

**PENNSYLVANIA INSURANCE DEPARTMENT**

**ADDENDUM NO. 2 TO AMENDMENT NO. 2 TO FORM A**

**STATEMENT REGARDING THE ACQUISITION  
OF CONTROL OF OR MERGER WITH DOMESTIC INSURERS:**

**HIGHMARK INC.,**

**a Pennsylvania nonprofit corporation licensed to operate a hospital plan and a professional health services plan**

**FIRST PRIORITY LIFE INSURANCE COMPANY, INC.,**

**a Pennsylvania stock insurance company**

**GATEWAY HEALTH PLAN, INC.,**

**a Pennsylvania business corporation and licensed health maintenance organization**

**HIGHMARK CASUALTY INSURANCE COMPANY,**

**a Pennsylvania stock insurance company**

**HIGHMARK SENIOR RESOURCES INC.,**

**a Pennsylvania stock insurance company**

**HM CASUALTY INSURANCE COMPANY,**

**a Pennsylvania stock insurance company**

**HM HEALTH INSURANCE COMPANY,**

**d/b/a HIGHMARK HEALTH INSURANCE COMPANY,**

**a Pennsylvania stock insurance company**

**HM LIFE INSURANCE COMPANY,**

**a Pennsylvania stock insurance company**

**HMO OF NORTHEASTERN PENNSYLVANIA, INC.,**

**d/b/a FIRST PRIORITY HEALTH,**

**a Pennsylvania nonprofit corporation and licensed health maintenance organization**

**INTERCOUNTY HEALTH PLAN, INC.,**

**a Pennsylvania nonprofit corporation licensed to operate a professional health services plan**

**INTERCOUNTY HOSPITALIZATION PLAN, INC.,**

**a Pennsylvania nonprofit corporation licensed to operate a hospital plan**

**KEYSTONE HEALTH PLAN WEST, INC.,  
a Pennsylvania business corporation and licensed health maintenance organization**

**UNITED CONCORDIA COMPANIES, INC.,  
a Pennsylvania stock insurance company**

**UNITED CONCORDIA DENTAL PLANS OF PENNSYLVANIA, INC.,  
a Pennsylvania business corporation and licensed risk-assuming PPO**

**UNITED CONCORDIA LIFE AND HEALTH INSURANCE COMPANY,  
a Pennsylvania stock insurance company**

**BY**

**UPE,  
a Pennsylvania nonprofit corporation**

**Filed with the Insurance Department  
of the Commonwealth of Pennsylvania**

**January 23, 2013**

EXECUTION COPY

AMENDMENT NO. 1 TO AFFILIATION AGREEMENT

This Amendment No. 1 to Affiliation Agreement ("Amendment") is made and entered into as of January 22, 2013 by and among UPE, a Pennsylvania nonprofit corporation ("Ultimate Parent Entity"), UPE Provider Sub, a Pennsylvania nonprofit corporation ("Provider Subsidiary") (collectively, the Ultimate Parent Entity and Provider Subsidiary are referred to herein as the "UPE Parties"), Highmark Inc., a Pennsylvania nonprofit corporation ("Highmark"), and West Penn Allegheny Health System, Inc., a Pennsylvania nonprofit corporation ("WPAHS"), Canonsburg General Hospital, a Pennsylvania nonprofit corporation ("Canonsburg"), Alle-Kiski Medical Center, a Pennsylvania nonprofit corporation ("Alle-Kiski") and the other WPAHS Subsidiaries identified on Schedule R-1 to the Affiliation Agreement as defined below (collectively, WPAHS, Canonsburg, Alle-Kiski and the other WPAHS Subsidiaries identified on such Schedule R-1 are referred to herein as the "WPAHS Parties") (the UPE Parties, Highmark and WPAHS Parties are collectively referred to herein as the "Parties" and each is referred to herein as a "Party").

RECITALS

A. WHEREAS, the Parties have entered into an Affiliation Agreement, dated as of October 31, 2011 ("Affiliation Agreement"), pursuant to which the Parties have agreed to an affiliation transaction that will result in the formation of an integrated financing and delivery health system operating in western Pennsylvania; and

B. WHEREAS, the Parties mutually desire to amend and supplement the Affiliation Agreement consistent with the terms of this Amendment.

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

1. Capitalized Terms. Capitalized terms not otherwise specifically defined in this Amendment shall have the meaning ascribed to such terms in the Affiliation Agreement. References to "Section" or "Sections" herein shall be to sections of the Affiliation Agreement unless otherwise specified.

2. Amendments to Affiliation Agreement. The Parties agree that the Affiliation Agreement is hereby amended as set forth below:

A. Section 1.1 is amended by adding or modifying, as appropriate, the following definitions:

"2007A Bonds" means the Allegheny County Hospital Development Authority Health System Revenue Bonds (West Penn Allegheny Health System) Series 2007A.

**“Amendment”** means the Amendment No. 1 to Affiliation Agreement dated as of January 22, 2013.

**“Bondholders”** means the beneficial holders of the 2007A Bonds.

**“Bond Indenture”** is defined in Section 6.14.

**“Bond Trustee”** is defined in Section 6.14.

**“Effective Date”** means the first date on which all of the following shall have occurred: (i) the Amendment has been executed by all Parties; (ii) Highmark has entered into Bond Tender, Consent and Forbearance Agreements with Bondholders covering not less than 73.5% of outstanding principal amount of the 2007A Bonds; and (iii) Highmark has paid \$50 million into an escrow account in accordance with Section 2.5(e).

**“Fiscal Year”** means the applicable WPAHS fiscal year.

**“Master Indenture”** means the Master Indenture of Trust dated as of May 1, 2007, as amended and supplemented, among WPAHS, certain other corporations comprising the initial Members of the Obligated Group, and UMB Bank, N.A., as successor to The Bank of New York Mellon Trust Company, N.A., as Master Trustee, including as may be amended in connection with the Tender Offer Transaction.

**“Second Funding Commitment Loan”** is defined in Section 2.5(b).

**“Tender Offer Transaction”** is defined in Section 6.14.

B. Section 2.4.3 (Governance Structure and Board Composition) is amended in its entirety to read as follows:

**“2.4.3 WPAHS Board of Directors.** The structure and composition of the WPAHS Board of Directors as of the Effective Time shall be as set forth in Exhibit F, which reflects that twenty five percent (25%) (or such other percentage that is as close as practicable but not less than twenty five percent (25%)) (the **“Perpetual WPAHS Representative Percentage”**) of the initial post-Closing WPAHS Board of Directors shall consist of community representatives and physicians affiliated with WPAHS prior to or as of the Effective Time (the **“Perpetual WPAHS Representative Designees”**). The Perpetual WPAHS Representative Designees will be designated to serve on the initial post-Closing WPAHS Board of Directors by the pre-Closing WPAHS Board of Directors. Neither the Ultimate Parent Entity nor Provider Subsidiary shall have any power or authority to designate or remove any of the Perpetual WPAHS Representative Designees or their successors in perpetuity, and none of the Perpetual WPAHS Representative Designees or their successors in perpetuity shall be a trustee, director, agent or employee of the Ultimate Parent Entity, Provider Subsidiary, or any of their respective related entities (except that the Perpetual WPAHS

Representative Designees and their successors in perpetuity will serve on the WPAHS Board of Directors). As set forth in more detail on Exhibit F, the Perpetual WPAHS Representative Designees shall be a self-perpetuating class of WPAHS directors such that the designation or election (including the filling of vacancies) and the removal of directors within such self-perpetuating class shall be within the exclusive control and power of the Perpetual WPAHS Representative Designees or their successors in perpetuity. In the future event that the number of directors serving on the WPAHS Board of Directors changes, the number of Perpetual WPAHS Representative Designees shall increase or decrease, as necessary, to assure compliance with the Perpetual WPAHS Representative Percentage which shall remain constant. Upon the completion of the Transaction, the Ultimate Parent Entity and Provider Subsidiary Boards of Directors will have such reserved powers relative to WPAHS as shall be set forth in the corporate Bylaws of WPAHS.”

C. Section 2.5 (Funding and Other Commitments) is amended as follows:

(i) The initial sentence of Section 2.5 is amended only for the purpose of changing the aggregate amount of the Funding Commitment to “an aggregate amount not to exceed \$475 million” and such sentence otherwise remains unchanged;

(ii) Section 2.5(b) is amended to read as follows:

“(b) Highmark will make an additional unrestricted payment of \$50 million and an additional loan of \$50 million (collectively, the “Second Funding Commitment”) to WPAHS upon execution of this Agreement. The \$50 million portion of the Second Funding Commitment that is made available to WPAHS in the form of a loan (the “Second Funding Commitment Loan”) shall be subject to the provisions of subsections (d), (g), (i), (j) and (k) of this Section 2.5;”

(iii) Section 2.5(d)(iv) is amended in its entirety to read as follows:

“(iv) Nothing in this Section 2.5(d) shall limit the application of Section 2.5(g)(i) to the Second Funding Commitment Loan and the entire Third Funding Commitment;”

(iv) Section 2.5(e) is amended in its entirety to read as follows:

“(e) Upon the execution of Bond Tender, Consent and Forbearance Agreements with Bondholders covering not less than 73.5% of outstanding principal amount of the 2007A Bonds, Highmark will pay \$50 million into an escrow account held with PNC Bank, National Association, or another mutually agreeable escrow company. The purpose of the \$50 million escrow will be to secure Highmark’s performance with regard to the Tender Offer Transaction hereinafter described wherein it will enter into Bond Tender, Consent and Forbearance Agreements with not less than 73.5% of the Bondholders. Upon Closing of the Transaction,

the \$50 million held in escrow will be released by the escrow agent to WPAHS and an additional \$50 million to be funded by Highmark will be made available to WPAHS in the form of a loan to be extended on terms consistent with Section 2.5(g)(i) of this Agreement. For purposes of this Agreement, the aggregate \$100 million referenced in the foregoing sentence shall be referred to as the "Fourth Funding Commitment." The Fourth Funding Commitment amount will be used in accordance with a capital expenditure plan developed after the Closing by WPAHS management and approved by the WPAHS Board of Directors. If the Closing of the Transaction does not occur as a result of a Highmark Material Default, or if for any reason the Closing of the Transaction does not occur by April 30, 2013, subject to extension as provided herein (except if a WPAHS Category I Material Default shall have occurred, which will result in a return of the \$50 million to Highmark, and Highmark and the UPE Parties shall have the remedies set forth in the original Affiliation Agreement, which, except as set forth in this Section 2.5(e), shall be their sole and exclusive remedies), the WPAHS Parties shall have the following remedies, which shall be their sole and exclusive remedies: (i) the \$50 million held in escrow shall be promptly released by the escrow agent and paid over to WPAHS as an unrestricted and unconditional grant, (ii) WPAHS shall have the remedies set forth in the original Affiliation Agreement, and (iii) WPAHS will have no repayment obligation with respect to any funds advanced by Highmark pursuant to Section 2.5(l), and Highmark and the UPE Parties shall have no further liability or obligation in connection with the Affiliation Agreement, except for Highmark's obligations under Section 2.5(j), and the Bonds shall be returned to the tendering Bondholders."

(v) The second sentence of Section 2.5(f)(i) is amended in its entirety to read as follows:

"The Fifth Funding Commitment amount will be used in accordance with a capital expenditure plan developed after the Closing by WPAHS management and approved by the WPAHS Board of Directors."

(vi) The introductory paragraph to Section 2.5(g) is amended in its entirety to read as follows:

"(g) The Second Funding Commitment Loan and any amounts made available to WPAHS in respect of the Third Funding Commitment, the Fourth Funding Commitment and the Fifth Funding Commitment shall be provided in the form of loans from Highmark to WPAHS (each a "Loan" and collectively, the "Loans")."

