental Laws; (ii) any claims made or threatened by any person or entity against the Real Property, Spohn, or any other party occupying the Real Property (or any portion(s) thereof), relating to any loss or injury allegedly resulting from any Hazardous Materials; and (iii) the discovery of any occurrence or condition on, about, or beneath the Real Property (or any portion(s) thereof), or on, about, or beneath any property adjoining or in the vicinity of the Real Property, of which Spohn becomes aware, which may cause the Real Property (or any portion(s) thereof) to be in violation of any Environmental Laws or subject to any restriction on ownership, occupancy, transferability, or use under any Environmental Laws.

3.11.5. ~~3.10.5.~~ In the event the District reasonably believes that Spohn has violated its obligations under this Section ~~2.10~~**3.11** or Spohn has sought indemnification from the District under this Section ~~2.10~~**3.11**, the District shall have the right, upon reasonable advance notice to Spohn, to enter upon and inspect any or all of the Real Property, at any times as the parties acting in good faith may agree upon. In connection therewith, the District shall have the right to retain any professional consulting engineer to enter the Real Property to conduct such inspections and to prepare reports of such inspections. The District’s rights hereunder shall include the right to perform such tests, including but not limited to soil borings and other customary environmental tests, assessments, and audits, on the Real Property, as are reasonably necessary. The District shall use its reasonable efforts to assure that such testing, assessments, and audit activities do not interfere with the operations of Spohn, and the District shall be solely responsible for all costs, expenses, and fees incurred by the District in conducting the inspections and testing hereunder, subject to any right of indemnification that the District may otherwise have under this Schedule 1. Subject to the District’s right of indemnification hereunder, the District shall be solely responsible for the cost of restoring any damage to the Real Property and Improvements which arises from the District’s testing, assessment, and auditing activities hereunder. In the event the District is required by any Environmental Law or by any federal, state, or local environmental agency to conduct an environmental investigation or testing,

or if the District reasonably believes that Spohn may have violated its obligations under this Section ~~2.10,3.11~~, Spohn shall use reasonable efforts to cooperate with the District.

~~3.11.6. 3.10.6. The~~Excluding any costs or expenses for the removal or containment of any asbestos or any material which contains any hydrated mineral silicate (collectively, “Asbestos Materials”) related to the demolition of the Memorial Buildings and Infrastructure, the District and Spohn each agree to equally share any costs or expenses incurred by Spohn during the term of this Schedule 1 in connection with the removal or containment of any ~~asbestos or any material which contains any hydrated mineral silicate (collectively, “Asbestos Materials”)~~, whether friable or non-friable, from any of the Real Property which is required by law as a result of (i) Spohn’s restoration or improvements to the Improvements, or (ii) other applicable legal requirements. Spohn shall provide the District written notice of Spohn’s proposed removal or containment of any Asbestos Materials from the Real Property, and in connection therewith the District shall be provided with copies of any bids, plans, and contractor qualifications relating to such removal/containment project and the right to approve of the proposed removal/containment, which approval shall not be unreasonably withheld or delayed. In the event the District fails to approve the proposed removal/containment within twenty (20) days of receipt of written notice and the related materials, the District shall be deemed to have approved of such removal/containment plan. The District and Spohn each agree to pay their respective share of any such costs or expenses within thirty (30) days of a contractor’s presentation of an appropriate invoice for services.

~~3.12. 3.11. Medical Waste.~~ During the term of this Schedule 1, Spohn, on behalf of itself and any subtenants, licensees, or contractors, shall be solely responsible for the separation of ~~Medical Waste~~medical waste at the Hospitals from non-~~Medical Waste~~medical waste at the Hospitals. Subject to subtenants’ obligations under the ~~Office Agreements~~office agreements with respect to the disposal of ~~Medical Waste~~medical waste, Spohn, at its cost and expense, shall provide for the handling and disposal of all ~~Medical Waste~~medical waste located at the Hospitals or generated at the Hospitals during the term of this Schedule 1, in compliance with all applicable legal requirements, and, in any event, Spohn shall not dispose, or permit the disposal, of; any ~~Medical Waste~~medical waste on the Real Property.

