

COMMUNITY CARE AGREEMENT

This **COMMUNITY CARE AGREEMENT** (the “Agreement”) is made and entered into this 3rd day of August, 2018 (the “Effective Date”), by and between **KENNEWICK PUBLIC HOSPITAL DISTRICT, d/b/a TRIOS HEALTH**, a Washington municipal corporation (the “District”), and **RCCH TRIOS HEALTH, LLC**, a Delaware limited liability company (“RCCH”).

RECITALS

WHEREAS, RCCH operates (i) Trios Southridge Hospital, an acute care hospital located at 3810 Plaza Way, Kennewick, Washington (the “Southridge Campus”), and (ii) Trios Women’s & Children’s Hospital, an acute care hospital located at 900 S. Auburn Street, Kennewick, Washington (the “Auburn Campus” and, collectively with the Southridge Campus, the “Hospital”), and certain other healthcare related assets (collectively with the Hospital, the “Facilities,” as such may be added to, replaced, modified or decommissioned from time to time all as determined in the exercise of RCCH’s reasonable business judgment);

WHEREAS, the District is a debtor in chapter 9 of title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the “Bankruptcy Code”) and, on June 30, 2017, filed a voluntary petition for relief under chapter 9 of the Bankruptcy Code (the “Bankruptcy Case”) in the United States Bankruptcy Court for the Eastern District of Washington (the “Bankruptcy Court”);

WHEREAS, the District and RCCH have closed a transaction pursuant to a Master Asset Purchase Agreement (the “Purchase Agreement”), pursuant to which RCCH purchased from the District certain of the assets relating to the ownership and operation of the Facilities subject to the terms and conditions set forth in the Purchase Agreement;

WHEREAS, the District desires to continue to support the health and wellness of residents of the Community (as defined below) by providing financial support to RCCH for its continued operations of the Facilities and provision of certain agreed health care services to residents of the Community, as further described below, all of which is consistent with the mission and purposes of the District;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the adequacy and receipt of which hereby are acknowledged, the parties hereto, intending to be legally bound, agree as follows:

AGREEMENT

1. Defined Terms.

(a) “Community” means the greater Tri-Cities area, including Kennewick, Pasco and Richland and the surrounding areas in Benton and Franklin Counties, Washington State.

(b) “Hospital Lease” means that certain Hospital Facility Lease by and between RCCH, as lessee, and Kennewick Holdings, LLC, as lessor, dated as of August 3, 2018 (the “Lease Date”).

(d) “Initial Term of the Hospital Lease” means the period ending at 11:59 PT on the last day of the calendar month in which the thirteenth (13th) anniversary of the Lease Date occurs.

(e) “Permitted Expenses” means, and in the following order of priority, (i) reimbursement for payment of administrative claims in the Bankruptcy Case not paid by the District at the closing of the Proposed Transaction; (ii) payment of District’s operating expenses pursuant to a reasonable budget not to exceed twenty percent (20.0%) of the District’s annual revenue from its “regular property taxes”; and (iii) indemnification claims made against the District pursuant to the terms and conditions of the Purchase Agreement, including obligations to pay RCCH for Losses arising as a result of the operation of the Business prior to the closing of the Proposed Transaction.

(f) “Services” means inpatient and outpatient licensed hospital services, including emergency services, obstetric services, surgery services, diagnostic services and related, ancillary services necessary for the operation of a licensed hospital, as well as related services of professional providers, all as determined in the exercise of RCCH’s reasonable business judgment.

(g) Capitalized terms not defined in this Agreement shall have the meanings ascribed to them in the Purchase Agreement.

2. Term and Termination.

(a) Term. Unless earlier terminated pursuant to Section 0 or the written agreement of the parties hereto, the term of this Agreement shall commence on the Effective Date and shall continue in effect until the termination or expiration after any renewal terms, of the Hospital Lease (the “Term”). The District’s obligation to make the Community Service Payments as defined below will not extend beyond the term, including any renewal or amended terms, of the Hospital Lease, by amendment or otherwise, unless agreed upon by the parties.

(b) Termination for Breach. Either party shall have the right to terminate this Agreement upon thirty (30) days’ written notice to the other party in the event of a material breach of any term or condition of this Agreement by the other party or failure of the other party to perform any of its material obligations hereunder, but only if such material breach is not cured within such thirty (30) day period following the giving of written notice describing any such material breach. Any such notice shall specify the cause upon which it is based. The violating party shall have thirty (30) days to rectify the cause specified in the notice of termination. If any such cause is not rectified within such thirty (30) day period, this Agreement shall thereupon automatically terminate.