(vii) Section 2.5(g)(i) is amended in its entirety to read as follows:

“(g)(i) To the maximum extent permitted under the WPAHS Tax-Exempt Bond Documents and as agreed to by the Master Trustee (as defined in the Master Indenture), the Loans constituting the entire Fourth Funding Commitment and the entire Fifth Funding Commitment shall be Long Term Indebtedness of WPAHS issued on a parity basis (*pari passu*) with the 2007A Bonds, secured by (a) all collateral under the Master Indenture, and evidenced by one or more Obligations issued to Highmark under the Master Indenture or, to the extent not permitted to be so secured, by liens that are subordinate to the liens securing the Bonds (i.e. Subordinated Indebtedness), and (b) first priority liens on all unencumbered (except in connection with the Loans) assets of the WPAHS Parties, including movable equipment. To the maximum extent permitted under the WPAHS Tax-Exempt Bond Documents and as agreed to by the Master Trustee (as defined in the Master Indenture), the Second Funding Commitment Loan and the Loan that constitutes the entire Third Funding Commitment shall be secured by (c) liens on all unencumbered (except in connection with the Loans) assets of the WPAHS Parties on a parity basis (*pari passu*) with the liens that will secure the Loans constituting the Fourth Funding Commitment and the entire Fifth Funding Commitment and (d) liens that are subordinate to the liens securing the Bonds (i.e. Subordinated Indebtedness); provided, however, that a condition precedent to the Second Funding Commitment Loan and the Loan constituting the Third Funding Commitment being secured by such subordinate liens shall be that Highmark provides such indemnification in connection therewith as the WPAHS Parties may request. All Loans that are secured on a parity basis (*pari passu*) with the 2007A Bonds shall be referred to as “Senior Loans.” Notwithstanding any other provisions of this Agreement, the proceeds of the Senior Loans will be used by WPAHS first to repay all amounts owed to Highmark by any of the WPAHS Parties on account of expenditures previously made to or for the benefit of the WPAHS Parties, subject to reductions for amounts owed by Highmark to the WPAHS Parties. The Parties will work cooperatively and in good faith prior to the Closing Date to resolve any disputed amounts, each in a manner consistent with Paragraph 6 of the Amendment. All such Loans shall be repayable as will be set forth in loan agreements (each a “Loan Agreement,” and collectively, the “Loan Agreements”) that will contain the terms set forth in the term sheet attached as Exhibit H, taking into account federal and state Law governing Tax-Exempt Obligations, if applicable.

(viii) In Section 2.5(g)(iii) the phrase “fifty percent (50%) of the Second Funding Commitment provided to WPAHS in the form of a Loan” shall be deleted and in its place shall appear the phrase “Second Funding Commitment Loan.”

(ix) A new Section 2.5(j)(vi) is added to read as follows:

“failed to fund the Tender Offer Transaction at the price set forth in Section 6.14 hereof in which event the WPAHS Parties shall have the following remedies (which shall be their sole and exclusive remedies): (i) the release from escrow of the \$50 million in accordance with Section 2.5(e) hereof, (ii) the remedies set forth in the original Affiliation Agreement, and (iii) WPAHS having no repayment obligation with respect to any funds advanced by Highmark pursuant to Section 2.5(l) hereof, and the Bonds shall be returned to the tendering Bondholders.”

(x) A new Section 2.5(k)(vi) is added to read as follows:

“failed to take the actions or deliver or cause to be delivered any of the documents, as applicable, described on Exhibit 2.5(k)(vi) in connection with the Tender Offer Transaction.”

Exhibit 2.5(k)(vi) to the Affiliation Agreement is attached hereto as Attachment A.

(xi) The last paragraph of Section 2.5(k)(A) is amended in its entirety to read as follows:

“If any such WPAHS Category I Material Default shall have continued unremedied for a period of thirty (30) days after written notice from Highmark to WPAHS specifying such WPAHS Category I Material Default in detail, WPAHS shall, on demand from Highmark, immediately pay to Highmark both: (i) \$100 million; and (ii) all amounts outstanding under the Loan Agreements evidencing the obligations associated with the Second Funding Commitment Loan and the entire Third Funding Commitment which shall be accelerated and be immediately due and payable to Highmark. Said amounts shall be in addition to and not in limitation of any other repayment obligations that WPAHS may have in connection with the Initial Funding Commitment, the Fourth Funding Commitment, and the Fifth Funding Commitment; and”

(xii) The last paragraph of Section 2.5(k)(B) is amended in its entirety to read as follows:

“In the event of a WPAHS Category II Material Default, Highmark and WPAHS agree that the Loan Agreements evidencing the Second Funding Commitment Loan and the entire Third Funding Commitment will remain outstanding in accordance with the terms thereof, except that WPAHS will use its best efforts to take all actions necessary, and to cause third parties to take all actions necessary to secure the Loans constituting the Second Funding Commitment Loan and the entire Third Funding Commitment as Senior Loans on parity with Obligation No. 1 issued under the Master Indenture securing the 2007A Bonds, including the execution and delivery of one or more Obligations under the Master Indenture, such security



agreements and other documents as may be necessary or appropriate. WPAHS will have no obligation to repay that fifty percent (50%) of the Second Funding Commitment that is not subject to a Loan Agreement in the event of a WPAHS Category II Material Default.”

(xiii) A new Section 2.5(l) is added to read as follows:

“(l) Highmark agrees that on the Closing Date it will make an unrestricted and unconditional grant payment to WPAHS in the amount of \$75 million, less any advances thereof that Highmark shall pay in accordance with the remaining provisions of this Section 2.5(l). Highmark shall make advances up to an aggregate amount of \$33.6 million against the amount due pursuant to the preceding sentence, as follows: provided that the Affiliation Agreement remains in effect payments will be made by Highmark to WPAHS (i) on February 5, 2013 and May 3, 2013, respectively, to enable WPAHS to pay debt service obligations on the Series 2007A Bonds due in the amount of \$12.3 million (less any applicable credit due to WPAHS) on February 7, 2013, and in the amount of \$12.3 million due on May 7, 2013, and (ii) on April 11, 2013, to enable WPAHS to pay WPAHS’s pension plan obligations in the amount of \$9 million due on April 15, 2013. WPAHS agrees that it will use the advanced funds solely for the purposes referenced in the foregoing sentence, and, provided that it does so, WPAHS will have no repayment obligation with respect to the advanced funds. Notwithstanding the other provisions of this Section 2.5(l), if the Affiliation Agreement is terminated within the period between any Highmark payment to WPAHS under this Section 2.5(l) and WPAHS’s funding of any payment of the applicable debt service obligation or pension plan obligation, WPAHS shall immediately return such funds to Highmark without a right of offset or other claim to such funds.”

D. Section 2.6(a) is deleted in its entirety and shall have no legal effect.

E. Section 2.7 is deleted in its entirety and shall have no legal effect.

F. A new Section 2.10 titled “Supplemental Rate Payments” is added to read as follows:

“2.10 Supplemental Rate Payments: Effective upon Closing of the Transaction, Highmark shall make supplemental rate payments to WPAHS of \$10 million per Fiscal Year for each of the first five (5) years following the Closing. This Section 2.10 shall have no impact on Section 2.6(b) of the Affiliation Agreement.”

G. Section 3.2(i) is amended in its entirety to read as follows:

“(i) The opinion of nationally recognized bond counsel to WPAHS, addressed to Highmark and the UPE Parties, to the effect that: (i) the

Transaction will not adversely affect the tax-exempt status of the WPAHS Tax-Exempt Bonds, including without limitation, the Allegheny County Hospital Development Authority Health System Revenue Bonds (West Penn Allegheny Health System) Series 2007A, and interest on the bonds to be issued by the Allegheny County Hospital Development Authority to Highmark in exchange for the 2007A Bonds that Highmark owns and intends to purchase in connection with the terms of the Tender Offer Transaction will be excluded from gross income for federal and Commonwealth of Pennsylvania income tax purposes, (ii) the Transaction will not constitute a default under the WPAHS Master Indenture, the Trust Indenture securing the WPAHS Tax-Exempt Bonds or the Loan Agreement between the Allegheny County Hospital Development Authority and WPAHS entered into in connection with the WPAHS Tax-Exempt Bonds, after giving effect to the modifications and amendments in connection with the Tender Offer Transaction, and (iii) the individual signing the Amendment on behalf of WPAHS is authorized to act on behalf of WPAHS and the Amendment and Affiliation Agreement are enforceable against WPAHS in accordance with its terms;"

H. Section 3.2(l) is deleted in its entirety and shall have no legal effect; and the reference in Section 3.2(n) to "WPAHS Representatives" is hereby amended to read "Perpetual WPAHS Representative Designees."

I. Sections 3.3(b), 3.3(j), and 3.3(m) are deleted in their entirety and shall have no legal effect.

J. A new Section 3.3(o) is added to read as follows:

"(o) A wire transfer of immediately available funds paid by Highmark to WPAHS in the amount of \$75 million less advances up to an aggregate amount up to \$33.6 million that are paid prior to Closing in accord with Section 2.5(l)."

K. A new Section 3.3(p) is added to read as follows:

"(p) all necessary waivers and forbearances with respect to the 2007A Bonds required by Highmark in connection with the Tender Offer Transaction; and"

L. A new Section 3.3(q) is added to read as follows:

"(q) evidence of the closing of the Tender Offer Transaction occurring simultaneous with the Effective Time."

M. The last sentence of Section 4.7(b) is amended to read as follows:

"Except as otherwise referenced on Schedule 4.7(b), the WPAHS Historical Financial Information has been issued in the ordinary course of

business and within time frames generally consistent with past practices and the WPAHS Parties have not changed any accounting policy or methodology during the periods presented in the WPAHS Historical Financial Information (including accounting policies and methodologies for determining the obsolescence of inventory or in calculating reserves, including reserves for uncollected accounts receivable).”

Additionally, the Parties agree that Schedule 4.7(b) will be updated prior to the execution of this Amendment with the following:

“As of the date of the Amendment audited financial statements comparable to those for prior Fiscal Years included among the WPAHS Historical Financial Information have not been issued relative to the WPAHS Parties for the twelve-month period ending June 30, 2012.”

N. Section 4.17 (No Brokers) is amended in its entirety to read as follows:

“The WPAHS Parties have no liability of any kind to any broker, finder or agent with respect to the Transaction, other than amounts that may be owed or owing to Houlihan Lokey Capital, Inc. (“Houlihan”) under the engagement agreement between Houlihan and DLA Piper LLP, as counsel to WPAHS, dated as of May 24, 2012, as amended.”

O. Section 6.4 (Use of Funding Commitments) is deleted in its entirety and shall have no legal effect.

P. Section 6.13 (Bond Compliance) is amended in its entirety to read as follows:

“WPAHS shall engage nationally recognized bond counsel to provide an opinion addressed to Highmark and the UPE Parties and delivered at the Closing to the effect that (i) the Transaction will not adversely affect the tax-exempt status of the WPAHS Tax-Exempt Bonds, including the Allegheny County Hospital Development Authority Health System Revenue Bonds (West Penn Allegheny Health System) Series 2007A, and interest on the bonds to be issued by the Allegheny County Hospital Development Authority to Highmark in exchange for the 2007A Bonds that Highmark owns and intends to purchase in connection with the Tender Offer Transaction will be excluded from gross income for federal and Commonwealth of Pennsylvania income tax purposes, (ii) the Transaction will not constitute a default under the WPAHS Master Indenture, the Trust Indenture securing the WPAHS Tax-Exempt Bonds or the Loan Agreement(s) between the Allegheny County Hospital Development Authority and WPAHS entered into in connection with the WPAHS Tax-Exempt Bonds, after giving effect to the modifications and amendments in connection with the Tender Offer Transaction, and (iii) the individual signing the Amendment on behalf of WPAHS is authorized to act on behalf of WPAHS and the Amendment and Affiliation Agreement

are enforceable against WPAHS in accordance with its terms. Notwithstanding any other provision of this Agreement, the WPAHS Parties will as soon as reasonably practicable, but in no event more than five (5) business days after its receipt or distribution, provide Highmark with copies of all notices received from or sent to the Bond Trustee, Master Trustee, bondholders or the Municipal Securities Rulemaking Board in connection with the WPAHS Tax-Exempt Bonds and the bonds to be issued by the Allegheny County Hospital Development Authority to Highmark in exchange for the 2007A Bonds that Highmark owns and intends to purchase in connection with the Tender Offer Transaction.”

Q. A new Section 6.14 titled “Tender Offer Transaction” is added to read as follows:

“6.14 Tender Offer Transaction: Highmark and WPAHS acknowledge that as a result of negotiations with the bond trustee (“Bond Trustee”) and certain Bondholders a term sheet has been negotiated (a copy of which is attached as Exhibit 6.14B) that is to form the basis of a tender offer whereby the Lockup Bondholders will, and the other Bondholders will be offered the opportunity to, (i) tender their Bonds to Highmark for cash at a price equal to \$875 per \$1,000 principal amount plus accrued interest, (ii) forbear from enforcing any events of default that may exist or arise under the Master Indenture or related trust indenture (“Bond Indenture”), subject to completion of the tender offer, (iii) consent to amendments to the Master Indenture to remove all financial and other operative covenants that may exist, and to waive defaults, if any, that may then exist under the Master Indenture and the Bond Indenture, and (iv) direct the Master Trustee (as defined by the Master Indenture) and Bond Trustee (as defined by the Bond Indenture) to not take any remedial action while the agreement is in effect (collectively, the “Tender Offer Transaction”). A term sheet that sets forth key amendments to the Master Indenture and Bond Indenture in connection with the Tender Offer Transaction is attached as Exhibit 6.14A. In connection with the Tender Offer Transaction, Highmark anticipates that it will borrow certain amounts to fund the purchase of the tendered bonds. The Parties agree that they will cooperate with one another and the Bond Trustee (and their respective representatives) and take all actions reasonably necessary or appropriate to consummate the Tender Offer Transaction and related financing to be effective as of a date to be determined by Highmark. The Parties agree that the tender offer may be extended through May 31, 2013 by agreement of Highmark, the Bond Trustee, and the Bondholders without the need for WPAHS consent, provided that there are no other material changes to the terms of the tender offer, except for the extension of said date. Within fourteen (14) days of the execution of Bond Tender, Consent and Forbearance Agreements with Bondholders covering not less than 73.5% of outstanding principal amount of the 2007A Bonds, the following documents will be placed into escrow and released on consummation of

the tender offer: the signed amendment of the Master Trust Indenture; the amendment of the Bond Indenture signed by all parties thereto, except the Allegheny County Hospital Development Authority; and WPAHS's signed request to the Master Trustee and Bond Trustee that such amendments be executed and delivered. Any extension of the tender offer beyond May 31, 2013, or any extension beyond April 30, 2013 that contemplates any other material changes to the terms of the Tender Offer, requires the prior written consent of the WPAHS Parties. A term sheet that sets forth key terms and conditions associated with the Tender Offer Transaction has been reviewed and agreed upon by Highmark, WPAHS, the Master Trustee, and the Bond Trustee, and is attached as Exhibit 6.14B."