~~3.13. 3.12. Litigation.~~ Spohn shall furnish written notice to the District of any action, suit, arbitration or proceeding (other than those pertaining to alleged professional liability or malpractice issues) against Spohn (to the extent the same relates to Spohn’s use and operation of the Property), or the Property before any Governmental Entity or arbitrator which could reasonably be expected to have a Material Adverse Effect on Spohn’s ability to use or operate the Hospitals or otherwise discharge its obligations under this Schedule 1.

3.14. ~~**3.13.**~~ Existing Roads, Walkways, and Signage. The District and Spohn recognize, stipulate, and agree that, to the extent that there are existing roads, walkways, and signs located on property owned or controlled by the District in the vicinity of, or adjacent to, the Real Property, the District hereby grants to Spohn and Spohn's agents, employees, contractors, invitees, customers, patients, tenants, sublessees, and guests (collectively, the "Related Parties") the irrevocable, non-exclusive right to use such roads, walkways, and signs during the term of this Schedule 1 in connection with Spohn's and the Related Parties' use of the Real Property (or any portion(s) thereof) and Spohn's and the Related Parties' business conducted therein; provided, however, that the District may, at the District's sole cost and expense, relocate any or all of such roads, walkways, and signs so long as such relocated roads, walkways, and signs provide substantially the same benefit to Spohn and the Related Parties and, in Spohn's sole but reasonable discretion, do not adversely impact Spohn's and the Related Parties' respective use of the Real Property (or any portion(s) thereof) or the conduct of Spohn's and the Related Parties' business conducted therein.

3.15. ~~**3.14.**~~ License of Name. During the term of the Agreement, the District grants to Spohn for use with respect to the Assets an exclusive, nontransferable, royalty-free license to use the name "Memorial Medical Center," all trade names, trademarks, logos and service marks used in connection with the Hospitals and all related names, logos, trademarks and service marks (excluding, however, "Nueces County Hospital District") which the District currently uses or has used in the past in connection with the ownership or operation of the Assets, such license to be effective so long as ~~the Agreement~~this Schedule 1 remains in effect. THE DISTRICT DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF TITLE OR NON-INFRINGEMENT WITH RESPECT TO SUCH TRADE NAMES, LOGOS, TRADEMARKS AND SERVICE MARKS. THE DISTRICT HAS NO OBLIGATION TO REGISTER, DEFEND OR PRESERVE ANY SUCH TRADE NAMES, LOGOS, TRADEMARKS AND SERVICE MARKS, OR SPOHN'S RIGHT UNDER THE LICENSE GRANTED HEREBY TO USE THE SAME. Notwithstanding any provision contained herein to the contrary, the District shall cooperate with all reasonable efforts of Spohn to defend, protect or preserve for Spohn's use during the term of the Agreement such trade names, logos, trademarks and service marks, and during the term of the Agreement, the District shall take no action which shall damage Spohn's ability to make full use and receive the complete benefit of such trade names, logos, trademarks and service marks.

4. CASUALTY; CONDEMNATION

4.1. ~~**4.1.**~~ Damage or Destruction.

4.1.1. If at any time during the term of the Agreement, any of the separate parcels of property comprising the Real Property (each such separate parcel hereinafter referred to as a "Subject Real Property") or other Property (any part thereof) shall be damaged or destroyed by fire or other casualty of any

kind or nature, ordinary or extraordinary, foreseen or unforeseen, Spohn shall pay the cost to repair, alter, restore, replace or rebuild (collectively, "Rebuild") the same in substantially the form in which it existed prior to such casualty, in a good and workmanlike manner and in accordance with sound building and engineering practices, so long as the District has previously made available to Spohn for such Rebuilding all related insurance proceeds received by the District, all of which, for said purposes, are hereby assigned by the District to Spohn and shall be paid directly to Spohn or as Spohn shall otherwise direct. Notwithstanding the foregoing sentence, Spohn shall not be obligated to expend more than the sum of the applicable policy limits plus the deductibles to Rebuild the Subject Real Property in question following any casualty loss. Spohn may propose to the District to Rebuild the Subject Real Property in question in a form different than that in which it existed prior to such casualty, subject only to the District's consent, which consent shall not be unreasonably withheld or delayed. With respect to a Rebuild of the Subject Real Property, the District and Spohn agree to negotiate in good faith to complete such Rebuild of the Subject Real Property in a manner that best meets the needs of the Nueces County community.