3. Operation of the Facilities. In order to receive the Community Service Payments (as defined below), RCCH shall operate the Facilities and provide services consistent with a general community acute care hospital, including but not limited to the Services, all subject to RCCH’s good faith business judgment. For so long as RCCH is operating the Facilities, it shall obtain and maintain all necessary licenses, accreditations, provider numbers, certifications and other items necessary for the operation of a licensed, general acute care hospital in the State of Washington. For so long as RCCH is operating the Facilities, it shall operate the Facilities in a reasonable business manner and shall comply with all laws applicable to the operation of a licensed, general acute care hospital in the State of Washington. Additionally, for so long as RCCH is operating the Facilities RCCH shall:

(a) adopt a charity care policy in compliance with applicable state law and provide charity care consistent with applicable state law;

(b) make available to the District, at no cost to the District, on a nonexclusive basis suitable working space within the Facilities to conduct the District’s administrative duties and to conduct periodic meetings of the District’s board of commissioners;

(c) make available a suitable executive from RCCH to meet with the District's superintendent on a regular basis, not less than quarterly, to discuss the general status and operations of the Facilities and Services, and upon reasonable advance notice and request, make available a suitable executive to attend regular and/or special meetings of the District;

(d) subject to the terms of the Purchase Agreement, accept the Facilities existing medical staff and for a period of one (1) year from the Effective Date not reduce or restrict a medical staff member's clinical privileges except in the ordinary course of hospital and medical staff activities;

(e) maintain capacity for health science research and health care provider education subject to RCCH's good faith business judgment in the operations of the Facilities;

(f) adopt and maintain a compliance program that promotes operations in compliance with laws regulating patient referrals and avoids conflicts of interest in patient referral;

(g) maintain participation in the Medicare program;

(h) enter into a new Core Provider Agreement with the Washington State Health Care Authority and participate in the Medicaid program; and

(i) adopt the District's admissions and nondiscrimination policies as of closing and maintain the same or amended policies in compliance with applicable federal and state law and accreditation requirements.

4. Compensation. As compensation for the Services, the District shall pay RCCH the "Community Service Payment." The Community Service Payment means the Current Year Property Tax Amount less the Permitted Expenses. For purposes of this Agreement, "Current Year Property Taxes" means the amount of "regular property taxes" (as defined in RCW 84.04.140) (the "Property Taxes") received by the District in that calendar year. The Community Service Payment shall be pro-rated for any partial year.

(a) Initial Term of Hospital Lease. During the Initial Term of the Hospital Lease, the Community Service Payment shall be equal to Current Year Property Tax Amount less the amount of the Permitted Expenses for the same calendar year.

(b) Renewal Term(s) of the Hospital Lease. Beginning on January 1st of the first calendar year following year in which the Initial Term of the Hospital Lease expires (the "Initial Term Expiration Year"), for purposes of the Community Service Payment, the Current Year Property Tax shall be the lesser of (i) the amount of the Property Taxes received by the District in the Initial Term Expiration Year (the "Initial Term Expiration Year Property Tax Amount"), as adjusted annually by the change in the CPI (defined below) (such adjusted amount the "CPI Adjusted Property Tax Amount"), or (ii) the amount of Property Taxes actually received by the District in such calendar year (the "Actual Property Tax Collections").

(c) The CPI-Adjusted Property Tax Amount in effect for each subsequent calendar year during the remainder of the renewal terms of the Hospital Lease shall be determined as follows: on or about January 20th or such later date in January on which the Bureau of Labor Statistics of the U.S. Department of Labor ("BLS") publishes CPI figures for the month of December for the preceding calendar year (each such January date, an "Adjustment Date") of each subsequent calendar year during renewal terms of the Hospital Lease, the Initial Term Expiration Year Property Tax Amount shall be

multiplied by a ratio, the denominator of which is the Revised Consumer Price Index for All Urban Consumers (CPI-U): West Urban, all items index (Reference Base 1982-84 = 100) published by the BLS (the “CPI”) for December of the Initial Term Expiration Year (the “Base Month”), and the numerator of which is the CPI for the calendar month of December immediately preceding the applicable Adjustment Date (the “Comparison Month”). The product of the Initial Term Expiration Year Property Tax Amount and such ratio shall equal the CPI-Adjusted Property Tax Amount for such calendar year. If the CPI is no longer published, it shall be replaced by a comparable index reasonably agreed-on by the parties.

