

LIMITED LIABILITY COMPANY OPERATING AGREEMENT

BY AND BETWEEN

AND

_____ **Hospital**

FOR

As of _____, _____

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OPERATING AGREEMENT

OPERATING AGREEMENT, for _____, a New York Limited Liability Company, with its principal office at _____, dated as of the ____ day of _____, _____, by and between its initial Members, _____, a New York limited liability company with a business address of _____ ("Holdings"), and _____, a New York not-for-profit corporation with a business address of _____ ("Hospital"). (Holdings and Hospital are sometimes collectively referred to hereinafter as the "Members" or individually as a "Member").

Recitals: The following recitals are hereby incorporated into this Agreement:

A. Holdings and Hospital desire to engage in a venture, in the form of a limited liability company (the "LLC"), under the laws of the State of New York, to form a management and services organization as further described herein.

B. In accordance with Section 417 of the Limited Liability Company Law the State of New York, the Members have agreed to enter into this Operating Agreement.

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

ARTICLE ONE

DEFINITIONS

1. As used in this Agreement, the following terms shall have the following meanings, unless the context clearly requires otherwise:

"Affiliates". Any entity that, directly or indirectly, is controlled by, is under common control with, or who controls a Member. In this definition the term "control" shall mean, with respect to a firm or entity, the overlapping management and ownership interest of 50% or more of such entity. For purposes of this Agreement, Holdings and Hospital shall not be deemed to be Affiliates of one another.

"Agreement". This Operating Agreement, as the same may be amended or modified from time to time.

"Bankruptcy". The bankruptcy of a Member or the LLC shall be deemed to occur at the earliest of the time when (i) such Member or the LLC files a petition in bankruptcy; (ii) such Member or the LLC voluntarily takes advantage of any bankruptcy or insolvency law; (iii) such Member or the LLC files any petition or application for the appointment of a receiver or trustee; (iv) a petition or answer is filed proposing the adjudication of such Member or the LLC as a bankrupt or seeking the appointment of a receiver or trustee for the LLC; or (v) such Member either consents to the filing thereof, or such petition or answerer is not discharged or denied prior to the expiration of sixty (60) days from the date of such filing.

"Capital Account". The capital account of each Member as determined in accordance with Section 8.2 hereof.

"Capital Contribution". Each initial Member's contribution to the LLC's capital as set forth in Section 3.1 hereof.

"Code". The United States Internal Revenue Code of 1986, as it may be amended from time to time.

"Gross Revenues". All revenues collected by the LLC and any interest earned thereon.

"Insolvency". The insolvency of a Member or the LLC shall be deemed to occur when such Member or the LLC, as the case may be, is unable to pay its liabilities as the same become due.

"Interest". An "Interest" in the LLC is defined in Section 4.1 hereof.

"LLC". _____, a New York Limited Liability Company, having a principal place of business at, _____, or at such other location as shall be determined in accordance with the terms of this Agreement.

"Management Committee". Management Committee shall have the meaning set forth in Section 5.1.

"Transfer". The mortgage, pledge, hypothecation, transfer, sale, assignment or other disposition of any part or all of an Interest in the LLC, whether voluntarily, by operation of law or otherwise by a Member.

ARTICLE TWO

ORGANIZATION MATTERS

2.1 Formation of LLC.

(a) The Members hereby agree to associate themselves as a New York Limited Liability Company, to engage in the business hereinafter described for the period and upon the terms and conditions hereinafter set forth.

(b) The Members shall promptly execute all documents necessary to accomplish all filings, recordings, publishings and other acts appropriate to comply with all requirements for the formation and operations of a Limited Liability Company under the laws of the State of New York.

2.2 Name.

The name of the entity shall be _____. The entity shall not do business under any other name, except as may be expressly consented to by the Members in writing.

2.3 Offices.

(a) The principal office of the LLC shall be at _____ or at such other location as the Management Committee may determine.

(b) The LLC may have such other offices and places of business as the Management Committee may determine.

2.4 Term.

The term of the LLC shall commence on the date hereof (the "Commencement Date") and shall continue until _____, _____, unless terminated in accordance with the terms of this Agreement (the "Expiration Date").

2.5 Character of Business.

The LLC is initially formed for the purposes (i) providing management and administrative services (which may include management, marketing, administration, facilities, equipment, supplies, and personnel to healthcare and/or health related providers), (ii) facilitating managed care arrangements on behalf of healthcare providers, and (iii) all other activities authorized by the Management Committee and permitted by applicable law.