4.1.2. Notwithstanding any other provision to the contrary, in lieu of a Rebuild of the Property, Spohn may elect to terminate this Schedule 1 as to the Subject Real Property in question, if the Subject Real Property in question is damaged by fire or any other casualty to the following extent: (1) if the Subject Real Property in question is Memorial's main campus, then, to the extent that (A) more than seventy-five percent (75%) of such Subject Real Property and related Property is damaged, or (B) in ~~the~~ Spohn's reasonable opinion, the Replacement Cost of the repairs, alterations or restoration of such Subject Real Property and related Property would equal or exceed seventy-five percent (75%) of the replacement value of such Subject Real Property and related Property and (2) if the Subject Real Property in question is other than Memorial's main campus, then, to the extent that (A) more than fifty percent (50%) of such Subject Real Property and related Property is damaged, or (ii) in ~~the~~ Spohn's reasonable opinion, the Replacement Cost of the repairs, alterations or restoration of such Subject Real Property and related Property would equal or exceed fifty percent (50%) of the replacement value of such Subject Real Property and related Property. In the event ~~the~~ Spohn elects to terminate this Schedule 1 as to the Subject Real Property in accordance with this Section 4.1.2, Spohn shall give the District notice of its intention to terminate this Schedule 1 as to the Subject Real Property in question as of a termination date no earlier than sixty (60) days from the date such notice is furnished to the District.

4.1.3. The District and Spohn shall cooperate and consult with each other in all matters pertaining to the settlement or adjustment of any and all insurance claims relating to the Subject Real Property and related Property in question, and no final adjustment shall be made without the written

approval of the District and Spohn, which approvals shall not be unreasonably withheld or delayed. All insurance proceeds (together with the amount of the applicable deductibles) paid on account of damage or destruction to the Subject Real Property and related Property in question under the policies of insurance provided for in Section 3.4 shall be paid (or with respect to deductibles delivered by Spohn) jointly to the District and Spohn to be used to Rebuild the Subject Real Property in question (the “Work”) and replace the related Property, and Spohn shall deliver to the District any payment for any insurance policy deductible in the event Spohn elects to terminate this Schedule 1 as to the Subject Real Property pursuant to Section 4.1.2. Spohn shall have the exclusive right to adjust all insurance claims and receive all insurance proceeds relating to interruption of operations at any of the Hospitals and the damage or destruction of assets it purchased, Replaced Equipment and Replaced Fixtures. Spohn shall prepare and deliver to the District for the District’s approval complete plans and specifications complying with all legal requirements, for the Work (approved by all Governmental Entities whose approval is required), which plans and specifications complying with all legal requirements shall bear the signed approval—~~thereof~~ of an inspecting architect reasonably satisfactory to the District, and shall be accompanied by such inspecting architect’s signed estimate bearing such inspecting architect’s seal, of the entire cost of completing the Work. The District shall have the right to approve plans and specifications for the Work, which consent shall not be unreasonably withheld or delayed. To the extent permitted by applicable legal requirements and to the extent of available funds, the District shall contract with Spohn to accomplish the Work, in which event Spohn shall perform the Work in compliance with all legal requirements diligently in a good and workmanlike manner, in good faith, substantially in accordance with the plans and specifications referred to above.

- 4.1.4.** Notwithstanding anything to the contrary contained in this Section 4 or elsewhere in this Schedule 1, in the event that a Subject Real Property or any part thereof shall be damaged or destroyed by fire or other casualty of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, during any one of the last three (3) years of the term of the Agreement and the cost to Rebuild the same is twenty-five percent (25%) or more of the Replacement Cost thereof, then—~~subject to the immediately preceding sentence~~ either the District or Spohn may provide notice to the other party of that party’s election to terminate this Schedule 1 as to the Subject Real Property in question, in which event (i) all insurance proceeds (together with the amount of the applicable deductibles) received as a result of such damage or destruction to the Subject Real Property and related Property in question shall be assigned (or delivered) to the District, and (ii) this Schedule 1 shall thereafter terminate and be of no further force or effect as to the Subject Real Property in question. The District shall not be permitted to elect to terminate this Schedule 1 pursuant to this Section 4.1.4 if Spohn, within ten (10) Business Days of receipt of the District’s notice of its

intention to terminate this Schedule 1 as to the Subject Real Property in question pursuant to this Section 4.1.4, provides the District with notice of its election to extend the term of the Agreement, at the end of the then current term in which event the provisions of this Section 4.1.4 shall not apply.