Examples: Assuming the Initial Term Expiration Year Property Tax Amount is \$1,000, the CPI (and of purposes of this example only) a Base Month of December 2016 is 249.516 and the CPI for December 2017 (the first Comparison Month) is 257.347, then the CPI-Adjusted Property Tax Amount for calendar year 2018 would be equal to:

$$\$1,000 \times (257.347/249.516) = \$1,016.50$$

Similarly, if the CPI for December 2018 is 266.00, then the CPI-Adjusted Property Tax Amount for calendar year 2019 would be equal to:

$$\$1,000 \times (266.00/257.347) = \$1,033.62$$

(d) The District shall pay interim installments of the Community Service Payment quarterly to RCCH as Property Taxes are received by the District after withholding for Permitted Expenses. As soon as reasonably possible following the end of each calendar year during the Term of this Agreement, the parties shall reconcile the interim payments for such prior calendar year. If such reconciliation indicates that (i) the District has overpaid the Community Service Payments for such prior calendar year, an appropriate credit shall be applied towards the next payment due hereunder (or, if the Term of this Agreement has already expired, RCCH shall refund such overpayment to the District within thirty (30) days after the parties complete the reconciliation), or (b) the District has underpaid the Community Service Payments for such prior calendar year, the District shall make an additional payment in the amount of the underpayment to RCCH with thirty (30) days of the parties’ completion of the reconciliation.

5. District Rights and Covenants.

(a) **District Operations.** The District will retain control over district functions and may, subject to the Purchase Agreement, provide (a) wellness services, and (b) health care services that are not provided by RCCH.

(b) **Covenants.** The District hereby pledges its full faith and credit in support of this Agreement. Furthermore, the District shall: (i) continue to tax at the regular rate; and (ii) not use the tax revenues to resolve other obligations or liabilities other than as contemplated by this Agreement.

6. Examination.

(a) **By the District.** The District and/or its authorized representative(s) shall have the right to examine the records and books of account of RCCH relative to the Services, at any time on at least thirty (30) days advance written notice during regular business hours. The District shall also be entitled to procure an audit, at the District’s sole cost and expense, relating to the Services. The District shall ensure that any third party or auditor who examines RCCH’s records, books of account and medical records (if necessary) complies with this Agreement and the applicable provisions of the Uniform Health Care

Information Act, Ch. 70.02 RCW and the Health Insurance Portability and Accountability Act, as amended.

(b) By RCCH. RCCH and/or its authorized representative(s) shall have the right to examine the records and books of account of the District relative to the Community Service Payments, at any time on at least thirty (30) days advance written notice during regular business hours. RCCH shall also be entitled to procure an audit, at RCCH's sole cost and expense, relating to Community Service Payments. RCCH shall ensure that any third party or auditor who examines the District's records and books of account complies with this Agreement.

7. Nondiscrimination; Compliance with Law. The parties will not discriminate on the basis of race, color, sex, age, religion, national origin, or handicap in providing Services or in paying funds from the Community Care Fund under this Agreement. Payment of amounts from the Community Care Fund shall be made in a consistent manner without regard to patient status or identity of patient's treating physician(s).

8. Determination of Appropriate Medical Care. Notwithstanding any provisions of this Agreement to the contrary, the determination of appropriate medical care shall be exclusively within the professional medical discretion of the treating physicians and the Hospital.

9. Notices. Any notice, demand or communication required, permitted, or desired to be given hereunder shall be deemed effectively given when personally delivered, when received by receipted overnight courier, or five (5) days after being deposited in the United States mail, with postage prepaid thereon, certified or registered mail, return receipt requested, addressed as follows:

If to the District, to:	Kennewick Public Hospital District d/b/a Trios Health 900 S. Auburn Street Kennewick, WA 99336 Attn: Superintendent
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With a copy to:	Foster Pepper PLLC 1111 Third Avenue Suite 3000 Seattle, Washington 98101 Attn: Bradley J. Berg
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If to RCCH, to:	RCCH Trios Health, LLC 103 Continental Place, Suite 200 Brentwood, Tennessee 37027 Attn: Legal Department
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With a copy to:	Waller Lansden Dortch & Davis, LLP 511 Union Street, Suite 2700 Nashville, Tennessee 37219 Attn: George W. Bishop, III
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Any party from time to time may change its address for the purpose of receipt of notices to that party by giving a similar notice specifying a new address to the other notice parties listed above in accordance with the provisions of this Section 9.

10. **Fees and Expenses.** Except as otherwise provided in this Agreement, the District shall pay its own expenses and RCCH shall pay its own expenses in connection with this Agreement and the transactions contemplated hereby.

11. **Entire Agreement.** This Agreement supersedes all prior oral discussions and written agreements between the parties with respect to the subject matter of this Agreement (including any term sheet or similar agreement or document relating to the transactions contemplated hereby). Except for documents and agreements executed pursuant hereto, and the other documents and agreements contemplated hereby, this Agreement contains the sole and entire agreement between the parties hereto with respect to the subject matter hereof.