ARTICLE THREE

CAPITAL CONTRIBUTIONS AND CAPITAL ACCOUNTS

3.1 Initial Capital Contributions.

The initial Members shall be required to contribute equal amounts as an initial capital contribution to the LLC. The parties acknowledge that Holdings is in the process of completing a private placement of the equity interests in such entity. It is anticipated that this offering will be completed within ninety (90) days of the date of this Agreement. Holdings shall contribute the net proceeds of such private placement (actual proceeds less legal fees, cost of the offering and other agreed expenses) to the LLC as its initial capital contribution to the LLC. Hospital shall contribute an amount equal to the actual contribution made by Holdings.

3.2 Return of Capital Contribution.

(a) Except as otherwise expressly provided herein, no Member shall have the right to demand, withdraw, reduce or receive a return of all or any portion of any Capital Contribution, other than loans to the LLC, until the liquidation of the LLC, unless otherwise agreed upon in writing by all Members of the LLC.

(b) No Member shall have priority over any other Member with respect to the return of its respective Capital Contribution.

3.3 Additional Capital Contribution.

Upon written request by the Management Committee, the Members shall each provide additional working capital to the LLC in accordance with their respective Interests in the LLC. In the event any Member fails to make such additional capital contribution(s) within ten (10) days of such request, the other Members, at their option, may contribute the amount in default (on a pro-rata basis) and treat it as a demand loan to the LLC, with interest accruing at two (2) percentage points above the prime lending rate posted by the LLC's Bank at the time of the default.

ARTICLE FOUR

INTEREST IN THE LLC: ALLOCATION OF PROFITS AND LOSSES

4.1 Interests.

(a) The ownership rights of each Member in the LLC is hereinafter referred to as an "Interest". Each Member's respective rights shall be characterized as a percentage Interest in the LLC. All Members, as a group, shall hold 100% of the Interests in the LLC. Unless modified pursuant to the terms of this Agreement, Holdings's and Hospital's respective ownership Interest in the LLC shall equal:

- (i) Holdings 50%
- (ii) Hospital 50%

Except as expressly provided above, additional Interests shall only be issued upon the affirmative vote of the Management Committee as provided below. Each new Member, as a condition precedent to the issuance of an Interest in the LLC, must agree (in writing) to be a party to, and to be bound by, this Agreement, as the same is modified from time to time.

Upon any issuance of additional Interests (including, without limitation, to employees of the LLC or current Members), the respective Interests of each of the Members, at the time of such issuance, shall be reduced pro-rata, based upon their existing ownership Interests immediately prior to such issuance.

(b) All allocations of profits and losses shall be determined as of the last day of each fiscal year of the LLC, in accordance with the accounting method followed by the LLC for Federal income tax purposes.

4.2 Distribution in Kind.

In the event any proceeds available for distribution consist of items other than cash, each Member shall be entitled to such proceeds in accordance with their percentage Interest in the LLC.

MANAGEMENT OF THE LLC AND CONDUCT OF ITS OPERATIONS

The authority to establish the overall business policy and direction of the LLC shall be vested in the Members. The Members shall form a management committee, which shall consist of six (6) representatives of each Member. Initially, the Management Committee shall consist of _____

5.2 Responsibilities of the LLC.

- (a) payroll and other employee benefits of all LLC employees;
- (b) equipment leasing (if any) and associated costs;
- (c) equipment maintenance and supplies;
- (d) general liability and casualty insurance covering its office (if any); and
- (e) all other operating costs and expenses of the LLC.

5.3 Absolute Restrictions.

Anything in this Agreement to the contrary notwithstanding, no Member shall have the authority:

- (a) to engage in any act in contravention of this Agreement or that would make it impossible to carry on the ordinary business of the LLC;
- (b) to confess a judgement against the LLC;
- (c) to execute or deliver any general assignment for the benefit of the creditors of the LLC;
- (d) to possess LLC property or assign the rights of the LLC in specific property for other than the LLC; and
- (e) to admit any new Member to the LLC.

5.4 Exculpation.

All Members shall perform their respective duties under this Agreement with due care. No Member shall have any liability whatsoever to the LLC or the other Members for any loss suffered by the LLC or such Member that arises out of any action or inaction of any other Member not amounting to fraud, willful misconduct, gross negligence or bad faith.