~~4.2.~~ ~~4.2.~~ Total Condemnation.

If, at any time during the term of the Agreement, title to all of a Subject Real Property or substantially all of a Subject Real Property shall be taken in condemnation proceedings, this Schedule 1 shall continue in effect as to the remainder of the Real Property. For purposes of this Section 4.2, “substantially all of a Subject Real Property” shall be deemed to have been taken if the untaken portion cannot be practically and economically used or converted for use by Spohn for the purposes for which the Subject Real Property in question is being used immediately prior to such taking. In the event that the District and Spohn are unable to agree on whether substantially all of a Subject Real Property has been taken, commencing on the date of the taking, then either party may request binding arbitration in accordance with the Agreement, by giving written notice to the other party. The Arbitrators shall determine whether substantially all of a Subject Real Property has been taken to the extent the District and Spohn have been unable to agree on these matters. The District and Spohn shall each pay one-half (1/2) of the cost of the Arbitrators. In the event of any such taking, the District shall be entitled to receive all compensation awarded by the condemning Governmental Entity as a result of the taking of the Subject Real Property in question; provided, however, that Spohn shall be entitled to receive compensation based upon the current market value, for the taking of any improvements which Spohn has made (including, without limitation, the Replaced Fixtures) which are actually taken by the condemning authority, as well as any additional sums the condemning authority is obligated to pay Spohn such as the market value of the property interest taken and Spohn’s moving expenses.

~~4.3.~~ ~~4.3.~~ Partial Condemnation.

4.3.1. If, at any time during the term of the Agreement, title to a portion of a Subject Real Property shall be taken in any condemnation proceedings, this Schedule 1 shall continue in effect as to the remainder of the Subject Real Property in question. For purposes of this Section 4.3.1, “taking of a portion of a Subject Real Property” shall mean that the remainder of the Subject Real Property in question may still be used in an economically sound manner for the uses and purposes for which it was being used prior to such taking. In the event of such a partial taking, the District and Spohn shall enter into good faith negotiations in an attempt to agree on the restoration to be made (the “Agreed Restoration”) by Spohn to the remainder of the Subject Real Property in question. In the event that the District and Spohn are unable to agree on whether the remainder of the Subject Real Property in question may still be used in an economically sound manner for the uses and purposes for which it was being used prior to the taking in question after thirty (30) days of good faith negotiations, commencing on the date of the taking, then either party may request binding arbitration, in accordance with the Agreement, by giving written notice to

the other party. The Arbitrators shall determine whether the remainder of the Subject Real Property in question may still be used in an economically sound manner for the uses and purposes for which it was being used prior to the taking in questions, and the Agreed Restoration. The District and Spohn shall each pay one-half (1/2) of the cost of the Arbitrators.

- 4.3.2. Any compensation awarded by the condemning Governmental Entity in connection with a partial condemnation shall be the sole property of the District; provided, however, that Spohn shall be entitled to receive any compensation awarded by the condemning Governmental Entity, based upon market value, for the taking of any improvements which Spohn has made, (including, without limitations, the Replaced Fixtures) which are actually taken by the condemning authority, as well as any additional sums the condemning authority is obligated to pay ~~the~~ Spohn such as cost of cure, loss in market value of Spohn's leasehold estate, and Spohn's moving expenses.

4.4. 4.4.—Notice of Casualty or Condemnation; Limitation on Condemnations.

Spohn shall notify the District of any notice received by Spohn relative to any destruction, damage, or closing of any condemnation proceeding relating to all or any portion of the Real Property. During the term, the District agrees that it shall not participate in, nor permit any Nueces County ~~Governmental Body~~governmental body under its control or direction to participate in any ~~condemnations~~condemnation proceeding with respect to all or any portion of the Property.