The term sheets that will comprise Exhibits 6.14A and 6.14B to the Affiliation Agreement are attached hereto as Attachments B and C.

R. The following sentence is added at the end of Section 7.5:

"The Parties agree that the WPAHS Parties will continue to operate in accord with their existing charity care policies for the four (4) year period immediately subsequent to the Closing Date."

S. Section 8.3 (No Material Adverse Effect) is amended in its entirety to read as follows:

"There shall have been no WPAHS Material Adverse Effect from the date of the Amendment through the Closing Date."

T. A new Section 8.13 is added to read as follows:

"8.13 Tender Offer Transaction. Highmark and the UPE Parties shall have received satisfactory evidence of the closing of the Tender Offer Transaction occurring simultaneously with the Effective Time."

U. A new Section 9.13 is added to read as follows:

"9.13 Tender Offer Transaction. The WPAHS Parties shall have received satisfactory evidence of the closing of the Tender Offer Transaction occurring simultaneously with the Effective Time."

V. Section 10.1(b) is amended in its entirety to read as follows:

"(b) by either Highmark or WPAHS providing written notice to the other at any time on or after the later of (i) May 1, 2013, or (ii) such date when Bond Tender, Consent and Forbearance Agreements are no longer in effect with at least 73.5% of the Bondholders (the "End Date") if for any reason the Closing of the Transaction shall not have occurred by such date (including in the case of Highmark and the UPE Parties by reason of the

failure of one of the conditions in Article 8 and in the case of the WPAHS Parties by reason of the failure of one of the conditions in Article 9), unless Highmark and WPAHS mutually agree to extend the End Date, provided, however, that such date in this subsection (ii) shall in no event ever extend beyond June 1, 2013 without the prior written approval of the Parties. Notwithstanding the foregoing, if any third party obtains the entry of an order or decree enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby or by the Tender Offer Transaction, then, if such order or decree is not terminated within five business days of April 30, 2013, the Outside Closing Date (as described in the Bond Tender, Consent and Forbearance Agreements referenced in Section 2.5(e)) shall be automatically extended for the lesser of (i) five business days after the effectiveness of an order by a court of competent jurisdiction terminating such injunction and permitting the transactions contemplated hereby to be consummated, but not to exceed 45 business days or (ii) if such injunction or order is enforceable for more than 10 days, such number of days that such injunction or order is enforceable, but not to exceed 45 business days, but in no event to extend past June 1, 2013 without the prior written consent of WPAHS;"

W. A new Section 10.1(f) is added to read as follows:

"(f) by WPAHS if either (i) at any time Highmark advises WPAHS that the terms or conditions set forth in any final order or correspondence setting forth the terms of any final order received from the Pennsylvania Insurance Department with respect to any Approval of the Transaction are not acceptable to Highmark, or (ii) Highmark fails to advise WPAHS within 5 business days of receipt by Highmark of any such final order or correspondence setting forth the terms of any final order that such terms and conditions are acceptable; provided, however, that the sole and exclusive remedies of the WPAHS Parties in the event of either (i) or (ii) shall be (a) the release from escrow of the \$50 million escrow referenced in Section 2.5(c) hereof, (b) the remedies set forth in the original Affiliation Agreement, and (iii) WPAHS having no repayment obligation with respect to any funds advanced by Highmark pursuant to Section 2.5(l) hereof." Highmark will provide verbal updates of the status of proceedings before the Pennsylvania Insurance Department to counsel to WPAHS bi-weekly and Highmark will not object to WPAHS and its professionals meeting with the Pennsylvania Insurance Department, but neither Highmark nor UPE consents to the release by the Pennsylvania Insurance Department of any confidential information submitted by any party to the Pennsylvania Insurance Department.

X. Section 12.2 (Legal Fees and Costs of Disputes) is amended to read as follows:

“In the event either Party elects to incur legal expenses from and after the date of the Amendment, to enforce or interpret any provision of this Agreement, the prevailing Party will be entitled to recover such legal expenses, including attorney’s fees, costs and necessary disbursements, in addition to any other relief to which such Party shall be entitled.”

Y. Exhibit F is amended in its entirety to be in the form attached hereto as Attachment D.

Z. Exhibit H is amended in its entirety to be in the form attached hereto as Attachment E.

AA. Section 1.1 (Definitions) shall be deemed amended by the Parties to include references to the new defined terms set forth in this Amendment, to modify any previously defined terms that are modified by this Amendment, and to delete the terms previously defined by the Affiliation Agreement that no longer appear therein as a result of this Amendment.

3. Limitation on Ability to Assert Breaches, Inaccuracies and Violations. The Parties agree that with respect to any nonconformity arising during the period from and including the date of execution of the Affiliation Agreement through the date hereof, and whether or not continuing beyond such period, no Party shall have the ability to assert for purposes of Sections 6.2, 6.3, 8.1, 9.1, or 10.1 of the Affiliation Agreement or otherwise that (i) any other Party has breached or, in the absence of actual fraud resulting in a material breach or material inaccuracy, that there has been an inaccuracy in any representation or warranty of such other Party contained in the Affiliation Agreement, or (ii) that such other Party has breached or violated its covenants and agreements contained in the Affiliation Agreement. To the extent that prior to the date hereof any Party failed to notify any other Party pursuant to Section 6.5 of any matter that is subject to the notification requirements set forth therein, the Parties expressly waive their right to pursue remedies in connection therewith. The Parties stipulate and agree that no Highmark Material Default, WPAHS Category I Material Default or WPAHS Category II Material Default exists as of the date of this Amendment and, to the extent any such default does exist, absent actual fraud, it is waived. In addition, Highmark waives any rights or remedies that it may have in connection with (i) any default or Event of Default that may exist in connection with the 2007A Bonds as of the date of this Amendment, including any default or Event of Default arising from any event or condition that exists as of such date or that with the passing of time or the giving of notice, or both, would constitute such an Event of Default, and (ii) any default or Event of Default that may exist or that may arise under Section 3.07 [“Rates and Charges; Debt Coverage”] of the Master Indenture due to any failure to meet the required Annual Debt Service Coverage Ratio (as defined in the Master Indenture) for Fiscal Year 2012.

4. Update of Schedules and Exhibits. The Parties agree that all Schedules and Exhibits will be updated, as of January 31, 2013, by the Parties no later than March 15, 2013, and then thereafter in accord with Section 12.13 of the Affiliation Agreement. Highmark and the UPE Parties have waived their rights to assert any breaches of any representations, warranties or covenants relating to any such Exhibits or Schedules through the date hereof to the extent set forth in Section 3 of this Amendment. To the extent not so waived, Highmark and the UPE

Parties shall have such rights with respect to such updated Schedules and Exhibits as are set forth in the Affiliation Agreement, including, without limitation, the right to terminate the Affiliation Agreement if or to the extent permitted pursuant to and solely in accordance with the terms of Section 10.1(d) thereof, and the WPAHS Parties hereby waive and release any and all remedies and claims that they may have against Highmark and the UPE Parties in connection with any such termination, except that the WPAHS Parties shall be entitled as their sole and exclusive remedies in the event of any such termination: (a) to the release from escrow of the \$50 million escrow referenced in Section 2.5(c) of the Affiliation Agreement, and (b) to have all remedies set forth in the original Affiliation Agreement, including but not limited to the right to retain all previous advances and loans made by Highmark pursuant to the Affiliation Agreement, as amended hereby, including all funds advanced by Highmark pursuant to Section 2.5(l) of the Affiliation Agreement, without a repayment obligation.

5. Loan Agreements Pertaining to Second Funding Commitment Loan and Third Funding Commitment. The amended and restated Exhibit H to the Affiliation Agreement referenced in Section 2 Z above shall also apply to the Loan Agreements currently outstanding relative to the Second Funding Commitment Loan and the entire Third Funding Commitment, and the Parties agree to execute such modifications to Loan Agreements and such security agreements, as appropriate, to reflect changes made by this Amendment.

6. Amounts Owed to Highmark or to the WPAHS Parties. The Parties will use their reasonable best efforts prior to Closing to reconcile all disputed amounts due to one another on account of expenditures or obligations made for the account or at the request of the other Party prior to such time. The net amount that the Parties agree as a result of such reconciliation is owed to Highmark or the WPAHS Parties will be paid with a reduction to the proceeds of the Fourth Funding Commitment Loan or an unrestricted grant from Highmark to the WPAHS Parties, as the case may be. Any amounts remaining in dispute after the payment of the Fourth Funding Commitment Loan will be resolved by the Parties within sixty (60) days after the Closing and promptly paid.

7. Effect of Agreement. Except as modified by this Amendment, the Affiliation Agreement shall remain in full force and effect. The provisions of this Amendment are hereby incorporated into the Affiliation Agreement as if fully set forth therein. In the event of any conflict between the terms of this Amendment and the terms of the Affiliation Agreement or any Loan Agreement, the terms of this Amendment shall control with respect to the matters specifically addressed in this Amendment (including its attachments).

8. Counterparts and Effective Date. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement, binding on all of the Parties, and shall be effective upon the Effective Date.

[Signature pages follow]



IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be duly executed in multiple originals, all as of the date and year first above written.

UPE PARTIES:

UPE

By: William Winkenwerder Jr.

Name: William Winkenwerder Jr.

Title: President and CEO

UPE PROVIDER SUB

By: John W. Paul

Name: John W. Paul

Title: PRESIDENT

HIGHMARK:

HIGHMARK INC.

By: William Winkenwerder Jr.

Name: William Winkenwerder Jr.

Title: President and CEO

WPAHS PARTIES:

WEST PENN ALLEGHENY HEALTH  
SYSTEM, INC., for itself

By: *Paul H. Dimmick*

Name: Paul H. Dimmick

Title: Vice Chair, WPAHS Board of Directors

WEST PENN ALLEGHENY HEALTH  
SYSTEM, INC., as sole Member of all WPAHS  
Parties except Alle-Kiski Medical Center Trust,  
Canonsburg General Hospital Ambulance  
Service and West Penn Allegheny Foundation,  
LLC

By: *Paul H. Dimmick*

Name: Paul H. Dimmick

Title: Vice Chair, WPAHS Board of Directors

WEST PENN ALLEGHENY HEALTH  
SYSTEM, INC., as sole Member and acting on  
behalf of Canonsburg General Hospital as the  
sole Member of Canonsburg General Hospital  
Ambulance Service

By: *Paul H. Dimmick*

Name: Paul H. Dimmick

Title: Vice Chair, WPAHS Board of Directors

ALLE-KISKI MEDICAL CENTER, as sole  
Member and acting on behalf of Alle-Kiski  
Medical Center Trust

By: Paul H. Dimmick

Name: Paul H. Dimmick

Title: Vice Chair, WPAHS Board of Directors

WEST PENN ALLEGHENY FOUNDATION,  
LLC

By: Paul H. Dimmick

Name: Paul H. Dimmick

Title: Vice Chair, WPAHS Board of Directors

**ATTACHMENT A**

**EXHIBIT 2.5(k)(vi)<sup>1</sup>**

- WPAHS shall deliver the following documents or take the following actions pursuant to the Master Indenture:
  1. Per Section 6.02(b):
    - (a) Request from WPAHS (as Credit Group Representative) to Master Trustee to enter into the Related Supplement;
    - (b) Copy of resolution adopted by WPAHS Board, certified by board secretary or assistant secretary and to accompany the foregoing request;
  2. Per Section 6.03, an Opinion of Counsel (defined as written opinion signed by an attorney or firm of attorneys who may be counsel for the Credit Group Representative); and
  3. As a party to the Master Indenture, sign the amendment.
- WPAHS shall deliver the following document pursuant to the Bond Indenture:
  1. Per Section 9.01, the written consent of WPAHS to be filed with the Bond Trustee; and
- WPAHS shall make the following payments under the Bond Documents:
  1. Pay the deposits due on February 7, 2013 and May 7, 2013, the interest payment due on May 15, 2013 and replenish the expense reserve to required levels, provided that Highmark provides WPAHS with the funds and advances described in Section 2.5(l) of the Affiliation Agreement.