12. **Amendment.** This Agreement may be modified or amended only by a written instrument duly executed by the District and RCCH.

13. **Counterparts; Facsimile Signatures; Reproductions.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile signatures on this Agreement shall be deemed to be original signatures for all purposes. This Agreement and all documents relating hereto may be reproduced by the District and by RCCH by any photographic, photostatic, microfilm, micro-card, miniature photographic or other similar process and, unless otherwise required by Law, the District and RCCH may destroy any original documents so reproduced. The District and RCCH agree and stipulate that any such reproduction shall be admissible in evidence as the original itself in any judicial, arbitral or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by the District or RCCH in the regular course of business) and that any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence.

14. **No Third-Party Beneficiary.** The terms and provisions of this Agreement are intended solely for the benefit of the District, RCCH and their respective Affiliates, successors or assigns, and shall not confer third party beneficiary rights upon any other Person.

15. **Governing Law.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF WASHINGTON APPLICABLE TO A CONTRACT EXECUTED AND PERFORMED IN SUCH STATE.

16. **Construction.** Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, the feminine or the neuter gender shall include the masculine, feminine and neuter. The term "person" means any individual, corporation, partnership, trust or other entity. No provision of this Agreement shall be interpreted for or against either party hereto on the basis that such party was the draftsman of such provision, each party having participated equally in the drafting hereof, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

17. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns, including successors by merger or otherwise.

18. **No Assignment.** Neither this Agreement nor any right hereunder or part hereof may be assigned by any party hereto without the prior written consent of the other party hereto; provided,

however, that RCCH may assign its rights under this Agreement to other Persons who (a) are controlled (directly or indirectly) by RegionalCare Hospital Partners Holdings, Inc. d/b/a/ RCCH Healthcare Partners, and (b) agree to be bound by the terms and conditions of this Agreement, provided that no such assignment shall relieve RCCH of its obligations hereunder. The parties expressly acknowledge and agree that any such permitted assignee of RCCH shall be deemed to be in direct privity of contract with the District with respect to any party's enforcement of their respective rights and obligations as set forth in this Agreement.

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

20. Regulatory Compliance. The parties agree to conduct their relationship in full compliance with all applicable state, federal and local laws and regulations, including, but not limited to, the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160 and 164) and the Health Information Technology for Economic and Clinical Health Act and its implementing regulations (Title XIII, Subtitle D).

21. No Referral Requirement. The parties agree that the compensation provided hereunder is not intended to be and is not determined in a manner that considers the volume or value of any referrals or other business generated between the parties.

22. Right to Offset. To the extent that RCCH or its Affiliates have any claim against the District under this Agreement or otherwise, including without limitation, any claim for indemnification or liquidated damages, RCCH (on behalf of itself or its Affiliates) shall have the right to offset any other amounts payable to the District under any agreement between RCCH or its Affiliates and the District up to the amount of such claim against the District hereunder. Any such right of offset shall be in addition to any other remedies available under any agreement, at law or in equity.

23. Limitation of Remedies to District. The parties acknowledge and agree that the District shall not have a to right to money damages or equitable remedies, including the remedies of injunctive relief or specific performance, upon a breach of the Agreement by RCCH. The District's sole remedy shall be to terminate the Agreement pursuant to Section 0.

(Signature page follows)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in multiple originals by their authorized officers, all as of the date first above written.

DISTRICT:

**KENNEWICK PUBLIC HOSPITAL DISTRICT
D/B/A TRIOS HEALTH**

By: _____

Name: *Scott Gardner*

Title: *CEO/ Superintendent*

RCCH:

RCCH TRIOS HEALTH, LLC

By: RCCH - UW MEDICINE HEALTHCARE
HOLDINGS, LLC, its sole member

By: RCCH - Northwest, LLC, manager

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in multiple originals by their authorized officers, all as of the date first above written.

DISTRICT:

**KENNEWICK PUBLIC HOSPITAL DISTRICT
D/B/A TRIOS HEALTH**

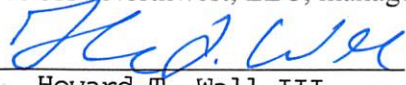
By: _____
Name: _____
Title: _____

RCCH:

RCCH TRIOS HEALTH, LLC

By: RCCH - UW MEDICINE HEALTHCARE
HOLDINGS, LLC, its sole member

By: RCCH - Northwest, LLC, manager

By: 
Name: Howard T. Wall III
Title: Executive Vice President,
Chief Administrative Officer
& Secretary