Each Member (in each case the "Indemnifying Member") agrees to indemnify, protect, and hold harmless the LLC and each of the remaining Members (in each case an "Indemnified Member"), from and against any and all claims, suits, causes of action, liabilities, damages, deficiencies, losses, reasonable attorney's fees, costs and expenses ("Claims") of any kind, nature, or description imposed upon, incurred, or suffered by the LLC or such Indemnified Member(s), as the case may be, and their respective successors, heirs, assigns, and personal and legal representatives, which are attributable to or otherwise arise from (a) acts or omissions or alleged acts or omissions of such Indemnifying Member amounting to fraud, willful misconduct, gross negligence or bad faith, or (b) claims, actions, suits, or proceedings made, instituted or threatened with respect to any of the foregoing provided, however, this indemnification shall (i) not apply to acts taken by an Indemnifying Member on behalf of the LLC with the approval of the remaining Member(s), and (ii) be limited in scope to claims by and among the LLC and its Member(s) (i.e., it shall expressly not provide any indemnification to, or create any rights in, any other third party). The Indemnifying Member shall reimburse, to the extent not covered by insurance, the LLC and the Indemnified Member(s) and their respective successors, heirs, assigns, and personal and legal representatives, as the case may be, on demand, in respect of any matter to which the foregoing indemnities relate.

To the extent any Member is required to make payment of an LLC obligation, with respect to any guarantee provided by such Member (in accordance with a determination made by the

Management Committee), the remaining Members shall each jointly and severally indemnify such Member and each other for any payment made by a Member with respect to any such guarantee, in excess of each such Member's pro-rata share of such obligation based upon the respective Member's percentage Interests.

The provisions of this section shall survive the termination of this Agreement.

ARTICLE SIX

PROHIBITION AGAINST TRANSFER AND COMPETITION

6.1 Prohibition Against Transfer of LLC Interest.

No party shall sell, assign, mortgage, hypothecate, pledge or encumber his/its Interest in the LLC (other than to an affiliate) without the prior written consent of the Management Committee, which may be withheld in the sole discretion of the Management Committee. Any attempt at assignment in violation of this Section shall be null and void and of no effect upon the LLC. Notwithstanding anything herein to the contrary, either Member may convey all, but not less than all, of such Member's ownership Interests to an Affiliate without the consent of the Management Committee. The LLC shall not issue any Interest in the LLC to any other party unless such party expressly agrees to be bound by the terms of this Agreement.

6.2 Covenant Not to Compete.

Each Member shall be free to continue to engage in other business activities for its exclusive benefit. The other Member(s) shall have no interest in such other business activities.

ARTICLE SEVEN

COMPENSATION OF MEMBERS

7.1 Fees to Members.

Subject to the approval of the Management Committee and as otherwise provided herein, the LLC may, from time to time, pay fees or other compensation to a Member for services provided by such Member, provided such fees and/or other compensation represents the fair market value for such services.

7.2 Reimbursement of Other Expenses.

The LLC shall pay all of its own expenses, including, but not limited to, operating, overhead and administrative expenses. Except as otherwise provided herein, each Member shall be entitled to be reimbursed by the LLC for any direct or indirect expenses a Member incurred in good faith and on behalf of the LLC. Notwithstanding the foregoing, no Member shall obligate the LLC for any expense, or series of related expenses without the approval of the Management Committee.

ARTICLE EIGHT

BOOKS, ELECTIONS, AND BANKING

8.1 Fiscal Year.

The fiscal year of the LLC shall begin on [June] 1 of each year.

8.2 Recordkeeping and Books.

The Management Committee shall cause to be performed all general and administrative services on behalf of the LLC, in order to assure that complete and accurate books and records of the LLC are maintained at the LLC's principal place of business, showing the name, address and Interest of each of the Members, all receipts and expenditures, assets and liabilities, profits and losses, and all other records necessary for recording the LLC's business and affairs, including a capital account for each Member (a "Capital Account"), which shall consist of the value of the initial Capital Contribution by each Member, adjusted for further Capital Contributions and the allocation and distributions provided for herein. The books of the LLC shall be kept on the cash method of accounting, in accordance with the methods followed by the LLC for federal income tax purposes, as determined by the independent certified public accountant for the LLC, and the books and records shall be open to inspection and examination by each Member and its representatives at all reasonable times upon reasonable notice.

8.3 Federal Income Tax Elections Method of Depreciation.

The Management Committee shall make such elections, including the method of depreciation or amortization, as are available under the Code and as it deems appropriate.

8.4 Bank Account.

The LLC shall open and maintain in the name of the LLC a special bank account or accounts in banks or savings and loan associations selected by the Management Committee, the deposits of which are insured by an agency of the United States government, in which shall be deposited all funds of the LLC. Withdrawals from such account or accounts shall be made upon the signature or

signatures of such person or persons as shall be determined by the Management Committee. All deposits and other funds not needed in the operation of the business of LLC and not distributed to the Members may be invested in such manner as the Management Committee may determine.

8.5 Tax Matters Member.

All Tax related determinations for the LLC including, without limitation, for purposes of Sections 6221 through 6232 of the Code, shall be made by the Management Committee.