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<sup>1</sup> Capitalized terms on this Exhibit 2.5(k)(vi) not otherwise defined in the Affiliation Agreement shall have the meanings ascribed to such terms in the WPAHS Tax-Exempt Bond Documents.

**ATTACHMENT B**

**EXHIBIT 6.14 A<sup>2</sup>**

**SUMMARY OF AMENDMENTS TO MASTER  
INDENTURE AND BOND INDENTURE**

- I. The Master Indenture amendments to which the tendering Bondholders will consent will include elimination of the following covenants:
- (i) Amendment to definition of Permitted Liens (Section 1.01) to add any Lien on any Property that is not Collateral thereunder;
  - (ii) Limitation on additional indebtedness (Section 3.05);
  - (iii) Limitation on guaranties (Section 3.06);
  - (iv) Compliance with the Annual Debt Service Coverage Ratio (Section 3.07);
  - (v) Restriction on the sale, lease or disposition of property (Section 3.08);
  - (vi) Requirement of timely filing of audited financial statements (Section 3.09); and
  - (vii) Maintenance of Minimum Days Cash on Hand (Section 3.10).
- II. The Bond Indenture amendments to which the tendering Bondholders will consent include:
- (i) Amendment to the definition of the Reserve Requirement (Section 1.01) to provide that the tendered Bonds purchased by Highmark will not be secured by the Debt Service Reserve Account;
  - (ii) Direction to transfer the excess amounts in the Debt Service Reserve Account resulting from the amendment to the definition of the Reserve Requirement to the Project Fund;
  - (iii) Clarification that the Bond Trustee, as Holder of Obligation No. 1, is directed to consent to the amendments to the Master Indenture upon receiving consents and directions from the Holders of at least a majority in principal amount of the Bonds then Outstanding;
  - (iv) Clarification that the Bond Trustee is permitted to waive Events of Default and to annul acceleration of the Bonds upon receiving consents and directions from the Holders of at least a majority in principal amount of the Bonds then Outstanding;
  - (v) The exchange of the Tendered Bonds purchased by Highmark for a new separately identified series of Bonds; and

---

<sup>2</sup> Capitalized terms on this Exhibit 6.14A not otherwise defined in the Affiliation Agreement shall have the meanings ascribed to such terms in the WPAHS Tax-Exempt Bond Documents.

- (vi) Deferral of interest and principal payments of tendered Bonds purchased by Highmark until July 1, 2015, except that accrued and unpaid interest on the tendered Bonds to the closing date will be paid to Highmark on the next regularly scheduled interest payment date.

**ATTACHMENT C**

**EXHIBIT 6.14 B**

**SUMMARY OF TERMS OF TENDER OFFER TRANSACTION**

Attached.

## SETTLEMENT MATERIALS

### CONFIDENTIAL TERM SHEET

Highmark Inc. (Highmark)  
West Penn Allegheny Health System, Inc. (WPAHS)  
Proposal to WPAHS Bondholders Regarding Tender for WPAHS Bonds secured under that certain Master Indenture of Trust between West Penn Allegheny Health System, Inc., et al. and UMB Bank, N.A. as Successor Master Trustee (the "Trustee") dated May 1, 2007, as amended (the "Master Indenture") and issued under that certain Bond Indenture between Allegheny County Hospital Development Authority and the Trustee (the "Bond Indenture" and with the Master Indenture, the "Indentures").

*This Term Sheet is a summary of proposed terms and does not constitute an offer, obligation, understanding or commitment by Highmark or any other party to enter into a proposed agreement or to agree to any of the terms set forth herein or to purchase any of the Bonds. Any agreement will only be entered into pursuant to the terms, covenants and conditions of definitive documentation executed by all of the parties. Nothing contained herein will be construed to be a commitment or obligation of Highmark, UPE or UPEPS. All documents described in this Term Sheet must be in form and substance satisfactory to each of the parties. The summary of proposed terms pursuant to which Highmark proposes to tender for the Bonds is set forth as follows (it being understood that the following summary of proposed terms is not intended to be a definitive list of all requirements of Highmark or the Trustee in connection with the proposed tender offer):*

#### Confidential Discussions

##### 1. Settlement Materials

This summary of terms is in reply to the Response of certain bondholders in an email dated January 3, 2013 from William P. Smith to William H. Schorling, is confidential and privileged, is intended as settlement materials, and shall not be introduced or identified and shall not be offered or admitted into evidence or any record in any court or administrative tribunal, whether pursuant to Federal Rule of Evidence 408 or its counterpart under state law or procedure. Receipt by any person without objection acknowledges this limitation.

##### 2. Basis for Proposal

Highmark is providing this Confidential Term Sheet for the purposes of moving forward with a transaction that has value for all parties to the WPAHS discussions. The contemplated proposal is intended to lead to a closing of a tender and restructuring of the Bonds and a closing of the transaction contemplated by the Affiliation Agreement dated October 31, 2011 between Highmark and WPAHS, as modified (the "Modified Affiliation Agreement"), that preserves the WPAHS facilities and achieves their highest value for the community, the WPAHS Bondholders and other WPAHS constituencies. The proposal contemplates implementation of the settlement through a tender offer for the Bonds and other actions described.

##### 3. Proposal

Promptly upon agreement in principle to and execution and delivery of definitive documentation, and no later than April 10, 2013, Highmark will make a public cash tender offer



## SETTLEMENT MATERIALS

### CONFIDENTIAL TERM SHEET

for all of the Bonds at 87.5% of par amount plus accrued interest to the date of payment (the "Public Tender").

#### 4. Conditions to Tender Offer, Lock Up and Closing and Additional Terms

Bondholders holding at least 73.5% of the par value of the Bonds will execute and deliver to Highmark lock up agreements agreeing to accept the tender (the "Lockup Bondholders") prior to the Public Tender and to tender at least 73.5% of the par value of the Bonds.

Subject to consummation of the Public Tender, acceptance of the tender will be coupled with a consent of the tendering Bondholders (including, but not limited to, the Lockup Bondholders), effective upon Highmark's deposit of the funds to complete the tender, to amend the Indentures to accomplish the following:

- a. Deletion of the covenants in the Master Indenture concerning (i) debt service coverage, (ii) days cash on hand, (iii) financial reporting, (iv) limitations on additional indebtedness and guarantees, and (v) limitations on liens to secure other indebtedness, but there will be no additional parity indebtedness except as currently permitted under the Indentures;
- b. Amendment of the covenants in the Bond Indenture concerning the debt service reserve account to remove the coverage requirement for tendered Bonds, and the amount no longer required to be held in the debt service reserve fund will be deposited in the Project Fund under the Indenture with respect to the Bonds at closing (the remaining balance of the debt service reserve fund shall exclusively benefit the non-tendering Bondholders). The Bond Indenture will also be amended to authorize and provide for the Bond Trustee to consent as the holder of Obligation No. 1 to the proposed amendments to the Master Indenture; to grant the Bond Trustee a lien on funds held under the Bond Indenture for its fees and expenses; and to add customary language such as is in the Master Indenture that the Bond Trustee waives events of default upon the written request of the majority bondholders (which will be deemed given with respect to the defaults existing at the time of the Public Tender closing); and
- c. Deacceleration of the Bonds, or the obligations evidenced by the Bonds, to the degree either or both have been accelerated.

As part of the final closing, the Trustee expects to be instructed to execute and deliver the amendments to the documentation by all tendering Bondholders including the Lockup Bondholders and to be indemnified by Highmark.

To the extent and as provided in paragraph 6 below, from and after execution and delivery of the lockup agreements, the Lockup Bondholders will agree that, in their individual capacity as a Bondholder, each shall forbear, and each shall support and, as applicable, direct the Trustee to forbear, from accelerating the Bonds or Obligation No. 1 under the Master Indenture, from

## SETTLEMENT MATERIALS

### CONFIDENTIAL TERM SHEET

declaring a default and from exercising any remedy and to direct the Trustee to forbear from declaring a default or exercising remedies with respect to any default or event of default existing or continuing under the Indentures or related agreements as of the date the lockup agreements are delivered until the earliest of (i) 7 days after Highmark's abandonment of the tender offer, (ii) a filing by WPAHS or any material affiliate of any proceeding under Title 11 of the United States Code or any similar statute under the laws of the Commonwealth of Pennsylvania and (iii) April 30, 2013 (the "Outside Closing Date"). The Outside Closing Date may be extended through May 31, 2013 by agreement of Highmark, the Trustee, and the Bondholders without the need for WPAHS consent, provided that there are no other material changes to the terms of the Public Tender, except for the extension of said date. Notwithstanding the foregoing, if any third party obtains the entry of an order or decree enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby or the Modified Affiliation Agreement, then, if such order or decree is not terminated within five business days of April 30, 2013, the Outside Closing Date shall be automatically extended for the lesser of (i) five business days after the effectiveness of an order by a court of competent jurisdiction terminating such injunction and permitting the transactions contemplated hereby and pursuant to the Modified Affiliation Agreement to be consummated, but not to exceed 45 business days or (ii) if such injunction or order is enforceable for more than 10 days, such number of days that such injunction or order is enforceable but not to exceed 45 business days; provided, however, that in no event shall the Outside Closing Date extend past June 1, 2013, without the written consent of WPAHS. Subject to receipt of directions in form, substance, and amount required under the Indentures, and execution and delivery of a forbearance agreement implementing these terms, to the extent and as provided in paragraph 6 below, the Trustee will forbear from enforcing remedies until the Outside Closing Date.

Highmark will provide verbal updates of the status of proceedings before the PID to counsel to the Trustee and WPAHS bi-weekly, and Highmark will not object to the Trustee, WPAHS and their professionals meeting with the PID, but neither Highmark nor UPE consents to the release by PID of any confidential information submitted by any party to PID.

The Trustee, the Lockup Bondholders and each of their professionals agree to use commercially reasonable best efforts to expedite the Public Tender process.

No order is entered enjoining the Public Tender, the closing of the Public Tender and exchange, or the closing on the Modified Affiliation Agreement.

The Bonds and the obligations evidenced by the Bonds shall not have been accelerated.

Neither the Lockup Bondholders nor the Trustee shall have taken any action to enforce their rights or remedies under the Indentures or the Bonds except to the extent and as provided in paragraph 6 below.

WPAHS obtains and delivers to the Trustee, in a form acceptable to the Trustee, an opinion of nationally recognized bond counsel acceptable to the Trustee opining that the terms of the tender, the Modified Affiliation Agreement, and modification to the Indentures do not and will

## SETTLEMENT MATERIALS

### CONFIDENTIAL TERM SHEET

not adversely affect the exclusion of interest paid in respect of the Bonds from income subject to Federal taxation or income taxation under the laws of the Commonwealth of Pennsylvania.

Waiver of any defaults under the Indentures.

#### 5. Conditions for Lockup Agreements and Need for Approvals

Execution and delivery of the Lockup Agreements shall be conditioned upon and subject to confirmation to the Trustee that financing for the Public Tender is in place and available to Highmark and review of all non-confidential submissions to the PID.

Consummation of the Public Tender is conditioned on closing of the Modified Affiliation Agreement and is further conditioned on (i) PID approval of the change in control of Highmark and various domestic insurers with conditions acceptable to Highmark, (ii) lack of objection from PID to Highmark's participation in the Public Tender, and (iii) any other approval required by law.

#### 6. Forbearance

During the term of lockup agreements, the Lockup Bondholders will agree that they shall forbear, and they shall support and, as applicable, direct the Trustee to forbear, until seven (7) days after the Outside Closing Date, from (a) accelerating the due date for payment of principal of any of the Bonds or the Obligation, or (b) declaring a default and from exercising any rights or remedies with respect to any default or event of default existing on or occurring after the date of the lockup agreement; provided, however, that neither the forbearance nor direction shall apply to (i) a payment default under the Loan Agreement related to the Bonds, (ii) transfers from any Account held by the Bond Trustee in order to make a regularly scheduled Bond payment, or (iii) any funding obligation of WPAHS under that certain letter agreement dated October 29, 2012, between the Trustee and WPAHS ((i), (ii) and (iii) the "Forbearance Exceptions"). In the event of a Forbearance Exception, the Trustee shall give WPAHS and Highmark five days written notice prior to declaration of a default and the Trustee's remedies shall be limited to access to the funds on deposit with the Trustee.