ARTICLE NINE

REPRESENTATIONS, WARRANTIES AND COVENANTS

- 9.1 Each party represents and warrants to the other that: neither it, nor any Affiliate, is under any contractual restriction which would prevent it or such entity from executing this Agreement or performing its obligations hereunder.
- 9.2 HOLDINGS represents, warrants and covenants that: (i) at all times during the term of this Agreement, each voting equity participant of HOLDINGS is and shall remain a member of the Hospital IPA, Inc. ("IPA") and maintains membership in good standing on the medical staff of Hospital with appropriate privileges; and (ii) non-voting equity interests in Holdings shall only be held by individuals who both (a) previously met the criteria set forth in clause (i) above, and (b) have either retired from the practice of medicine or relocated outside of Hospital's service area. Holdings shall cause the equity interests in Holdings of any equity participant of Holdings which causes the preceding clauses to be untrue to either be redeemed immediately or transferred to an individual who continues to meet the criteria set forth in clause (i) above.

ARTICLE TEN

DISSOLUTION, WINDING UP AND TERMINATION

10.1 Dissolution.

The LLC shall be dissolved promptly upon the earliest to occur of the following:

- (a) Upon ninety (90) days prior written notice upon the determination by a Member (or Members) holding a minimum of fifty (50%) percent of the issued and outstanding Interest that the LLC should be dissolved;
- (b) the Bankruptcy or Insolvency of the LLC;
- (c) the dissolution, liquidation, Bankruptcy or Insolvency of an initial Member;

- (d) the sale or other disposition of all or substantially all of the LLC's assets;
- (e) the occurrence of any act or omission by a Member which results in the dissolution of the LLC by operation of Law; or
- (f) _____, _____.

10.2 Winding Up Affairs and Distribution of Assets.

Upon dissolution of the LLC, the Members shall together proceed to wind up the affairs of the LLC, liquidate the remaining property and assets of the LLC, and terminate the LLC. The proceeds of such liquidation shall be applied in the following order of priority: (a) to the expenses of such liquidation; (b) to the debts and liabilities of the LLC to third parties, if any, in order of priority provided by law; (c) a reasonable reserve shall be set up to provide for any contingent or unforeseen liabilities or obligations of the LLC to third parties (to be held and disbursed, at the discretion of the Members, by an escrow agent selected by them), (d) to all debts of the LLC to the Members; and (e) the remaining assets of the LLC, if any, shall be distributed to the Members in accordance with each LLC's respective interest. Notwithstanding the foregoing, upon any dissolution, the holders of the remaining Interests in the LLC may vote to reconstitute the LLC, within one hundred and eighty (180) days of any dissolution.

10.3 Use of Name.

Upon the liquidation of the LLC, each Member shall have the right to use its own name, but neither Member shall have the right to use the name of the LLC or the name of the other Member.

ARTICLE ELEVEN

MISCELLANEOUS PROVISIONS

11.1 Notices.

Whenever any notice is required or permitted to be given under any provisions of this Agreement, such notice shall be in writing, signed by or on behalf of the party giving the notice, and shall be deemed to have been given when delivered by personal delivery or mailed by certified mail, postage prepaid, return receipt requested, addressed to the person or persons.

11.2 Binding Effect.

Except as otherwise provided herein, this Agreement shall be binding upon and shall inure to the parties hereto and their permitted successors and assigns.

11.3 No Waiver.

No waiver of any breach or condition of this Agreement shall be deemed to be a waiver of any other condition or subsequent breach, whether of like or different nature.

11.4 Entire Agreement.

This Agreement constitutes the entire Agreement between the LLC pertaining to the LLC and supersedes all prior agreements and understandings.

11.5 Governing Law.

This Agreement and the obligations of each LLC shall be governed by the laws of the State of New York.

11.6 Further Documents.

Each Member and their respective shareholders hereby agrees that they will execute and/or deliver such further instruments, including but not limited to personal financial statements, and such further acts and things as may be necessary or desirable to carry out the purposes of this Agreement and of the LLC.

11.7 Invalidity.

In the event any provision of this Agreement shall be held to be invalid, the validity of the remaining provisions of this Agreement shall not in any way be affected thereby.

11.8 Amendments.

This Agreement may not be amended, modified or otherwise changed or varied, except by an instrument in writing executed by Members of the LLC.

11.9 Captions.

Captions are inserted herein for convenience only, and are not a part of this Agreement, and shall not be used in the interpretation of this Agreement or any provision hereof.

Holdings and Hospital have executed this LLC Agreement as of the day and year first written above.

By:_____

_____ Hospital
By:_____