#### 7. Escrow

Upon execution and delivery of the Lockup Agreements, Highmark will pay \$50 million into an escrow account held with PNC Bank, National Association, or another mutually agreeable escrow company. If closing of the Modified Affiliation Agreement does not occur as a result of a Highmark Material Default (as defined in the Modified Affiliation Agreement), or if for any reason the closing of the Modified Affiliation Agreement does not occur by the Outside Closing Date (except if a WPAHS Category I Material Default shall have occurred, which will result in a return of the \$50 million to Highmark), the \$50 million held in escrow shall be promptly released by the escrow agent and paid over to WPAHS as an unrestricted and unconditional grant and the

## SETTLEMENT MATERIALS

### CONFIDENTIAL TERM SHEET

Bonds shall be returned to the tendering Bondholders. Highmark's liability related to the Public Tender shall be limited to the Escrow.

#### 8. Amendments to the Affiliation Agreement; Closing

Highmark and WPAHS will work cooperatively and in good faith to agree on the terms of the Modified Affiliation Agreement. Closing on the Modified Affiliation Agreement shall occur substantially contemporaneously with the consummation of the Public Tender.

#### 9. Timing of Consummation of Tender

Within 5 days of receipt of all approvals but in no event later than the Outside Closing Date, subject to any permitted extensions.

#### 10. Process

Within fourteen (14) days of the execution of the lockup agreements with Bondholders covering not less than 73.5% of outstanding principal amount of the Bonds, the following documents will be placed into escrow and released on consummation of the Public Tender offer: the signed amendment of the Master Trust Indenture; the amendment of the Bond Indenture signed by all parties thereto, except the Allegheny County Hospital Development Authority; and WPAHS's signed request to the Master Trustee and Bond Trustee that such amendments be executed and delivered. For purposes of clarity, if the Outside Closing Date release occurs without consummation of the tender, the amendments will be returned to whoever put them into the escrow and of no force or effect. If the Public Tender consummates, the amendments are released to become operative.

**THIS TERM SHEET IS A SUMMARY OF PROPOSED TERMS AND IS ONLY AN EXPRESSION OF INTEREST IN CONSIDERING A POTENTIAL TRANSACTION BASED ON THE GENERAL TERMS AND CONDITIONS OUTLINED ABOVE. IT IS NOT INTENDED TO AND DOES NOT CREATE ANY BINDING LEGAL OBLIGATION ON THE PART OF ANY PERSON OR ENTITY TO ENTER INTO THE PROPOSED TRANSACTION OR ANY OTHER TRANSACTION. THIS TERM SHEET IS NOT, AND IS NOT TO BE CONSTRUED AS, AN OFFER OR COMMITMENT TO ENTER INTO A CONTRACT OR TO PURCHASE ANY BONDS. ANY SUCH OFFER OR COMMITMENT BY ANY PERSON WOULD BE IN WRITING, WOULD BE PRECEDED BY THE RECEIPT OF ALL REQUISITE APPROVALS (INCLUDING INTERNAL TAX, LEGAL, FINANCING, BANKING, ACCOUNTING AND REGULATORY APPROVALS), IF ANY, AND ITS EFFECTIVENESS WOULD BE CONDITIONED UPON THE PRIOR EXECUTION AND DELIVERY OF FINAL DOCUMENTATION ACCEPTABLE TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL.**

**ATTACHMENT D**

**EXHIBIT F**

- By agreement of the Parties, the individuals that will comprise the WPAHS Board of Directors as of the Effective Time will not be finally determined until ten (10) days prior to the Closing Date and will be effected by notice from the Ultimate Parent Entity to WPAHS as to the seventy-five (75%) of the WPAHS Board of Directors that will consist of individuals other than Perpetual WPAHS Representative Designees, and by notice from WPAHS to the Ultimate Parent Entity as to the Perpetual WPAHS Representative Designees.
- The structure of the WPAHS Board of Directors as of the Effective Time shall be as set forth in the Bylaws proposed for WPAHS which are attached as part of this Exhibit F.

**AMENDED AND RESTATED  
BYLAWS  
OF  
WEST PENN ALLEGHENY HEALTH SYSTEM, INC.**

**Effective Date: \_\_\_\_\_, 20\_\_**

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**AMENDED AND RESTATED BYLAWS**  
**OF**  
**WEST PENN ALLEGHENY HEALTH SYSTEM, INC.**

**ARTICLE I**  
**NAME AND PURPOSES**

1.1 **Name.**

The name of the Corporation is West Penn Allegheny Health System, Inc. The Corporation may do business under such other names as may be determined by the Board of Directors.

1.2 **Purposes.**

The Corporation is organized under the Pennsylvania Nonprofit Corporation Law, (the "Nonprofit Corporation Law") for scientific, educational and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and in this connection is organized:

(a) To provide, maintain, operate, and support, directly and through its controlled affiliates, the provision, maintenance, management, and operation of, on a nonprofit basis, in-patient and out-patient hospital facilities and health care services for the benefit of persons who require medical care and services of the kind customarily furnished most effectively by hospitals, without regard to race, creed, color, sex, age, religion, national origin, sexual orientation, ability to pay, or any other criteria not related to medical indications for admission or treatment;

(b) To carry on educational and scientific activities related to the care of the sick and injured;

(c) To carry on scientific research related to the care of the sick and injured;

(d) To carry on activities designed to promote the general health of the communities in which it operates;

(e) To operate as part of the nonprofit regional health care system governed by [*name of Ultimate Parent Entity*], a Pennsylvania nonprofit corporation ("Ultimate Parent"), and support a health care provider network comprised of the Corporation and those corporations and other entities over which the Corporation exercises governance control (the "subsidiaries"), each of which (i) operates, raises funds for, or conducts activities otherwise ancillary to the operation of, health care facilities in order to extend health care to sick, injured and disabled persons, without regard to age, sex, race, religion, national origin or sexual orientation, or (ii) carries on educational and/or scientific research activities related to the causes, diagnosis,

treatment, prevention or control of physical or mental diseases and impairments of persons, and each of which is an organization exempt from taxation under Section 501(c)(3) of the Code and classified as other than private foundations under Section 509(a)(1), 509(a)(2) or 509(a)(3) of the Code;

(f) To carry out such other acts and to undertake such other activities as may be necessary, appropriate or desirable in furtherance of or in connection with the conduct, promotion or attainment of the foregoing purposes, provided, that none of such activities shall be undertaken which would cause the Corporation to lose its status as an organization described in Section 501(c)(3) of the Code, or as an organization contributions to which are deductible under Section 170(c)(2) of the Code; and

(g) To otherwise operate exclusively for charitable, scientific or educational purposes within the meaning of Section 501(c)(3) of the Code.

## ARTICLE II OFFICES

### 2.1 Registered Office.

The registered office of the Corporation shall at all times be within the Commonwealth of Pennsylvania at such address as may be established by the Board of Directors.

### 2.2 Business Offices.

The Corporation may have business offices at such places permitted by law as the business of the Corporation may require.

## ARTICLE III MEMBERS

### 3.1 Membership.

The Corporation shall have one (1) member, which shall be [*name of Provider Subsidiary*] (the "Member"). There shall be no other members or classes of membership. The Chief Executive Officer or the President of the Member shall be entitled to vote on behalf of the Member in accordance with the authority granted to the Chief Executive Officer or the President of the Member unless the Member notifies the Corporation in writing that another officer is authorized to vote on behalf of the Member.

### 3.2 Meetings.

(a) Annual Meeting. The annual meeting of the Member of the Corporation shall be held immediately following the annual meeting of the Board of Directors of the Member, or at such other time as the Member may determine, to elect members of the Board of

Directors and officers of the Corporation, and to transact such other business as may come before the meeting.

(b) Special Meetings. Special meetings of the Member may be called by the Chairperson of the Board of the Corporation, one-third (1/3) of the members of the Board of Directors of the Corporation or by one-third (1/3) of the members of the Board of Directors of the Member.

(c) Notice of Meetings. Notice of any meeting of the Member shall be given by, or at the direction of, the Secretary of the Corporation at least then (10) days prior to the day named for a meeting that will consider a fundamental change under Chapter 59 of the Nonprofit Corporation Law or five days prior to the day named for the meeting in any other case.

(d) Written Consent. Any action which may be taken at a meeting of the Member may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by the Member and filed with the Secretary.

### 3.3 Powers.

(a) Reserved Powers of Member. For so long as such rights and powers do not result in the revocation of the Corporation's status as an organization described in Section 501(c)(3) of the Code, the Member shall have the right and power to make recommendations to Ultimate Parent with respect to actions by Ultimate Parent on the matters reserved to Ultimate Parent under Section 3.3(b) of these Bylaws. Ultimate Parent shall have no obligation to approve any such recommendations, and Ultimate Parent may take actions that have not been recommended by, or that are contrary to recommendations of, the Member.

(b) Reserved Powers of Ultimate Parent. For so long as such rights and powers do not result in the revocation of the Corporation's status as an organization described in Section 501(c)(3) of the Code, the following rights and powers are reserved to Ultimate Parent:

(i) Subject to the provisions of Section [4.2 and 4.3] of these Bylaws, to determine the number of directors that will comprise the Board of Directors of the Corporation;

(ii) Subject to the provisions of Section [4.2, 4.3, 4.4 and 4.5] of these Bylaws, to elect the directors of the Corporation;

(iii) Subject to Sections [4.2 and 4.7(b)] of these Bylaws, to remove of any of the directors of the Corporation to replace any such director for the unexpired portion of his or her term;

(iv) To approve the election, re-election and removal of all officers, including the Chief Executive Officer, of the Corporation and the subsidiaries in accordance with Article V;

(v) Subject to Section [7.1(a)] of the Affiliation Agreement, dated as of October 31, 2011, among Ultimate Parent, the Corporation, Highmark Inc., Member,

Canonsburg General Hospital, Alle-Kiski Medical Center and the other WPAHS Subsidiaries as defined therein (the "Affiliation Agreement"), to amend, revise or restate the Corporation's and the subsidiaries' Articles of Incorporation and Bylaws; provided however, that Ultimate Parent shall have no power to amend, revise or restate Section 4.2(b), Section 4.7(b)(i), or this proviso of Section 3.3(b)(v) of these Bylaws, each of which may be amended only upon the concurrent approval of both (a) a majority of those Directors of the Corporation that are elected by UPE to serve as Directors, voting as a class, and (b) a majority of the Self-Perpetuating Directors (as defined in Section 4.2(b)), voting as a class;

(vi) Subject to Section [7.5(i)] of the Affiliation Agreement, to adopt or change the mission, purpose, philosophy or objectives of the Corporation or the subsidiaries;

(vii) Subject to Sections [7.5(i) and 7.6] of the Affiliation Agreement, to change the general structure of the Corporation or any of the subsidiaries as a voluntary, nonprofit corporation;

(viii) Subject to Sections [7.5(i) and 7.6] of the Affiliation Agreement, to (1) dissolve, divide, convert or liquidate the Corporation or the subsidiaries, (2) consolidate or merge the Corporation or the subsidiaries with another corporation or entity, (3) sell or acquire assets, whether in a single transaction or series of transactions, where the consideration exceeds 1% of the Corporation's consolidated total assets;

(ix) To approve the annual consolidated capital and operating plan and budget of the Corporation and the subsidiaries, and any amendments thereto or significant variances therefrom;

(x) Subject to Section [7.6] of the Affiliation Agreement, to approve the incurrence of debt by the Corporation and the subsidiaries or the making of capital expenditures by the Corporation and the subsidiaries during any fiscal year of the Corporation, in either case in excess of one quarter of 1% of the consolidated annual operating budget of the Corporation for such fiscal year, if such debt or capital expenditures are not included in the Corporation's or subsidiaries' approved budgets, whether in a single transaction or a series of related transactions;

(xi) Subject to Section [7.6] of the Affiliation Agreement, to approve any donation or any other transfer of the Corporation's or the subsidiaries' assets, other than to the Member or to the Corporation by the subsidiaries, in excess of \$10,000.00, unless specifically authorized in the Corporation's or the subsidiaries' approved budgets;

(xii) Subject to Section [7.5] of the Affiliation Agreement, to approve strategic plans and mission statements of the Corporation and the subsidiaries;

(xiii) To approve investment policies of the Corporation and the subsidiaries;

(xiv) To approve the closure or relocation of a licensed healthcare facility of the Corporation and the subsidiaries;

(xv) Subject to Section [7.5(i) and 7.6] of the Affiliation Agreement, to approve the formation of subsidiary corporations, partnerships and joint ventures or to make investments in existing subsidiary corporations, partnerships and joint ventures, if the new investments of the Corporation and the subsidiaries in such subsidiary corporations, partnerships and joint ventures during any fiscal year would, in the aggregate, exceed 1% of the Corporation's consolidated total assets at the end of the prior fiscal year of the Corporation;

(xvi) Subject to Section [7.5(i) and 7.6] of the Affiliation Agreement, to approve the dissolution of subsidiary corporations, partnerships and joint ventures of the Corporation and the subsidiaries, if the aggregate value of the ownership interests of the Corporation and the subsidiaries in such subsidiary corporations, partnerships and joint ventures so dissolved in any fiscal year would exceed 1% of the Corporation's consolidated total assets at the end of the prior fiscal year;

(xvii) To establish and manage the Corporation's program for compliance with all legal requirements applicable to the Corporation and the hospitals operated by the Corporation (the "Corporation Hospitals"), all accreditation and licensing requirements and the conditions of participation in all governmental payor programs applicable to the Corporation or the Corporation Hospitals;

(xviii) To select and appoint auditors and to designate the fiscal year of the Corporation and the subsidiaries; and

(xix) To give such other approvals and take such other actions as are specifically reserved to members of Pennsylvania nonprofit corporations under the Nonprofit Corporation Law.

Except as may otherwise be provided by the Nonprofit Corporation Law, Ultimate Parent shall have the right to both initiate and approve action in furtherance of such reserved powers, as well as the authority to directly bind the Corporation and the subsidiaries on such matters. Any action taken in this regard by Ultimate Parent shall be sufficient to finally approve and adopt such actions and no action of the Board of Directors or other governing body or officer with respect to such action shall be necessary with respect thereto.

## ARTICLE IV BOARD OF DIRECTORS

### 4.1 Powers and Duties.

Subject to Section 3.3 of these Bylaws, all powers of the Corporation shall be vested in the Board of Directors, which shall have charge, control and management of the property, business, affairs and funds of the Corporation and shall have the power and authority to perform all necessary and appropriate functions not otherwise inconsistent with these Bylaws, the Articles of Incorporation or applicable law.

Subject to Section 3.3 of these Bylaws, and without limiting the generality of the foregoing and except as otherwise may be provided in these Bylaws, the Board of Directors shall have full power and the duty:

- (a) To set policies and provide for carrying out the purposes of the Corporation;
- (b) To make rules and regulations for its own governance and for the governance of the committees appointed by the Board of Directors as provided herein;
- (c) To adopt and amend from time to time such rules and regulations for the conduct of the business of the Corporation as may be appropriate or desirable.
- (d) To manage the Medical Staffs as contemplated in Article VIII hereof;
- (e) To adopt, amend, repeal and restate the Medical Staff Bylaws, as proposed by the Medical Staff pursuant to these Bylaws;
- (f) To maintain the quality of patient care; and
- (g) To periodically reexamine the relationship of the Board of Directors to the communities of the Corporation Hospitals.

#### 4.2 **Election of Directors.**

(a) **General.** Subject to the limitations set forth in this Section 4.2 of these Bylaws, Ultimate Parent shall elect all directors.

(b) **Self-Perpetuating Directors.** Not less than 25% of the Board of Directors shall consist of directors ("**Self Perpetuating Directors**") who are elected in accordance with this Section 4.2(b). The initial Self Perpetuating Directors shall be designated by the Board of Directors of this Corporation immediately prior to [*Closing Date*] and shall be community representatives and physicians affiliated with the Corporation. Any vacancy in the Board of Directors caused by the death, resignation or removal of a Self-Perpetuating Director or by the expiration of the term of a Self-Perpetuating Director shall be filled by a person designated by a majority of the remaining Self-Perpetuating Directors. If the number of directors is increased or decreased, additional Self-Perpetuating Directors shall be elected or existing Self-Perpetuating Directors may be removed, as the case may be, by a majority of the existing Self-Perpetuating Directors, such that the number of Self-Perpetuating Directors is as close as possible to, but not less than, 25% of all directors on the Board of Directors after such increase or decrease. Until [*date that is four years after the Closing Date*], any new Self-Perpetuating Director must be a community representative or a physician affiliated with the Corporation. At no time shall any Self-Perpetuating Director or his or her successor in perpetuity contemporaneously be a trustee, director, agent or employee of Ultimate Parent, Provider Subsidiary or any of their respective related entities (except for such Self-Perpetuating Directors' service on the Corporation's Board of Directors).

#### 4.3 Number/Qualifications.

(a) Composition. Subject to Section 4.2 of these Bylaws, the Board of Directors shall consist of such number of persons as the Ultimate Parent may determine, but in no case less than three (3).

(b) Certain Qualifications. No individual may be elected to the Board of Directors unless the individual is eligible to serve on the Board of Directors pursuant to applicable law, the Articles of Incorporation and these Bylaws. Each director shall be a natural person of at least 18 years of age.

(c) Independence. At least a majority of the directors shall be persons whom the Board of Directors has determined are "independent directors" within the meaning of such term as defined by the Internal Revenue Service for exempt organizations under Section 501(c)(3) of the Code, and as such, are broadly representative of the community. No director, other than the Ex-Officio Director, shall be an officer or employee of the Corporation or any entity controlled by the Corporation.

(d) Common Directors With Member and Ultimate Parent. The members of the Board of Directors must include at least one person who is also serving as a member of the board of directors of Member and Ultimate Parent. The same member of the Board of Directors need not be serving on both such boards.

(e) SEC Actions. Any person who is, or ever has been, subject to an order of a court or the Securities and Exchange Commission prohibiting such person from acting as an officer or director of a public company shall not be eligible to serve as a director.

(f) Age Limitations. No person who is seventy-five (75) years of age or older may be nominated or re-nominated for election or re-election as a director. Any director who reaches the age of seventy-five (75) shall no longer be qualified to serve as a director after the next annual meeting of the Board of Directors.

#### 4.4 Election and Term.

(a) Term of Directors. The Board of Directors shall be divided, as evenly as practicable, into three classes and shall serve staggered terms. Except as otherwise indicated in this Section 4.4(a), at the end of their respective initial terms, all directors shall serve for terms of three (3) years or until their successors are elected and have qualified.

(b) Chairperson. The Board of Directors shall elect from among the directors an individual to serve as Chairperson of the Board. The Chairperson shall not be an employee of the Corporation. The Chairperson shall preside at all meetings of the Board of Directors and shall perform all duties incident to the office of Chairperson of the Board and such other duties as may be prescribed by the Board of Directors.

(c) Vice Chairperson. The Board of Directors may elect from among the directors a Vice Chairperson of the Board. The Vice Chairperson shall not be an employee of the Corporation. The Vice Chairperson shall perform the duties of the office of Chairperson of



the Board in the absence of the Chairperson of the Board and such other duties as may be prescribed by the Board of Directors.

**4.5 Vacancies.**

Any vacancy in the Board of Directors caused by the death, resignation or removal of a director or a director ceasing to qualify to serve as a director prior to the expiration of that director's term between annual meetings of Ultimate Parent shall be filled by an individual elected by Ultimate Parent, except as otherwise provided in Section 4.2(b) of these Bylaws with respect to Self-Perpetuating Directors.

**4.6 Meetings.**

(a) Annual Meetings. The annual organizational meeting of the Board of Directors shall be held on such other date as the Board of Directors may determine, at such time and place as shall be determined by the Board of Directors, without further notice than the resolution setting such date, time and place.

(b) Regular Meetings. Regular meetings of the Board of Directors shall be held not less than four (4) times a year, each at such date, time and place as shall be determined by the Board of Directors, without further notice than the resolution setting such date, time and place.

(c) Special Meetings. Special meetings of the Board of Directors may be called at any time by the Chairperson of the Board, the Chief Executive Officer or one-third (1/3) of the members of the Board of Directors, the date, time and place of each such meeting to be designated in the notice calling the meeting. Notice of any special meeting of the Board of Directors shall be given at least forty-eight (48) hours prior thereto and shall state the general nature of the business to be transacted.

(d) Adjournment. When a meeting of the Board of Directors is adjourned, it shall not be necessary to give any notice of the adjourned meeting or the business to be transacted at the adjourned meeting other than by announcement at the meeting at which such adjournment is taken.

(e) Quorum. Directors constituting a majority of the directors in office shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

(f) Voting and Action. Each director shall be entitled to one vote on any matter submitted to a vote of the Board of Directors, and action by the Board of Directors on any matter shall require the affirmative vote of a majority of the directors in office unless a greater proportion of affirmative votes is required by applicable law, the Articles of Incorporation or these Bylaws.

(g) Use of Conference Telephone. Except as the Board of Directors otherwise may determine, one or more persons may participate in a meeting of the Board of Directors or of any committee thereof by means of conference telephone or similar communications equipment

by means of which all persons participating in the meeting can hear and be heard by each other. Participation in a meeting in such manner shall constitute presence in person at the meeting.

(h) Action by Unanimous Written Consent. Any action which may be taken at a meeting of the Board of Directors may be taken without a meeting if a consent or consents in writing setting forth the action so taken shall be signed by all of the directors in office and filed with the Secretary.

#### 4.7 Resignation/Removal.

(a) Resignation. Any director may resign his or her office at any time, such resignation to be made in writing and to take effect immediately or at such subsequent time stated in such writing. Any director who ceases to meet the eligibility requirements contained in applicable law or in these Bylaws to serve as a director forthwith shall resign his or her office, such resignation to be made in writing and to take effect immediately.

(b) Removal. Any director may be removed, with or without cause, by Ultimate Parent; provided, that only a majority of the other Self-Perpetuating Directors may remove a Self-Perpetuating Director, whether with or without "cause." For this purpose "cause" shall mean:

- a) the director is declared of unsound mind by an order of court;
- b) the director is indicted for, or convicted of, or enters a plea of guilty or nolo contendere to, a felony;
- c) the director engages in fraudulent or dishonest acts or in any act of moral turpitude;
- d) the director engages in gross abuse of authority or discretion with respect to the Corporation;
- e) the director violates the Corporation's Code of Conduct Policy;
- f) the director fails to attend four consecutive meetings of the Board of Directors;
- g) the director engages in other conduct that is detrimental to the best interests of the Corporation or its reputation; or
- h) the director has breached such director's duties under Section 5712 of the Nonprofit Corporation Law.

#### 4.8 Limitation of Liability.

(a) Limitation of Liability. To the fullest extent that the laws of the Commonwealth of Pennsylvania, as now in effect or as hereafter amended, permit elimination or

limitation of the liability of directors, no director of the Corporation shall be personally liable for monetary damages as such for any action taken, or any failure to take any action, as a director.

(b) Nature and Extent of Rights. The provisions of this Section 4.8 shall be deemed to be a contract with each director of the Corporation who serves as such at any time while this Section is in effect and each such director shall be deemed to be so serving in reliance on the provisions of this Section. Any amendment or repeal of this Section or adoption of any Bylaw or provision of the Articles of the Corporation which has the effect of increasing director liability shall operate prospectively only and shall not affect any action taken, or any failure to act, prior to the adoption of such amendment, repeal, Bylaw or provision.

4.9 Compensation.

The Board of Directors may determine the compensation of directors for their services as directors, members of committees of the Board of Directors or otherwise, and also may determine the compensation of persons who are not directors who serve on any committees established by the Board of Directors; provided that such compensation is reasonable compensation within the meaning of Section 4958 of the Code.

**ARTICLE V**  
**OFFICERS**

5.1 Officers; Election.

The principal officers of the Corporation shall be a Chief Executive Officer, a Chief Financial Officer, a Treasurer and a Secretary, each of whom shall be elected by the Board of Directors, subject to the approval of Ultimate Parent, and such other officers as the Board of Directors, subject to the approval of Ultimate Parent, may elect, which may include one or more Presidents, one or more Executive, Senior or Corporate Vice Presidents, and one or more Assistant Treasurers or Assistant Secretaries. Each such officer shall hold office for a term of one year (or such other term as the Board of Directors shall determine for any office from time to time) and until his or her successor has been selected and qualified or until his or her earlier death, resignation or removal. Any number of offices may be held by the same person.

5.2 Responsibilities of Officers.

(a) Chief Executive Officer. The Chief Executive Officer shall be responsible for the general and active management of the business and affairs of the Corporation and shall exercise general supervision and authority over all of its agents and employees and shall perform all duties incident to the office of Chief Executive Officer and such other duties as may be assigned by the Member or the Board of Directors. The Chief Executive Officer shall supervise the implementation of all policies, orders and resolutions of the Board of Directors and shall execute all contracts and agreements authorized by the Board of Directors, except that he or she may delegate to other officers of the Corporation the power to execute contracts in the ordinary course of business or as otherwise may be authorized by the Board of Directors.

(b) President(s). The President(s) shall be responsible for the direct administration, supervision and control of such activities in the management of the Corporation as may be assigned by the Chief Executive Officer or the Board of Directors.

(c) Chief Financial Officer. The Chief Financial Officer shall be responsible for financial accounting and reporting for the Corporation and such other duties as may be assigned by the Chief Executive Officer or the Board of Directors.

(d) Vice Presidents. Each Vice President shall perform such duties as may be assigned by the Chief Executive Officer or the Board of Directors.

(e) Treasurer. The Treasurer shall, in accordance with the policies of the Board of Directors and under the direction of the Chief Executive Officer or the Chief Financial Officer, have general charge and custody of and be responsible for all funds and securities of the Corporation, and shall make such reports in such form and manner as the Chief Executive Officer, the Chief Financial Officer or the Board of Directors may direct. The Treasurer shall receive and give receipts for monies due and payable to the Corporation and deposit such monies in the name of the Corporation in such banks, trust companies or other depositories as may be selected in accordance with the provisions of these Bylaws. The Treasurer shall keep account of such receipts and deposits and approve expenditures of the Corporation and shall perform all duties incident to the office of Treasurer and such other duties as may be assigned by the Chief Executive Officer, the Chief Financial Officer or the Board of Directors.

(f) Secretary. The Secretary shall keep the minutes of the meetings of the Board of Directors and its committees in one or more books provided for that purpose, shall notify members of the Board of Directors of their election, shall see that all notices are duly given in accordance with the provisions of these Bylaws, shall be custodian of the corporate records and of the seal of the Corporation, and shall see that the seal of the Corporation is affixed, when necessary, to all instruments and documents the execution of which has been authorized by the Board of Directors or a committee thereof, shall keep a record of the address of each director, and shall perform all duties incident to the office of Secretary and such other duties as may be assigned by the Chief Executive Officer or the Board of Directors. In the absence of the Secretary or in the event of his or her inability to act, the Chairperson of the Board of Directors shall appoint an individual to discharge the duties of the Secretary.

(g) Assistant Secretaries and Assistant Treasurers. The Assistant Secretaries and Assistant Treasurers shall perform such duties as may be assigned by the Secretary or the Treasurer, respectively, or by the Chief Executive Officer or the Chief Financial Officer, as appropriate, or the Board of Directors.

### 5.3 Removal of Officers.

Any officer of the Corporation (including the Chief Executive Officer) may be removed, with or without cause, by the Board of Directors, subject to the approval of Ultimate Parent, without prejudice to such officer's contractual rights, if any.

5.4 **Bonds.**

The Board of Directors may require any officer to give bond and security in such sum and with such surety or sureties as the Board of Directors may determine.

**ARTICLE VI**  
**COMMITTEES**

6.1 **Committees.**

(a) **Standing Board Committees.** The Board of Directors shall have a Corporate Governance and Nominating Committee, an Audit Committee and a Personnel and Compensation Committee and the Board of Directors may establish such other standing committees as it deems to be necessary or desirable (the "Standing Board Committees"). All Standing Board Committees shall be comprised solely of directors and shall have charters governing their powers and duties, which charters shall be approved by the Board of Directors. The Board of Directors shall appoint the members and a chairperson and a vice chairperson of each Standing Board Committee.

(b) **Special Committees and Program Committees.** The Board of Directors may establish one or more special committees of directors ("Special Committees") to advise the Board of Directors and to perform such other functions as the Board of Directors determines, including without limitation a Medical Education and Research Committee and a Quality and Satisfaction Committee. The Board of Directors may establish one or more committees, which may include directors and persons who are not directors, to assist it with aspects of the Corporation's operations ("Program Committees"). Subject to the provisions of these Bylaws, the Board of Directors may delegate such authority to a Special Committee or a Program Committee as it deems to be appropriate and desirable and as is not prohibited by applicable law. The Board of Directors shall establish the manner of selecting members, chairpersons and vice chairpersons, if any, and the terms of office of the members of each Special Committee and Program Committee.

6.2 **Term.**

Except as otherwise provided in these Bylaws, each member of a Standing Board Committee shall continue as such until the next annual meeting of the Board of Directors or until a successor has been appointed as provided herein, unless such person resigns, is removed or otherwise ceases to serve on such Standing Board Committee for any reason.

6.3 **Quorum and Action.**

Except as otherwise provided in these Bylaws or the charter of a committee approved by the Board of Directors, a majority of the members comprising any committee appointed by the Board of Directors pursuant to these Bylaws shall constitute a quorum for the transaction of business, and the acts of a majority of committee members present at a meeting at which a quorum is present shall constitute the acts of the committee, unless a greater proportion is required by applicable law, the Articles of Incorporation or these Bylaws.

6.4 **Action by Unanimous Written Consent.**

Except as otherwise provided in these Bylaws or a charter of a committee approved by the Board of Directors, any action which may be taken at a meeting of any committee appointed by the Board of Directors pursuant to these Bylaws may be taken without a meeting if a consent or consents in writing setting forth the action so taken shall be signed by all of the members of such committee and filed with the Secretary.

6.5 **Removal.**

Any member of a Standing Board Committee, Special Committee or Program Committee may be removed at any time, with or without cause, by the Board of Directors at any regular or special meeting.

6.6 **Vacancies.**

Any vacancy in any Standing Board Committee, Special Committee or Program Committee caused by the death, resignation or removal of a member of such committee prior to the expiration of that member's term shall be filled by another person appointed by the Board of Directors. The member so appointed shall serve the remaining unexpired term of the member so replaced.

6.7 **Exclusions from Committee Membership.**

Physicians who receive compensation from the Corporation, whether directly or indirectly or as employees or independent contractors, are precluded from membership on any committee whose jurisdiction includes compensation matters. No physician, either individually or collectively, is prohibited from providing information to any committee regarding physician compensation.

6.8 **Corporate Governance and Nominating Committee.**

(a) **Composition.** The Corporate Governance and Nominating Committee shall consist of such number of directors, but in no case less than three (3), as may be determined by the Board of Directors. None of the members of the Corporate Governance and Nominating Committee shall be employees of the Corporation or of any entity controlled by the Corporation.

(b) **Responsibilities.** In addition to any responsibilities delegated to it by the Board of Directors, the Corporate Governance and Nominating Committee shall be responsible for:

(i) Recommending candidates for election as directors at each annual meeting of [*Ultimate Parent Entity*];

(ii) Recommending to [*Ultimate Parent Entity*] candidates for election as directors to fill any vacancies occurring on the Board of Directors; and

(iii) Recommending candidates for election or reelection as Chairperson of the Board and Vice Chairperson of the Board.

(c) Timing. At least fifteen (15) days before each annual, regular or special meeting of the Member, the Corporate Governance and Nominating Committee shall recommend the requisite number of individuals who satisfy the qualifications established in these Bylaws for election as directors of the Corporation.

**6.9 Audit Committee.**

(a) Composition. The Audit Committee shall consist of such number of directors, but in no case less than three (3), as the Board of Directors shall determine. None of the members of the Audit Committee shall be employees of the Corporation or of any entity controlled by the Corporation.

(b) Responsibilities. In addition to any responsibilities delegated to it by the Board of Directors, the Audit Committee shall be responsible for accepting the annual independent audit report of the Corporation's financial statements, as prepared by the external auditors, and render or cause to be rendered an audit report to the Board of Directors at its annual meeting.

**6.10 Personnel and Compensation Committee.**

(a) Composition. The Personnel and Compensation Committee shall consist of such number of directors, in no case less than three (3), as the Board of Directors shall determine. None of the members of the Personnel and Compensation Committee shall be employees of the Corporation or of any entity controlled by the Corporation or of any entity controlled by the Corporation and none may have a conflict of interest as defined in Section 4958 of the Code and applicable regulations.

(b) Responsibilities. In addition to any responsibilities delegated to it by the Board of Directors, the Personnel and Compensation Committee shall be responsible for:

(i) Evaluating the performance of the principal officers of the Corporation; and

(ii) Recommending to the Board of Directors for recommendation to Ultimate Parent the selection and compensation of the principal officers of the Corporation.

**ARTICLE VII**

**INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS**

**7.1 Right to Indemnification - General.**

Any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (whether brought by or in the name of the Corporation or

otherwise), by reason of the fact that he or she is or was a representative of the Corporation, or is or was serving at the request of the Corporation as a representative of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the Corporation to the fullest extent now or hereafter permitted by applicable law in connection with such action, suit or proceeding arising out of such person's service to the Corporation or to such other corporation, partnership, joint venture, trust or other enterprise at the Corporation's request. The term "representative," as used in this Article VII, shall mean any director, officer, member of a committee created by or pursuant to these Bylaws, and any other person who may be determined by the Board of Directors to be a representative entitled to the benefits of this Article VII.

### **7.2 Right to Indemnification - Third Party Actions.**

Without limiting the generality of Section 7.1 of these Bylaws, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation), by reason of the fact that he or she is or was a representative of the Corporation, or is or was serving at the request of the Corporation as a representative of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the Corporation against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

### **7.3 Right to Indemnification - Derivative Actions.**

Without limiting the generality of Section 7.1 of these Bylaws, any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he or she is or was a representative of the Corporation, or is or was serving at the request of the Corporation as a representative of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the Corporation against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation; except, however, that indemnification shall not be made under this Section 7.3 in respect of any claim, issue or matter as to which such person has been adjudged to be liable to the Corporation unless and only to the extent that the Court of Common Pleas of the county in which the registered office of the Corporation is located or the court in which such action, suit or proceeding was brought determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to



indemnity for such expenses that the Court of Common Pleas or such other court shall deem proper.

**7.4 Advance of Expenses.**

Unless in a particular case advancement of expenses would jeopardize the Corporation's tax exempt status under Section 501(a) of the Code or result in the Corporation's failure to be described in Section 501(c)(3) of the Code, expenses (including attorneys' fees) incurred by any representative of the Corporation in defending any action, suit or proceeding referred to in this Article VII shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the representative to repay such amount if it is ultimately determined that he or she is not entitled to be indemnified by the Corporation as authorized in this Article VII or otherwise.

**7.5 Procedure for Effecting Indemnification.**

Unless ordered by a court, any indemnification under Section 7.1, Section 7.2 or Section 7.3 of these Bylaws shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the representative is proper in the circumstances because he or she has met the applicable standard of conduct set forth in such subsections. Such determination shall be made:

(a) By the Board of Directors by a majority of a quorum consisting of directors who were not parties to such action, suit or proceeding; or

(b) If such a quorum is not obtainable, or if obtainable and a majority vote of a quorum of disinterested directors so directs, by independent legal counsel in a written opinion.

**7.6 Indemnification Not Exclusive.**

The indemnification and advancement of expenses provided by or granted pursuant to this Article VII shall not be deemed exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under any other provision of these Bylaws, agreement, vote of disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office shall continue as to a person who has ceased to be a representative of the Corporation and shall inure to the benefit of the heirs and personal representatives of such person.

**7.7 When Indemnification Not Made.**

Indemnification pursuant to this Article VII shall not be made in any case where (a) the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness or (b) indemnification would jeopardize the Corporation's tax exempt status under Section 501(a) of the Code or result in the Corporation's failure to be described in Section 501(c)(3) of the Code.

**7.8 Grounds for Indemnification.**

Indemnification pursuant to this Article VII, under any other provision of these Bylaws, agreement, vote of directors or otherwise may be granted for any action taken or any failure to take any action and may be made whether or not the Corporation would have the power to indemnify the person under any provision of law except as otherwise provided in this Article VII and whether or not the indemnified liability arises or arose from any threatened, pending or completed action by or in the right of the Corporation. The provisions of this Article VII shall be applicable to all actions, suits or proceedings within the scope of Section 7.1, Section 7.2 or Section 7.3 of these Bylaws, whether commenced before or after the adoption hereof, whether arising from acts or omissions occurring before or after the adoption hereof.

**7.9 Power to Purchase Insurance.**

The Corporation may purchase and maintain insurance on behalf of any person who is or was a representative of the Corporation or is or was serving at the request of the Corporation as a representative of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of this Article VII.

**7.10 Creation of a Fund to Secure or Insure Indemnification.**

The Corporation may create a fund of any nature, which may, but need not be, under the control of a trustee, or otherwise secure or insure in any manner its indemnification obligations, whether arising under or pursuant to this Article VII or otherwise.

**7.11 Status of Rights of Indemnities.**

The rights to indemnification and advancement of expenses provided by or granted pursuant to this Article VII shall (a) be deemed to create contractual rights in favor of each person who serves as a representative of the Corporation at any time while this Article is in effect (and each such person shall be deemed to be so serving in reliance on the provisions of this Article), and (b) continue as to a person who has ceased to be a representative of the Corporation.

**7.12 Applicability to Predecessor Companies.**

For purposes of this Article VII, references to the "Corporation" includes all constituent corporations or other entities which shall have become a part of the Corporation by consolidation or merger or other similar transaction and their respective current and former affiliates, and references to "representatives" shall include members of any such corporation, entity or affiliate, so that any person who was a member, director, officer, committee member or other representative of such a corporation, entity or affiliate or served as a member, director, officer, committee member or other representative of another corporation, partnership, joint venture, trust or other enterprise at the request of any such corporation, entity or affiliate shall stand in the same position under the provisions of this Article VII with respect to the Corporation as he or she would if he or she had served the Corporation in the same capacity. Without

limitation of the foregoing, each member, director, officer and committee member of each predecessor to the Corporation shall have the same contract rights as are afforded pursuant to Section 7.11 of these Bylaws.

## **ARTICLE VIII**

### **MEDICAL STAFFS**

#### **8.1 Medical Staffs Generally.**

The Board of Directors shall create one functional unit within Allegheny General Hospital ("AGH Medical Staff") and one functional unit covering both The Western Pennsylvania Hospital - West Penn Campus, and The Western Pennsylvania Hospital - Forbes Regional Campus ("WPH Medical Staff"; the AGH Medical Staff and the WPH Medical Staff are sometimes hereinafter referred to collectively as the "Medical Staffs"; each a "Medical Staff"). The AGH Medical Staff and the WPH Medical Staff shall each be composed of physicians, dentists, and such other health care practitioners as determined by the Board of Directors. Each Medical Staff shall be delegated the responsibility for making recommendations at their respective Corporation Hospital(s) concerning clinical privileges, the medical staff appointment of practitioners, the quality of medical care delivered in the respective Corporation Hospital(s), and the rules and regulations governing the practice of practitioners within such Corporation Hospital(s). The AGH Medical Staff shall be an internal component of Allegheny General Hospital and the WPH Medical Staff shall be an internal component of The Western Pennsylvania Hospital - West Penn Campus and The Western Pennsylvania Hospital - Forbes Regional Campus. Each Medical Staff shall have bylaws outlining its structure and function so that it may fulfill its delegated responsibilities in an effective fashion. Only such Medical Staff Bylaws as are adopted by the Board of Directors shall be effective. The Board of Directors retains the right to rescind any authority or procedures delegated to either or both of the AGH Medical Staff or the WPH Medical Staff by bylaws or otherwise and to amend the bylaws as necessary for the good operation of the relevant Corporation Hospital. The power of the Board of Directors to adopt or amend Medical Staff bylaws, rules, and regulations, shall not be dependent upon ratification by the respective Medical Staff.

#### **8.2 Organization of Medical Staff.**

The AGH Medical Staff and the WPH Medical Staff shall be divided into clinical departments. The appointment of clinical department chairs and of all Medical Staff standing committee chairs for each Medical Staff shall be approved by the Board of Directors.

#### **8.3 Appointment to Medical Staff.**

All appointments to the AGH Medical Staff and to the WPH Medical Staff shall be made by the Board of Directors for a period not to exceed two years. Appointments, reappointments, and the delineation of privileges shall be made in accordance with such Corporation Hospital's policy and/or its or their Medical Staff bylaws; provided, however, that nothing therein contained shall limit the legal rights and obligations of the Board of Directors with respect to such matters.

8.4 **Denial of Privileges.**

In the circumstances delineated in, as appropriate, the AGH Medical Staff bylaws or the WPH Medical Staff Bylaws and to the extent provided therein, an applicant to the Medical Staff or a Medical Staff member affected by an action relating to Medical Staff privileges shall be afforded the opportunity of a full hearing before an appropriately constituted body (which body may be a joint conference of other hospitals comprising part of the System), conducted in such manner as to assure due process and to afford full opportunity for the presentation of all pertinent information, pursuant to the specific Corporation Hospital policy or the respective Medical Staff bylaws. No recommendation or action other than as set forth in the relevant Medical Staff bylaws shall constitute grounds for a hearing.

**ARTICLE IX**

**PATIENT'S BILL OF RIGHTS**

The Chief Executive Officer shall designate one or more management individuals with the responsibility of ensuring that a Patient's Bill of Rights for each of the Corporation Hospitals not less in substance and coverage than required by the Pennsylvania Department of Health regulations is disseminated to all patients of the Hospital.

**ARTICLE X**

**CONTRACTS, LOANS, CHECKS AND DEPOSITS**

10.1 **Contracts.**

Subject to Section 3.3 of these Bylaws, the Board of Directors may authorize any officer or officers or agent or agents to enter into any contract or execute or deliver any agreement or instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

10.2 **Loans.**

Subject to Section 3.3 of these Bylaws and Section 7.6 of the Affiliation Agreement, the Board of Directors may authorize the borrowing by the Corporation of such sum or sums of money as the Board of Directors may deem advisable, and to mortgage or pledge any or all of the real or personal property and any or all of the other available assets of the Corporation in order to secure the payment of the principal amount of any such borrowing and the interest thereon and any and all such other amounts as may become due on account thereof.

10.3 **Checks.**

All checks, drafts or other orders for the payment of money, notes or other evidence of indebtedness shall be issued in the name of the Corporation and shall be signed by such officer or officers or agent or agents of the Corporation and in such manner as from time to time shall be determined by the Board of Directors.

10.4 **Deposits.**

All funds of the Corporation shall be deposited to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may approve.

**ARTICLE XI  
NOTICE AND CONDUCT OF MEETINGS**

11.1 **Written Notice.**

Except as otherwise provided in these Bylaws, whenever written notice is required to be given by any person under the provisions of any statute or these Bylaws, it may be given by sending a copy thereof through the mail or overnight delivery or by hand delivery, in each case with charges prepaid, or by facsimile transmission confirmed by one of the foregoing methods, to the individual's address appearing on the books of the Corporation or supplied by the individual to the Corporation for the purpose of notice.

11.2 **Written Waiver of Notice.**

Whenever any written notice is required as set forth in these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

11.3 **Waiver of Notice by Attendance.**

Attendance of a person in person at any meeting shall constitute a waiver of notice of such meeting except when a person attends the meeting for the express purpose of objecting to the transaction of any business because the meeting has not been lawfully called or convened.

11.4 **Procedure.**

All meetings of the Board of Directors and the committees thereof shall be conducted in an orderly manner with a view to affording full and fair discussion of the matters properly before such meetings.

**ARTICLE XII  
MISCELLANEOUS**

12.1 **No Contract Rights.**

Except as specifically set forth in Sections 4.2, 4.4(b), 4.5, 4.7(b), 4.8 and 7.11 of these Bylaws, no provision of these Bylaws shall vest any property or contract right in any person.

12.2 **Corporate Seal.**

The Board of Directors shall prescribe the form of a suitable corporate seal, which shall contain the full name of the Corporation and the year and state of incorporation.

12.3 **Fiscal Year.**

The fiscal year of the Corporation shall end on such day as shall be fixed by Ultimate Parent.

12.4 **Auxiliary Organizations.**

The Board may provide for the establishment of auxiliary organizations. The bylaws of any such organizations shall be subject to approval by the Board of Directors.

**ARTICLE XIII**  
**AMENDMENTS**

13.1 **Amendments.**

Subject to Section 3.3 (b)(v) of these Bylaws and Section 7.1(a) of the Affiliation Agreement, these Bylaws may be altered, amended or repealed, or new Bylaws may be adopted, only by Ultimate Parent.

**ARTICLE XIV**  
**CONFLICTS OF INTEREST**

14.1 **Disclosure.**

In connection with any actual or possible conflict of interest, an interested person must disclose the existence and nature of his or her financial interest to the Board of Directors and any relevant committee members. For this purpose, an interested person shall include any director, officer, or member of a committee of the Corporation or an entity affiliated with the Corporation who has a direct or indirect financial interest in a proposed transaction. A financial interest shall include: (a) an ownership or investment interest in any entity with which the Corporation has a proposed transaction or arrangement; (b) a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a proposed transaction or arrangement; and (c) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement. If a person is an interested person with respect to any entity in the health care system of which the Corporation is a part, he or she is an interested person with respect to all entities in the health care system.

#### 14.2 Recusal and Investigation.

After disclosure of the financial interest, the interested person shall leave the Board of Directors or committee meeting while the financial interest is discussed and voted upon. The remaining directors or committee members shall decide if a conflict of interest exists. If a conflict of interest exists, the following procedures shall be followed: (a) the Chief Executive Officer shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement; (b) after exercising due diligence, the Board of Directors or committee shall determine whether the Corporation could obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest; and (c) if a more advantageous transaction or arrangement is not reasonably attainable, the Board of Directors or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interests and for its own benefit and whether the transaction is fair and reasonable to the Corporation and shall decide as to whether to enter into the transaction or arrangement in conformity with such determination.

#### 14.3 Failure to Disclose.

If a director or committee member has reasonable cause to believe that an interested person has failed to disclose actual or possible conflicts of interest, he shall inform the interested person of the basis of such belief and afford the interested person an opportunity to explain the alleged failure to disclose. If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the Board of Directors or committee determines that the interested person has in fact failed to disclose an actual or possible conflict of interest, the Board of Directors shall take appropriate steps to protect the Corporation.

#### 14.4 Record of Actions.

The minutes of the Board of Directors and all relevant committees shall contain the following: (a) the names of persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board of Directors' or committee's decision as to whether a conflict of interest in fact existed; and (b) the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

#### 14.5 Compensation.

Special procedures shall be in effect with respect to compensation issues. A voting member of the Board of Directors or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation. Physicians who receive compensation from the Corporation, whether directly or indirectly or as employees or independent contractors, are precluded from membership on any committee whose jurisdiction includes compensation matters. No physician, either individually

or collectively, is prohibited from providing information to any committee regarding physician compensation.

**14.6 Annual Statements.**

Each interested person shall annually sign a statement that affirms that such person (a) has received a copy of the conflicts of interest policy, (b) has read and understands the policy, (c) has agreed to comply with the policy, and (d) understands that the Corporation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes. This policy shall be reviewed annually for the information and guidance of members of the Board of Directors, and any new member shall be advised of the policy upon entering on the duties of his office. In addition, the Corporation shall conduct periodic reviews of its activities, including any transactions or arrangements with interested persons, to ensure that its activities in the aggregate promote and further the Corporation's exempt charitable, scientific, and educational purposes.



## ATTACHMENT E

### EXHIBIT H

#### TERM SHEET FOR LOAN AGREEMENTS

Terms for the loans associated with the Second Funding Commitment Loan and the entire amounts of the Third Funding Commitment, Fourth Funding Commitment and Fifth Funding Commitment under the Affiliation Agreement will include the following:

- Terms:
  - Second Funding Commitment Loan (Fiscal Year 2012) - \$50M, 12.5 year term - Balloon principal payments as follows:
    - \$25M – 2023 (year 11.5)
    - \$25M - 2024 (year 12.5)
  - Third Funding Commitment (Fiscal Year 2012) - \$50M, 12 year term – Balloon principal payments as follows:
    - \$25M – 2023 (year 11)
    - \$25M – 2024 (year 12)
  - Fourth Funding Commitment (Fiscal Year 2013) - \$100M, 13 year term – Balloon principal payments as follows:
    - \$50M – 2025 (year 12)
    - \$50M – 2026 (year 13)
  - Fifth Funding Commitment (Fiscal Year 2014) - \$100M, 14 year term – Balloon principal payments as follows:
    - \$50M – 2027 (year 13)
    - \$50M – 2028 (year 14)
- Variable interest rate based on the prime rate plus 200 basis points (subject to 6% cap).
- Interest rate to be re-set annually each July 1<sup>st</sup>.
- All accrued and unpaid interest on the Second Funding Commitment Loan and Third Funding Commitment shall be due and payable on the Effective Date of the Amendment. Interest is to be payable under the Loan Agreements annually on thirty (30) days subsequent to WPAHS's Fiscal Year end date (or the next business day if such date falls on a weekend) for the Fiscal Year immediately preceding.
- Notwithstanding the foregoing, interest accruing on any Loans during any Fiscal Year will be forgiven, commencing with Fiscal Year 2013, if the Fiscal Year ending calculation of the WPAHS Parties' Debt Service Coverage Ratio for such year is less than 3.0.
- Mandatory prepayments of the Loans shall be required if at any time the WPAHS Parties' Days Cash On Hand exceed 100 days as measured at the end of each fiscal quarter and at

the end of the month immediately preceding the last month of each Fiscal Year. The amount of such mandatory payments shall be equal to the excess cash on hand over 100 days which will be applied toward such Loans as Highmark shall determine. Anything to the contrary herein or elsewhere notwithstanding, the Parties intention is that no payments shall be made by WPAHS on WPAHS's Floating Rate Restructuring Certificates unless and until all Loans extended by Highmark pursuant to the Funding Commitment have been paid in full.

- Other terms described in Section 2.5 of the Agreement will be included in the Loan Agreements, to the extent applicable, to the Second Funding Commitment Loan and the entire amounts of the Third Funding Commitment, Fourth Funding Commitment and Fifth Funding Commitment.
- The amount of the Fifth Funding Commitment is subject to Section 2.5 (f)(ii) of the Agreement.
- As used in this Exhibit H, the following terms shall have the following meanings:

“Days Cash on Hand” means for the period tested, Cash divided by the quotient of (x) operating expenses less depreciation and amortization for the period tested divided by (y) the number of calendar days in the period tested, for the Obligated Group on a consolidated basis.”

“Debt Service Coverage Ratio” means for any period of time the ratio determined by dividing the Income Available for Debt Service for such period by the Maximum Annual Debt Service, for the Obligated Group on a consolidated basis.”